

Summary

Dutch penal protection orders and victim safety

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Background and aim

Victims of (violent) crimes have a substantial need for protection, especially when they are involved in a personal relationship with the offender. One of the measures aimed at this protection that has been stipulated in the Dutch criminal justice policy with regard to victims' rights is the so-called protection order. This type of order, also commonly referred to as a restraining order, prohibits a person from entering a certain area or multiple areas, or from communicating with the victim, or both. The order encompasses behavioral rules that can be imposed within criminal, civil and administrative proceedings, and aims to protect a person against any "criminal act that may endanger his or her life, physical and psychological integrity, freedom, or sexual integrity" (Van der Aa et al., 2013, based on Directive 2011/99/EU). From this description, it follows that the result of these orders should not only constitute the prevention of repeated victimization of (violent) crimes (objective safety), but also the enhancement of victims' perceptions of safety (subjective safety). The current research focuses in particular on penal protection orders.

Penal protection orders in the Netherlands are increasingly imposed on both suspects and offenders. This development responds to the social and political call for strengthening the legal position of victims of crime. However, little is known about the extent to which these orders are effective. In this research, we will explore in detail the extent to which penal protection orders are effective. Therefore we set out to explore and provide an overview of the process of detecting violations, the practice of (possible) law enforcement responses to order violations, hereafter referred to as violations, and the resulting nature and scope of violations. Moreover, we will explore victims' perceptions of safety and identify to what extent penal protection orders contribute to the prevention of repeated victimization and the improvement of the perceptions of safety according to victims and professionals. Unfortunately, it was not feasible to include an impact study in this research by means of a comparison of victim safety between victims who are protected by such an order and similar victims who are not. This research aims to answer the following main research question:

"How are Dutch penal orders enforced and complied with, and to what extent and under which conditions is it expected that these orders contribute to victim protection?"

Scope, research questions and research design

Scope

At the moment of research sampling there were fourteen legal modalities in which penal protection orders could be imposed. For the purpose of this research four modalities have been selected that most frequently form the legal grounds on which orders are imposed, and for which access to empirical data was possible within the planned research trajectory. The following four legal modalities, based on the Dutch Criminal Procedure Code (Sv) and the Dutch Criminal Code (Sr), were selected:

1. Behavior Order by the public prosecutor (art. 509hh Sv);
2. Suspension of remand (art. 80 Sv);
3. Freedom-restricting measure (art. 38v Sr) and
4. Conditional sentence (art. 14a Sr).

Moreover, to ensure sufficient homogeneity of the sampled cases, four crime categories were selected which frequently serve as the basis for imposing a protection order. A case was included when the suspect or offender had been accused of or convicted for at least one of the following four crime categories based on the Dutch Criminal Code:

1. Assault (art. 300, 302, 287, 289 Sr (the latter two were included only in combination with art. 45 Sr, i.e. criminal attempt to)
2. Threats (art. 285 Sr, excluding terrorism acts)
3. Stalking (art. 285b Sr)
4. Sex offence (art. 242, 246 Sr)

Research questions

The abovementioned main research question is divided into subquestions focusing on the enforcement process; the violation of protection orders, including criminal recidivism against the same victim (objective safety); and victims' safety perceptions (subjective safety). Furthermore, the research aims to identify protective factors and risk factors for both objective and subjective safety, as it is imperative to provide insights into the conditions under which protection orders may be effective. The subquestions regarding enforcement focus on two aspects that are potentially related to the extent to which objective and subjective safety is achieved: on the one hand the effectiveness of the process of detecting violations, and on the other hand the manner in which violations are reacted upon by the enforcement professionals. Therefore this report will start with the results of the analysis of subquestions concerning the process of detecting violations and enforcement professionals' responses to violations (see subquestions 1 and 2 below). Thereafter, answers will be provided for the subquestions regarding the prevention of violations, recidivism against the same victim and perceptions of effectiveness (see subquestions 3, 4 and 5 below). In addition, the subquestions regarding enforcement (see subquestion 1 and 2) may reveal potentially relevant characteristics of the enforcement process which can be included as potentially protective, as well as risk factors for objective safety and safety perception (subjective safety) (see subquestion 3b, 4b and 5b). The research subquestions are formulated as follows:

- 1a. How are violations of a protection order detected and to what extent do victims, suspects, offenders and professionals find this process effective?
- 1b. With respect to this process of detecting violations, which difficulties and success factors can be identified?
- 2a. Which enforcement responses follow the violation of a protection order, and to what extent do victims, offenders, suspects and professionals find these responses effective?
- 2b. With respect to these enforcement responses, which difficulties and success factors can be identified?

- 3a. What is the nature and scope of violation of protection orders?
- 3b. Which protective factors and risk factors can be identified for protection order violation?

- 4a. To what extent do victims and professionals find protection orders effective in terms of prevention of repeated victimization (objective safety)?
- 4b. Which protective factors and risk factors can be identified for objective safety regarding cases in which protection orders are imposed?

- 5a. To what extent do victims and professionals find protection orders effective in terms of perception of safety (subjective safety)?
- 5b. Which protective factors and risk factors can be identified for subjective safety regarding cases in which protection orders are imposed?

