



*Improving Needs Assessment and Victims Support  
in Domestic Violence Related Criminal Proceedings*

# The protection of IPV victims: File analysis and victims interviews

The Netherlands

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## Section (A): Executive Summary

The project INASC – Improving needs assessment and victim’s support in domestic violence related criminal proceedings, co-financed by the Criminal Justice Programme of the European Commission, aims to improve existing understanding of victim’s experiences of trajectories of intimate partner violence cases in the course of criminal proceedings and to explore how these experiences relate to individual assessment mechanisms and outcomes. The project involves five countries – Austria, Germany, Ireland, Portugal and the Netherlands.

This national report presents the main findings of the research in the Netherlands. There is chosen for a mixed design to understand victims needs and victim support in IPV related criminal proceedings. The first approach was a quantitative analysis of seventy law enforcement files. The seventy files we analyzed are not a representative sample. The second method used was a qualitative one by conducting interviews with experts, victims and focus groups with practitioners.

The file analysis shows that, with regard to types of violence, the cases brought to the PPS mostly concern physical violence. Victims were hit, slapped, pushed and shoved with no or only minor injuries as a consequence. There is also a lot of psychological violence involved. Furthermore, in half of the cases it was the first incident that was reported to the police. In legal terms this does not represent serious violence; the suspect is a first offender of a minor crime.

Justice professionals and police officers who are specialized in domestic violence have more knowledge of risk factors. When these factors are taken into account, the cases of IPV are much more serious. The file analysis showed threats to kill or severely injure the victim or children, attempts to strangle the victim, and use of battle and stabbing weapons. Most of the perpetrators have a history of violent and non-violent crimes. The majority of the victims live in fear. When we look at these risk factors we touch upon the seriousness of IPV.

The interviews with victims and professionals who work with victims show that victims often do not feel acknowledged and the police does not continue the questioning, for example about the history of violence. No proper assessment of the seriousness of the violence is made because the focus is on the incident, and the context within which the violence takes place is left out of the picture.

Looking at contact with the police, most victims get in touch with the police, often during or just after the incident, but also after days or months after the last incident. Usually, if both victim and suspect are still present, they are interviewed separated by the police. It depends on the expertise of the police officers on duty whether adequate action is undertaken. With regard to the investigation we may conclude that both victim and perpetrator are always spoken to by the police, but the questioning and reporting of these conversations are not always adequate.

Furthermore, in about one third of the cases a restraining order was executed for a period of at least ten days and maximum 28 days. This means that the person removed from home is not

allowed to contact the victim and possible children, and that both perpetrator and victim, including children, are offered support.

When an intimate partner violence case has been referred to the public prosecutor, there usually has been a crime report; the victim has pressed charges. If the PP receives an intimate partner violence case, they often decide quickly (in the so called ZSM where the criminal chain partners cooperate to settle the case as soon and meaningfully as possible). Not all cases are dealt with immediately, because PPS needs more information before a decision could be taken, for example a probation report. Also when a case is summoned, in general a probation advice will be requested. Half of the files contain a probation advice. To assess the risk of repetition, probation services usually apply their general risk screening instead of a risk screening developed specifically for intimate partner violence cases.

Of the 70 files we studied, 44 cases were settled by the PP and 26 cases were brought to court. In more than half of the cases not brought to court a sanction has been imposed, varying from a general condition of non-repetition (if repeated the case will still be brought to court) to special conditions such as placement under custody of probation, having to follow a domestic violence course or aid programme or pay damages. Hardly any restraining orders or contact bans have been imposed as conditions or measures of conduct in the criminal proceedings. Approximately one quarter of the cases were dismissed on technical grounds (lack of evidence) and one fifth received an unconditional dismissal.

Of the 26 cases brought to court, over half ended in convictions, nine cases were fully acquitted, and one case was acquitted. Usually community services were imposed and sometimes a (probationary) prison sentence and never a restraining order.

Most victims are not satisfied with the final result of the criminal proceedings. They feel the perpetrators have not been punished adequately, whether or not they have been summoned. The settlement by PP or judge in their view is not in proportion to what the perpetrator has inflicted upon them (and the children if relevant). The professionals also acknowledge that the seriousness of intimate partner violence is far from being recognized because too much attention is being paid to legal evidence concerning the incident, and too little attention is being paid to the backgrounds of the violence and the risk factors. Not enough use is being made of the opportunities that criminal proceedings do offer, such as forms of compulsory assistance and a more frequent use of protective measures. The public prosecution, as well as the police, should engage in regulating conversations with perpetrators more often. It is also suggested that in some cases mediation might contribute to a solution.

For a meaningful settlement and the best help for both the victim and the perpetrator it is of essential importance that there is an interagency cooperation between police, PPS and support services. Although forms of collaboration have been in place for years, they do not seem to work everywhere and they fluctuate over time.

## 1. Section (B): Introduction

The role of the criminal justice system is of the utmost importance and relevance regarding the protection needs and rights of victims of Domestic Violence (DV) and more specifically of victims of intimate partner violence (IPV).

The project INASC – Improving needs assessment and victim’s support in domestic violence related criminal proceedings, co-financed by the Criminal Justice Programme of the European Commission, aims to improve existing understanding of victim’s experiences of trajectories of intimate partner violence cases in the course of criminal proceedings and to explore how these experiences relate to individual assessment mechanisms and outcomes. The project involves five countries – Austria, Germany, Ireland, Portugal and the Netherlands – and is being jointly developed by six organisations<sup>1</sup>. The project has a total duration of 24 months (from February 2014 to February 2016).

INASC’s specific goal is the development of practice-oriented research aiming at identifying crucial aspects of supporting mechanisms available to IPV victims within the criminal justice system and of elements that influence the way victims are being supported and protected at three different levels: i) at the entrance door (law enforcement agents receiving the complaints and follow up procedures to the public prosecution offices); ii) at the enquiry stage (public prosecutors initiatives and decisions taken); iii) in court (courts procedures and final decisions by judges). Overall, the project expects its results to contribute to the national implementation of Directive 2012/29/EU on victims’ rights, namely as regards IPV victims’ needs of support and protection.

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Women’s direct experiences and perceptions will be one of the major components for improving the existing knowledge on those support and protection mechanisms and the way criminal justice is responding to the victims’ protection needs. The project has also paid special attention to the practices developed by criminal justice key stakeholders and support organisations and their perceptions regarding the system’s response to the needs and rights of women experiencing IPV. The present report will present the main findings of the national analysis performed on the content of the case files collected as well as on the interviews and focus groups held with different national actors (victims, justice professionals, law enforcement agents, support workers).

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<sup>1</sup> CESIS (coordination, PT), Dhpol (DE), IKF (AT), SAFE Ireland (IE), Verwey-Jonker Institute (NL) and ZOOM (DE).

## 2. Section (C): Victims' rights and needs in the national policy context

### 2.1. Domestic violence and criminal justice in the Netherlands

#### 2.1.1 *No special Act Domestic violence*

In the Netherlands there is no criminal act of 'domestic violence' as such. Domestic violence is covered by general provisions of criminal law, like common assault, causing grievous bodily harm, manslaughter, murder, rape, sexual assault and stalking. However intimate partner violence is an aggravated circumstance within the context of common assault or grievous bodily harm (art. 304 Criminal Act). The punishment can be raised by one third of the maximum penalty in cases where the victim is the wife, husband, parent or child of the perpetrator.

There are no special criminal procedures in cases of IPV. Cases of IPV can be brought to court without an obligation of the victim to make a complaint. Only in cases of stalking a formal complaint is needed. In fact though a statement is often needed otherwise the offence is hard to prove.

#### 2.1.2 *Criminal justice system*

In the Netherlands there are 11 district courts, 4 courts of appeal and 1 supreme court. Most cases start at a district court. The judges of the criminal law sector deal with all criminal cases which do not come before the sub-district judge. These cases can be heard by a single judge or in full-bench panels with three judges. The full-bench panel deals with more complex cases and all cases in which the prosecution demands a sentence of more than one year's imprisonment ([www.rechtspraak.nl](http://www.rechtspraak.nl)) The Public Prosecution Service (PPS) is one of the main parties involved in dealing with criminal cases. The Department only works in the field of criminal law and can only take action if a criminal offence has been committed. It is also responsible for protecting the rights of both victims and offenders throughout the judicial process ([www.om.nl](http://www.om.nl)).

PPS has the right to exercise prosecutorial discretion in all cases: when sufficient evidence is lacking or when there are other reasons the PPS can dismiss a case. In certain categories of petty crime, such as abuse or vandalizing, the Public Prosecution Service can propose punishment to the suspect. When the suspect accepts this proposal, the case will not be brought to court. This competence of PPS makes it possible to decide quickly after the crime has been committed. The decision can be made in a TOM session. TOM means: Community Service Public Prosecutors Office; the decision is made by the PPS, but after talking to the offender and relevant others, like the probation officer.



In 2012 the police and the Public Prosecution Service initiated ZSM. The Dutch abbreviation 'ZSM' literally means 'As Soon As Possible'. In the Dutch criminal justice system, it stands for a response to a crime 'as speedy, smart, selective, simple, supportive to society and victims as possible'. The goal of ZSM is to assure meaningful and fast interventions, based on quality and effectiveness for society, including suspects and victims. So the reaction should not only be as fast as possible after the incident but also meaningful. To reach this goal, the Public Prosecutor is situated at the start of the criminal justice chain and triages high volume crimes to determine the best procedure for a case. The PPS works together with police, the Dutch Probation Services, Victim Support Netherlands and the Child Care and Protection Board. (Bac & Vink, 2014). Actually in ZSM the decision is made whether the case should go to court, or the prosecutor takes a decision, or the case goes to aTOM session.

### *2.1.3 Criminal justice policy domestic violence*

For several decades already it has been important for the police to put a stop to violence and protection of victims, while it is getting more or less priority. Over the years a variety of training courses, methods and protocols (in addition of the above mentioned Directive) have been developed in the police force to approach domestic violence, aimed specifically at intimate partner violence, and nowadays also on the way to handle child abuse or elderly abuse. These may for instance contain directives for treating victims, referral of perpetrators or victims to other institutions or more general agreements (Spapens, Hoogeveen & Pardoel, 2001; Lünemann & Bruinsma, 2005; Lünemann, Goderie & Tierolf, 2010; Tierolf, Lünemann & Steketee, 2014).

Since 2003 there is a "Directive domestic violence and honor-related violence" (Aanwijzing huiselijk geweld en eengerelateerd geweld) particularly developed for Public Prosecution, the police and probation. The most recent Directive is from 2010, aiming to realise more effective action by police and public prosecution in cases of domestic violence and honour related violence. It contains instructions for the police, for example, the police must ask the victim if she/he would like to pursue a street or contact ban. The police must also inform the victim about the possibility to leave out of the police report her/his address and contact information. If the victim is housed at a secure location, the address must remain completely unlisted. When the victim is in great danger, a protective measure by police is possible. At the control room a special code is linked to the location, to ensure that the control room initiates an immediate response in case of emergency (code red). The Directive also establishes rules concerning the investigation and prosecution of domestic violence. It contains a checklist of the issues to be included in the crime report, such as the way in which the relationship started, the moment when and the immediate cause of the violence in the relationship; the first domestic violence incident, an incident of violence typical for the usual abuse, the most serious violent incident and the latest violent incident. These facts have to be described including dates, times and places, in order to gain an insight into the nature and the pattern of the domestic violence. The Directive also formulates preconditions on local cooperation between the police, prosecution, probation and municipal.

A new Directive is under construction; that directive will be more focused on the interest of the victim and inter agency. Also elderly violence and youth get more attention in the new directive. It is less detailed than the directive above; the method of implementation should be worked out by the police in a protocol.

## 2.2 Temporary restraining order

Since 2009 senior police officers have been able to impose a ten-day restraining order (which may be extended to 28 days), as commissioned by the mayor, on (potential) perpetrators of domestic violence. The temporary restraining order prohibits these perpetrators from entering their own house and contacting their partner and/or children (Temporary Restraining Order Domestic Violence Act (WTH)). When the victim reports the incident to the police, a restraining order can be imposed within 24 hours, if everything runs smoothly and the offender cooperates for example. The violent behaviour in particular does not need to meet the criminal legal definition of violent abuse as the measure of the temporary restraining order is intended to be a preventive measure. The temporary restraining order can then be issued before the violence has had the chance to escalate to a form where it would be considered a criminal act. The police are responsible for determining whether there is immediate threat, and if so, an acute response is implemented. This order goes hand in hand with the provision of aid to those victims, including children who have been left behind or were removed from the home. Also the perpetrator is offered support. In the Netherlands this offer to victim, children and perpetrator is called a system approach (Lünnemann, Römken & De Roos, 2009; Schreienberg et al., 2010; De Vaan et al., 2013).

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## 2.3 Victims rights in criminal law

The position of the victim as a participant of the criminal process is strengthened the last decennia due to the stimulus of different European Victim Directives. The victim though is not an official party to the criminal proceedings – in which case the victim would also be allowed to prosecute (Kwakman, 2012, Lünnemann & Mein, 2014).

The Directive Minimum Standards of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime focuses on strengthening the position of crime victims in all EU-Member States. The goal of the Directive Minimum Standards is to ensure that crime victims are treated with respect and are informed, supported and protected accordingly during the criminal proceedings.

The most recent Dutch Law to Strengthen the Position of Victims (2010) grants victims access to respectful treatment and information and offers victims the right to examine, and add information to the criminal dossier, as well as the right to pass judgment and access to legal assistance. The following section will discuss this in more detail.

The right *respectful treatment* is grounded in article 51a lid 2 Sv jo, and it implies amongst other things: a personal approach, serious consideration for and handling of information requests, informing the victim of their rights and ensuring that the victim does not get lost between the participating bodies. Nonetheless, victims themselves are responsible for making the rights they wish to exercise known: so-called active reciprocity. For victims who have undergone serious crimes, such as grievous bodily harm and sexual offences, more personalized and customized treatment is offered.

The Law to Strengthen the Position of the Victim has improved the *right of information* to the victim (article 51a lid 3 Sv). The police must inform in writing the victim (if desired to be in-formed) about the decisions not to investigate the case, or the police send the report to the public prosecutor, who in turn is required to make an inventory of the victim's wishes and direct the victim to the relevant organizations.

The public prosecutor has the duty, if desired by the victim, to provide information on the criminal proceedings, such as a dismissal (and the possibility of a 12 Sv-procedure)<sup>4</sup>, the opening and continuation of the prosecution, the time and date of the hearing and the final verdict. Furthermore, the victim has the right to information concerning the release of the suspect/convicted in case of a serious offence (article 51<sup>a</sup> Sv). This process is overseen by the Detention Information Services of the Public Prosecution Department.

As a process participant, the victim has the right, if desired, to examine the trial dossier (art. 51b lid 1 Sv) and submit documents to the dossier (art. 51b lid 2). The officer is only allowed to decline documents with the authorization of a judge (art. 51b lid 3 en 4).

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The victim may receive *support from whomever she or he desires*, such as a confidante or an advocate. Legal assistance for victims of sexual or excessively violent offences is free of charge on the condition that the injury is so severe that victims are qualified to receive benefits according to article 3 of the Law Injury Fund of Violent Offences.

The *right to speak out* (or in the form of written victim testimony) is reserved for victims of serious offences (art. 51e Sv) and concerns a testimony about the implications of the criminal act. There is also room for *mediation* between the victim and the perpetrator (art. 51h Sv). Mediation can contribute to recovery and therefore prevent secondary victimization. Next of kin may also call upon these rights (art. 51e lid 5 Sv).

In 1995, a new law on *compensation of damage caused by offenses* (the Terwee Law) simplified the manner in which victims can receive compensation in a criminal law procedure by abdicating the maximum limit and simplifying the criteria. Subsequently, the Law makes a distinction between simple and complex cases (art. 51a Sv), whereby the latter could be presented only to a civil judge (and not during the criminal procedure). At the same time, a compensation measure (art. 36f Sr) was introduced whereby the perpetrator is obligated to pay the state on behalf of the victim.

Since 2011, the position of the aggrieved party has been strengthened even further due to the introduction of a prepayment measure. In cases whereby the perpetrator fails to fully compensate the victim within 8 months after the verdict has been made, an appeal may be made on a prepayment fund. Furthermore, the simplification criteria of the Terwee Law was altered to provide more room for the judge to impose compensation. Another possibility for victims is an adherence procedure, whereby the victim through consolidation can add a civil claim in the criminal procedure. However, it is not always possible to claim compensation during the criminal procedure in the case. Victims of violent offences with serious injuries (or survivors, next of kin) are then able to make an appeal to the Compensation Fund for Violent Offences.



### 3. Section (D): Methodology: Data collection and Analysis

#### 3.1 Aim of the file analysis

The overall aim of the analysis of law enforcement files is to explore how the police and the judiciary assess the risk of (further) violence against victims of partner violence and how they respond to protection needs. The actual outcomes of most cases of intimate partner violence seem to be dominated by dismissals and by a persisting gap between the number of complaints and the number of convictions. Moreover, the particular vulnerability of victims of violence in a close relationship often translates into increased cooperation difficulties with the justice system, which has been recognized as one of the factors influencing the outcomes of criminal proceedings. (Gloor/Meier 2014). Thus, a special focus is put on (i) the identification of frailties in risk assessment procedures, (ii) the collection and preservation of evidence and (iii) the assessment of specific needs of victims of partner violence with regard to their personal characteristics (e.g. strengths, vulnerabilities), as well as type and circumstances of the crime. That is, the analysis addresses especially article 22 “Individual assessment of victims to identify specific protection needs” of the Directive 2012/29/EU (Directive of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime) and three main aspects regarding the Directive’s national implementation: (i) the capability of police, prosecutors and judges to deal properly with victims; (ii) the identification of vulnerable victims’ needs and (iii) the provision of protection for all victims during the whole process of criminal prosecution (investigation and court proceedings). The project is built upon the premise of article 3 of the Directive, stating that any victim has the right to understand and to be understood from the first contact and within the context of criminal proceedings. The ability to understand or being understood cannot rest entirely on the victims’ personal characteristics but rather on the context and circumstances of the interaction. The quantitative and qualitative file analysis will not only highlight the victims’ stance towards criminal prosecution, but also the daily practice of police and judiciary as it is reflected in the files. The findings will be the basis – together with the outcomes of the analysis of victims’ interviews – for the development of a toolkit which should promote a more efficient and protection sensitive criminal justice system regarding intimate partner violence.

#### 3.2. Content and structure of the quantitative and qualitative instrument for data collection

The information contained in the law enforcement files was collected using a customized quantitative instrument that included various sections. The first sections explored victim and suspect characteristics, especially focusing on characteristics and circumstances that might influence either the victims’ competence and ability to seek help or law enforcement’s treatment of the case, like disability, care dependency, citizenship, *race/ethnicity*, sexual identity/orientation and language proficiency/literacy. The tool further explored the history of violence and incident-related

characteristics, especially the type(s) of violence perpetrated against the victim and factors indicating a risk of escalation, like (attempted) strangulation and use of weapons. The section on criminal justice response analysed the police and/or public prosecutor's first response, interviewing procedure and evidence collection, victims' support of the criminal prosecution process, use of risk assessment instruments and protection measures, as well as recognition of special needs, information about (and provision of) support and applicable rights during all stages of the proceedings.

As many of these characteristics differed significantly between partners' countries legal systems and some theoretical concepts needed further clarification, the instrument was equipped with an extensive codebook in order to define the information sought after.

The quantitative data obtained was analysed using the statistical analysis software SPSS.

