



Summary

Threats and intimidation faced by mayors in relation to the administrative approach

Colophon

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Summary

BACKGROUND OF THE STUDY

Introduction

In recent years, the topic of ‘threatened mayors’ has received much attention both in politics and in the media. Several serious incidents whereby mayors were threatened have recently taken place. Both in politics and in the media, there have been suggestions of a causal relationship between the use of powers in the fight against organised crime on the one hand and threats and intimidation directed at mayors on the other hand.

The Dutch Minister of Justice and Safety (Dutch: minister van Justitie en Veiligheid; JenV) has asked the Research and Documentation Centre (Dutch: Wetenschappelijk Onderzoek- en Documentatiecentrum; WODC) to have research conducted into the extent in which a causal relationship between the administrative approach and threats and intimidation directed at mayors can actually be established.

Motivation and research question

The purpose of this study is to provide an insight into the nature and extent of the threats and intimidation faced by mayors as well as into the number of police reports, prosecutions and convictions. The study also needs to provide an insight into the possible relationship between the extent in which mayors use the available instruments within the concept of ‘administrative approach’ and the occurrence of threats and intimidation aimed at them.

The following two questions are central in this study:

- 1 What is the nature and extent of the number of threats and intimidation faced by mayors, how often do they press charges, how often are suspects arrested and how often are offenders prosecuted and convicted?
- 2 To what extent, if any, is there a relationship between the administrative approach and the occurrence of threats and intimidation directed at mayors, broken down by the nature of the threat or intimidation and the type of perpetrator?

The study needs to provide an insight into the criminal response to cases of threats and intimidation. This is important, as it enables the development of a policy targeted at dealing with threats and intimidation directed at mayors, for instance based on the characteristics of the different types of perpetrators. It is also important to get a clearer picture of what part of the threats against mayors are made by organised crime and what part comes from different groups of people, and also of the type of threat or intimidation and the way it takes place.

Research method

The study into threats and intimidation directed at mayors involved different research methods. First, a literature review was undertaken into developments within the administrative approach and the possible resistance that mayors experienced hereby. Several experts were also interviewed within this context.



Subsequently, all Dutch mayors were approached to take part in an online survey on their personal experiences with threats or intimidation, any criminal response and the use of administrative powers in the field of public order and safety. The survey was conducted between 10 February and 12 March 2020, so before the outbreak of the COVID-19 pandemic in the Netherlands. In total, 139 mayors completed the questionnaire in full, a response of 39 per cent. A further 22 mayors partially completed the questionnaire. After the survey in-depth interviews were held with nine mayors.

To gain further insight into the use of specific powers in the field of public order and safety and the possible resistance that was evoked as a result, the civil servants of the Departments of Public Order and Safety (Dutch: openbare orde en veiligheid; OOV) of the Dutch municipalities were also approached. The survey among the OOV civil servants was conducted between 13 February and 25 March 2020. Out of the 355 municipalities, 147 of the OOV civil servants completed the questionnaire in full on behalf of their municipality, a response of 41 per cent. Ten OOV civil servants partially completed the questionnaire.

In cooperation with the police, the Public Prosecution Service and legal authorities, it was tried to reconstruct the criminal response to incidents (reports, prosecution and conviction) from the records of the organisations involved. It turned out to be impossible to give a reliable estimate of the number of threats and intimidation directed at mayors based on reports records of the police. Since it was not possible to use these data as a starting point, it was impossible to follow the cases through the criminal justice chain. An inventory, however, of all the published case law since 2010 on Rechtspraak.nl did take place. This provides a picture of the verdicts in cases in which a mayor was the victim of threat. Further information on the criminal response to cases of threats or intimidation was provided by the questionnaires completed by mayors. This information from the perspective of the mayors does give a picture, but is not complete.

Initially, the study was aimed at the period from the year 2010. One of the reasons for this was that it was expected that the police reports records, data from the public prosecutor and the courts would be available for research. When it appeared this was not the case, a survey was conducted instead. Because of cognitive limitations it is not possible to go back in time too far. That is why the focus of the analysis of the backgrounds of the incidents and the legal response to these shifted to the period from 2015.

Definitions

For this study threat and intimidation are defined as follows:

A threat is a concrete manifestation to hurt someone or someone's relatives. Threats are criminalised in Article 285 of the Criminal Code.