Research design and limitations

In order to answer the research questions, data has been collected via various research methods that are described in chapter 4. First of all, a *systematic literature review* has been carried out covering national and international research studies on protection orders barring a suspect or offender from communication with the victim, entering a certain area, or both. Secondly, between February and September 2017 a total of 49 *interviews* were conducted with victims, suspects and offenders, lawyers acting on behalf of victims, employees of the National Police, the Public Prosecution Service, the Probation Service Netherlands [*Reclassering Nederland*], the Foundation of Addiction Related Probation Service [*Stichting Verslavingsreclassering GGZ*] and Victim Support Netherlands [*Slachtofferhulp Nederland*]. Thirdly, a sample of 423 cases has been selected from all cases between 1 July 2015 and 17 December 2017 in which at least one protection order was imposed, as registered by the Central Judicial Collection Agency (Centraal Justitieel Incasso Bureau). This sample concerns protection orders in one of the following legal modalities: a protection order as a condition of a suspension on remand, as a freedom-restricting measure, or as a condition of a conditional sentence. Protection orders issued as a behavior order by the Public Prosecutor are not centrally registered, although in many of the cases in which protection orders were imposed on the grounds of the aforementioned three legal modalities a behavior order was also issued. Moreover, these 423 cases involve at least one of the aforementioned crime categories (assault, threats, stalking or sex offense).

Of these cases, information on the nature of the protection orders was collected and consequently complemented with *registration- and case file information* of the Public Prosecution and Probation Services (i.e. information with regard to the characteristics of the case, the parties involved, and details regarding the enforcement process and the extent to which the order was complied with). Lastly, a *victim survey* was sent to all victims included in the sample for which registration- and case file information was collected (response n=101).

These various methods of data collection were explicitly aligned and subsequently combined in order to provide a comprehensive answer to the research questions. The interviews were guided by topic lists that were drawn up on the basis of both criminological and victimological theories, as well as findings of the systematic literature study. Subsequently, the checklist that was used for both the case file study and the victim survey were designed on the basis of the aforementioned theories, the systematic literature study and the interview findings.

The research entails three important limitations: first, there is a lack of a comparison group; second, there is a lack of Police registration- and file information with regards to detecting

violations and the subsequent enforcement process; and third, the victim survey response involves an overrepresentation of stalking victims and older victims (40 years and older).

Theoretical and legal framework

Chapter 2 and 3 provide a description of the theoretical foundations of protection order effectiveness and the legal framework of these orders.

Theory

On the basis of criminological and victimological theories, expectations were derived for the extent and the conditions (i.e. protective factors and risk factors) under which protection orders may contribute to objective and subjective safety. The first hypothesis draws upon the deterrence and victim empowerment perspective, and predicts positive effects of protection orders on victim protection (**hypothesis 1a**). The deterrence perspective states that the threat of a sanction deters a suspect or offender from violating the order or committing a new crime against the same victim while the order is in place. An order may also improve *victim empowerment*, which would render a victim less vulnerable and more willing to report new incidents of stalking or (physical) violence.

However, other perspectives may predict that protection orders may result in negative consequences for victim safety (**hypothesis 1b**). Negative consequences may occur when a suspect or offender cannot accept the limitations that have been imposed through the order and subsequently develops resistance or rebelliousness against the order ('defiance'). This would lead to an increased risk of violation and recidivism against the same victim and a decrease in victims' safety perceptions. According to the *control balance theory*, such defiance could occur when the protection order creates a substantial change in the balance between the extent to which a suspect or offender can exert control upon his or her situation on the one hand, and the extent to which professionals and organizations can exert control on the suspect or offender on the other hand.

Furthermore, various protective factors and risk factors were derived from theories for the extent to which protection orders can contribute to both objective and subjective victim safety. The

Table 1a. Hypotheses with regards to the extent to which protection orders may contribute to objective and subjective safety:

- H1a: *Deterrence* and *victim empowerment* as a result of the protection order may be associated with a lower number of incidents of (physical) violence and a higher level of subjective safety as experienced by the victim.
- H1b: *Defiance* and a lower *control balance* as a result of the protection order may be associated with a higher number of incidents of (physical) violence and a lower level of subjective safety as experienced by the victim.

hypotheses that have been formulated are summarized in table 1a and 1b:

Table 1b. Hypotheses with regards to protective factors and risk factors for objective and subjective safety:

H2:	More social and economic ties of the suspect or offender are associated with <i>fewer violations</i> .
H3:	Tolerance (indifference to sentencing) experienced by the suspect or offender is associated with a <i>higher</i> number of <i>violations</i> .
H4:	The use of neutralization techniques (denial of responsibility for the crime or the damage that was caused) by the suspect or offender is associated with a <i>higher</i> number of <i>violations</i> .
H5:	The presence of psychological problems and/or problematic substances on the part of the suspect or offender are associated with a <i>higher</i> number of <i>violations</i> .
H6a:	Experienced procedural justice by the victim is associated with <i>fewer violations</i> .
H6b:	Experienced procedural justice by the victim is associated with <i>higher</i> levels of <i>subjective safety</i> .
H7a:	A smaller relational distance between victim and suspect or offender is associated with a <i>higher</i> number of <i>violations</i> .
H7b:	A smaller relational distance between victim and suspect or offender is associated with <i>lower</i> levels of <i>subjective safety</i> .

Legal framework

In order to achieve a comprehensive understanding of protection order enforcement and its potential effects on safety, it is imperative to understand the relevant legal framework by which protection orders are imposed. To this end, chapter 3 starts with an introduction into the general framework of penal, civil and administrative protection orders, including how civil and administrative orders can be imposed as an alternative to, but also in combination with, penal orders. Subsequently, the framework of the aforementioned four legal modalities upon which a penal protection order can be imposed is described. Particularly, for each legal modality – the behavior order by the public prosecutor, the suspension on remand, the freedom-restricting measure and the conditional sentence – the legal basis, the conditions for implementation, the maximum duration, and the content and consequences for non-compliance are reviewed. Since these modalities cover various phases of criminal proceedings, they differ on various aspects. Most notably, differences can be observed with regards to the decision-making authority (referring to either the public prosecutor, examining magistrate, or the judge), the maximum duration of the protection order that is allowed, the possibilities to combine the order with other legal interventions, the possibilities to immediately execute a protection order [*dadelijk uitvoerbaar*], and finally the possible consequences that may follow violation of the protection order. Consequently, the empirical chapters will reflect on these aspects.