In order to preserve a coherent understanding of each case, all case files were also summarized following a qualitative guideline that focused on the same information as the quantitative instrument, but kept the information in its original context.

The instrument for data collection offered three categories for missing or unclear information: "not available", "unclear" and "not possible". In general, we decided to use "not available" if the files did not contain any information regarding the information sought after, "unclear" if there was some indication, but not enough to make a valid statement (e.g. a husband claiming his wife was "mad"), and "not possible" if the item in question did not apply to the case (e.g. "immediate police measures at the crime scene" if the victim hadn't called the police, but come to the police station).

The overall aim of the analysis of law enforcement files is to explore how the police and the judiciary assess the risk of (further) violence against victims of intimate partner violence and how they respond to protection needs. The actual outcomes of most cases of intimate partner violence seem to be dominated by dismissals and by a persisting gap between the number of complaints and the number of convictions. Moreover, the particular vulnerability of victims of violence in a close relationship often translates into increased cooperation difficulties with the justice system, which has been recognized as one of the factors influencing the outcomes of criminal proceedings. (Beclin 2014; Gloor/Meier 2014) Thus, a special focus is put on (i) the identification of frailties in risk assessment procedures, (ii) the collection and preservation of evidence and (iii) the assessment of specific needs of victims of intimate partner violence with regard to their personal characteristics (e.g. strengths, vulnerabilities), as well as type and circumstances of the crime. That is, the analysis addresses especially article 22 "Individual assessment of victims to identify specific protection needs" of the Directive 2012/29/EU (Directive of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime) and three main aspects regarding the Directive's national implementation: (i) the capability of police, prosecutors and judges to deal properly with victims; (ii) the identification of vulnerable victims' needs and (iii) the provision of protection for all victims during the whole process of criminal prosecution (investigation and court proceedings). The project is built upon the premise of article 3 of the Directive, stating that any victim has the right to understand and to be understood from the first contact and within the context of criminal proceedings. The ability to understand or being

understood cannot rest entirely on the victims' personal characteristics but rather on the context and circumstances of the interaction. The quantitative and qualitative file analysis will not only highlight the victims' stance towards criminal prosecution, but also the daily practice of police and judiciary as it is reflected in the files. The findings will be the basis – together with the outcomes of the analysis of victims' interviews – for the development of a toolkit which should promote a more efficient and protection sensitive criminal justice system regarding intimate partner violence.

### 3.3 Description of files and samples

#### 3.3.1 The case files

We have analyzed 70 files, divided into three district courts, namely Utrecht, Arnhem en The Hague. The 70 files we analysed are not a representative sample. The staff of the Public Prosecutor Office have selected the partner violence cases from the domestic violence files, and together with the chairperson of the supervisory committee we made a selection of the cases that were seen in ZSM and TOM sessions, by the magistrate or in full court, and we have selected both serious and less serious cases. The files analysis does allow us to understand what kinds of cases go to public prosecution, what kind of information is available and which decisions are being taken.

The selection criteria for the files were defined as follows:

- classification as a domestic violence crime
- suspect is intimate partner (previous or current)
- suspect is male and 18 years or older
- criminal offences: common assault, grievous bodily harm (300 – 304 Sr), threat/stalking (285 Sr.), manslaughter (287 Sr), murder (289 Sr).
- recent cases (2014-2013)

According to these criteria we received a list of file numbers from the public prosecution offices in Arnhem, Utrecht and The Hague. Based on this list, we have made a random selection of most recent cases. Thereby we also took into account:

- the type of case: ZSM and 'not- ZSM' cases (see paragraph 1.2)
- the type of settlement: dismissal; TOM; court (one judge/three-judge section),
- the type of violence; common assault, grievous bodily harm, threatening/stalking, manslaughter and murder.

We selected 20 files in Utrecht and Arnhem, and 30 files in The Hague.

The files usually contain various police reports, mostly an official report of findings, a statement of the victim, and an interrogation of the perpetrator. Extract judicial documentation, photos taken from injuries or property damages as well as other evidence of the crime (e.g. medical reports), probation advisory reports, and information about the proceedings (e.g. the police custody, the time and date of the TOM session/ trial, decision letters) were also present in many of the cases.

Very rarely there were reports from support services, reports about contacts between different agencies (e.g. contacts with Domestic Violence Support Centers, Child protective services, Safety Houses), and risk assessment reports (e.g. the Risk Assessment Domestic Violence (RIHG) or the B-Safer).

Most of the files mainly focus on the suspect's perspective. In a lot of files, especially in the probation advisory reports, there was little or no information available concerning the background, perspective and needs of the victim.

### *3.3.2 The interviews sample*

We interviewed seven victims of intimate partner violence, 10 professionals working with the Public Prosecution and 2 judges. The interviews were held on the basis of a semi-structured questionnaire.

#### ***Interviews with victims***

We had access to victims via the agency for social care and womens' shelter (Federatie Opvang), the Rotterdam Police Department, victim support (Slachtofferhulp Nederland) and a lawyer.

In total ten interviews with victims were planned, but three victims canceled the appointment at the last moment. One victim said she was not feeling physical strong enough and the other two didn't give a reason for the cancellation. The interviews lasted between 1,5 and 2,5 hours.

#### ***Interviews with professionals***

We interviewed professionals working with the Public Prosecution in the three district courts, namely Utrecht, Arnhem en The Hague, partly by phone. We had acces to the professionals via our chair of the national advisory board. The Council for the Judiciary (Raad voor de rechtspraak) has made arrangements for the interviews with the judges. The interviews lasted between 45 minutes and 1,5 hours.



## 4. Section (E): Results of the case file analyses

In this chapter we focus on the results of the file analyses of the 70 files. First (paragraph 4.1) we describe the socio-demographic features of the victim. Information about risk factors and available support for the victim is mostly missing, and therefore we cannot say much about that subject. In paragraph 4.2 we describe the socio-demographic features of the perpetrator and the history of violence. We provide information about incident related characteristics in paragraph 4.3, such as types of violence, injuries and risk indicators of severe or lethal violence. The criminal justice response is described in paragraph 4.4. How did the police react to an incident of IPV, what happened in the investigation phase, what was the decision of the public prosecutors service and the court? In 5.5 we give a conclusion.

### 4.1 Victim-related characteristics

#### 4.1.1 Socio-demographic features

The age of the victim at the time of the most recent incident ranged between 18 and 68 years (M=35.42, SD=13.21); the age spread is wide (table 1). Looking at the specific public prosecutor's offices, the mean age of victims of Arnhem was higher (M=39,9) than the mean age of victims of The Hague (M=33,7) or Utrecht (M=33,5).

Table 1 Age of victim

Age	Frequency	Valid percentage
18-25	17	24.6
26-35	22	31.9
36-45	14	20.3
46-55	10	14.5
56-65	4	5.8
66+	2	2.9
<b>Total</b>	<b>69</b>	<b>100</b>

There is insufficient data concerning the victims' educational background.

In more than half of the files there was no information available about the employment status of the victim; therefore this information has to be treated with caution (table 2). From the information that is available in the files almost the same amount of victims were unemployed or homemakers (N=13) as were (self-)employed (N=14). The victims with an income are also the victims who are (self-)employed or still in education, whereas the victims with welfare benefits are unemployed. Victims with the perpetrator's income as source of income are either (self-)employed or unemployed or homemaker. Furthermore, in half of the cases information about the victims' dependency upon the

perpetrator is lacking and therefore has to be treated with caution. From the 33 files left with information, one third of the victims is fully or partially economically dependent upon the perpetrator. Because of the large amount of missing data it is not possible to draw any conclusions about employment and dependency of the victim upon the perpetrator.

Table 2 Employment status of the victim at the time of the last incident

<b>Employment status</b>	<b>Frequency</b>	<b>Percentage</b>	<b>Valid percentage</b>
Still in education	4	5.7	12.9
Employed	11	15.7	35.5
Self-employed	3	4.3	9.7
Unemployed	10	14.3	32.3
Homemaker	2	2.9	6.5
Other	1	1.4	3.2
Not available	39	55.7	
<b>Total</b>	<b>70</b>	<b>100</b>	<b>100</b>

Most of the victims are living in the city (60%) or in a town (32.9%) and only a few live in a rural area (N=3, 4%). Almost all victims live in their own house (91.4%). Most of the victims live with the perpetrator (64.3%). About fifty percent of the cohabiting victims (n=25, 56%) live also with their (joint or with someone else) children. A few victims live with their parents (12.9%).

About two thirds of the victims have children (62.9%), more than half of the victims have children with the perpetrator (56.8%) and about one third of the victims have children with someone else (29.5%), only a few have children with the perpetrator as well as with someone else (9.1%). Most of the children (joint or with someone else) live with the victim (70.5%).

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Regarding the relationship between victim and perpetrator (table 3), the majority of victims is married or lives together with the perpetrator (64.3%).

Table 3 Victims' relationship to the perpetrator

Nature of the relationship	Netherlands	
	<b>Frequency</b>	<b>Percentage</b>
Spouse, cohabitation	30	42.9
Intimate partner, cohabitation	15	21.4
Intimate partner, no cohabitation	9	12.9
Spouse, divorced/separated, no cohabitation	6	8.6
Former intimate partnership	4	5.7
Former spouse/intimate partner, still cohabitating	1	1.4
Unclear	5	7.1
<b>Total</b>	<b>70</b>	<b>100</b>

The duration of the intimate relationship between victim and perpetrator ranged from three months to forty years (M=8.5 years, SD=9.3 years). About half of victims had a relationship with the

perpetrator for up to five years (table 4). Looking at the specific public prosecutor's offices, the mean duration of the intimate relationship between victim and perpetrator was highest in Arnhem (M=10.9), followed by The Hague (M=8.28) and lowest in Utrecht (M=6.8).

Table 4 Duration of relationship in years

Years	Frequency	Valid percentage
0-5	34	48.6
6-10	11	15.7
11-15	6	8.6
16-20	5	7.1
21-25	2	2.9
26-30	2	2.9
>30	3	4.3
Unclear	7	10
<b>Total</b>	<b>70</b>	<b>100</b>

In about half of the files the information about victims' intention to separate is missing. Looking at table 5, at the time of the most recent incident 60% of the victims intended to separate and 80% of the victims intended to separate following the most recent incident. Regarding the history of break-ups also about 40% of the information is missing. From the 40 remaining files, more than half of the victims reported a history of break-ups during their relationships. Combining a history of break-ups and victims' intention to separate at the time of the most recent incident almost all victims with a history of break-ups had the intention to separate (90%, N=18).

Table 5 Victims' intention to separate

	At the time of the most recent incident			Following the most recent incident		
	Frequency	Percentage	Valid percentage	Frequency	Percentage	Valid percentage
Yes	21	30	60	32	45.7	80
No	14	20	40	8	11.4	20
Not available	35	50		30	42.9	
Total	70	100	100	70	100	100

As shown in figure 1, the majority of the victims are citizens of the Netherlands (84.3%). The other victims have Slovak, Surinamese, Polish, Latvian, Kenyan, Venezuelan and Filipino nationalities. When we look at their ethnic backgrounds, nearly one third of the victims (21) is a member of an ethnic or racial minority. We assumed that the level of speaking and writing Dutch might be an indicator for dependency: a bad command of the language would be disadvantageous during the whole process of prosecution. We had to rely on indicators about the command of the country's language written down in the police files or we drew the conclusion because the hearing or court proceedings were in German or English, or a translator was present at the trial. Also where the police stated that it was not at all possible to communicate with the victim because of her lacking a command of Dutch, she was classified as not speaking the country's language. As far as we know from the files, most victims speak the country's language, only 6 victims do not speak the country's language at all.

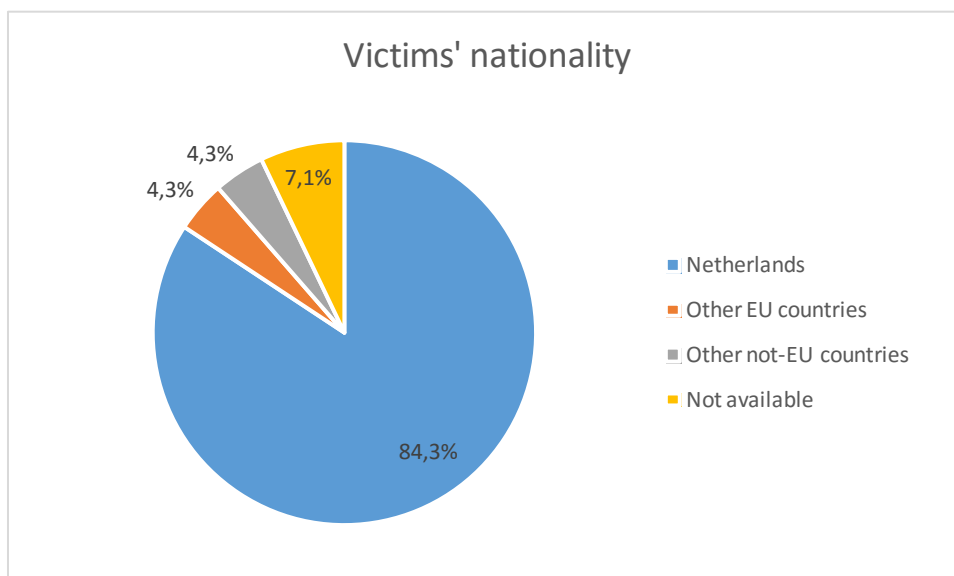


Figure 1. Victims' nationality

#### 4.1.2 Evaluation of risk factors and dependencies

With regard to victims' health the data situation is insufficient, as is shown in table 6. A few victims suffer a physical illness or disability, a mental health problem or alcohol or legal drugs abuse (table 6). In 10 cases the victim suffers one kind of health problem and in 3 cases the victim suffers two kinds of health problems.

Table 6 Victims' health

	N	Yes	
		Frequency	Percentage
Serious physical illness	14	2	14.3
Physical disability	16	2	12.5
Mental health problem	16	7	43.8
Learning disability	6	0	0.0
Alcohol/legal drugs abuse	13	5	38.5
Illegal drugs abuse	12	0	0.0

#### 4.1.3 Available support structures for victim

Regarding the available support for the victim by Veilig Thuis or other mental or social support services, most of the information is missing. Therefore it is not possible to make a reliable statement about it.

## 4.2 Perpetrator-related characteristics

### 4.2.1 Socio-demographic features

The age of the perpetrators at the time of the most recent incident ranges between 18 and 65 years (M=37.33, SD=12.67); the age spread is wide (table 7). Compared to victims, the average age of perpetrators (37.3) is slightly higher than of victims (34.4). Though about 57 per cent of the perpetrators were younger than 35 years, only 50 per cent of the victims was younger than 35 years. The same findings of differences between the specific public prosecutor's offices on age of the victims applies also for perpetrators, in Arnhem the mean age of perpetrators was 42.1 years old, whereas in The Hague the mean age was 36 years and in Utrecht 34.6 years.

Table 7 Age of perpetrator

Age	Frequency	Valid percentage
18-25	12	17.1
26-35	23	32.9
36-45	16	22.9
46-55	10	14.3
56-65	9	12.9
66+	0	0
<b>Total</b>	<b>70</b>	<b>100</b>

With regard to the education of the perpetrator, the files do not contain enough information to make reliable statements on the issue.

Regarding perpetrators' employment status (table 8), almost half of the perpetrators are (self-) employed (44.3%) and only one third is unemployed (34.2%). Because of the large amount of missing data about victims' employment status it is not possible to compare victims and perpetrators. All perpetrators with an income are (self-)employed and perpetrators with a welfare allowance are unemployed. The few perpetrators who have the victim's income as source of income (5.7%) are employed or unemployed.

Looking at the perpetrators' dependency upon the victim, in 5 of the 52 files with information the perpetrators were economically dependent (9.6%). Compared to victims, victims are more often economically dependent upon the perpetrator than the other way around.

Table 8 Employment status of the perpetrator at the time of the last incident

Employment status	Frequency	Valid percentage
Still in education	8	11.4
Employed	22	31.4
Self-employed	9	12.9
Unemployed	19	27.1
Homemaker	1	1.4
Other	4	5.7
Not available	7	10.0
<b>Total</b>	<b>70</b>	<b>100</b>

As shown in figure 2, the majority of the perpetrators are citizens of the Netherlands (84.3%). The other perpetrators are residents of Poland, Turkey, Sri Lanka, United States, Morocco, Portugal and Latvia. In 28 of the cases the perpetrator is a member of an ethnic or racial minority (40.0%). Most perpetrators speak the country's language, only 5 perpetrators do not speak the country's language at all. With regard to the perpetrators' ability to read or write the country's language, in half of the files this information is missing. From the remaining files, only 6 perpetrators could not read or write the country's language. Comparing victims' and perpetrators' nationalities, ethnic or racial minority and ability to speak, read and write the country's language, no big differences were found.

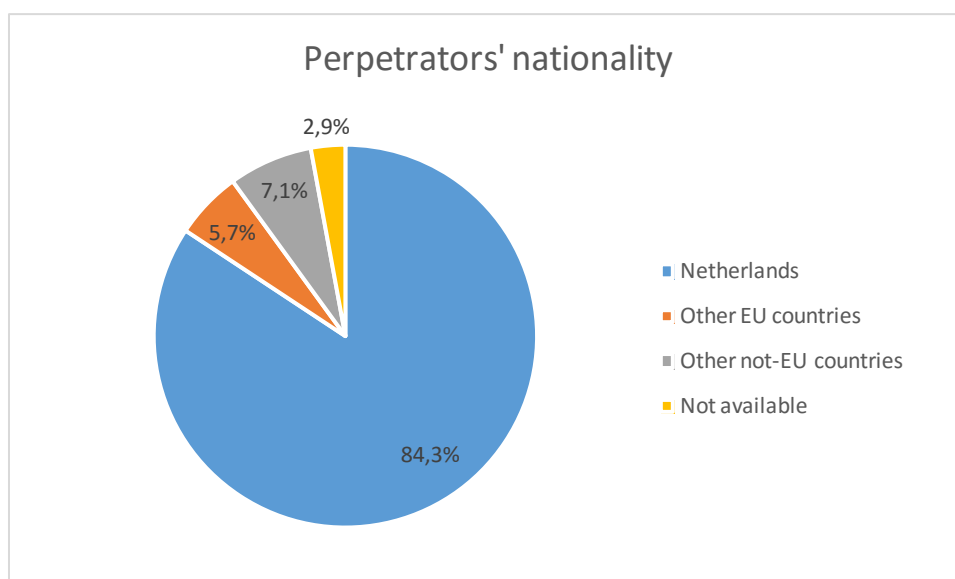


Figure 2. Perpetrators' nationality

#### 4.2.2 Evaluation of dependencies

With regard to perpetrators' health the data are not sufficient. Some perpetrators suffer a physical illness or disability, a mental health problem or alcohol or (il)legal drugs abuse (table 9). Most

perpetrators suffer one kind of health problem (N=15), the other 8 perpetrators suffer two, three or four kinds of health problems. The two perpetrators that suffer an illegal drugs abuse also suffer an alcohol/legal drugs abuse. Combining alcohol or legal drugs abuse of victims with alcohol or (il)legal drugs of perpetrators showed that 2 of the 5 victims who reported alcohol or legal drugs abuse were together with a perpetrator who also abused alcohol or legal drugs.