Intimidation is often less specific and/or indirect and mainly causes a sense of insecurity with the victims.

These definitions were given in the questionnaire for mayors, in which questions were included about possible victimhood. Hereby was indicated that threats and intimidation come in different forms: pressurizing, provoking, blackmailing, destroying of personal possessions, stalking, mailing threatening letters, posting messages on social media or sending out 'signals' in a different way.



‘Administrative approach’ is the use of all powers by a mayor in the field of public order and safety, with the exception of administrative fines. In this sense the term administrative OOV-power is also used.

RESULTS

The study has both a descriptive and explanatory purpose. First, the study needs to provide an insight into the nature and extent of the threats and the intimidation directed to mayors and the criminal response to these acts. This aim is descriptive in nature. The study also needs to provide an insight into the possible relationship between the use of OOV-powers and the extent in which mayors are faced with threats or intimidation. This aim is of an explanatory nature. This possible relationship is of a complex nature and is therefore approached from different angles and sources.

1. Nature and extent of threats and intimidation

Development in the number of threats and intimidation

Over the period 2010–2020 the percentage of mayors that were affected by threats and intimidation fluctuated between 21 and 33 per cent. These numbers were taken from the long-term Monitor Integrity and Safety of the Ministry of the Interior and Kingdom Relations (Dutch: ministerie van Binnenlandse Zaken en Koninkrijksrelaties; BZK). These fluctuations are partly related to specific social circumstances and developments, such as the refugee crisis in 2015, which caused an increase in the number of threats against mayors. Although we have seen another increase in the last two years, there has not been a structural increase of victimhood of threats and/or intimidation among mayors over the period 2010–2020. Because of their portfolio, whereby mayors are responsible for public order and safety and serve as the figurehead of the municipality, mayors have to deal with threats and intimidation more often compared to other local political office holders. It is, however, certainly not an exclusive problem that only concerns mayors. Other politicians, such as aldermen and councillors, and government staff (for example policemen, community service officers (CSO) or public transport staff) are also faced with threats and intimidation in the execution of their duties.

Background of threats and intimidation

As part of this study, a survey was conducted among mayors, in order to gain a better insight into the nature and background of threats and intimidation directed at mayors and the criminal response to this. The survey focused on the period 2015–2019. During this five-year-period three out of ten mayors were faced by threats at least once, and nearly half of them experienced a form of intimidation.

From the survey it appeared, that out of all threats occurring over the period 2015–2019, 30 per cent of the cases concerned a deliberate act by the perpetrator to achieve a certain aim. The remaining threat cases are of a (mainly) non-instrumental origin, such as heated emotions (17%), frustration (38%) or emotionally disturbed behaviour (14%). Intimidation against mayors results less often from this so-called instrumental use (18% of the cases), but is more often triggered by non-instrumental aggression.



From the survey and the in-depth interviews with mayors it appears that there is a wide range of intimidating or threatening incidents that differ in principles, degree and manifestations. The (alleged) perpetrators come from various sections of society. Threats and intimidation can be expressed by emotionally disturbed persons but also by people who are in conflict with the council, feel disadvantaged by a decision taken by the mayor or by people who are linked to criminal organisations such as motorcycle gangs. In general, the more a decision or measure affects somebody's personal life, (criminal) activities, finances or other interests, the higher the risk of threats and intimidation. On top of that, the mayor, being the figurehead of the municipality, is as such an easy target for some perpetrators.

Criminal response

The survey that was conducted under mayors showed that about a third of the cases that involved threats were reported to the police, whereas intimidation was reported in one out of nine cases. Threats are criminalised in Article 285 of the Criminal Code. Intimidation is not a punishable offence, but can be punishable in combination with other offences, such as physical harassment (Art. 285b). As threats are more often reported to the police than intimidation, the number of cases in which is decided to start a criminal investigation and to press charges is also relatively higher. The perpetrators are convicted in about one out of nine cases in which mayors were threatened. In the case of intimidation, this takes place in about one out of 25 cases.