Although the review of the legal framework reveals clear differences between the four modalities, these differences did not result in modality specific hypotheses regarding to the extent to which protection orders may be more or less effective in terms of objective and/or subjective safety. Furthermore, no differences between the modalities on protection order effectiveness were found in the empirical literature study, interviews, or analysis of the case file data and victim survey. Therefore, although these differences were included in the analysis of the empirical data, given the lack of clear hypotheses and the lack of observed differences in the empirical data, the overview of the results below will not differentiate between modalities on protection order effectiveness. This does not rule out the possibilities of the existence of some factors (for instance, consistency of enforcement response) that may be more important in terms of effectiveness in some modalities compared to others (moderation effect). This may, for example, be due to the fact

that modalities differ in terms of severity and type of crime, and the duration of the protection order. However, exploring such differences falls outside the scope of this research. Future research should examine these possible interaction effects more closely.

Results

In chapter 5 and 6, the enforcement process of penal protection orders are explored. The former focuses on the process of detecting violations (research questions 1a and 1b) and the latter explores the enforcement response to violation (research questions 2a and 2b). Chapter 7 and 8 describe the relationship between penal protection orders and objective safety and victims' safety perceptions (subjective safety).

The process of detecting violations: difficulties and success factors

The interview, case file study, and victim survey findings confirm the findings that emerge from the literature that detection of violation is to a great extent dependent on the victim's willingness to report. Enforcement organizations rarely apply more proactive interventions to detect violations. For example, electronic monitoring of protection orders barring a person from entering certain areas is only applied in a small number of cases in the case file sample. Furthermore, three-quarters of the cases in the case file sample included the involvement of the Probation Service, which monitors and guides the suspect or offender, although Probation Service Officers describe their ability to detect violations without the use of electronic monitoring as limited. Probation Service Officers generally do not have contact with the victim or persons in the immediate vicinity of the suspect or offender. Therefore, to detect violations, Probation Service Officers are mostly dependent on reports of violation to the police or on reporting by the suspect or offender him or herself. Besides the Probation Service, the police also plays an important role in protection order enforcement. Similar to the Probation Service, proactive measures to monitor compliance and detect violations are rarely applied by the police. According to the victim survey, additional police surveillance took place in only one-fifth of the cases. Other activities that according to respondents may help to proactively monitor compliance and to detect violations, are home visits to the suspect or offender and the victim by the community officer (one-third of the cases in the victim survey) and the involvement of a specialized team (one-tenth of the cases in the victim survey). Due to the selective response to the victim survey, these numbers cannot be generalized to all cases in which protection orders are imposed, and should only be considered as indications for the limited use of monitoring measures.

The limited use of proactive measures to detect violations increases the importance of victim reports of violations in the process of monitoring compliance and detecting violations. Both the interview findings as well as the victim survey findings show that the victims' willingness to report is high, although reports to the police do not often lead to direct enforcement responses because of difficulty with collecting evidence when the suspect or offender has not been caught in the act. Moreover, the findings show that reports are often handled by police officers who have limited case knowledge, leading them to treat these reports with less urgency than is warranted. Although the information with regard to the imposition of the protection order is available in the police system, the accessibility of this information is problematic. Moreover, there is limited information available with regard to relevant case context details, and it is unclear what course of action should be taken in case a report of violation is made. Furthermore, there is no uniform national procedure that prescribes how the police should enforce protection orders. Such a

procedure is only available for protection orders issued within specific legal modalities. The interviews show how this situation leads to a rather large discretionary power that individual police officers may exercise when considering how to register and handle reports of violations.

It is unclear to what extent this discretionary power leads to the non-registering of reports, or to what extent police reports are not communicated to the Public Prosecution Service or Probation Service, as they should be. However, in the victim survey, victims reported violations in twice as many cases compared to the number of cases with registered violations in the systems of the Public Prosecution Service and the Probation Service. The section on research implications (section 9.4.1) explains how this difference can be interpreted.

The *first success factor* in the process of monitoring compliance and detecting violations is Electronic Monitoring. Although the number of cases that involves Electronic Monitoring is limited, respondents view it as an important measure in the process of monitoring compliance and detecting violations. Furthermore, the interviews show that, in order to maximize the ability to detect violations, it is imperative that the enforcement organizations and the relevant professionals working within these organizations have detailed case knowledge. This detailed contextual knowledge is gathered and shared in various ways. In a small portion of cases (10%), this is done by a specialized team or the police liaison of the so-called Safety House [*Veiligheidshuis*] that specifically monitors complex domestic violence cases. In other cases, the Public Prosecution Service plays an active role, or frequent Safety House consultations take place between various stakeholders involved in the prevention of repeated victimization. Such involvements are mentioned as a *second success factor* in the process of detecting violations.

In cases where electronic monitoring and the aforementioned type of involvement is absent, respondents view the community officer to be of crucial importance. Respondents emphasize their role in gathering relevant context information, for example through house visits. However, the extent to which community officers take up this role varies greatly, as well as the extent to which they are informed about the presence of newly imposed protection orders in their caseload. Community officers are not informed by default, and the extent to which the officer is actively engaged in gathering context information that can be relevant for monitoring and detecting violations is dependent on the level of involvement of the individual community officer, the public prosecutor, and the Probation Service Officer. Respondents also mention the possible deterrent effect of these house visits by increasing the suspect's or offender's perception of being watched, and thereby decreasing the risk of violation. Therefore, a *third success factor* in detecting violations is the presence of an actively involved community officer.