Table 9 Perpetrators' health

	Yes		
	N	Frequency	Percentage
Serious physical illness	18	8	44.4
Physical disability	19	6	31.5
Mental health problem	21	8	38.1
Learning disability	12	5	41.7
Alcohol/legal drugs abuse	31	10	32.3
Illegal drugs abuse	31	2	6.5

### 4.2.3 History of violence

We have looked at the history of violence committed by the perpetrator. We were interested in the suspects' acts of (physical, sexual, psychological) violence against partners as well as against other persons. We gained information about this history from the previous violent acts mentioned by victims during the police interviews and from mentions of previous police interventions. In these cases we assumed a history of violence (without using a police record as a criterion). We also looked at criminal records.

Regarding the prior history of incidents of violence or offences of violence and non-violence, the majority of the files mentioned at least one kind of prior event (80%), with a maximum of 4 kinds of prior events (a total of 5 different prior events were viewed, see table 10).<sup>2</sup> Most of the files mentioned a prior event of violent offences of the perpetrator and half or the files mentioned a prior event of non-violent or other offences of the perpetrator. Combining prior events of violent offences with prior events of non-violent offences, 77 per cent of the perpetrators with a history of non-violent offences also have a history of violent offences. Furthermore, all 8 perpetrators with incidents of IPV in former partnerships mentioned in the file, have also a history of violent offences and most of them also a history of non-violent offences (62.5%). Also most of the 10 perpetrators with violence

<sup>2</sup> Lünemann & Bruinsma (2005) studied the nature and scope of domestic and public violence registered with the police in the Netherlands in 2002. They found that almost 40 percent of of the domestic violence suspects had had previous contact with the police as a suspect (at least once) in the three years preceding the most recent offence of domestic violence. About one in ten perpetrators of domestic violence had previously been reported for violence in the home.

against children have a history of violent offences (80.0%), half of them a history of non-violent offences and 20 per cent have incidents of IPV in former partnerships mentioned in the file.

Table 10 Previous history of perpetrator

	Yes		
	N	Frequency	Percentage
Violent offences	63	48	76.2
Non violent offences	61	35	57.4
IPV in former relationships	59	8	13.6
Violence against childrend	65	10	15.4
Prior IPV court conviction	65	9	13.8

All 9 perpetrators with prior IPV court convictions also have a previous history of violent offences and almost all of them had a previous history of non-violent offences (77.8%). Half of those perpetrators was given a suspended or unsuspended prison sentence and about one third did not receive a prison sentence (table 11).

Table 11 Prison sentence for perpetrators with prior IPV court convictions

	Frequency	Percentage	Valid percentage
Yes, suspended	3	33.3	37.5
Yes, unsuspended	2	22.2	25.0
No	3	33.3	37.5
Not available	1	11.1	
Total	9	100	100

The above results concerning criminal background suggests that perpetrators of IPV who have contact with the police and the public prosecutor's office, often have a criminal background. This group of perpetrators seems to differ from the perpetrators of IPV in general among the population.<sup>3</sup>

### 4.3 Incident related characteristics

<sup>3</sup> Among the population there is a large group of perpetrators who are only violent in the home, called 'family only'. Another group is 'generally violent and anti-social'; the person is not only violent in the family, but also outside the family and there is legal involvement. A third group is called dysphoric and borderline (Holzworth-Munroe & Stuart, 1994, De Ruiter, 2008; Thijssen & de Ruiter 2010; Lünemann & Drost, 2012).



### 4.3.1 Experienced violence in the most recent case

In nearly all cases (91.4 per cent of all files) the victim was hurt. In 6 files it was unclear whether the victim was hurt. She claimed to be hurt, but the suspect denied and there was no other evidence. In some cases the perpetrator or other people were hurt (table 12).

Looking at the most recent incidents, in 38.5% both perpetrators and victims used violence (N=27).

Mostly it was the perpetrator who started the violence and the victim who defended herself.

Sometimes both used violence under the influence of alcohol. In 6 cases the information was unclear because suspects and victims told different stories.

Table 12 Who was attacked or hurt during the most recent incident

	Yes		Unclear	
	Frequency	Percentage	Frequency	Percentage
The victim	64	91.4	6	8.6
Victims' and/or perpetrators' child(ren)	3	4.3	1	1.4
Other family member(s)	0	0.0	0	0.0
Perpetrator	17	24.3	8	11.4
Police officer(s)	2	2.9	0	0.0
Someone else	2	2.9	0	0.0

With regard to the type of violence in the most recent incident, the majority of victims experienced physical violence, followed by the experience of emotional, verbal or psychological violence, threats to kill or severely injure and stalking/harassment (table 13). In none of the files sexual violence was mentioned. Most of the victims reported more than one type of violence during the last incident (64.3%) and the maximum amount reported in one file was 4 types of violence (M=1.9, SD=.87). Most victims who experienced physical violence also experienced emotional, verbal or psychological violence (in 34 of 38 cases) or threats to kill (in 12 of 15 cases), but not per se harassment (in 3 of 9 cases).

Table 13 Types of violent during the most recent incident

	Yes		Not available/unclear	
	Frequency	Percentage	Frequency	Percentage
Physical violence	62	88.6	0	0.0
Sexual violence	0	0.0	0	0.0
Emotional/verbal/psychological violence	38	54.3	8	11.4
Economic abuse	2	2.9	1	1.4
False imprisonment/confinement	2	2.9	2	2.8
Harassment/stalking	9	12.9	1	1.4
Threatening to kill/severely injure	15	21.4	10	14.3
Other forms of coercive control	4	5.7	3	4.3
Other	3	4.3	1	1.4

Most victims who experienced physical violence during the most recent incident were hit/slapped or pushed/shoved and some victims were punched/beaten or strangled, but in a lot of files it remained unclear (table 14). Other forms of physical assaults were pulling at hair, sitting on top of victim or firmly grasping the victim.

Table 14 Types of violent during the most recent incident

	Yes		Unclear	
	Frequency	Percentage	Frequency	Percentage
Hit/slapped	15	24.2	17	27.4
Punched/beaten	7	11.3	21	33.9
Kicked	4	6.5	11	17.7
Thrown at with objects	4	6.5	4	6.5
Pushed/shoved	15	24.2	15	24.2
Stabbed	0	0.0	1	1.6
Shot (at)	0	0.0	0	0.0
Strangled	8	12.9	4	6.4
Burned	0	0.0	0	0.0
Other	11	17.7	14	22.6

There was no mention in any of the files that a weapon was used during the most recent incident, but in 17.1 per cent of the most recent incidents an item was used to cause harm or injury (for example a fork, pillow, ashtray or belt) and in 2 cases it was unclear.

In most of the files there was no information about a drugs or alcohol intoxication of the perpetrator or victim, therefore the data has to be treated with caution. From the 30 remaining files, in 46.7 (N=14) per cent of the files drugs or alcohol intoxication of the perpetrator was mentioned and 6 of those 14 perpetrators suffer a (il)legal drugs abuse. With regard to the victim, from the 24 remaining files, in 37.5 (N=9) per cent of the files drugs or alcohol intoxication of the victim was mentioned and 3 of those 9 victims suffer an alcohol/legal drugs abuse. In almost all cases there was use of alcohol, in only one case there was use of cannabis by the perpetrator. In 5 out of 9 cases there was drugs or alcohol intoxication of both victim and the perpetrator.

As shown in table 15, for most of the victims the physical injury was minor (52.9%) and some victims were injured moderately or severely (12.9%). Minor injuries consists of scratches, minor bruising, bloody nose/lips, swelling, redness or abrasion and minor cuts, moderate injuries consist of serious cuts, bites that break the skin or bruised/black eyes and major injuries consist of broken bones, multiple injuries, sexual assault, internal or head injuries or passing out.

Table 15 Physical consequences of the most violent incident

Physical consequences	Frequency	Percentage
No injury claimed by the victim	9	12.9
No injury visible	12	17.1
Minor physical injury	37	52.9
Moderate physical injury	6	8.6
Major physical injury	3	4.3
Unclear	3	4.3
<b>Total</b>	<b>70</b>	<b>100</b>

The most recent incident almost always took place in the home of the victim and perpetrator (57.1%), the victims' home (22.9%) or the perpetrators' home (8.6%). Only a few incidents took place in public places (8.6%) or other places (4.3%), for example in the home of relatives, a hotel or a car. In about half of the cases the incident was witnessed (48.6%), most of the time the eyewitnesses were the victims' and perpetrators' children (64.7%). Other eyewitnesses were other family members, friends or neighbours.

Concerning verbal threats or physical attacks to the victim or someone else in the presence of the police, in about 40% of the cases it was not possible that there was a verbal threat of physical attack against victim or someone else in the presence of the police or other officials. For example because the victim went to the police station instead of the police going to the incident site or the perpetrator and victim weren't together at the moment the police arrived. Therefore those files are left out. In the remaining files, a physical attack to the victim or someone else in the presence of the police only rarely took place. With regard to the victim, of the 42 remaining files, in only 1 case there was a verbal threat or physical attack against the victim in the presence of police or other officials. With regard to someone else, of the 44 remaining files, in 2 cases there was a verbal threat or physical attack against other people in the presence of police or other officials, aimed at the police.

#### 4.3.2 Repeat or continued violence: forms and consequences

In most cases there was 1 documented incident of IPV between the suspect/perpetrator and the victim (67.1%). In one third of the files more than one incident was investigated by the police, with a maximum of 8 incidents of IPV between the perpetrator and victim.

In half of the files the first incident was also the most recent incident (55.7%). In the other files, the period between the first documented incident and the most recent incident ranged from four months to seven years and three months (M=2.4 years, SD=2.5 years).

Looking at all incidents of IPV that took place, the same types of violence recur in the files as during the most recent incident, namely physical violence, followed by emotional, verbal or psychological violence, threatening to kill or severely injure and stalking/harassment (figure 3). But in 3 files we now found experiences with sexual violence. Most of the victims reported more than one type of violence during all the incidents (72.9%) and the maximum number was 6 types of violence (M=2.4, SD=1.30). Combining the different types of violence with physical violence shows that these acts of

violence always take place together with physical violence: in 93.6 per cent of emotional, verbal or psychological violence (in 44 of 47 cases), 90.9 per cent of harassment and stalking (in 10 of 11 cases) and 95.2 per cent of threatening to kill or severely injure (in 20 of 21 cases) coincided with physical violence.

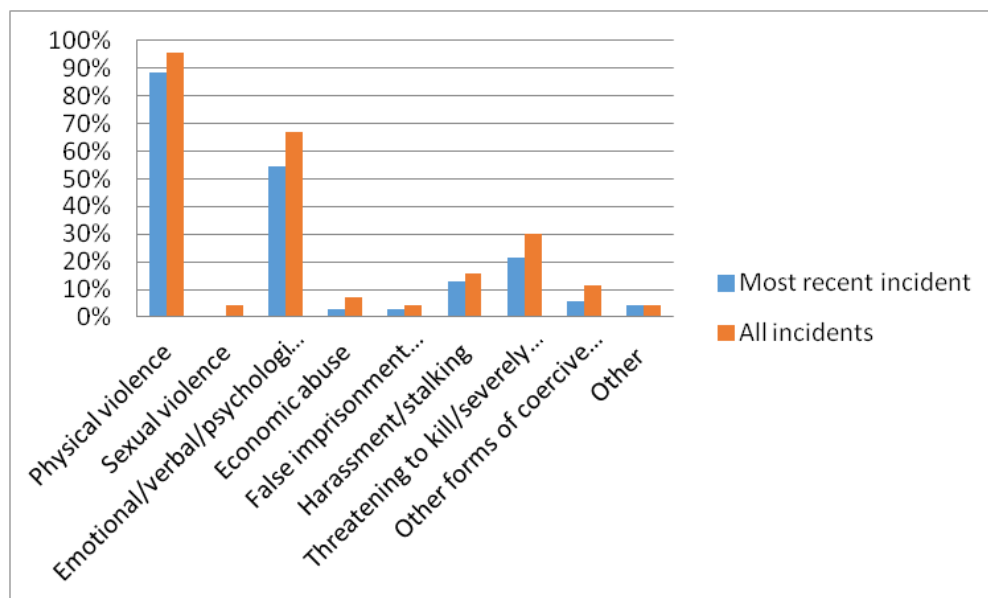


Figure 3 Types of violence in most recent incident and in all incidents

When physical or sexual violence was mentioned in the file, the same types of assaults predominate as in the most recent incident. As shown in figure 4, most victims were hit/slapped (32.8%), pushed/shoved (31.2), punched/beaten (14.9%) or strangled (10.4%) during the most recent incident as well as in all incidents. In about one third of the cases it was unclear what kind of assault happened. With regard to concerns of the victim about future violence, in 22.9 per cent there was no information. From the remaining 54 files, 63 per cent of the victims reported that she was worried about violence in the future.

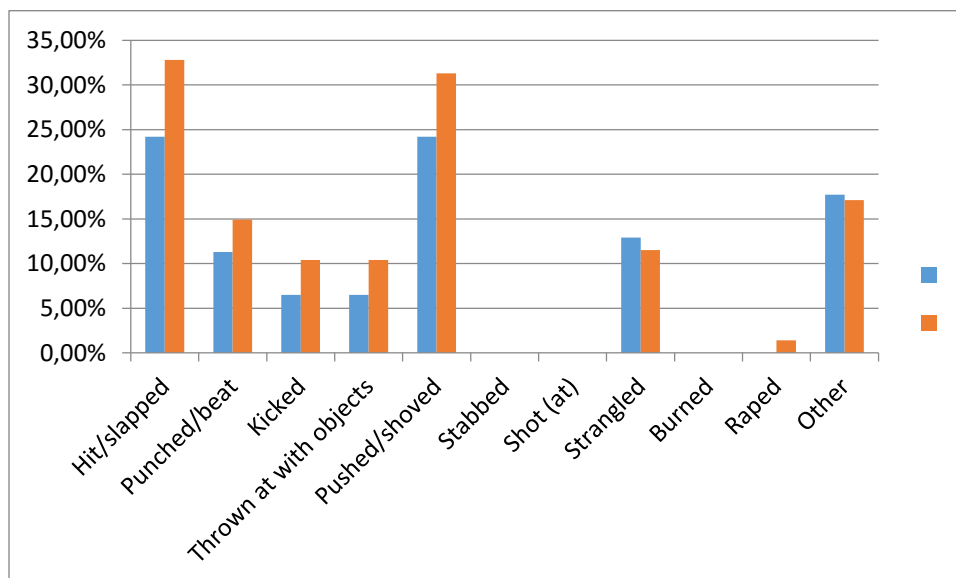


Figure 4 Types of physical/sexual assaults in most recent incident and in all incidents

Looking at possible indicators of increased risk of severe or lethal violence that occurs in IPV, table 16 shows which situations were reported in the file at least once. In 35 cases at least one of the situations was mentioned in the file, with a maximum of 5 different situations mentioned in the same files ( $M=1.94$ ,  $SD=1.11$ ). Strangulation (or an attempt to do so) of the victim, threats to kill the victim or her/joint children, threats to bodily harm the victim and the use of battle and stabbing weapons were mentioned most often in the files.

Table 16 Indicators of elevated risk of severe or lethal violence (all incidents)

Perpetrator has	Yes		No		Not available	
	Frequency	Percentage	Frequency	Percentage	Frequency	Percentage
(attempted to) strangle(d) the victim	12	17.1	34	48.6	24	34.3
Physically abused the victim when she was pregnant	0	0.0	48	68.6	22	31.4
Threatened to kill the victim or her/joint children	12	17.1	25	35.7	33	47.2
Threatened to kill himself	9	12.9	36	51.4	25	35.7
Threatened to bodily harm the victim	14	20.0	22	31.4	34	48.6
Exhibited extremely jealous behaviour	7	10.0	8	11.4	55	78.6
Used weapons	0	0.0	57	81.4	13	18.6
Used other objects as weapon	13	18.6	38	54.3	19	27.1
A weapon	1	1.4	10	14.3	59	84.3

With regard to the knowledge about the violent relationship, in 35 of the 40 cases with information another person or institutions had knowledge of IPV before the most recent incident occurred. Most of the time this was another person (74.3%), mostly a friend or another family member, followed by law enforcement agencies (28.7%), health services (25.7%) or counselling services (14.3%).

#### 4.4 Criminal justice response

#### 4.4.1 Getting notice of IPV and (immediate) police response

##### **Immediate response by the police**

It is mostly the victim who contacts the police (61.4%), followed by a family member (11.4%) or the perpetrator (7.1%) Perpetrators who call the police have different reasons. They feel responsible for the violence, or are afraid that they cannot control their violent behaviour, or they want help to stop the violence. In other cases a neighbour, friend, hospital/health service professional or another person contacts the police.

When we look at the emergency call, about half of the calls were made by victims and half of the calls by other people (family, perpetrator, friend, neighbour). The police was notified of the incident by an emergency call in 60.0% of the files. So when victims contacted the police, about 50 per cent of them did so through an emergency call. The other victims went to the police station. If the police was notified of the incident by an emergency call, in 90.5 per cent of the cases the police went to the incident site. In half of those cases a female officer was present at the incident site.

Looking at the immediate response by the police, in almost all files there was at least one immediate response by the police with a maximum of 8 responses ( $M=4$ ,  $SD=2.12$ ). In only one case there was no immediate response of the police mentioned in the file. In most cases the immediate response was questioning the victim, questioning and/or cautioning the perpetrator, entering into the victims' home with permission and taking perpetrator into custody (figure 5). In 5 cases the victim was not questioned immediate because the police did not went to the incident site or the victim was already gone. For example, in one case the reason was that the perpetrator had called the police and the victim was already fled to the neighbours and was questioned the day after. In another case the incident happened in a public place and a witness called the police, but when the police arrived the perpetrator and victim already disappeared in a car and therefore the police had to detect the registration number of the car and the address of the victim and perpetrator first. When the victim was questioned, this was most often done by a female police officer (43.9%), followed by a male police officer (36.8%) and in a few cases by both a female and male police officer (19.3%). Furthermore, in more than half of the cases it was not possible to separate the victim and perpetrator (57.1%), because the victim and perpetrator were already separated (for example, victim went to the neighbours or the perpetrator had left the house). From the 27 remaining files, only in 37.1 per cent did the police separate victims and perpetrators.

In most files there was no information about the immediate response of involving child protective services. In the 12 remaining files, only in 6 of the cases child protective services were involved. In the Netherlands the police are obliged to do a care notification, so this result is not conforming to agreed procedures.