2. Developments in administrative approach

The use of administrative powers in the field of OOV increased over the period 2015-2019. The majority of both the mayors as the OOV civil servants indicate in the survey that the use of OOV powers has increased in general. Other studies also point in the direction of an increase in the use of OOV powers. In particular, mayors in large, urban municipalities use their powers more often. This is also noticeable when looking at the use of specific powers. Thirteen out of the seventeen OOV powers that were investigated were used more often by mayors between the years 2015 and 2019. The top three of powers that were used most often over this period are: issuing closing orders for drug houses (Article 13b Opium Act), issuing orders for compulsory placement in a psychiatric institution (Compulsory Mental Healthcare Act; Wvggz) and issuing an area or a group ban.

Mayors and OOV civil servants mention several reasons why there is general increase in the use of OOV powers. First, there has been an increase in the number of powers available to mayors (such as the issuing of area bans) or existing powers can be used in a wider sense, especially those that are related to closing drug houses. Second, municipalities are confronted with specific problems that made the use of specific powers appropriate, such as drug-related problems and demonstrations. Third, there is more awareness of the possibility to intervene through OOV powers and there is a stronger commitment to an integrated approach. In line with this, administrative law is turned to much quicker than previously to combat criminality and disturbances. On the one hand is this shift due to the sub-optimum performance of the criminal justice chain. On the other hand is there an idea that administrative law can be used quicker and more efficiently than criminal law. Mayors do not agree on the desirability of this.



3. Relationship between the administrative approach and threats and intimidation

The question if there is a relationship between the use of OOV powers on the one hand and the extent in which mayors experience threats or intimidation on the other hand, is a complex one. That is why this question is approached from four different perspectives.

Perspective 1: from administrative powers towards threats and intimidation

It is true that the study shows that the use of administrative powers in the field of public order and safety has increased over the period 2015–2019, but so far this has not led to a structural increase in the number of threats and intimidation directed at mayors. According to six out of ten mayors, the use of powers, in a general sense, does *not* evoke resistance from society nor from groups or individuals within society. Any cases of resistance usually stem from general social resistance or from other legal forms of resistance, such as formal complaint and appeal procedures, informal protests or political administrative objections (for example from the city council). The use of powers has at times led to threats or intimidation for one out of twenty mayors; mostly in the form of intimidation. When focusing on the use of specific powers, it appears that the use of certain powers, such as the closing of houses or imposing a group or an area ban, brings about a greater risk of threats or intimidation.

Perspective 2: from threats and intimidation towards the administrative approach

The survey among mayors shows that, out of all incidents involving threats that occurred over the period 2015–2019, in about three out of ten cases it concerned a deliberate act by the perpetrator in order to achieve a certain aim. This occurred in about one in five of cases that concerned intimidation. It is plausible that this instrumental form of aggression bears a (strong) relationship with the use of administrative powers, especially when important (financial) interests are at stake. It is, however, also conceivable that the instrumental aggression has a different intention, for example to bring a mayor or public administration in general into disrepute. The other cases of threats and intimidation (mainly) have another, non-instrumental origin, such as heated emotions, frustration or emotionally disturbed behaviour. These forms of aggression can also be triggered by acts of the mayor, although this is less likely in certain cases, such as emotionally disturbed behaviour.

Such aggressive manifestations are often of a more non-directed and unpredictable nature and are often related to psychological and/or personal problems of the offender. This unpredictable behaviour can, however, pose a great threat to the objective and subjective safety of mayors and others.

As part of this study, we analysed 35 court rulings of cases in which a mayor was threatened from 2010. In fifteen out of the 35 court rulings a relationship could be established, to a greater or lesser degree, with the administrative powers of the mayor. Examples include the issuing of a temporary occupation order, taking enforcement activities during Queen's night (2011), enforced closures of premises such as discotheques and houses and discontent over the plans of opening an asylum seekers' centre in the municipality. Three of the cases can be related to criminal activities, whereby multiple punishable, mainly drug related offences, were committed, among which dealing in soft and hard drugs and participating in a criminal organisation. In the remaining twenty cases a (direct) relationship with the administrative approach of the mayor could not be established. These were mainly threats by persons with a mental disorder, addiction problems and/or with personal or relational problems.



Perspective 3: developments over time

On balance, the use of administrative powers has increased over the last five years. From the interviews with experts and mayors and from literature review it appears that this trend had started even before 2015. The period 2010–2020 does neither show a marked increase nor decrease in the percentage of mayors that are faced with threats or intimidation. The increase in threats and intimidation that occurred during a specific period can be partly explained by various social developments, such as the protests against the plans of opening asylum seekers' centres. In these cases, there was no hard, statistical evidence for a relationship with the use of administrative OOV powers, although a relationship cannot be ruled out either.