A *fourth success factor* that is brought forward in the interviews with regards to how violations are detected is the use of measures that improve the response time, such as a Location Related Advice [*Afspraak Op Locatie*] or Person Related Advice [*Afspraak Op Persoon*], also known as AOLs/AOPs, providing the victim with a direct phone number of the police or an emergency button. These measures not only highlight that these victim reports should be prioritized, but also include a description on the background of the case and a prescribed course of action in case of a report. This allows victims to get into touch more quickly with police officers who either have detailed case knowledge, or who can uncover this information quickly. Although these measures do not formally form part of the protection order, they are often advised and used in combination. The victim survey shows that at least one of such measures was used in almost two-thirds of cases. Moreover, findings in chapter 7 show that these measures lead to a higher number of violations as registered by the Public Prosecution Service and the Probation Service,

even when these victims report equal numbers of violations in the victim survey. This may be an indication that these measures are indeed a success factor in the process of detecting violations.

Table 2. A brief summary of the answers to the two research questions regarding the process of detecting violations:

1a. How are violations of a protection order detected and to what extent do victims, suspects, offenders and professionals find this process effective?

- In the majority of cases enforcement is reactive.
- The victim survey shows that the willingness to report is high and measures that decrease the response time are often used.
- The lack of proactive monitoring measures is regarded as problematic for effective enforcement by both professionals as well as victims.

1b. With respect to this process of detecting violations which difficulties and success factors can be identified?

Difficulties:

- A lack of police capacity for proactive monitoring
- A lack of knowledge of the presence and content of imposed protection orders on the part of individual police officers
- Incomplete contextual case information necessary for adequate decision-making with regards to urgency, priority, proportionality and balancing other interests

Success factors

- Use of Electronic Monitoring
- Use of a specialized officer (for example the liaison domestic violence) or a specialized team that gathers contextual case information and monitors the case
- An active community officer who gathers contextual case information, monitors the case, and increases visibility of the police for victims and suspects and offenders
- Use of additional emergency measures (AOL, AOP, emergency button, direct phone number of the police) that enable victims to get into contact faster with police officers who know or are able to uncover detailed case information

Enforcement response to violations: difficulties and success factors

The findings show that the enforcement response to violation requires a high degree of case-by-case customization, and, in order to choose the right response, enforcement professionals take several aspects into consideration. Interview and case file information shows that even in the case of violations that can be legally proven the prescribed response of an arrest does not always follow. The extent to which the Police, the Public Prosecution Service and the Probation Service prioritize reports of violation depends on considerations with regards to balancing various victim and offender/suspect interests, the perception of the need for urgency, and the perception of proportionality of possible responses. The victims in the interviews tell of their experiences with police officers who do not act upon (provable) violations that do not entail physical violence. According to respondents, this is due to the aforementioned difficulties in detecting violations, such as lack of police capacity, but also lack of knowledge about the case details that lead to imposition of a protection order.

Moreover, views of what type of enforcement response is appropriate and under which conditions differ between the Police, the Public Prosecution Service and the Probation Service, but also between these enforcement organizations and victims. Interviews with public prosecutors and Probation Service Officers show that they take various considerations into account in deciding upon the type of enforcement response to violation that mostly relates to the aspect of proportionality, including balancing the suspect's or offender's need for treatment and supervision (by the probation service), and the desire to not interfere with planned consultations or trials. The intended objective of victim protection of the Public Prosecution Service and Probation Service seems to be oriented toward the long term. For victims, this seems to be of less importance, as the interview findings show. An interesting observation in this context was that Public prosecutors and Probation Service Officers appear to be more optimistic than the victims with regard to the extent to which treatment may reduce the risk of future victimization. A possible explanation may be that victims often know the suspect or offender well, and have experiences with previous relapses into violence. Similar to victims, police officers' objectives with regard to victim safety are more oriented toward the short term, and they disagree with how violations are sometimes dealt with by the public prosecutor after they have already given multiple warnings or arrested a suspect or offender, particularly when, in their view, the arrest results in limited consequences for the suspect or offender.

Given these differences in views with regard to the importance of various considerations, direct communication lines are key. They enable enforcement officers to base their considerations on more complete information, and to improve communication with regard to their motivation for and explanation of their decisions with other enforcement actors and victims, thereby increasing understanding and acceptance, and aligning expectations. The extent to which this communication and alignment takes place is, on the one hand, dependent on the initiative of individual professionals who are involved in the case, and on the other hand, dependent on the extent to which collaboration between the three enforcement organizations is embedded in work processes. The latter is, among other things, dependent on the severity of the case and the legal modality on which basis the protection order is imposed. Therefore, the number of cases in which these difficulties occur with regard to insufficient communication and alignment, is unclear. The interviews show that professionals do not have an overview of the total number of protection orders and the extent to which they are complied with. Furthermore, case file information does not entail sufficient information to obtain a case specific overview of the collaboration process of the three enforcement organizations which may provide insights into the extent to which the aforementioned difficulties regarding insufficient communication and alignment occur.