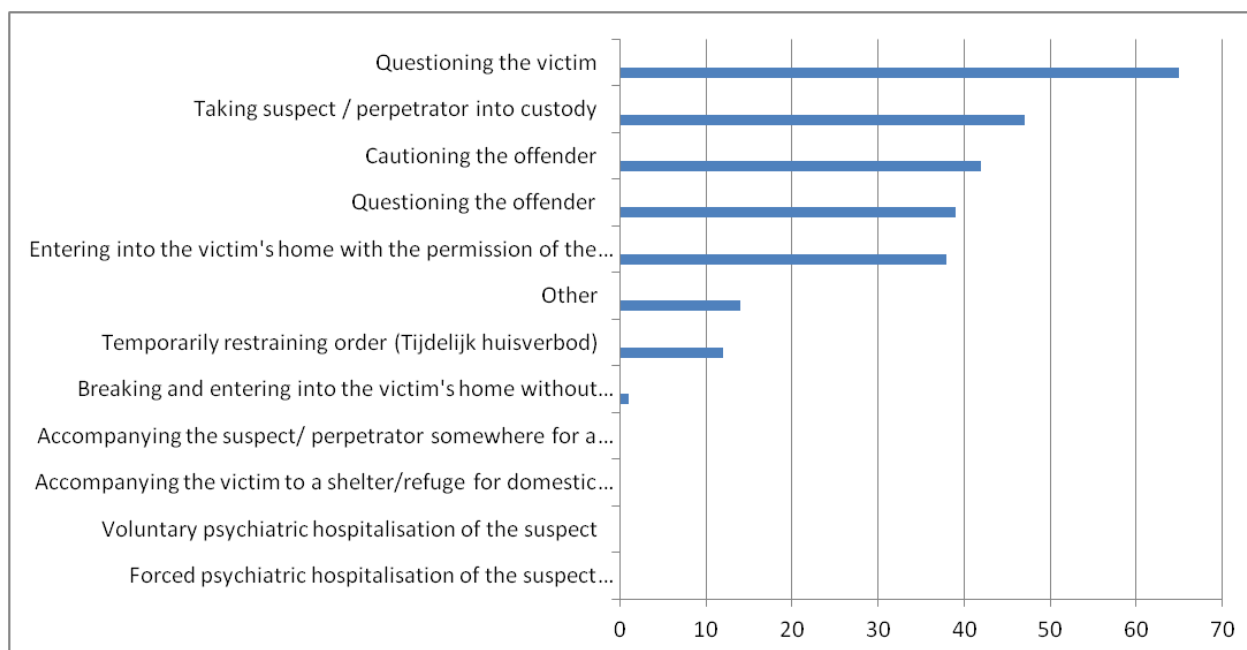


Figure 5 Immediate response by the police

### Securing evidence

Within 24 hours after the incident 74.3 per cent of all perpetrators are questioned by the police (as immediate response or later). During the investigation phase (after 24 hours) half of the perpetrators are questioned by the police (48.6), 17 of which were not questioned before.

With regard to questioning of the victim, most victims are questioned (95.8%) by the police within 24 hours after the incident (as immediate response or later). During the investigation phase (after 24 hours) 18.6 per cent of the victims are questioned, two of which were not interviewed earlier. In only one case the victim was questioned by a male police office. In the other cases the victim was questioned by a female police officer or by both a male and a female. There was no information about whether the interview took place in the presence of another person.

Furthermore, in cases where the victim had children, about one third of those children were questioned by the police. Most children were questioned during the investigation phase (N=7), 3 children were questioned within 24 hours after the incident and 2 children were questioned two times (both within 24 hours and during the investigation phase). Also, in about half of the cases at least one other witness besides the victim or the children is questioned by the police (47.1%). Finally, in 1 case a counsellor of a Domestic Violence support service that supported the victim is questioned during the investigation phase.

So all victims were questioned within or after 24 hours after the incident. In most cases the victim was questioned once (67.1%), with a maximum of three times during the investigation. Also all perpetrators were questioned, within or after 24 hours after the incident. In most cases the perpetrator was questioned once (61.4%) or twice (35.7%). In almost all cases the perpetrator was

questioned at home or at the police station and a second time at a TOM session or at court. One perpetrator was questioned three times, namely at home, at the police station and at the TOM session, and another perpetrator four times, namely at home, at the police station, in a court office and at court. As shown in table 17, victims were more often questioned up to one hour after the incident, whereas perpetrators were more often questioned up to 24 hours or more than 24 hours after the incident. The main reason is that usually after an emergency call the perpetrator has left the place of incident, so only the victim can be questioned. Another reason is that the victim contacts the police one or several days after the incident. This explains why perpetrators were mostly questioned at the police station, whereas victims are most questioned at the police station or at their homes (place of the incident). When both victim and perpetrator were questioned by the police at the same time, in almost all cases the police interviewed them separately (92.3%).

Table 17 Place and time of questioning the victim or perpetrator

Place of interrogation	Victim					Perpetrator				
	Frequency	Percentage	Up to 1h	Up to 24h	> 24h	Frequency	Percentage	Up to 1h	Up to 24h	> 24h
Incident site (other than home)	6	8.6	6	0	0	1	1.4	1	0	0
Victims' or perpetrators' home	29	41.4	25	0	2	15	21.4	15	0	0
Police station	42	60.0	15	23	4	66	94.3	2	44	20
Written interrogation via template	0	0.0	0	0	0	0	0.0	0	0	0
Public Prosecutors' office	0	0.0	0	0	0	4	5.7	0	0	4
Judges' office	6	8.6	0	1	3	10	14.3	0	1	9
Other	5	7.1	2	3	0	4	5.7	0	0	4

It is important that the police collects evidence. This can be done within 24 hours after the incident and during the investigation phase. As we have seen, in all cases there was oral testimony (by victim, children and other witness). Documentary evidence was mentioned in 75.7 per cent of the files, with in most files one or two kinds of documentary evidence and a maximum of 4 different kinds of documentary evidence. The documentary evidence usually consists of photos. When there were (visible) injuries of the victim, in 78.6 per cent of the cases photo documentation of the victims' injuries were made by the police and in 4 files it was mentioned that photo documentation of the perpetrators' injuries was made by the police. Furthermore, in 12.9% of the files a report from a health care service was mentioned as documentary evidence. In a few cases documentary evidence consisted of email or WhatsApp contacts. In 14.3 percent of the files a risk assessment report was available and 33 files contained other documents, in most cases a probation advisory report. Most files that went to court contained a probation report (17 out of 26).

With regard to the examination of victims and perpetrators, in 21.4 per cent of the files a physical examination of the victim was mentioned. In 5.7 per cent of the files a psychological examination of the perpetrator was mentioned. Furthermore, in 8 cases there was photo documentation of the crime scene, in 2 of those 8 cases the police searched the victim or couples' home whereby forensic evidence was collected by the police and a weapon or object used as weapon was confiscated by the police. In both cases there was serious violence, namely an attempt to strangulation, threatening to kill the victim and hitting the victim with a piece of wood and a bottle on her head. In one of those cases, the objects or weapons that were confiscated, were a pocket knife, peeler, knife, hammer and



an empty bottle. Both cases went to court with a three judged session. Also in 3 other cases were no photo documentation was made of the crime scene a weapon or object used as a weapon was confiscated by the police, like a Stanley knife, and in 2 other cases the police searched the victim or couples' home.

### ***Risk assessment and consequences***

In the Netherlands three kinds of risk assessments are used: the RIHG ('Risk Assessment Domestic Violence) used by senior police officers to assess the necessity of a temporary restraining order (THV), the RISc or QuickScan used by probation in general, and the B-Safer in cases of IPV.

When the victim reports the incident to the police, a temporary restraining order can be imposed on the perpetrator within 24 hours. Violent behaviour in particular does not need to meet the criminal legal definition of an assault as the temporary restraining order is intended to be a preventive measure. Temporary restraining orders are frequently imposed after escalation of the situation, parallel to the arrest and possible restraining of the suspected perpetrator. The police have to interview both perpetrator and victim (separately) before making a final risk assessment. The mayor has to take the decision based on RIHG and police information.

It is also possible to impose a restraining order or protective order in combination with a criminal charge. The goal of a protective order is to protect a victim against repeated violations of her or his physical and or sexual integrity or personal freedom by imposing a banning or contact order. In the Netherlands, there are 14 criminal modalities on the basis of which a proper protective order can be imposed, (see for more details the first report Criminal justice and domestic violence in the Netherlands, 2014).

B-Safer is a risk assessment tool used by probation offices in the Netherlands. The instrument was developed in Canada and De Ruiter has developed the Dutch version (De Ruiter, 2009, 2011). Its main goal is to assess the risk of repeated (ex) intimate partner violence. The B-Safer risk assessment tool is an addition to the general risk assessment tools of probation, called RISc (and the QuickScan as a short variant). RISc has a more general focus on different aspects of the life of the suspect/offender/convicted person. Probation should use B-Safer in cases of IPV to assess the need for protection.

In more than half of the files there was no information available about whether the police performed any kind of risk assessment. When a temporary restraining order is imposed, a RIHG must have taken place. 21 temporary restraining orders were imposed, and we only found a RIHG 6 times. The explanation for this is that the temporary restraining order is not a criminal measure but an administrative measure. The RIHG is not seen as relevant for the criminal procedure.

In at least 36 files a probation advisory report was included. Probation nearly always uses the risk assessment RISc or QuickScan. Only once did we find B-Safer. It suggests that probation does not carry out their policy to use B-Safer in cases of IPV.



In total (as immediate response, within 24 hours and during the investigation phase) 23 barring orders were imposed, mainly temporary restraining orders and in only two cases a criminal protection order was imposed. In one case the barring order was imposed to the victim, because the perpetrator owned the house and had to take care of his two children. In 2 of those 23 cases the perpetrator violated this order. In one case the consequence of violating the barring order was a conditional prison sentence of 3 days and a fine of €500.

Also in one file increased surveillance of the family's house by the police was mentioned as provision for the protection of witnesses.

Comparing the three districts (public prosecutor's offices), in one fifth of the cases in Utrecht a banning order was imposed, compared to about one third of the cases in Arnhem (35%) and in The Hague.

With regard to behaviour of the perpetrator during the investigation phase, we found no useful information, because most of this information was not available. In two files it was mentioned that the perpetrator pursued or harassed the victim and in one file the perpetrator had harassed or pursued another witness, namely the victim's foster mother. In one of those cases the perpetrator received a barring order.

### ***Support of the victim and recognition of victims' needs by the authorities***

None of the files mentioned that the victim was recognized by the police as a "special need victim". In the Netherlands the implementation of the European Directive has only just started, so it may be assumed that the police were not aware of 'special need victims' at the time.

Concerning the support victims received, there was hardly any information available in the files. In 5 files it was mentioned that a legal representative attorney for the victim was present during the investigation phase, and in one of these cases the legal representative was paid by the state. In 4 files mention was made of the victim receiving support from a domestic violence service, namely a shelter and Domestic Violence Support Centre. In 8 files the victim received support from another service, namely youth care or social worker. Also in 4 files it was mentioned that the victim received ongoing medical support or medical treatment. One victim received anti-anxiety medication, she was very afraid, but no restraining orders were imposed and the case was dismissed because of no evidence. Another victim went to a psychologist and received medication for her depression and borderline. Also one victim received medication for sleeping problems and stress and went to a trauma centre and was treated for PTSD, but this was before the incident happened. The last victim was in the hospital after the incident, because of her injuries. In this case was serious violence, namely an attempt to homicide. A restraining order was imposed for the perpetrator and the case went to court with a three judges session. So, the ongoing medical support is not always only caused by the intimate partner violence, sometimes other life events, like refugee background, also effects trauma.

With regard to the persons/services to which the police provided information about the victim and or the case almost no information is available in the files.

Victims have the right to be interviewed in the presence of a person they trust. Very little information was available concerning whether victims were accompanied to the police office or public prosecutors' office by someone. In only 6 files it was mentioned that the victim was interviewed in the presence of someone, mostly a family member and in one case a neighbour.

In most cases charges were pressed against the suspect by the victim (77.1%). In case the victim did not press charges against the perpetrator, the first contact to the police was made by the perpetrator 5 times and 2 times by another person. In 4 cases the victim made the first contact to the police and in the other 5 cases it was unclear who called the police. Main reasons mentioned by the victim not pressing charges are that the victim is afraid of the perpetrator or the victim didn't want the perpetrator to get into more trouble or she feels that the perpetrator is punished enough and wants help instead of a penalty for the perpetrator.

In 4 cases the victim withdrew the charges in the course of the proceeding. Also in 4 cases the victim made use of a medical facility to secure and store evidence before the police was involved.

#### *4.4.2 Decisions of Public Prosecutors Service*

In the Netherlands the police does not have the authority to decide whether an offence has to be prosecuted or not. But the police certainly does not bring every case of IPV to the prosecutor. We only looked at files that were brought to the Public Prosecutors Office and were categorized as domestic violence (see chapter 4).

##### ***Decision PPS***

In 26 files the case went to criminal court after the investigation phase (37.7%); the other 44 cases were dismissed. This does not mean that there were no sanctions in all those cases. When we look at the 44 dismissed cases, 18 cases were dismissed without any sanction. Reasons are lack of evidence (n=12) or no opportunity to bring the case to court (n=6). Reasons like 'the situation has changed', 'behaviour and circumstances have changed' or 'the suspect had paid a compensation' are mentioned. The other 26 cases were dismissed under condition, or the PPS gave a sanction, such as a fine, community service, or compensation. In most of the cases dismissed under condition or where a sanction was given, this decision was made in the so called TOM. With regard to the reasons a case was dismissed under condition, in most cases the reason was probation interest or changed circumstances.

Looking at the conditions, 7 cases were dismissed with the general condition not to commit offences in a period of two or three years. In 12 cases the dismissal was conditional with specific conditions, such as probation supervision, compensation or treatment. The prosecutor's punishment decision contained a community services 5 times and twice an unconditional fine of €420,- and €500,-.

Table 18 How and which decisions were taken if case did not go to court

How	Frequency	Percentage	Decision	Frequency	Percentage
TOM	22	50.0	No evidence	12	27.3
ZSM	5	11.4	No opportunity	6	13.6
OM overig	17	38.6	Under conditions	19	43.2
			Penalty decision	7	15.9
Total	44	100		44	100

With regard to the request of compensation, 8 files mentioned that the victim filed a request for compensation. In 4 of those 8 cases the request for compensation was already decided and in 3 of those 4 cases the compensation was granted, in the remaining case it is unclear. In one case there was assault and destruction and the case went to a TOM session, the compensation was for both material and immaterial damage and the victim received €500,06. In another case there was assault and threats and this case went to court with a one judge session, the compensation was for immaterial damage and the victim received €300,-. In the third case was serious violence and the case went to court with a three judges session. The compensation was in total €2688,60 for both immaterial and material damage, namely €188,60 for material damage (physical injury) and €2500 for immaterial damage.

**Duration**

In almost all files the investigation started within a few days after the incident was brought to the police, in only one case the investigation started 2 months later (Case 11(U-11)). On average it lasted about 4 months, with a range of 0 days to 12 months, between the date the most recent incident was brought to the police and the date the case (which did not go to court) was dismissed (under conditions) or a sanction was imposed. As shown in figure 6, the duration of cases differs a lot. Comparing the specific public prosecutor's offices, in Arnhem (5.6 months) the average period was higher than Utrecht (3.8 months) and The Hague (3.6 months).

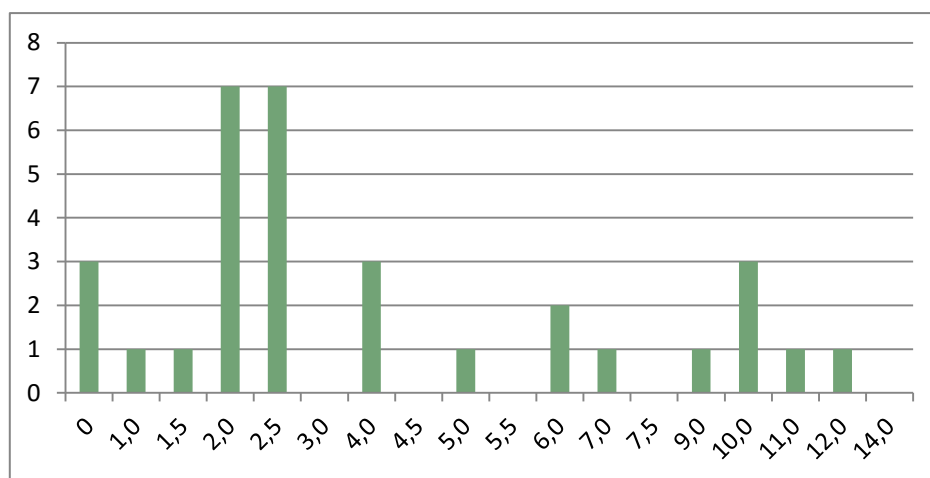


Figure 6 Duration if case didn't went to court

### 4.4.3 Court's action

Altogether 26 cases went to court and in only one of those cases the case did not go to court for a full hearing because of acquittal.

In this section we will look at the behaviour of perpetrator and victim, the support for victims during court proceedings, courts' decisions and duration.

#### ***Perpetrators' and victims' behaviour***

With regard to the behaviour of the perpetrators, there was no information available in the files about whether the perpetrator gave evidence at the trial or whether the perpetrator accepted the allegations brought forward against him. Also with regard to the behaviour of the victim, there was no information available in the files about whether the victim gave evidence at the court hearing. Therefore, no statements can be made about perpetrators' and victim's behaviour during court proceedings.

In 14 files mention was made of legal representation of the perpetrator by a lawyer and in 3 files the perpetrator was not legally represented by a lawyer. In none of the files mention was made of legal representation of the victim by a lawyer.

#### ***Support of the victim***

Regarding the support of the victim during court proceedings, in only a few files information was available. Therefore, no reliable statements can be made about the support of the victim.

#### ***Courts decisions***

As shown in table 19, 3 of the 26 cases went to court with a three judges session. In the other 23 cases one judge made the decision. In 16 cases perpetrators were convicted and in 10 cases perpetrators were fully acquitted. In case the perpetrator was convicted of a charge, in 87.5 per cent perpetrators were convicted of one assault, namely 12 for a physical assault and the other 2 for harassment (including stalking). The remaining 2 perpetrators were convicted of 2 assaults, one for a physical assault and threatening and the other for physical assault and theft and destruction/vandalism.

With regard to the sentence (table 20), 11 perpetrators received 1 sentence and 5 perpetrators received 2 different sentences, therefore in total 21 sentences were given, mainly community services.

Table 19 How and which decision were made if case went to court

How	Frequency	Percentage	Decision	Frequency	Percentage
PR	23	88.5	Conviction	16	61.5
MK	3	11.5	Acquittal	1	3.9
			Fully acquitted	9	34.6
Total	36	100		26	100

Table 20 Sentence if case went to court

Sentence	Frequency	Percentage
Prison, partly suspended	1	6.3
Prison suspended	1	6.3
Prison suspended and a community service suspended	2	12.5
Prison suspended and a community service unsuspended	2	12.5
Community service suspended	6	37.5
Community service unsuspended	3	18.7
Conditional fine	1	6.3
Total	16	100

### Duration

On average there were about 5 months, with a range of 1 to 14 months, between the date the most recent incident was brought to the police and the court trial was ended. As shown in figure 7, most cases lasted 2 to 5.5 months. Comparing the specific public prosecutor's offices, in Arnhem (5.7 months) the average period was higher than Utrecht (4.3 months) and The Hague (4.3 months). On average it takes a month longer when cases are sent to court. But in Arnhem it makes no difference.

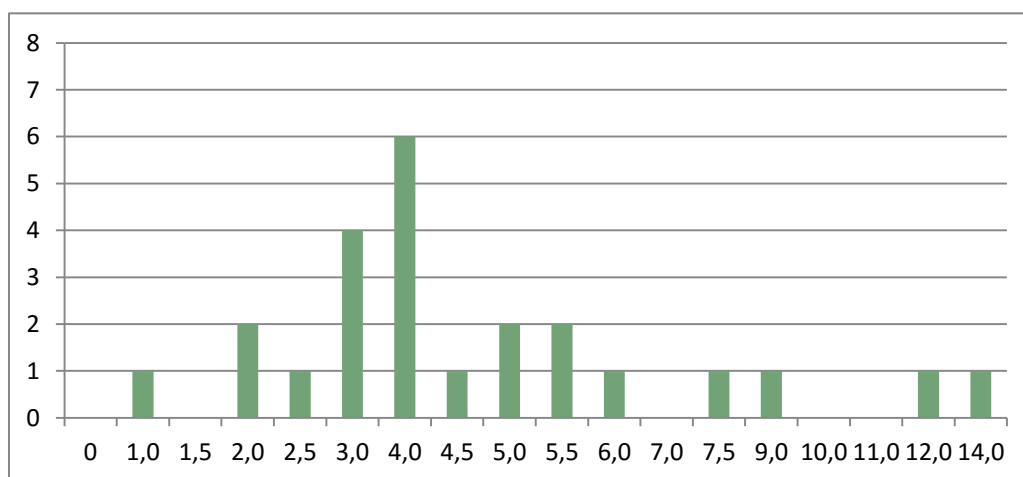


Figure 7 Duration if case went to court

## 4.5 Conclusions

### 4.5.1. Background victim and perpetrator

When we look at the socio-demographic background of victim and perpetrator, the age of victim and perpetrator at the time of the most recent incident ranged between 18 and 68 years, - the age of the perpetrators is slightly higher -. About half of victims and perpetrators are younger than 35 years. The duration of the intimate relationship between victim and perpetrator ranged from three months to forty years. Most victims and perpetrators are citizens of the Netherlands, and one third of the victims and forty percent of the perpetrators are member of an ethnic or racial minority.