Perspective 4: perception of the relationship by those involved

One out of five mayors are of the opinion that the use of administrative powers has (to some extent) an influence on the numbers of threats and intimidation they face. OOV civil servants do mostly agree with this. In the eyes of the involved, administrative powers and other (informal) instruments, such as interviews whereby offenders are asked to stop with their criminal behaviour or are given a warning, are of equal influence on the number of threats and intimidation.

The extent in which the use of a power leads to a form of threat or intimidation depends for an important part on the person against whom the power is used and the context in which it takes place. These personal and contextual factors include the background of those who are affected by the use of a power, the concurrence with other measures under criminal, fiscal or civil law (as part of a chain approach) and the timing of the use of a power. In general, it can be said that the more a power affects somebody's personal life, or hits somebody harder in their (criminal) activities, finances or other interests, the higher the risk of threat or intimidation directed at the mayor. The rise of social media has clearly contributed to the number of online threats against mayors. Mayors recognize that social media are a low-threshold channel to place messages of a threatening or intimidating nature.

Another aspect is that messages on social media are disseminated extremely rapidly (the so-called 'snow ball effect'), whereas in the past manifestations were limited to a small group of people in a pub or other establishment. Because of the rapid dissemination, online threats are a phenomenon that is hard to control.

For most mayors, the risk of being faced with threats or intimidation does not have an impact on whether or not to use a power. A part of the mayors takes the risk of personal threats or threats against their civil servants into account, but then mainly in the execution of, and the communication about a power. Four per cent of the mayors has become more careful with using administrative powers over the past years out of fear for aggression and threats. The impact of an action or manifestation is partly determined by the personality of the mayor. Where one mayor is able to ignore a manifestation or certain behaviour, another mayor can be emotionally, strongly affected. Both responses are equally legitimate.



4. Main conclusions

The first main question of the study refers to the nature and extent of threats and intimidation directed at mayors and the criminal response to this. Although there has been an increase in the number of incidents over the last two years, it is not the case that there has been a structural rise in the victimhood of threats and/or intimidation when looking at a longer period of time.

Nevertheless, a significant number of mayors have been faced with threats or intimidation over the years. Most cases involving threats are of a (mainly) non-instrumental origin, such as heated emotions, frustration or emotionally disturbed behaviour. However, a (significant) part of the threats are made deliberately in order to achieve a certain aim. This instrumental behaviour does not appear as often with intimidation. The (punishable) threats against mayors are reported to the police in a third of the cases, of which about one in nine result in a conviction of the perpetrator. Intimidation is not a punishable offence, but can be punishable if combined with other offences. One out of nine cases involving intimidation are reported to the police of which one out of 25 result in a conviction.

The second main question is aimed at the possible relationship between the use of OOV powers and the extent in which mayors are faced with threats or intimidation. From the study, it appears that there is a wide variety of factors that can lead to threats or intimidation and that the use of administrative powers is just one of them. Threats and intimidation directed at mayors is in many ways a very diverse phenomenon and the relationship with the use of administrative powers does not show as a specific mechanism or a one-to-one relationship, in the sense that a power always evokes a specific form of resistance. The way in which powers are used and several personal and contextual factors determine to a large extent if there is a risk of threats and intimidation.

The suggestion in the social debate that the number of threats and intimidation coming from organised crime has increased because mayors increasingly use their powers in the fight against organised crime cannot be confirmed nor negated. Although it is a fact that mayors increasingly use powers, so far it has not led to a structural increase in the *number* of threats and intimidation against mayors. Based on this study, it is not possible to draw any conclusions regarding the seriousness of the threats and intimidation by organised crime. It is clear, however, that criminal networks pose a risk factor for mayors when taking into account the chance of threats and intimidation in response to the use of powers. It should be noted that criminal networks are more aware of the limits imposed by criminal law than, for example, persons who act out of frustration or powerlessness. Organised crime is therefore more likely to resort to intimidation of mayors as opposed to punishable threats. Nevertheless, regardless the nature, seriousness and impact of an incident, any form of threat or intimidation is one too many.



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