Although information with regard to the enforcement decision-making process is mostly lacking, the case file information does provide insights into this process from the moment that violations are registered into the systems of the Public Prosecution Service and the Probation Service. Based on these registrations, it is found that one-quarter (Public Prosecution Service) to 40% (Probation Service) of the registered violations are not followed up by an enforcement response; at least not one that has been formally registered as such. It is possible that these violations have been followed up by, for example, a warning by the police, the public prosecutor, or Probation Service Officer. However, victims generally do not view these types of responses as adequate, and they do not contribute to their safety perceptions. Often victims are not even aware that these responses took place. Furthermore, these numbers exclude possible reports of violation to the police that subsequently have not been communicated to the Public Prosecution Service or the Probation Service. In sum, the findings of the case file study correspond to the interview

findings and victim survey findings that for at least part of the reported violations there is a lack of an enforcement responses by the justice system that are visible to victims.

The most important difficulties in the enforcement process constitute a lack of capacity to gather evidence, insufficient case knowledge to assess safety risks to adequately balance conflicting interests, and to adequately decide upon the appropriate enforcement response. According to respondents these latter two difficulties occur mostly in stalking cases and repeat domestic violence offenders who appear resistant to sentencing. Other complicating factors that contribute to problematic enforcement are situations in which victims and suspects/offenders live in each other's vicinity and/or have children together. In situations where children are involved, enforcement is further complicated often due to insufficient knowledge by police officers with regard to (civil) proceedings concerning the children and how these intersect with the protection order.

Table 3. A brief summary of the answers to the two research questions regarding the process of the enforcement response to reported violations:

2a. What type of enforcement responses follow violation of a protection order, and to what extent do victims, offenders, suspects and professionals find these responses effective?

- The enforcement response requires a high degree of customization for which considerations regarding proportionality and other interests (such as treatment and future consultations) are important.
- From a victim point of view, many (provable) reports of violations do not lead to an enforcement response.
- Public prosecutors and Probation Service Officers often have different views on what constitutes an effective enforcement response compared to victims and police officers.
- Compared to most professionals, victim views of the (expected) effectiveness of the enforcement response to violation are more negative.

2b. With respect to these enforcement responses which difficulties and success factors can be identified?

Difficulties

- Lack of capacity for gathering evidence
- Lack of knowledge by the Police, the Public Prosecution Service, and Probation Service on effective enforcement responses in case of stalking and repeat domestic violence offenders
- Lack of knowledge by police officers with regard to (civil) proceedings concerning the children that the victim and suspect or offender have together and how these proceedings intersect with the protection order enforcement

Success factors:

- The presence of detailed case information with regard to the situation in which protection orders are imposed
- Good communication between the three enforcement organizations
- The presence of a specialized police officer or team who are knowledgeable about the case specific situation and corresponding enforcement responses

Penal protection orders and objective safety

Research questions 3a and 4a focus on the scope and nature of violations of protection orders, and on victim and professional perspectives on the extent to which they believe these orders can prevent future victimization (objective safety). The interviews mostly provided insights into the nature of violations, whereas the case file information and the victim survey provided insights into the extent to which protection orders are violated and the nature of these violations. These various

methods to gain insights into the nature and scope of violations each have limitations and therefore do not provide a complete overview of violations that occur. One major limitation of this research design is the lack of information on violations based on police registrations. The findings with regard to the occurrence of violations exclude violations that have been reported to the police but nevertheless have not been registered by the Public Prosecution Service or the Probation Service. By comparing the results of the three aforementioned methods, we hope to have provided an approximation of the scope of violations that actually occur. In addition, the other subquestions are answered with regard to identifying protective factors and risk factors for violation and repeated victimization.

The nature of the violations appears to be very diverse and varies from severe physical or psychological violence, to forms of (indirect) contact by which the boundaries of the protecting orders are explored. Estimations with regard to the frequency of violation vary strongly, depending on the method of data collection that is used in this research. Based on the registrations and case file information in systems of the Public Prosecution Service and Probation Service, at least one violation occurred in 23% of the total sample of cases (n=423). Based on the victim survey response (n=101), in 30% of the cases at least one violation occurred. Compared to victims who had not completed the victim survey, the victims who had participated in the victim survey were more often victims of stalking, which may explain the difference in violation rate. In general, victims report twice as many violations (60%) compared to the registrations and case files.

Although violations occur in a large number of cases, both criminological and victimological theories, the empirical literature, and the interviews give reason to expect that protection orders generally do contribute to victim safety. Protection orders are expected to contribute by deterring potential offenders, by limiting opportunities for repeated victimization, by building a 'paper trail' that enables possibilities for additional legal conditions or penal sanctions in the future, by functioning as a tool in the supervision and treatment of the suspect or offender, and finally by increasing feelings of empowerment of the victim. However, protection orders may also have negative effects on victim safety, because suspects and offenders may feel frustrated by the order and the corresponding shift in the extent to which they can exert control over their situation (known as defiance and control balance).

We conclude that protection orders have both positive as well as negative effects on victim protection, and that the positive effects appear to be stronger. Due to limitations in the research design of the quantitative study (case file and victim survey information), the hypotheses with regard to protection order effectiveness could not be tested. However, in the victim survey, victims have been asked about the extent to which they believe that protection orders contributed to their safety. Two-thirds of victims (65%) believe that since the protection order has been imposed, the number of stalking and violent incidents has decreased. Therefore, although the violation frequency is high, we interpret this finding as a cautious indication that protection orders are an effective intervention with regard to the prevention of repeated victimization.

Table 4. A brief summary of the answers to the two research questions regarding nature and scope of violations:

3a. What is the nature and scope of violation of protection orders?

- The nature of violations is diverse and suspects and offenders seek the boundaries of the order.
- Violations are registered in a quarter of the cases.
- Victims in twice as many cases report one or more violations as are registered in the system of the Public Prosecution Service and the Probation Service (information with regard to the number of violations in Police registrations is not available).