Almost half of the perpetrators is (self) employed and one third is unemployed. We do not have sufficient information about employment of the victims. About two third of the victims lived together with their intimate part during the recent incident, and about fifty percent of these couples lived also with her, him or their children.

We know for sure that about one third of the perpetrators suffer a mental health problem, like serious physical illness, mental health problems, physical disability, learning disability or alcohol/drugs abuse. About twenty percent suffer from alcohol/drugs abuse, mostly alcohol. More than one fourth of the perpetrators suffer from health problems, two third of them have one kind of health problem and one third suffer two, three or four kinds of health problems.

### 4.5.2 Violence and risk factors

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When we look at the types of violence, most victims experience physical violence. They were hit, slapped, pushed and shoved with no or minor injuries as consequence. Also a lot of psychological violence occurs. In half of the cases it was the first incident reported to the police. In legal terms this does not represent serious violence; the suspect is first offender of a minor. But when we look at the risk factors, the cases of IPV are much more serious. We often find threats to kill and sometimes severely injure the victim or children, in one fifth strangulation is a risk factor, in about ten percent of the cases we know that the perpetrator was violent in prior relationships. In about twenty percent the perpetrator used battle and stabbing weapons. Also most of the perpetrators have a history of violent and non-violent crimes. When we also take into account that a lot of the victims live in fear, we touch upon the seriousness of IPV.

### 4.5.3 Police investigation

After an emergency call or when the victim reports IPV, the police mostly responded immediate by questioning the victim, questioning and/or cautioning the perpetrator, entering into the victims' home with permission and taking perpetrator into custody. When the victim was questioned, this was most often done by a female police officer followed by a male police officer and in a few cases by both a female and male police officer. In more than half of the cases victim and perpetrator were



already separated when the police was informed about the IPV. From the remaining files, only in about one third the victim and perpetrator were separated. Only in a few cases we know that child protective services were involved. In the Netherlands the police are obliged to do a care notification, so this result indicates that it is not conforming to agreed procedures.

#### 4.5.4 Protection

In approximately 30 per cent of the files studied a temporary restraining order was executed for a period of at least ten days and maximum 28 days. The risk screening RIHG that has to be applied before a temporary restraining order is imposed, usually is not included in the file. Also probation uses a risk assessment. Half of the files contain a probation advice based on a risk assessment. To assess the risk of repetition, probation services usually apply their general risk screening (RISc or the brief version QuickScan), and not the B-Safer developed specifically for intimate partner violence cases. Therefore the file usually contains too little information regarding the risk of repeated violence. Hardly any use is made of the various possibilities in criminal justice to impose restraining orders or contact bans.

#### 4.5.5 Criminal decision

When an intimate partner violence case has been referred to the public prosecutor, there usually has been a crime report; the victim has pressed charges. It emerges from the files analysis that the presence or absence of a crime report does not impact on whether a case is or is not settled out of court.

Of the 70 files we studied, 44 cases were settled by the PP and 26 cases were brought to court. In more than half of the cases not brought to court a sanction has been imposed, varying from a general condition of non-repetition (if repeated the case will still be brought to court) to special conditions such as placement under custody of probation, having to follow a domestic violence course or aid programme or pay damages. Hardly any restraining orders or contact bans have been imposed as conditions or measures of conduct. Approximately one quarter of the cases were dismissed on technical grounds (lack of evidence) and one fifth received an unconditional dismissal.

Of the 26 cases brought to court, over half ended in convictions, nine cases were fully acquitted, and one case was acquitted. Usually community services were imposed and sometimes a (probationary) prison sentence.

With regard to imposing sentences one has to keep in mind that these figures are not representative, so the proportion of settlement by PP (unconditional dismissal, conditional dismissal, punitive order) and settlement by the judge (sentence or acquittal) is only related to the study of these files.



## 5. Section (F): Perspective of victims and practitioners on criminal justice proceedings

### 5.1 Backgrounds of respondents

This paragraph relates the backgrounds of the victims we interviewed. After a general introduction into their backgrounds we will present case descriptions of each victim (paragraph 1.1). Following this we provide background information on the public prosecutors and the judges that we interviewed (paragraph 1.2). Finally we present the people who participated in the two focus groups (paragraph 1.3).

#### 5.1.1 Background of victims

Seven victims of intimate partner violence have been interviewed. These women live in different regions of the Netherlands. The women were between 17 and 52 years old (Mean = 32 years) at the time their abusive relationships started. Perpetrators were between 29 and 44 years old (Mean = 36 years) when they started their relationships with the victim. At the time of the interviews the women were aged between 27 and 55 (Mean = 41). All women had divorced the perpetrators at the time of the interviews. The relationships between victims and perpetrators had ended between 1 and 16 years ago (Mean = 5 years). All women finished an education, three women had secondary vocational education (MBO), 1 woman had higher vocational education (HBO), and 1 woman had a university education. Of 2 women it was unclear whether they had an MBO or HBO education. Approximately half of the women were employed at the time of the interviews (N=3). Two of the 4 women who did not work had been declared unfit for work.

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*Mrs. A.* was in a relationship with the perpetrator for 9 years. They lived together and were married. Both partners had children from earlier relationships and together they have one child. The violence began one month after the start of the relationship. At first it happened once a week, but it increased gradually until it took place every day. After 9 years and after a violent incident, A. realized that she might lose her children if this situation continued. She reported at the Domestic Violence Support Service and filed a petition for divorce. After the divorce her ex-partner began to stalk her. The violence was mental as well as sexual and physical. There was also a controlling element, for instance A. was not allowed to meet her old friends and the windows could only be opened for ten minutes each day. A. has been seriously abused by her husband several times resulting in permanent damage (among others as the consequence of a crushed cervical vertebra). The abuse was so violent that she sometimes was afraid of dying as a consequence. The husband was also violent towards the children, and the children also witnessed the violence. She no longer had any contact with her family and had only a few friends left. During her relationship A. did reach out to her general practitioner and she received support from the church. After the relationship ended she asked for help at the Domestic Violence Support Service and was referred to

social work. During the same period she also filed a police report and was in contact with victim support services. This case went to court and the perpetrator did get a suspended sentence.

*Mrs. B* had a relationship with the perpetrator for 9 continuous months. They did not live together and they do not have children. After 4 months the man started to demonstrate possessive behaviour and when B. broke up with him after 9 months, she was seriously abused and the stalking started. During the relationship the violence started with possessive behaviour, B. wanted her to pay for things (he was unemployed and smoked dope daily) and B. was not allowed to do anything fun because that would cost money. They got into fights over this. After the relationship physical violence took place only once, during which B. was seriously abused. At that moment she was afraid of dying. After this the stalking started, the man would appear at the door in the evenings or would call to say he would be waiting for her. He also started to threaten B. with killing her family if she would not come back to him.

She told her mother and younger brother about the serious abuse, but did not seek or receive further assistance from services. B. did file reports twice; first after the serious abuse and the second time three weeks later concerning the stalking. This case didn't went to court, there was only contact with the police.

*Mrs. C.* has been in a relationship with the perpetrator for 12 years. They lived together and were married. Both have children from earlier relationships, they have no children together. The violence began half a year after the start of the relationship, first only with mental abuse and after 5 years also including physical abuse. After 12 years she broke off the relationship with the support of a social worker.

The violence was both physical and mental. She might for instance be turned outdoors without clothes at night, after which he locked the door. Or he would wake her up when she was sleeping to start a fight. When she tried to run to the neighbours, he would drag C. back inside by the throat. Her social network diminished, because he told C. that her friends and family did not care about her and would not look out for her. She attempted suicide several times because of the violence. The man was also violent to her children.

During her relationship C. went to the hospital or her general practitioner with her injuries several times. C. also saw a psychologist because her husband thought she had a personality disorder. She never told anyone about the incidents and there were hardly any witnesses. Social workers frequented the family to help the children. After the breakup of the relationship, C. and her children lived in a women's refuge centre. This case was not brought to court for assault, but there was a lawsuit for child abuse. The perpetrator didn't get a sentence.

*Mrs. D.* had a relationship with the perpetrator for 1,5 years and they lived together. She has children from an earlier relationship, they have no children together. The abuse began gradually and after 3 months a violent incident took place. After that she temporarily moved out. After 1,5 years D. ended the relationship after another violent incident.

The violence started with threats, for instance that he would beat her up or kill her. After 3 months actual physical violence took place and D. suffered serious injuries (among others her teeth were beaten out). During the temporary stay elsewhere D.'s husband kept calling her. After D. returned to



him, he continued to use violence and also stole her belongings. During her relationship she has at times had a fear of dying.

She never went to the hospital or the dentist (and still has no teeth in her mouth). D. never asked for help for herself, but has tried to find help for the man's gambling addiction at several agencies. After the last incident she filed a police report and pictures were made of her injuries. Then she also informed people in her environment of the incident. This case was not brought to court, but to someone of the PPS. The perpetrator did get a sentence.

*Mrs. E.* had a relationship with the perpetrator for 5 months. They did not live together. She has children from an earlier relationship, it is not clear whether he has any children. The violence started after one month and gradually became worse. After 5 months a violent incident took place. That is when E. ended the relationship and the stalking began.

At first the violence existed of morbidly jealous and controlling behaviour, and the man was violent towards objects. During the violent incident E. was seriously abused and the man put a gun to her head. After that he started stalking and still continues. As a result she still does not feel safe.

Not until after the incident did E. tell other people about the violence. She also filed a report, and pictures were made of the injuries. E. is still in contact with victim support services. This case was brought to court. The perpetrator did get a sentence shortly after the incident, but after that there has been another lawsuit and the perpetrator has already twice failed to show up.

*Mrs. F.* has been in a relationship with the perpetrator for 9 years. They lived together and have children. The violence started after 9 months, when F. became pregnant from the man. After a year the violence decreased, but it increased again when F. became pregnant for the second time. After 9 years a physical violence incident took place and F. ended the relationship. After that the physical violence continued for 1,5 years.

The violence consisted of jealous and possessive behaviour, throwing objects (specifically those that had an emotional value for her), cursing and swearing and threats. The incidents mainly took place at night and he was usually under the influence of alcohol or drugs. F. was seriously injured during the physical violence incident and suffered permanent damage (of her tailbone). The man had acquired a weapon during their relationship and F. was afraid of dying. The children often witnessed the violence.

She never told anyone about the violence or sought assistance for herself. But after the relationship ended, they jointly asked for help for the man's aggression from the general practitioner. She filed a complaint with the police 1,5 years after the end of their relationship, because the man had threatened to come and kill her. The police have taken her away, after which she filed a report and sought the help of victim support services. Subsequently she stayed in a women's refuge centre with her children. This case went to court and the perpetrator did get a sentence.

*Mrs. G.* has had several relationships in which violence took place. The first relationship was with a drugs dealer, when she was addicted herself. The relationship lasted for 1 year, they lived together but have no children. The violence did not start right away, but only after the man started using drugs. With the second perpetrator G. had a relationship for 1,5 years. She also lived together with

him and they have no children. In this relationship too, the violence did not begin immediately, but only from the moment the man began to drink alcohol.

In her first relationship the violence consisted of physical violence and G. suffered serious injuries several times. In her second relationship the violence was also physical. She was beaten and kicked specifically in the stomach, so that the injuries would not be visible. G. became pregnant from him, but the baby died before birth as a result of the abuse. There was a pattern to the abuse, after a particularly violent incident it would become quieter for a while.

During her first relationship G. frequented the emergency ward to have her injuries seen to and even staid in intensive care, but she never sought help or talked about the abuse with other people. After one year F. filed a complaint with the police because of the drugs, but not for the violence. Also during the second relationship G. never called for help or talked to others about the violence. After ending the relationship she told her colleagues about the violence. Several years later G. asked for help to cope with her traumatic past and tried belatedly to file a report. This case didn't went to court, there was only contact with the police.

### *5.1.2 Background of professionals*

#### **Public Prosecution**

We interviewed 10 professionals working with the Public Prosecution. Four of them are public prosecutors and also Domestic Violence coordinators for their district offices. Domestic Violence coordinators are responsible for supporting the professional expertise in the field of domestic violence, they are the contact points for colleagues with issues concerning domestic violence cases, and they deal with the more complex domestic violence cases themselves. In addition, we talked to 5 legal officers who work at various district public prosecution offices across the Netherlands. They are engaged in the programme for frequently occurring crimes (ZSM) and it is their responsibility to assess whether the necessary information from the partners in the chain is available and whether sufficient evidence has been collected. Subsequently a decision is made on arraignment, the possibility of a community service (TOM) session, or insufficient evidence (technical dismissal). Three of the legal officers are involved in ZSM and TOM sessions. Finally we talked to a public prosecutor who has no specific duties in relation to domestic violence.

None of the professionals is able to provide a percentage of domestic violence cases in relation to other cases. What is clear is that the percentage of ZSM cases is fluctuating, sometimes 75% of all cases concern domestic violence and sometimes there are only a few. In addition two professionals indicate that after the holiday season the number of domestic violence cases grows steeply. In addition, many professionals state that they often get the more serious or complex domestic violence cases or are consulted by colleagues because they are specialised and better informed on domestic violence.

#### **Judges**

We also interviewed two judges. Both are male and have worked within the judiciary for a considerable period already. One judge works with the Court in Arnhem and the other in Utrecht in



the department of Criminal procedures. They regularly have police court sessions where intimate partner violence cases are brought to court. They also occasionally have full court intimate partner violence cases.

### ***Participants focus groups***

Two focus groups took place, one with professionals working with victims and one with police officers.

#### *Focus group Aid to victims*

This focus group consisted of eight female professionals working throughout the Netherlands. Three professionals work with victim support services, two professionals work at Veilig Thuis (a service for consultation and registration of domestic violence and child abuse), two professionals work in the legal profession and one professional works with *Federatie Opvang*, the agency for social care and women's shelters.

#### *Focus group with the police*

Eight professionals (six women and two men) participated in this focus group, all working with the police in various police districts in the Netherlands. Four of them are domestic violence and/or youth coordinators and two focus specifically on domestic violence and youth. One of the participants is currently conducting research into the needs of victims of domestic violence within the framework of the Victim care project. One participant, a former public prosecutor, works with the police and heads the programme Victim care in the police force which aims to elaborate the European Directive on the rights, support and protection of victims.

## ***5.2 Victims needs and expectations***

In this paragraph we focus on victims' need for police protection in paragraph 2.1. What do they expect from the police? Following this we consider the perspectives professionals have with regard to the needs of victims in paragraph 2.2

### ***5.2.1 Stance of victims towards the criminal justice system: Victims' expectations***

Victims identify both similar and different needs and expectations with regard to the actions of police and the law. But all victims emphasize their need for protection and safety (8). A considerable number of victims also identify their need for (more) information and advice (4). Finally victims indicate that they want justice done. We discuss these three themes.

#### ***Safety and protection***

Victims feel the need for protection, they want the violence to stop. But protection can only be given when the seriousness of the unsafe situation is being recognised. And victims can only relate their story when they are feeling safe. Therefore victims have a need for professional police officers who offer a safe environment where victims can tell their stories.

A number of victims expect it will be unsafe to report the crime. One of the victims indicates her wish that the reporting could take place in her own home, because she was afraid to walk to the police station. Another victim would have preferred the police to come to the house in plain clothes, because then it might have concerned something else, and her partner would not know that she was talking about the violence.

It is also important that police focus on getting information on intimate partner violence into the open. Victims need a police officer who keeps on asking questions and is able to identify signals (4). *“If you say nothing happened, the police are unable to continue asking questions and are not allowed to stay”*, one victim indicates. A standard procedure in which one police officer take one partner for a walk while the other stays home with the other partner, would be a good solution according to her. Then it can never have been her fault and that would have been the right solution for her. When the victims did not call the police, but were alerted by neighbours or bystanders, they feel the need to be taken aside by the police, or of another police visit at a later time when the perpetrator is not present. One of them indicates that her husband always told her to act as if nothing had happened. If the police had invited her to come and talk to them on her own, she would have accepted immediately. *“Every time the police came to the door I hoped that someone would see what was the matter, because I didn’t dare to tell them myself”*, this victim stated.

Victims who go to the police station themselves to file a complaint or to report a crime, also indicate that they need someone who keeps on asking questions or who can read the signs. One of the victims relates that she went to the police station twice, but then changed her mind and thought up another story. A number of victims want to be questioned about earlier violence. A single victim indicates a preference for the presence of a female police officer, or would prefer a speedy settlement.

However, the above does not only relate to police, but also to general practitioners and doctors and/or other caregivers. Reading the signals, continued questioning and separate conversations are also lacking in those places. One of the victims relates that when the general practitioner asked her if she was being beaten and she answered ‘no’, the conversation ended straightaway. Multiple victims indicate that they do not tell their (whole) story to the police or the social worker, or they make up or play down their story.

Victims also want help to increase their safety. Some victims wish for a protection measure.

In addition there is a need for (mainly practical) (professional) assistance, and in many cases the victims would prefer to get that assistance without the perpetrator knowing. They feel a particular need for someone ‘to take them by the hand’ and tell them what to do, or ‘just’ someone to talk to. In some cases they also need help for the perpetrator.

When reporting the crime, victims identify varying needs, such as someone opposite them who puts them at ease, shows consideration and is interested, who is knowledgeable of domestic violence cases, and someone who speaks Dutch well. One of the victims indicates that she thinks it is important that the police understand that it could happen to anyone. In short, there is a need of recognition. Some victims explicitly indicate that they feel they are not taken seriously or feel treated like a mere number.

The victims' sense of safety grows when they can always reach out to someone in an unsafe situation. Various victims indicate they needed a (permanent) person they could always turn to, for instance through a direct phone number of a police officer they could always call when something happened. Several victims indicated their need for a fixed person, to whom they did not need to tell their stories again and again, and who would have a full picture of what was happening. This is also what various victims indicate in relation to the mutual (national) cooperation and coordination between police, Public Prosecution and care services. A number of victims indicate they would have liked to see the police question eye witnesses.

Victims with children indicate their need of protection for the children. They also feel that the children do not receive enough recognition and are not believed. C. indicates that her children had gone to the police station to relate their story of the violence – also directed towards them – and they were told to go home and sleep on it.

### ***Need of information and advice***

Victims would appreciate to be kept informed of the state of affairs and the development of the case, for instance in relation to the release and the prosecution of the perpetrator. They also wish to have information on the possibility of damages paid. In addition they would like to have information on the service for consultation and registration of domestic violence and child abuse (Veilig Thuis).

Some victims indicate their need to report the crime straightaway. However, others state their need at a later stage, sometimes even years later, to report a crime or 'just tell their story'.

### ***Justice***

One of the reasons victims wish to report the crime is their need for justice. A number of victims indicate that they want the perpetrator to feel what he has done to them. Victims want the perpetrators to be punished, or sometimes prefer treatment or a combination of those. There is also scepticism: the victim does not expect that punishment or treatment will have any effect.

## ***5.2.2 Perspectives of professionals on needs of victims***

What views do professionals have on the needs of victims of intimate partner violence? And do those views match the actual needs victims have? These are the questions we will deal with in this paragraph.

Professionals working with the prosecution, police officers and professionals supporting victims list different needs and expectations with regard to the way police and judiciary should act. These can be divided into needs in connection to safety and protection, and needs in connection to information and advice. These needs are described in the first two paragraphs.

Following this we will look into the different and parallel needs of victims and how professionals look at these, after which we conclude with the way in which professionals gain their views on victims' needs. On what do they base their understanding of the needs of victims?

### ***Safety and protection***

Before entering into needs, it is important to state that both a number of professionals working with the Prosecution and several police officers and professionals in victim support services point out the possible vulnerability of victims, and their possible dependency on the perpetrator (financially, residence permit, mentally). Some professionals in the Prosecution emphasize that it is essential not to 'automatically' view victims as vulnerable: *"sometimes there are women where nobody can tell that they are playing games and don't speak the truth"*. Professionals from the different disciplines also indicate that it is important to realise that all women can become victims of domestic violence, and in addition that it is important to take into account the possibility that victims of domestic violence have other needs than for instance victims of a burglary. Victims with an immigrant status, women with mild intellectual disabilities, and hidden women may also have other needs.

The victims' need of (immediate) safety and protection is acknowledged by many of the professionals we interviewed, irrespective of the seriousness of the violence. A large majority of the interviewees have an eye for the position of the victims. The (group) discussions show that people are usually well aware of the (serious) situation the victims, and possibly the whole family, find themselves in, sometimes already for a longer period. The point is raised that they need to take into account that the victim may be forced by her (ex) partner to withdraw a reporting. Professionals also understand that victims are not always pleased to know that the perpetrators can read specific information in their files. Some professionals from different disciplines identify that victims have a need to tell their own story. They do not wish to be looked upon as 'files'.

Most professionals acknowledge victims' need of protective measures. At the same time professionals, particularly those working in support services, also acknowledge that enforcing these protective measures is at least as important for victims as imposing them. One professional working with the Public Prosecution states that, in order to obtain a clear picture of the seriousness of the situation, it is important to know which protective measures have been taken already at an earlier stage. Protection can also mean using the authority of the police and the judiciary to call the perpetrator to account concerning his behaviour. Victims experience such a regulating conversation as supportive. This need of victims is brought up by several police officers and public prosecutors.

Both in the interviews with professionals working with the public prosecution and in the group conversations with police officers and professionals in victim support services, there are professionals that indicate that victims in many cases are more in favour of (more) care or treatment for the perpetrator (in this way preventing recurring violence) than of a (high) sanction. One of the public prosecutors indicates that a lawsuit without further treatment will not solve the problems at





home, because there is a likelihood that both victim and perpetrator assume the same roles, not only in the present relationship, but also in future ones. In addition, victims do not always find it necessary to end their relationship with the perpetrator, and subsequently do not always claim damages. Therefore it is important for some victims that there is a systematic approach and help is offered to the entire family. The group discussion with the police officers made clear that victims in any case do not want to hear that nothing can be done.

With regard to victims who wish to be present at a court session, some professionals with the public prosecution indicate that victims may be in need of a separate room prior to the session. In the group discussion with the professionals in victim support services emerged the victims' need for a possibility to leave immediately after the session and if needed to go to a safe shelter. For instance when the perpetrator lodges an appeal and therefore remains at liberty.

### ***Need for information and advice***

Both during the interviews with professionals in the public prosecution and in the focus groups with police officers and professionals in support services, some professionals indicate the victims' need for information about the court procedure, for instance when the perpetrator has to appear in court, when and why a specific sanction is being imposed, and when a protective measure or sanction ends. The difference between filing a police report and reporting a crime is also important information for victims. This also links to the fact that during the group session with police officers it emerged that accessible communication without (police) jargon is an important need of victims. During the group session with professionals they indicate that it is also important that the police present realistic expectations about the steps following a crime report.

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During the group session with police officers they indicate that victims sometimes need further contact at a later stage. Either because they were not able to grasp all the information they received at the time of filing the complaint or reporting the crime, or because they forgot or did not understand what was said at the time. The need for a fixed contact person is also presented. The need for communication and cooperation between various parties, such as the public prosecution and care and support services e.g. youth care, emerges in one of the interviews with public prosecutors.

Some of the victims, according to professionals in public prosecution, wish to be present at a TOM session, or claim the right to speak. Other victims prefer to keep in the background, for instance because of threatening situations.

### ***Professionals versus victims***

One of the differences between the needs mentioned by victims and the needs mentioned by professionals, is that victims often name very specific needs applicable to their personal situation, whereas professionals identify more general needs. Also the needs named by victims are more often related to contextual and emotional needs, such as a sense of safety and sense of justice, whereas professionals more often identify procedural needs, such as the right to information. Prosecutors and lawyers who are not specialized in domestic violence do not have any consciousness about the needs of victims and they consider only the more legal aspects of the incidence.

With a view to the different disciplines, professionals working in victim support services and domestic violence experts in particular seem to have clear insight in the (sometimes contradictory) needs of victims. Professionals working in public prosecution, judges and police officers more often stress that both victim and perpetrator are responsible for the violence and both need help.

At the conclusion of this chapter we present a brief description of how professionals gain insight into the needs of victims.

### ***How do professionals gain insight in the needs of victims?***

Professionals have different methods to gain insight into the needs of victims. It has to be taken into account that in most cases the police officers are the only ones to talk to the victims, and professionals working in public prosecution do not; they are dependent on written documents, like crime report and probation reports. One of the public prosecutors states that this is why it is so important that police officers continue their questioning to gain information about safety and about the risks to the interests of the victims.

A few professionals in public prosecution indicate that they get information about the needs of the victim via Veilig Thuis or Victim Support. One of the public prosecutors indicates that information is also gained by reading 'between the lines', for instance when previous incidents of violence are being mentioned and the police do not continue their questioning. One of the prosecutors states that she personal contact is important for her, because the needs of the victims are easier to understand, she gets more insight in the impact of the violence on the victim (and children) and therefore to relate the impact of the violence to the judge. Also a professional working with victims indicates that using the right to speak is very important so judges and prosecutors get a better understanding of the consequences of the violence for the victim, the dynamics in the relationship and personality of suspect and victim. So there are prosecutors who take initiatives to get more information and there are (more) prosecutors who decide only on the written documents in the file.

Both during the group session with the police and the group session with professionals in victim support services it becomes clear that the story and the needs of the victims need to be stated more clearly in the files, for instance if victims are in need of assistance, claim the right to speak, or wish to meet with the public prosecutor. Those needs are usually not mentioned in the records of the crime reports. The views of the victims on the sanction claimed are also important. Finally both during the group session with the police and in the individual interviews with professionals in the public prosecution, a need for more knowledge and expertise in the field of domestic violence emerges.

### ***5.3 Experiences criminal proceedings along the trajectory***

Understanding, safety, adequate and strong police action, justice, those are a number of the expectations the interviewed victims have towards police and prosecution, as indicated in the previous chapter. These expectations are not always met in practice. In this paragraph we will first focus on victims' experiences with the police in paragraph 6.3.1. Then we will outline the experiences



with the Public Prosecution and the court in paragraph 6.3.2. Finally we will discuss the perspectives of the professionals involved in paragraph 6.3.3.

### 5.3.1 Experiences with the police

Almost all interviewed victims criticise the police action; from the first moment of contact until their referring the case to the Public Prosecution, the police failed at various points. However, there is also appreciation of the police. We will start with the first contact and crime reporting, then we will deal with the issue of (not) creating safety, while indicating what went well and where criticism was due.

#### **From first contact to reporting a crime and the period after**

##### *Home visit after a crisis report*

After an emergency call by the victim herself or by bystanders (usually neighbours), the police will visit the victim at home. Once the police arrive, the victims perceive their presence with mixed feelings. When the call was made by bystanders, the police was said to usually inquire after the situation while at the door. The perpetrator will state that nothing is wrong and the victim is afraid to speak up. On the basis of this information the police will assess the situation and decide to leave without further investigation:

*'The police came to the door 4 or 5 times after the neighbours had called. They would ask my husband or me if everything was ok. Of course my husband would say 'yes, everything is fine' and I would not dare to say anything else. And then they'd go away again. But when it is the umpteenth time they come to the door, they ought to have known better...'*

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The victims who had called the police themselves, say that they (temporarily) felt safe in their presence once they arrived. But even when the officers asked the victims what had happened, they – with one exception – did not feel as if they were really understood; *'I was so in shock after the incident that I could hardly talk and relate what had happened, they said come to the office tomorrow. And then they went away.'*

##### *To the police station*

All victims, either counselled by the police or at their own initiative, eventually went to the police station to register or report domestic violence. Such a police report was often preceded by years of domestic violence; it takes a long time before victims dare to take this step. A violent incident, or an intervention by a third party, usually helps them to decide to break through the circle of violence.

*'When, after witnessing me being beaten up again, my son, with a knife in his hands, said: 'if you hurt mummy again I will...' that's when I thought it can't go on like this, this has to stop or I will lose my child'.*

A number of victims first registered domestic violence incidents, sometimes advised by the police, before they actually reported a crime. Sometimes the victim would consciously first register an incident because she was afraid of the consequences of a report. *'A report would only increase the violence and wouldn't solve anything'.*

However sometimes the police will first advise not to report and later advise to do so.

*'At first the police advised her to only register a complaint. It wasn't until a couple of months later that the police told her to change the complaint into a report because this would strengthen the case. Why the police didn't advise her straightaway to report instead of register is unclear.'*

To their surprise several victims were advised to 'sleep on it' when they came to report a crime. *'After two years I had finally decided to go to the police to tell my story. When I was there they told me to think it over again. As if I hadn't done that already'*. One victim was told that the police could not help her anymore, because the abuse had not happened recently and the incident had not taken place in their police district.

Most of the interviewed victims have bad memories of reporting the crime. Some felt they were not taken seriously by the officers taking the report; *'After I had gone to a lot of trouble to report, the police told me that some women just made these stories up'*. The victims also felt that they were not always questioned thoroughly, and for instance were not asked if violence had taken place before. However, some victims did not answer these kinds of questions, based on feelings of fear, shame and insecurity. One victim relates the following:

*'I went to the police station with my sister. With hindsight this was not a good idea, for I didn't want my sister to hear everything that had happened over all those years. So I just gave a superficial account. The officer who took the report did not ask for details or ask my sister to leave for a while. It all went very quickly and then the officer said: 'that's it, you can go home now'.*

Another victim relates: *'I was there to tell my story. I wanted to tell everything, but I couldn't. I was afraid. So I told them a weak story because I wasn't sure I wanted to leave him and a report would only worsen the situation. I was partly to blame, but the police did not persist in asking questions about the violence, so I didn't tell'.*

The interviews show that the attitude of the police officer who takes down the report has an impact on the satisfaction of the women with regard to the reporting. Some victims describe the persons who took down the reports as 'cold', 'uninterested', 'pedantic', 'authoritarian' and/or 'formal', causing them to feel ill at ease and not feeling good about the filing of the report. It does not really make a difference whether the report was taken down by a man or a woman.

*'I was seen by a female officer. At the time I thought: 'How nice to have a woman opposite me, she will be able to understand', but that was not the case. She treated me quite distantly and chilly. She didn't even ask me how I was doing now. I wasn't asked about my story really. When I left the station I felt guilty. The conversation with the officer had made me feel it was all my fault. While I had been hoping that the reporting would do me good and that the police would be able to help me.*

Another victim relates: *'The police has a certain authoritative appearance which may be very useful, but when you are dealing with domestic violence it is not pleasant, because then they have the same appearance as my authoritative ex-partner who abused me'.*

Another victim relates that she does not look like a 'pathetic little woman' and therefore had the impression that the police officers did not believe her. Her husband had taken care never to hit her in the face, so at first sight it seemed as if nothing was wrong with her.

Two victims indicate that they did feel they were being heard during the filing of the report. The officers were interested and kept on asking questions. They liked this. *'I was put at ease. Got a cup of tea and the atmosphere was informal.'* The other victim relates: *'They asked a great many questions. I almost felt like a suspect myself, but the officer told me that this was needed for the evidence. At the time it felt good to be able to tell my story.'*

#### *Period after reporting the crime*

The victims describe the period after the reporting as a period of uncertainty. According to them they were not or badly informed of the further development of the investigation and possible next steps. Victims indicate that they do not know where they are at. This is also influenced by the fact that the perpetrator is still about and the violence and/or the stalking usually has not stopped. One victim relates: *'With hindsight I think: why on earth have I reported this? He is still about and nothing is happening!'*

#### **Creating safety**

The reason to call in the police is the concern for safety and the need for the violence to stop. Several victims experienced that after an incident the perpetrator was taken to the station by the police. This can be for a few hours, or for a longer period. That the perpetrator was held at the station for the time being gave the victims a sense of safety. The victims told that they usually did not know how long the perpetrators would be held. This uncertainty caused the victims to feel unsafe again. The perpetrator could be turning up any moment. One victim relates:

*'The police said they would hold him for a night. But I didn't know when he would be released in the morning. And I was supposed to come and file a report in the morning, but I didn't dare to. I was afraid of coming across him on the street.'*

The women who were interviewed often find it difficult to specifically name the protection measures that were taken by police (but also by Public Prosecution and court). After providing a number of examples they could indicate more often which measures were used. Two victims had 'code red' assigned to their home address in the incident room. This means that following an incident report the police will come to the address immediately with two police cars. According to the victims this measure does not offer them enough protection because the man is still out and about and continues stalking. One of the victims relates:

*'There may be two cars coming, but what good is that to me? They only remove him from my street, but they don't even take him to the station. This measure offers me no protection at all!'*

Two victims had a restraining order, but this did not provide the desired safety and protection. They told that when this order was violated there were no consequences for the perpetrator. *'Nothing was done when he violated the restraining order. It really didn't make me feel any safer. The restraining order might as well not have been given.'*

One victim told that she had specifically asked the police to assign a contact or restraining order. The police then told her this was not possible.

Other protection measures, such as a Temporary restraining order, AWARE or involving the Guarding and Safeguarding (*Bewaken en Beveiligen*) programme, have not been applied with these victims.

In addition to the legal protection measures the police have also used other protection measures. Personal contact, by means of a phone call a few days after the incident and/or receiving a direct (mobile) phone number of a district police officer did contribute to making some of the women feel safer. One victim relates: *'The idea that I had the telephone number of a police officer in my mobile phone did give me a sense of safety. I could call him 24/7 if I needed to'*. The police also had a 'regulating conversation' with a few perpetrators. This was also appreciated by the victims. *'I know that the police went to see my ex-husband to speak to him seriously. I liked that and it made me feel good'*.

### **Conclusion**

We may conclude that the majority of the victims we interviewed felt they were not understood or heard by the police. According to them the police misjudged the domestic violence situation, and did not always keep on questioning while filing the report. Also the police were not bold enough in their actions.

### **5.3.2 Experiences with Public Prosecution and Court (inquiry phase and trial)**

#### **Public Prosecution**

The period following the reporting of the crime is being described as 'uncertain', as we saw earlier. The victims are unaware of what will be done with their reports, whether charges will be pressed and what is going to happen next. One victim indicates that she still does not know what happened with the crime reports. The victims have a lot of unanswered questions and their hopes are placed on the public prosecutor. Half of the victims say they would have appreciated a chance to talk to the public prosecutor. To tell their story properly, because the report of the crime usually did not present the full picture. One victim indicates that she wrote a letter requesting a meeting with the public prosecutor. To her disappointment the prosecutor did not respond. Two victims say they did talk to a public prosecutor, but found the conversation produced no results.

Half of the victims' cases went to court. Only one victim decided to be present at the session in court. The other victims decided against it. *'I got a letter saying that he had to go to court and that I was allowed to be present. I didn't want to go. What business did I have there?'*

#### **In court**

The one victim who was present at the court session dealing with her case, indicates that it was very stressful for her. Her story shows that from the moment she entered the courthouse until the actual

session with the magistrate no one took notice of her in any way. She had to wait in the same waiting room as the perpetrator and had to go in to the courtroom together with him. During the session the victim had the feeling that the magistrate did not consider it to be a serious case. Also the victim felt no attention was being paid to her side of the story, although she had expected that to be the case. *'I felt like I was a number on the pile. Nobody asked me anything!'* Afterwards the victim asked someone in the courtroom to escort her to her car, because she was afraid of the perpetrator.

### 5.3.3 Views of professionals

The professionals interviewed working with police, victim support services, public prosecution and judiciary, indicate that huge progress has been made over the past years in the approach towards domestic violence. At the same time they are critical. Points for improvement they mention concern their own conduct, but also that of the partners in the chain. We will first describe the experiences of the police on what is working well and what could be done better. Subsequently we will look at the conduct of the public prosecution and the judiciary.

#### **First police contact**

##### *Expertise leads to improved police performance*

An important first observation that emerges during the focus group session with the police is the difference in expertise within the police force regarding the theme of domestic violence. In all police districts domestic violence coordinators have been appointed, and in addition over the years a (limited) number of police officers have specialised in domestic violence affairs. These officers have ample knowledge and experience in the field of domestic violence. However, part of the police officers usually have an insufficient (basic) level of knowledge, causing a lack of proper and adequate action at the moment a crisis report on domestic violence is received. They will for instance forget to note down important (contextual) information and miss signals. This endangers the composition of proper files. One police officer during the focus group session: *"As an officer in a domestic violence case you should think differently. You notice straightaway whether an officer knows about domestic violence. For instance when some officers need to hurry to respond to a domestic violence report. They don't know or don't understand that some information is quite valuable for composing the file. As an officer in a domestic violence emergency call you need to write down everything you see at the place of the crime and take pictures as proof. It's important that you note what the place looks like, how the children are behaving (for instance are they staying in a corner) and what the children tell you when you put them at ease. You don't have to raise any direct questions, but you do have to read the signals"*.

##### *Taking up reports can be improved*

Contrary to what emerges from the interviews with victims, the police officers who were interviewed had the impression that the first police action after an emergency call usually is handled well. On the contrary, they feel the period afterwards could be improved. Taking down the crime report in particular is a point of interest, when there is insufficient questioning on for instance the history of the kind of violence (physical, but also mental) and insufficient insight into the context in which the

violence took place. One participant in the police focus group: *“The officers who take down the report usually do not realise that victims will only report when their backs are against the wall, and that this is not the first incident that took place but there is a whole story behind it. They just don’t ask about it.”* The complete story to get an understanding of the nature and the pattern of domestic violence is usually lacking. The checklist of the domestic violence and honour related violence instruction, in which a number of elements are included that should be part of the crime report, is not followed as a rule. Including earlier reports of domestic violence would also contribute to building a more complete file.

### ***Needs (for protection) in practice***

Paragraph 6.2.2. describes the way professionals think concerning the need (for protection). In this paragraph we will look at the way in which the victims express their need (for protection) in practice.