4a. To what extent do victims and professionals find protection orders effective in terms of prevention of repeated victimization (objective safety)?

- Professionals and victims report that protection orders have positive effects.
- According to professionals and victims, protection orders may be effective through: deterring offenders, limiting opportunities for repeated victimization, building a ‘paper trail’, functioning as a tool in supervision or treatment of the suspect/offender, and empowering victims.
- Professionals and victims do not provide definitive answers to the question concerning the extent to which protection orders contribute to objective safety.
- In 65% of the cases, victims report a reduction in the number of stalking and violent incidents (physical, psychological, and/or sexual violence and/or threats) since the moment the protection order has been imposed.

The theory-based hypotheses with regard to protective factors and risk factors for violations and their expected relationship to protection order effectiveness (**hypothesis 2 to hypothesis 7a**) have all been supported by the findings in the empirical literature, as well as the findings of the interviews in this research. The quantitative analyses in this research are less supportive of the relevance of these protective factors and risk factors. With regard to the hypotheses concerning suspect and offender characteristics, on the basis of the victim survey and case file information, support was found only for the hypothesis that a higher number of violations is associated with suspects and offenders who suffer from psychological problems (**hypothesis 5**). The hypotheses with regard to social and economic ties (**hypothesis 2**), tolerance for sentencing (**hypothesis 3**) and neutralization techniques (**hypothesis 4**) were not supported.

The case file information and victim survey findings do find clear support for the hypothesis with regard to relational distance (**hypothesis 7a**), as well as the hypotheses with regard to procedural justice (**hypothesis 6a**). With regard to the first, it is found that indications for a smaller relational distance are associated with a higher number of violations. Of particular importance is the presence of children the victim and the suspect or offender have together. With regard to the latter, it is found that providing the victim with information and assuring that the description and content of the protection order is well tailored to the victim’s preferences is associated with a lower number of violations. These associations may be caused by other underlying characteristics, such as the complexity of the situation in which the protection order was imposed, the complexity of the personal situation of the suspect or offender, or a strong overlap between the social environments of the victim and suspect or offender. The resulting association between the extent to which protection order descriptions are aligned with the victim’s preferences and the number of violations may be explained by violations that have occurred that consequently have negatively influenced perceptions of the order description. From that

perspective, violations are not a result of malalignment of the description of protection orders with the victim's preferences. Table 5 provides a more detailed overview of these findings.

Besides factors that have been drawn from theory, findings from the empirical literature study and the interviews complement the list of protective factors and risk factors for violation and repeated victimization (objective safety). The most important factors are listed in table 5. In order to correctly interpret the results that are depicted in this table, it is important to emphasize that the sample constitutes not only stalking and repeat domestic violence offenders. For example, half of the sample constitutes non-domestic violence cases such as assault or threats by neighbors or work colleagues, or during a robbery. Although in such victim offender-relations longer histories of violence do occur, this appears to be true for a minority of the cases especially those in which neighbors and work colleagues are involved. Furthermore, for part of the cases that involved domestic violence, the crime that was the direct motive for imposing the protection order happened to be the first violent crime. A history of violence was also often absent in cases in which the protection order was imposed because the suspect or offender started to stalk the victim after the latter person broke up the relationship.

The information in table 5 clearly shows that the empirical literature study and the interviews identify more protective factors and risk factors than the results of the analyses based on the case file information and the victim survey. The analyses on case file and survey data however, do find support for the expectation that better information provision from the Public Prosecution Service to the victim is associated with a lower number of violations, and that cases of stalking, domestic violence, and the presence of psychological issues; a smaller relational distance; and a history of violence is associated with a higher number of violations. Therefore, past behavior is predictive of the extent to which an order is complied with. With regard to victim perceptions of the extent to which protection orders *contribute to a reduction of stalking and violent incidents*, it can be concluded that this reduction is perceived as *higher* in stalking cases, and *lower* in cases in which the suspect or offender has psychological issues and a lower age (18-30 years) and where the distance between the residential addresses of victim and suspect or offender is small.

Table 5. A brief summary of the answers to the two research questions regarding nature and scope of violations:

3b. Which protective factors and risk factors can be identified for protection order violation?

4b. Which protective factors and risk factors can be identified for objective safety for cases in which protection orders are imposed?

Empirical literature and interviews, factors for violation and protection order effectiveness:

Protective factors:

- Strong social and economic ties between suspect/offender and society
- Information provision to the victim
- Intensive monitoring and detection measures and enforcement responses

Risk factors:

- Stalking and domestic violence as index crimes
- Insensitivity for sentencing (tolerance)
- Denial of responsibility and/or harm (neutralisation)
- Psychological and addiction issues and mild intellectual disabilities
- Relational aspects (small relational distance, continuing the relationship, having children together, history of violence in the relationship)
- Small distance between residential addresses

Case file information and victim survey:

Protective factors for protection order violation:

- Better information provision to the victim

Victim perceptions of factors supporting protection orders contribution to reduction in stalking and violent incidents:

- Stalking

Risk factors for violation:

- Stalking and domestic violence
- Presence of psychological issues on the part of the suspect or offender
- Small relational distance between victim and suspect or offender
- History of violence in the relationship

Risk factors for the perception of effectiveness of the extent to which protection orders can prevent repeat victimization (objective safety):

- Lower age of suspect or offender (18-30 years)
- Presence of psychological issues on the part of the suspect or offender
- Small distance between residential addresses

Penal protection orders and subjective safety

Research questions 5a and 5b focus specifically on safety perceptions (subjective safety) of victims who are protected by a penal order. Victims define safety as a broad concept, and victims' recovering of the feelings of safety is described as a long-term and dynamic process that is influenced by many factors, including but not limited to the protection order.

Important differences between victims and professionals with regard to the intended purpose of protection orders arise when they define the concept of effectiveness in terms of safety perceptions. Victims express a strong need for both their safety as well as their wellbeing (peace of mind), and expect the protection order to contribute to both. For victims, the value of protection orders lies in the prohibition to prevent *any* form of future confrontation with the suspect or offender. The potential effect of a protection order on feelings of safety and wellbeing is negated when victims are preoccupied with the mere thought of the possibility of such a confrontation. In contrast, enforcement professionals tend to focus on prevention of *physical* forms of repeated victimization due to considerations with regard to proportionality, provability, and a lack of capacity.

Based on the findings of the victim survey, we conclude that a large part of the victims still feels very unsafe despite the protection order. Percentages of victims who fear contact with the suspect or offender or who fear violence and damage caused by him or her vary between 57% and 69%. Particularly, these victims experience a strong fear for the safety of their loved ones. At the same time, half of the victims report that the protection order does contribute to perceptions of safety and wellbeing. Particularly positive evaluations are found for statements regarding the contributions of protection orders to feelings of acknowledgement of the victim status (64% agree that orders contribute) and to the ease with which victims can invoke help (55% agree that orders contribute).

The mechanisms that explain how protection orders may contribute to *subjective safety* overlap partly with the mechanism for objective safety. According to victims, protection orders contribute via (1) the belief in the deterrent effect, (2) the belief that a protection order leads to a more effective enforcement response to future incidents, (3) the belief that violations result in arrest and detention, (4) the acknowledgement of victim status and the symbolic function of non-acceptance of the behavior of the offender, and (5) the belief that every possibility to increase safety has been used. A comparison between the views of victims and enforcement professionals shows that although professionals view building a 'paper trail' as a way to improve safety, this is to a lesser extent experienced by victims as a meaningful way to improve perceptions of safety (subjective safety).

In contrast to the hypotheses drawn from theories on objective safety, theories provided less clear hypotheses for subjective safety. Effects on subjective safety are expected only for relational distance (**hypothesis 7b**) and procedural justice (**hypothesis 6b**). From the empirical literature study and the interviews, many factors arise that are expected to be associated with the extent to which protection orders contribute to subjective safety. These factors concern the relationship with the suspect or offender; the distance between the residential addresses of victim and suspect or offender; the presence of problematic issues on the part of the suspect or offender, and the way these issues are handled; the use of proactive monitoring instruments for detecting violations; the enforcement response to violation and the communication with and information provided to the victim with regard to the imposition, content and enforcement process of the protection order; the actual decision-making during the enforcement process; and the course of the case proceedings.

The findings of the case file information and the victim survey provide limited support for the expected correlations. However, a few factors appear to be clearly associated with subjective safety. Risk factors for *subjective safety in the period in which protection orders are in force* are: a low age of the suspect or offender (18-30 years), a history of violence in the relationship, a small distance between the residential addresses, a description of the order that is ambiguous or not aligned with the victim's preferences, and the presence of intensive monitoring measures. The only protective factors for subjective safety that have been found, are the presence of information provision to the victim after he or she has reported a violation, and the presence of an enforcement response after such a report.

Table 6. A brief summary of the answers to the two research questions regarding nature and scope of violations:

5a. To what extent do victims and professionals find protection orders effective in terms of perception of safety (subjective safety)?

- A large number of victims (strongly) fears contact with or violence or harm by the suspect or offender (57%-69%).
- Interviewed victims and professionals describe various mechanisms of how protection orders contribute to subjective safety; however, they do not make direct claims with regards to the extent to which they believe these orders contribute to subjective safety.
- In 46% of the cases, victims report that they feel safer after imposition of the protection order.

5b. Which protective factors and risk factors can be identified for subjective safety for cases in which protection orders are imposed?

Empirical literature and interviews

Factors for violation and protection order effectiveness:

Protective factors:

- Support by relief services/victim representation by a lawyer
- Information provision by enforcement organizations
- Presence of an enforcement response to violation

Risk factors:

- Relational distance (small relational distance, having children together, history of violence in the relationship)
- Small distance between residential addresses
- Protection order description that is not aligned with victim preferences or is ambiguous from a victim point of view

Continuation of table 6:

Case file study and victim survey

Protective factors for subjective safety and effectiveness of the protection order in terms of subjective safety:

- Information provision by enforcement organizations
- Enforcement response to violation

Risk factors for subjective safety:

- Low victim age (18-30 years)
- History of violence in the relationship
- Small distance between residential addresses
- Protection order description that is ambiguous or not aligned with victim preferences from a victim point of view

Risk factors for effectiveness of the protection order for subjective safety

- Low suspect or offender age (18-30 age)
- History of violence in the relationship
- Protection order description that is ambiguous or not aligned with victim preferences from a victim point of view

Implications for the enforcement practices of protection orders

Although this research has clear limitations due to the lack of a comparison group without protection orders, the lack of information from police registrations, and the selectivity of the victim survey response, this research does provide a rich description of the enforcement practices of protection orders. Thereby, this research provides important insights for improving the enforcement process and increasing the protection order effectiveness in terms of prevention of repeated victimization and safety perceptions. The most important insights are summarized below.