#### *Safety and protection*

Temporary restraining orders or behavioural indications and contact bans within the criminal procedure are the protective measures used most frequently according to the respondents. Professionals working with the public prosecution and judges indicate that they also take the needs of the victim into account and weigh them in the decision. One public prosecutor relates: *“When a victim indicates that she’s afraid and would like a restraining order, I usually comply”*. One important obstacle, according to professionals working with victim support services, are the observance and surveillance of these orders. *“It is good that restraining orders can be imposed, but they’re not followed by enforcement. It’s easy for the perpetrator to ignore the order without any consequences. What then is the use of such a measure?”* This is also the picture emerging in the interviews with victims.

Mutual exchange of information between police and Public Prosecution is also important with regard to protective measures. Feedback from the PP in case of changes or decisions taken in the court case, or if the police has to play a role again in the case, need to be communicated back to the police. At the moment this happens insufficiently and is a point for improvement, according to the police. In addition protection of privacy plays a part in the exchange of information. Some organisations do not know which information they are allowed to share, leading to the police not always receiving all the information they need to be able to properly protect the victim.

In addition to legal protective measures, the police in particular undertakes additional actions to meet the needs of the victim. For instance by conducting a ‘regulating conversation’, which is also viewed as positive by the victims. One of the police officers says the following: *“Police officers underestimate their own authority. A positive example of using your authority is having a talk with the perpetrator to call him to account concerning his behaviour. For instance a neighbourhood police officer conducted a ‘regulating conversation’ with the perpetrator after a domestic violence incident report. After that the abuse stopped. The action against the perpetrator has not been documented, but it is effective, it is a way to use your authority”*. Police indicate that also the prosecutor can use the competence to have a ‘regulating conversation’ at the PPS office.



### *Information and advice*

Victims like to keep abreast and to be informed. It also emerges from the interviews with the victims that they very much appreciated the personal contact with the police. Keeping in touch and informing the victims is also considered important by the police and implemented in practice. *“You notice that victims are not able to grasp or fully understand the information during a crime reporting. Just giving them a phone call a few days later can be really helpful for a victim”*. The way in which this contact with the victim takes place varies. The domestic violence coordinator in West-Friesland stays in touch by email. In another, larger, region (Utrecht) they usually ask the neighbourhood police officer or the social support team to stay in touch with the victim. It is not known if and in which way contact is sustained with victims of domestic violence in other police districts.

The police indicate that they tell victims about Slachtofferhulp Nederland (Victim Support The Netherlands), as is also done by the Public Prosecution. It seems however that the ideas and expectations victims have of Slachtofferhulp Nederland are not always correct in practice. One expectation may be that Slachtofferhulp Nederland actually offers support in relation to the violence. It is not clear that the support is restricted to legal advice. For assistance concerning domestic violence victims can be referred to Veilig Thuis (a service for consultation and registration of domestic violence and child abuse). For legal advice they can also seek the assistance of specialised victim lawyers (for instance through LANGZS, a national network of specialist lawyers). Currently victims have insufficient knowledge of the possibilities, certainly concerning legal advice, and which organisation to visit for which kind of support, as is stated by the professionals in victim support services. The question is who should be providing victims with this information. Organisations are also insufficiently aware of each other’s tasks and duties. There is for instance very little cooperation between victim support services and the legal profession, although they could be very complementary. A judge confirms this limited legal support for victims. *“Victims are hardly ever assisted by a lawyer. The legal support by Slachtofferhulp Nederland is not always adequate. Counselling by a lawyer would be a huge improvement”*, according to a judge.

### ***Experiences of Public Prosecution and Court (inquiry phase & trial)***

#### *ZSM, TOM or to court?*

Most domestic violence cases first appear at ZSM. IPV cases are assumed as simple assault (a petty crime) where a quick decision has to be made. When it is not possible to decide immediately on settlement out of court because of the severity or complexity of the case, the public prosecutor may decide to bring the case to a TOM session or to bring it to court (please also see chapter 3 for more information regarding the various procedures). A public prosecutor relates the following concerning the choice between ZSM, TOM and court case: *“Sometimes it is more important to move quickly and you want to act immediately instead of taking a case to court which can take months. So then you opt for a ZSM settlement, even if it makes for a lesser sanction. That is something you have to take into consideration”*.

It is striking that the opinions on the ZSM procedure differ among the respondents who were interviewed. Part of the respondents, in particular those who are involved in ZSM, are enthusiastic about the procedure and indicate that this procedure decides as soon as possible, together with the

chain partners, on the settlement process, and offers a solution in domestic violence cases. Professionals working in Public Prosecution Services, the police, the Probation Office, the Child Protection Board and Victim Support Nederland together man a “ZSM table” established in a police office. The immediate contact with chain partners in particular is observed as very valuable. *“ZSM works so well because the cooperation with the chain partners works well. We all work together in one room and know where to find each other. You can take care of things right away and that is a good way to work.”*

The respondents find ZSM valuable especially when Veilig Thuis (the service for consultation and registration of domestic violence and child abuse) is also involved. This is the case now in some regions as a pilot, but ideally Veilig Thuis should be incorporated in every ZSM table. Through victim support services (and Veilig Thuis) ZSM also pays attention to victims. *“In the old days the victims were never taken into consideration, let alone their needs. Fortunately that has changed. With ZSM every chain partner gathers the information needed. Victim support services usually talk to victims about how they are doing and what their needs are. When it turns out that their needs are not identified, you can ask victim support services to follow this up.”*

There is an equally large group of respondents (from both police and PPS) who see the added value of a speedy settlement, but also comment on it. Sometimes it could be too ‘fast’, causing a lack of important information, for instance more background information on the nature of the violence, the context and the needs of the victims. One respondent states: *“ZSM stands for fast and meaningful, but meaningful is often omitted at the moment. The question is whether ZSM is suitable for domestic violence cases, because it takes time to get a clear picture of the context. With ZSM that time is not available.”* This lack of information is opposed by a number of respondents, they indicate that when information is missing it will be followed up on and it is clear to all chain partners who is still expected to contribute information. However, this information is not always registered, but can also be given in a conversation and then will not end up in the final criminal file. *“Because the lines are so short, we are in the same room, we often discuss a case with each other. Or you call someone from victim support services for instance. This information is not noted down but it is included in the case assessment”*, according to one public prosecutor. When a prosecutor doesn’t have knowledge about domestic violence, chances are the case will be assessed from a legal perspective and judged as a minor crime.

In 2016 a pilot will start with so-called ‘in-depth ZSM tables’ especially for domestic violence cases and youth delinquents. These in-depth tables will not focus primarily on speedy decisions based on existing (or lacking) evidence, but will look into the context and the most meaningful decision in the case under discussion. It is not relevant whether the solution is criminal prosecution or another meaningful intervention. In these in-depth tables the ‘case context’ is essential.

The short lines and good cooperation with chain partners is seen as important by all respondents to gain a view of the case that is as complete as possible. It is noted that this good cooperation between chain partners does not exist in cases that do not appear at ZSM. *“While it is possible to have a ‘quick word’ with probation of victim support services at ZSM, outside ZSM this is a lot more difficult to do and chain partners usually find it difficult to get in touch with each other”*. This view is confirmed by

professionals who support victims. They indicate that part of the cases that are not presented to ZSM fall 'between two stools'. *"In these cases they have no time for victims"*.

#### *Quality of the file and probation report for proper decisions*

Professionals who support victims and the public prosecution indicate that, in addition to a proper crime report, for a good assessment of the case it is important that previous reports of domestic violence and mutations are included in the file. *"For it does make a difference whether it is the first blow or if more has happened before"*, says a professional working with PPS. Eyewitnesses may also provide a valuable addition to the file to gain a full view of the case, according to some PPS professionals. According to respondents it is important to gain as complete a picture as possible of the situation in order to properly assess the case. Some respondents indicate that the files that they have to base their decisions on are not always of good quality: *"In addition to the evidence that has to be good, it is also important to get the full picture. You need contextual information. You need to know what happened in care between victim and perpetrator, are they still together? Are children involved? Is the victim still at risk? This information is not always properly included in the file, while it is important for my assessment. For instance when a relationship has definitely ended and there are no children involved, a suspended sentence is of less added value than when the couple are still together with children. Then it could be an incentive"*.

It is not only the police who is responsible for composing a proper and complete file, probation and victim support services also are involved. From the interviews with both public prosecutors and judges it emerges that the probation report is of particular value for their judgement. Court sessions may be adjourned when the report fails. A proper probation report (QuickScan / RISc) will include relevant context information and is usually based on a conversation with the victim. Some respondents even assume that probation services will always talk to victims. Professionals in victim support services however note that probation pays little or no attention to victims. One judge also indicates that the victim should have an important position within probation, while at the moment it is strictly perpetrator-oriented. Many respondents have no knowledge at all of the existence of the risk taxation tool B-safer, developed specially by probation for domestic violence cases.

#### *Dropping charges and prosecution without reporting*

According to respondents it is not unusual that victims wish to drop their charges, even if this is legally impossible. All respondents working in PPS have seen this happen. In which case they also take into account the question whether the letter was written of their own free will or under pressure. *"The victim writes a letter saying that they are back together again and that everything is going well. I usually do take this information into consideration and opt for a larger suspended sentence. But I do insist on supervision by probation services, because I like it to continue going well."* But without a report cases can still be prosecuted, so-called official proceedings. Respondents say that this happens more rapidly with domestic violence cases than with other kinds of cases. There is no mention of official proceedings in the stories of the victims, not even in the cases in which there were 22 domestic violence reports.

#### **Conclusion**

Within the police force differences are identified in police action in domestic violence cases between police officers with specialist knowledge and officers without such knowledge. Knowledge and affinity with the subject are seen as important competencies for proper and adequate action in this kind of cases. Respondents remark that domestic violence, like children and vice, should become specialisations. This is both advantageous for victims (e.g. being heard and understood) and for the composition of the file (all important (contextual) information is being recorded).

Not just the police, but probation and victim support services also are responsible for a proper crime report, in which attention is being paid to the context in which the violence takes place and to the position and needs of the victim. A proper file is important for the follow-up of the case and the settlement by the public prosecutor and/or the judge. In the following chapter we will focus on the settlement.

## 5.4 Outcomes of proceedings and effects for women

In this paragraph we focus on the impact of the results of the criminal proceedings on the victims. What do the victims think of the results of the criminal proceedings? (paragraph 6.4.1). And would they go to the police again for protection? (paragraph 6.4.2). In paragraph 6.4.3 we focus on the perspective of professionals regarding results of criminal proceedings.

### 5.4.1 Victims' opinions on results criminal proceedings

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The victims feel that the effort they made is not in proportion with the effect it has had on the perpetrators. Victims wish to have justice, but they feel they did not get it. They feel that the perpetrator has not been punished, whether or not the case was dealt with in court.

Half of the victims (4) indicate that a court session has taken place. In two cases there is still no final verdict, because the perpetrator lodged an appeal or because the perpetrator did not appear for the session. In the cases where the perpetrators have been convicted, the victims are not (completely) satisfied with the verdict. In one case the perpetrator was convicted for trespassing to 40 hours of community service and reimbursement of damages. For the victim the fact that the perpetrator was convicted for trespassing feels as if he was not convicted for what he had really done, which is systematically harass, threaten and abuse her (stalking). In the other case, the perpetrator was convicted to two years' probation and a two month trial period, but the victim does not feel this is an appropriate punishment. *'I feel this punishment is way too low, especially when you consider all the things he did, even before he abused me. He called me up triumphantly to relate the verdict. I would have liked to see him go to a closed institution for treatment. So that he would realise what he is doing to other people.'*

When perpetrators are not convicted, or do not receive a punishment that the victims consider suitable, the victims get the feeling that police and court are not doing enough and that their story is of no account. Many victims say they find it unfair and that it is not in any way related to all the

things the perpetrators did. Victims feel their sense of justice is affected, while they feel that justice is important.

One may ask if there is a sanction that would be considered suitable in the victims' eyes. Most victims feel that treatment and detention would not be of any use. Actually the victims would like to deal out unrealistic punishments to the perpetrators. One of them says for instance: *'I would find it appropriate punishment if he would feel what he did to other women. That he knows how I have felt. But that is not a punishment that can be imposed.'*

Many women indicate that they have been traumatised and some of them are still inhibited in their daily lives. Some victims have permanent injuries as a result of the violence. Others are still always afraid, even when the violence has ended. One victim relates: *'I still don't feel safe and also not taken seriously. Does something really have to happen before anyone takes action? I am still afraid and always on the lookout when I am walking my dog. Because I am sure that my ex would grab me if he knew I was alone at a certain time. The only reason he controls himself is our biological son.'*

#### 5.4.2 Effects of victims' experiences within the criminal justice system on their decisions related to criminal proceedings

What did victims learn from the criminal proceedings, would they go to the police again for protection? There was one victim who related that she had had two consecutive relationships in which she was abused. With the first perpetrator she did not dare to go to the police and if the police came to the door after an incident reported by the neighbours, they did not act because she said nothing had happened. As a consequence she did not report to the police during her second abusive relationship. *'With my first friend I didn't dare to report a crime, with my second friend I didn't want to report, the police doesn't do anything so what's the use of calling them?'*

In other interviews it is not evident which effect the victims' experiences with criminal proceedings has had on later decisions. Victims do indicate that if they had known at the time of the intimate partner violence what they know now, they would have done things differently. A number of victims say for instance that it is important to talk to someone and share the process you are going through with someone. This can be a social worker, but it could also be someone in your own network. It also emerges from the interviews that from their experiences with police, victims realise that it is important to ask for a police officer who is familiar with and well informed about domestic violence. Police officers with knowledge and experience in the field of domestic violence offer better help. Victims also learned that it is important to take the initiative as a victim, by collecting evidence such as messages, photos and conversations, and not to wait for the police to call, but to continue calling the police themselves.

#### 5.4.3 Views of professionals

What do professionals think of the settlement out of court in intimate partner violence cases? Do they see dilemmas and obstacles? We will look into the problems caused by lack of evidence, reasons to decide in favour of dismissal or summons, the relevance of support services and the impact of settlements on victims.

The interviewed experts in domestic violence are aware of the catches in the criminal justice system in intimate partner violence cases. Because criminal offences in criminal justice cases need proof, there are limits to what can be done in the way of settlement out of court.

### ***Lack of evidence***

One important cause for dismissal is lack of evidence, a so-called 'technical dismissal'. In such a case the Public Prosecution is not able to impose punishment. In many of these cases it is only a matter of time before things go wrong again, say some public prosecutors *"In some cases everything tells you that it is not right, but there is nothing you can do because there is no evidence and then you have to dismiss the case."* Lack of evidence happens especially often in cases dealing with mental violence, such as threats and humiliation and all kinds of pressure. Humiliation and all kinds of pressure cannot easily be classified as criminal offence, and if it is a criminal offence it is hard to prove. That is why we need to wait for physical violence incidents, according to some public prosecutors.

In the focus group with professionals working in victim support services they also bring up the difficulties of dealing with perpetrators who use serious mental violence and are very controlling (the so-called intimate terrorists). In such cases it is not only extremely difficult to secure the evidence, but people are also not easily motivated to seek voluntary assistance. For this group in particular the forced frame of criminal justice is needed. It is felt as a serious obstacle. *"Mental violence is not a punishable crime, but it actually is the real problem"*, several respondent state.

The police indicate that the decision in favour of technical dismissal is taken very often, especially by public prosecutors with little experience. They look at the incident in a formal juridical way, but according to the police there often are more options than a technical dismissal.

### ***Dismissal or summons***

In cases of domestic violence the decision to proceed with legal action is taken earlier compared with other cases of assault, also without a crime report, according to several public prosecutors. The decision on the way to settle the case is not always easy, according to public prosecutors and staff of ZSM. Sometimes it is better for both victim and perpetrator to dismiss a case under conditions such as probationary supervision and monitoring a perpetrator in an intimate partner violence programme (compulsory assistance) rather than taking the case to court. It will take at least three months before it is brought to court and will probably result in a (suspended) community service. And in that case the perpetrator programme and the probationary supervision cannot start immediately. The professionals involved with the victim also emphasize that taking a case to court means both that nothing happens for a long time after the crime report, and that judges do not always impose adequate penalty.



Sometimes there is a preference for dismissal under conditions, while in other cases the decision is in favour of issuing a summons. Various prosecutors say that a victim withdrawing her report is no reason for dismissal. Legally the report cannot even be withdrawn, so it can still serve as evidence. Moreover, the woman can have been forced to withdraw the report. When the case is under summons, withdrawing the crime report will have no influence whatsoever. A public prosecutor: *“If a case comes before court, it already concerns a more serious abuse. Sometimes a woman will be in court and says: he bettered his life. That’s when I say: that is really good, I’d like to keep it that way. And then I’ll call for a longer suspended sentence, but with probationary supervision.”*

Some officers indicate which circumstances influence their decision to settle out of court. They all emphasize that these decisions are tailor-made, and depend on the seriousness of the crime, the injuries, alcohol and/or drugs related problems, financial or mental problems, the frequency of the violence, the level of fear of the victim, the presence of children and whether the woman is leaving the man. The various circumstances are considered on a case by case basis. However, there are some rules of thumb, such as: a first abuse and a resilient victim will in principle be settled out of court conditionally. If the partners stay together and children are involved, there is a preference for support by means of a decision in a TOM session. If the relation has ended and there are no children, a suspended sentence is usually considered less useful. If the abuse has been serious and the woman says she is leaving her partner, most likely there will be a summons; punishment is then a priority. If the abuse has been serious and the woman is afraid, there will most likely be an arraignment before the magistrate, and arraignment will also take place when there has been a prior conviction for intimate partner violence. In principle serious crimes need to be punished; a clear signal has to be issued that ‘this is not allowed, this behaviour cannot be tolerated!’ Punishment alone is of no use where intimate partner violence is concerned, support is essential (see next paragraph). Some professionals (both police, PPS and judges) note that in such cases mediation could be an option, but they have no experience with it.

The police bring up that the domestic violence public prosecutors are quite motivated, but many other prosecutors have little knowledge and only look at the legal aspects of the case. There are many technical dismissals, particularly decided by less experienced prosecutors, although this really is not always the only option open to them. In ZSM also cases are often dealt with legally. ZSM stands for meaningful and speedy settlements out of court, but meaningful is often omitted, they state. It takes time to get a clear idea of the context, and this time is not used. In addition, within ZSM and wider, within the PPS, they do not usually look for alternatives, such as engaging with the perpetrator (regulating conversation, even if the evidence is not conclusive). In addition it is pointed out that perpetrators are not supervised sufficiently to check whether they keep to the conditions imposed. And when the conditions are violated, there are hardly any repercussions.

The above criticism on ZSM is widely acknowledged. Therefore, in the frame of the implementation of the European directive, there are initiatives to establish in-depth tables domestic violence in 2016 as pilots for a better focus on meaningful settlement rather than speedy settlement out of court, as we recalled earlier.

Usually the judges are not informed of the background of the intimate partner violence and the policies of the Public Prosecution (as laid down in the Instruction Domestic violence and honour

related violence, see chapter 3). According to the judges, it is up to the public prosecutor to raise relevant issues during the session. In addition it is the probation service's task to provide the adequate information. The probation advice is considered important in this kind of case (see also paragraph 6.3.3). If there is little background information, or in proceedings upon default (when the suspect is not present), judges have their own rules on meting out sentences for criminal offences, they consider them as incidents where normal legal rules apply. As one judge comments: *"If it is simply one blow I'll give a fine, but when there is systematic violence I prefer community service or a suspended community service. When there is recidivism (when someone has been sentenced for intimate partner violence before), I'll give a (suspended) prison sentence, an unconditional sentence usually happens when there are serious injuries."*

Victims who are present in court usually come jointly with the perpetrators to relate that the situation has improved. This is considered troublesome: 'the fact has been proved, but is it meaningful to sentence.' Victims who are no longer in a relationship with their partners hardly ever appear in court. One of the judges sees a divorce as the start of a solution and will therefore impose a milder sentence.