Monitoring compliance, detection of violations, and the decision-making regarding enforcement response

The reactive character of the enforcement process by which violations are only detected when reported by victims (or other individuals in their vicinity) limits the extent to which protection orders can truly contribute to prevention of repeated victimization in cases where suspects or offenders intend to cause harm. Only the use of Electronic Monitoring results in sufficient proactive monitoring to realize this potential for protection, but this measure cannot be used in all modalities (see chapter 3) because of considerations regarding proportionality, unsuitability for certain suspects or offenders, and the limited duration of the expected effectiveness of this measure. Moreover, Electronic Monitoring will not protect the victim against unwanted contact via internet, telephone or other persons (see the discussion in chapter 9).

In cases where proactive monitoring is absent, potential protection order effectiveness is achieved via other mechanisms than limited opportunity. More specifically, protection order effectiveness is also achieved by deterring suspects and offenders, building a ‘paper trail’, providing a tool for treatment and supervision, and empowering victims.

An important factor for all these mechanism is the matter in which reports are handled with an adequate sense of urgency. This seems to be dependent on the available knowledge of police officers and public prosecutors regarding the presence of a protection order, and the circumstances

under which the order was imposed. *This knowledge however, is not sufficiently communicated to individual actors in the enforcement process yet and this type of information needs to be made more readily accessible.* The registration of AOLs or AOPs can be taken as an example. When receiving a report, these two measures provide police officers with a clear overview of the relevant knowledge (including a description of the situation and agreements on how to handle reports of violations). Moreover, *introduction of a more systematic work procedure regarding the way the three enforcement actors should jointly handle a report of violation could contribute to a more effective enforcement response.* It is important to note that individual police officers rarely encounter penal protection orders in their caseload.

A second and related aspect concerns the lack of dynamic context information that often forces Probation Service Officers, public prosecutors and judges to decide upon considerations of proportionality and to balance various interests (such as treatment and supervision by the Probation Service versus deterrence) based upon incomplete information. The research findings show that specifically the *use of specialized teams or officers such as the community officer can play an important role in this regard; however, their full potential is currently not being used.*

Finally, in the interviews various situations are highlighted in which the enforcement actors generally express a lack of knowledge with regards to what would constitute an effective enforcement response. Particularly problematic are cases in which the suspect or offender is resistant to sentencing (mostly in stalking or repeat domestic violence offenders) and situations in which the victim plays a part in the (repeated) occurrence of violations. *Therefore it is important to gain and disseminate more knowledge on how these two complex situations can be dealt with effectively in terms of enforcement responses.* Although the sample entailed many cases that did not involve such complex domestic violence or stalking cases (as mentioned before), the analyses based on case file and victim survey information found that the risks of repeated victimization and feelings of unsafety were highest in stalking and repeated domestic violence cases.

Care for subjective safety and the importance of information provision to victims

The before-mentioned difference between victims and professionals on the purpose of protection orders should become an important focus in future policy regarding these orders. It is clear that also smaller confrontations and insecurity regarding the risk of confrontation has significant negative consequences for feelings of subjective safety. How these incidents and feelings of insecurity shape certain needs, and how these needs change over time, differs per victim and per situation. For protection orders to contribute optimally to feelings of subjective safety, customized enforcement responses are essential.

In order to meet these needs, *more intensive communication with victims is necessary.* Moreover, it is important that *the Police, the Public Prosecution Service and the Probation Service gain more knowledge regarding this all-encompassing, diverse and dynamic meaning of subjective safety from a victim perspective, thereby enabling them to take this safety into account and assign it the appropriate weight in their decision-making regarding proactive monitoring measures and enforcement responses.* Possibly, other measures are necessary to explore the needs of victims and to meet these needs during the course of the criminal proceedings. *Examples of these other measures may be the more intense involvement of Victim Support Netherlands [Slachtofferhulp Nederland] and the continuation of this involvement in cases after which a protection order has been imposed. Other forms of contact that could positively contribute to explore and meet victim's needs are contact with the Police, the Public Prosecution Service, the Probation Service, and a lawyer who represents the victim.*

More care should also be given to information provision for the victim regarding the course of the criminal proceedings and the protection order. There is a tension between the right to privacy of the suspect or offender and the victim's need for information. Our research findings indicate that police officers and public prosecutors decide differently on this matter. In order to solve this tension and the wide variance in decision-making outcomes, more *clear guidelines could be established regarding the possibilities that exist to inform victims according to their preferences and, within the possibilities of privacy regulations, about the situation of the suspect or offender. Victims should also be informed of the considerations that the Public Prosecution Service and the examining magistrate or judge take into account when deciding upon the enforcement response to violation. Moreover, victims should be informed regarding the imposition and termination of the protection order by default and in a timely manner, if they have expressed the wish to receive this type of information.*

A final note

This report outlines the use of protection orders as a legal instrument that consists of many dimensions and is characterized by complex enforcement practices. Although the question of effectiveness in strict impact terms could not be assessed, results from all datasources suggest that protection orders do contribute to victim protection and can contribute to the prevention of repeated victimization (objective safety) and to an increase of victims' safety perceptions (subjective safety). At the same time, the findings also clearly point out that protection orders do not guarantee the absence of future victimization. One has to bear in mind that in cases where suspects or offenders strongly intend to do harm, a protection order will not deter them from doing so. Nevertheless, based on this research, several suggestions have been formulated to further improve the effectiveness of monitoring and detecting violations, as well as to improve enforcement responses to violation in order to increase the preventive effect of protection orders. Many of these suggestions were based on 'good practices' that have already been developed and applied in the current enforcement process. Furthermore, this research emphasizes the need for enforcement actors to not only focus on objective safety (less repeated victimization), but also to include victims' safety perception (subjective safety), and the way these safety perceptions can be improved.