### ***The importance of assistance to perpetrator and victim***

The PPS emphasizes that punishment can include help components, but the PP is not a care service. It is considered important to provide care to both perpetrators and victims, sometimes even more important than punishment, in the opinion of all professionals, both with police, PP, and victim support services. Help is needed to break through the pattern of violence, and also to create a safe environment for the children. In addition it is important to stop the intergenerational violence within the family. In serious cases punishment is needed to send out a signal that this behaviour cannot be tolerated, but this needs to be combined with care, as most of the professionals in public prosecution services indicate. One public prosecutor: *"Help and support are the most important, should always come first! I feel that preventing repetition and providing care are essential in intimate partner violence cases. But if by being sentenced a perpetrator will in future think twice before repeating his acts, then that's a good thing too."* It is important to look at what more can be done besides criminal proceedings and how help can be offered, jointly with chain partners.

The professionals working in victim support services experience in practice that victims often prefer help or treatment for the perpetrators to an actual sentence. They feel that there is too little attention for this aspect in criminal proceedings. This is at odds with the prosecutors and PPS professionals we interviewed, who indicated that care for the perpetrator is more important than imposing punishment. In the court files there is little evidence that some form of care is regularly imposed (see chapter 5). Taking a partner violence course or following non-residential perpetrator treatment is hardly ever included as conditional in the assignment of sentences. One public prosecutor raises that help is offered to perpetrator and victim, and possible children, within the framework of temporarily restraining orders.





## **Impact on the victim**

Professionals working with victims indicate that victims do not as a rule have a clear understanding of the proceedings and the settlement. There usually is incomprehension when a case is dismissed and the sentences that are imposed are often not understood. This also emerges from the interviews with victims. Therefore it is important to inform victims of the motives behind a specific choice of settlement. Especially in case of stalking the dismissal of a case usually causes women to feel insecure and desperate. Sometimes victims need to go into hiding while the perpetrators walk about freely. Also victims often are not informed before perpetrators are back on the streets, either because their preventive custody is released or when they have served their time. As a result victims may suddenly be confronted with perpetrators.

When PPS professionals or judges have more direct contact with victims, through a meeting in the office of the public prosecutor or by meeting with victims during a conference, this gives them a better insight in the impact of the violence for victims. One public prosecutor: *"During a conference on domestic violence various victims were present and told their stories. I found that very instructive. I still recollect the story of one of the victims who related that she had been forced by her husband to withdraw her criminal reports. But the victim really wanted the man to be prosecuted. He was, but he couldn't blame the woman for she'd withdrawn her complaints."*

Some public prosecutors emphasize that they do take the wishes of the victims into account. If victims feel that the perpetrators should get help, the prosecutors will keep this at the back of their minds. This also goes for victims who prefer a criminal trial. But it is not always possible to meet the victims' wishes. As one public prosecutor says: *"If it is the victim's wish to keep someone away for a long time by means of a restraining order, that is not always possible. Most partner violence cases do not concern very serious violence and also not a very long period."* For that matter the interviews with victims and the focus groups with respectively police and victim support services show that many public prosecutors have very little knowledge of the needs of victims and the impact the violence has on victims.

Practitioners of victim support and lawyers criticize the fact that family court decisions would not take into account the outcomes of criminal proceedings and the protection needs of mothers. This could bring mothers in a very difficult position because they have to protect their children while fathers also have the right to have contact with the children. This could create violence again or raises feelings of insecurity and fear.

## **5.5 Advice from victims**

We have asked victims what they would advise when looking back on their experiences. They formulate advice to police and prosecution, but also to social services.

One clear advice for the police is: gain more knowledge on the meaning of violence in intimate relationships. It is not a unique incident, asking for help is mixed with feelings of fear and shame. Be aware of the complexities, women are not just pathetic, but can also be self-assured. *"The police has to be able to see through appearances, for in most cases the fact that someone is being abused does not show on the outside."*



It is important that the violence is put to a halt, but this does not necessarily mean that the woman wants to break up the relationship. Police needs to realise that putting a stop to the violence and perhaps leaving the partner is a process with ups and downs. Be aware that when victims come to report an incident or a crime, this is probably not the first incident that has taken place.

Victims also emphasize the importance of training. Ensure that police officers already become aware of the issue of domestic violence during their vocational training. One victim points out the importance of involving experiential experts in the field of domestic violence in trainings.

When advising social services, the lack of attention for working through and overcoming trauma is mentioned explicitly. Many victims and their children have been seriously traumatised by what has happened. It would help if such trauma were recognised at an early stage, also in shelters and refuge centres.

In addition there needs to be more attention for guidance towards divorce. Women need to watch over the safety of their children and therefore they have to leave the abusive partner, but on the other hand they need to support the children's relationship with their biological father. These are conflicting interests. They need help to offer the children a safe and stable environment. The various chain organisations need to collaborate around this.



## 6. Section (G): Conclusion and discussion on findings

### 6.1 Introduction

The aim of this research is to gain a better insight into the mechanisms in the criminal system for the protection of victims of intimate partner violence. What are the needs of victims when they contact the police and what are their experiences; do they feel protected? Do they get support, do they have any say in the criminal procedure? What are the possibilities within the criminal justice system to protect victims and prevent further violence? To get a better understanding we have conducted a file analysis (we analysed 70 files from three different district courts), and interviewed victims, prosecutors and professionals working in the public prosecution service, and judges, and organised two focus groups, one with police officers and another with professionals working with victims.

Before we go into the research results, we need to comment on the value of the file analysis. The 70 files we analysed are not a representative sample. The staff of the Public Prosecutor Office have selected the intimate partner violence cases from the domestic violence files, and together with the chairperson of the supervisory committee we made a selection of the cases that were seen in ZSM and TOM sessions, by the magistrate or in full court, and we have selected both serious and less serious cases. The files analysis does allow us to understand what kinds of cases go to public prosecution, what kind of information is available and which decisions are being taken. Through our discussions with victims, public prosecutors and Prosecution staff, and judges, and our focus groups with police and professionals working with victims of intimate partner violence, we can supplement the harder (and limited) information in the files with information about the consequences criminal proceedings have for victims. What are the needs victims have, how do they experience the reactions of police, PP and judges? And how do professionals look at the settlement of intimate partner violence cases?

In this chapter we first present a summary of our research findings and subsequently dwell on their consequences for the implementation of the European Directive establishing minimum standards on the rights, support and protection of victims of crime.

### 6.2 Results of research

Approximately 20 percent of victims of domestic violence (so concerning not only intimate partner violence, but all forms of violence in family and friendship relations) contact the police. The police force yearly registers about 100.000 cases of domestic violence. About 70 percent of these cases involve intimate partner violence (twice as many cases concern couples who are married/living together than separated couples). The PPS annually registers around 12.000 cases and nearly half of these cases are brought to court. From the cases that were dismissed, half are dismissed under



specific conditions (see the first country report of the Netherlands about the legal framework and criminal procedures, Drost, Van der Kooij, Lünemann, 2015).

### 6.2.1 Seriousness of the violence

The file analysis shows that, with regard to types of violence, the cases brought to the PPS mostly concern physical violence. Victims were hit, slapped, pushed and shoved with no or only minor injuries as a consequence. There is also a lot of psychological violence involved. As we know from the interviews, psychological violence is usually not a criminal offence and when it can be constructed as a criminal offence, for instance threats, it is more difficult to prove than physical assault. Specialists in domestic violence see psychological violence and coercive control as very relevant and a core element of IPV, but in legal terms they are not important. Half of the cases concerned first incidents reported to the police. In legal terms this does not represent serious violence; the suspect is a first offender of a minor crime.

Professionals, police officers, and prosecutors who are specialized in domestic violence have more knowledge of risk factors. When these factors are taken into account, the cases of IPV are much more serious. The file analysis showed threats to kill or severely injure the victim or children, attempts to strangulate the victim, and use of battle and stabbing weapons. Most of the perpetrators have a history of violent and non-violent crimes. The majority of the victims live in fear. When we look at these risks factors we touch upon the seriousness of IPV.

### 6.2.2 Criminal justice response

Regarding the criminal justice response, we looked at the first contact with the police and the investigation phase, the decision by the PPS and the court procedure.

#### *Contact with the police*

Most often it is the victim that gets in touch with the **police**, often during or just after the violence incident, but victims also visit the police office days or months after the last incident to report a crime. If both are still present, victim and perpetrator are usually separated by the police and talked to individually. It depends on the expertise of the police officers on duty whether adequate action is undertaken.

With regard to the research phase we may conclude that both victim and perpetrator are always spoken to, but that these conversations are not always reported adequately. The demands listed in the 'Directive Domestic violence and honour related violence' are not always followed, and as a result the crime reports do not contain all relevant information.

In approximately 30 per cent of the cases studied a restraining order was executed for a period of at least ten days and maximum 28 days. This means that the person removed from home is not allowed to contact the victim and possible children, and that both perpetrator and victim, including children, are offered support. When a temporary restraining order is imposed, a risk screening has to take place using the risk screening tool RIHG. Since imposing a temporary restraining order is an

administrative law measure, the RIHG is usually not included in the file; it is not considered relevant in relation to the incident furnishing of proof. As a consequence the public prosecutor (or the judge) has no access to this information.

The interviews with victims and professionals who work with victims show that victims often do not feel acknowledged and the police does not continue the questioning. No proper assessment of the seriousness of the violence is made because the focus is on the incident, and the context within which the violence takes place is left out of the picture.

#### *Referred to the public prosecutor*

When an intimate partner violence case has been referred to the **public prosecutor**, there usually has been a crime report; the victim has pressed charges. However, pressing charges is not imperative for an official prosecution to take place. Compared to other abuse cases, official prosecution takes place more often according to the Public Prosecution. In practice however it (often) happens that the police does not refer the case to the Public Prosecution without the victim pressing charges, even if there have been several prior incidents. It emerges from the files analysis that the presence or absence of a crime report does not impact on whether a case is or is not settled out of court. If the PP receives an intimate partner violence case, most cases go to ZSM because they are simple abuse cases. In ZSM the criminal chain partners cooperate to settle the case as soon and meaningfully as possible. The case can be settled by dismissal, or be referred to a TOM session (community services PP) or a summons. Usually the emphasis is more on speed than on meaningful, and if no expertise in domestic violence is involved, the chances are that the focus is on the incident and legal evidence. But there are also ZSM locations that include Veilig Thuis, in which case more context information is gathered and a meaningful settlement is aimed at. In 2016 pilots will start with ZSM to reach a more meaningful settlement of domestic violence cases.

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Not all cases are dealt with immediately. When there is a need for a probation report before a decision is taken, the case is referred to a TOM session. Also when a case is summoned, a probation advice will be requested. Half of the files contain a probation advice. To assess the risk of repetition, probation services usually apply their general risk screening (RISc or the brief version QuickScan), and not the B-Safer developed specifically for intimate partner violence cases. As a result the risk assessment is not based on the right tool and the chance that the risk is underestimated is quite high. B-Safer is used very little. PP and judges are usually not even aware of its existence. The risk screening RIHG that has to be applied before a restraining order is imposed, usually is not included in the file. Therefore the file usually contains too little information regarding the risk of repeated violence.

Of the 70 files we studied, 44 cases were settled by the PP and 26 cases were brought to court. In more than half of the cases not brought to court a sanction has been imposed, varying from a general condition of non-repetition (if repeated the case will still be brought to court) to special conditions such as placement under custody of probation, having to follow a domestic violence course or aid programme or pay damages. Hardly any banning orders or contact bans have been imposed as conditions or measures of conduct during criminal proceedings. Approximately one quarter of the cases were dismissed on technical grounds (lack of evidence) and one fifth received an unconditional dismissal.

### *To court*

Of the 26 cases brought to court, over half ended in convictions, nine cases were fully acquitted, and one case was acquitted. Usually community services were imposed and sometimes a (probationary) prison sentence and never a restraining order.

### *Imposing sentences*

With regard to imposing sentences one has to keep in mind that these figures are not representative, so the proportion of settlement by PP (unconditional dismissal, conditional dismissal, punitive order) and settlement by the judge (sentence or acquittal) is only related to the study of these files. No national figures are available for the criminal proceedings in intimate partner violence cases. We do know that in the districts we investigated there is a different proportion in relation to domestic violence cases (so not just intimate partner violence cases): there are more summons and fewer acquittals.

Victims are not satisfied with the final result of the criminal proceedings. They feel the perpetrators have not been punished adequately, whether or not they have been summoned. The settlement by PP or judge in their view is not in proportion to what the perpetrator has inflicted upon them (and the children if relevant). The professionals also acknowledge that the seriousness of intimate partner violence is far from being recognized because too much attention is being paid to legal evidence concerning the incident, and too little attention is being paid to the backgrounds of the violence and the risk factors. Not enough use is being made of the opportunities that criminal proceedings do offer, such as forms of compulsory assistance and a more frequent use of protective measures. The public prosecution, as well as the police, should engage in regulating conversations with perpetrators more often. It is also suggested that in some cases mediation might contribute to a solution. For a meaningful settlement and the best help for both the victim and the perpetrator it is of essential importance that there is an interagency cooperation between police, PPS and support services. Although forms of collaboration have been in place for years, they do not seem to work everywhere and they fluctuate over time.

## *6.3 Implications of results for the implementation of the European directive*

In the European directive victims of intimate partner violence have been indicated as vulnerable victims. For the implementation of the Directive in the Netherlands a programme has been established to increase the protection of vulnerable victims. This will have a positive effect on the future settlement of intimate partner violence cases, because the police will have to make an individual assessment of the likelihood of recidivism and subsequently measures have to be taken to prevent repeated violence. This means that the whole criminal justice chain will have to pay more attention to the protection of victims of intimate partner violence.

In addition, since 2015 the public prosecution has a separate programme for Youth, domestic violence and vice, in which the meaningful settlement of this kind of cases has priority. This will create more attention for the importance of contextual information and good cooperation and



alignment with not just the criminal justice chain partners, but also the chain partners in care, in particular Veilig Thuis.

In the following paragraphs we will pursue the subjects that are important with a view to the implementation of the European Victim Protection Directive.

### 6.3.1 Victim needs

Domestic violence specialists usually have a good understanding of the various, sometimes contradictory, needs of victims of violence by partners or former partners. Professionals who support victims are best able to formulate these needs. Victims emphasize that they want protection, and ways to break through the spiral of violence. They want the violence to stop, but they do not always wish for a severe sentence: many especially wish for help. In addition it is of major importance that the victim can relate her story and is being taken seriously. There is a need for respectful police officers who continue to ask questions and through that make it easier for victims to tell the whole story. Victims also indicate that they want to tell their story in a safe environment. The police need to arrange that they are alone with the victim when this conversation takes place. Victims also express a need for good information and being kept informed of the investigation and the progress of the case.

Legal employees and jurists who are not trained in domestic violence issues have less understanding of the needs of the victims; they look at the crime primarily from a legal perspective. In this way the serious character of the violence cannot be explained and chances are high that the settlement will not be adequate.

### 6.3.2 Communication

Criminal proceedings are a specific form of court procedure difficult to fathom for non-jurists. Victims who reach out to the police expect protection and justice, but the criminal court procedure concentrates in essence on finding proof for offences. These differences grow larger as the victim proceeds through the criminal proceedings.

In addition to tracing criminals, the police also are expected to provide help. It is important that the police enter into an open conversation and provide information without lapsing into police jargon. The study reveals that there is a world to win in this respect. Victims feel misunderstood, and when they come to report a crime, they are being told to think again. There is very little understanding of the consequences of repeated violence on women's mental resilience. Very often victims are not able to absorb the load of information they receive.

It is also important for victims that the police paint a realistic picture of the steps following a crime report. For instance it is important that the difference between a police mutation (melding) and reporting a crime is explained clearly – reporting a crime is admissible as evidence, a mutation is (usually) not – without putting pressure on the victim. The victims are addressed at the moment of crisis or the filing/reporting at the police office, and it is important to make sure, if necessary at a

later stage, that the victims have really understood the relevant information. The possibilities for compensation of damages also need to be explained. As a rule women do not want compensation, unless there are financial problems. The file study makes clear that in approximately ten percent of cases damages have been claimed, and usually awarded (often quite early in the criminal procedure). On the other hand women who are in financial straits also get false expectations by police about the height of the damages.

In the period after the crisis report or crime report a lot still goes wrong. If the perpetrator has been arrested and taken to the police office, the victim is very often not informed when he is turned free again, and this also goes for the moment of release after ending preventive custody or at the end of a prison sentence. Insecurity about the length of the detention creates fear in victims. There is room for improvement in the field of communication; communication between victim and police needs to get more attention, as does the communication between Public Prosecution and victims, and judiciary and victims.

### *6.3.3 Support victims in criminal procedure*

The support of victims of intimate partner violence during the criminal proceedings in the Netherlands leaves a lot to be desired. Although the support is good organized on paper, in practice it's not functioning as it should. The most important organisation that the police refers victims of intimate partner violence to is Veilig Thuis. Many victims who file a report on intimate partner violence are referred to Veilig Thuis. There is no criminal procedure. Veilig Thuis is responsible for organising proper care, and does not have any duties in legal support.

The police and the public prosecution do point out to victims the existence of Victim Support, the Dutch organisation that supports victims of crimes during the criminal proceedings, for instance by claiming compensation or writing a victim impact statement. Victims do not always have a clear idea of what to expect from Victim Support; they expect support and assistance in stopping the violence and recovering after intimate partner violence, but this kind of help is not being offered. Moreover the legal support in intimate partner violence cases is often very complex, and calls for support by specialised victim lawyers (for instance through LANGZS). The collaboration and interaction between Victim Support and victim lawyers is not adequate, and as a result victims do not receive proper legal assistance (also see Lünemann, 2013). Victims have insufficient knowledge of the possibilities, especially regarding legal assistance, and which organisation to turn to for which kind of assistance, according to professionals working in victim support services. It is also unclear who is supposed to provide the victims with this information.

### *6.3.4 Participation in criminal proceedings*

Traditionally victims only have a position in criminal proceedings as witnesses and as injured parties, meaning that damages can be claimed. Over the last decades the position of victims has been strengthened because the right to information and damages has been extended. Victims of serious





(violence) crimes also have the right to speak in session, can ask for a meeting with the public prosecutor and have a right to free legal aid.

However in practice victims rarely play a role in the criminal proceedings. Victims hardly ever meet with the public prosecutor. If such a meeting does take place, it is usually of an informative nature, with the public prosecutor explaining what happens during criminal proceedings rather than asking the victim questions about the violence and the relationship, her estimation of the danger and her wishes regarding the sentence. When this does happen, it is more satisfactory to the victim and the public prosecutor gains a clearer picture of the relationship in which the violence takes place and the risk factors involved.

Especially the victims who live with their partners (again) come to the session. Victims who no longer live with the perpetrators do not attend sessions because they have no role of importance and support by a specialised lawyer is usually lacking. In this way relevant information is lacking in session.

### 6.3.5 Protection

Victims go to the police because they seek protection. One of the ways is to impose a temporary restraining order after a crisis report, an administrative law measure.

If criminal proceedings have been started, we regularly see a restraining order imposed. This restraining order is for a 10 day period and can be extended to 4 weeks. The file study established that hardly any use is made of the various possibilities in criminal justice to impose restraining orders or contact bans. What does happen sometimes is that a restraining order until session is imposed as a condition after preventive custody has been suspended.

The problem lies in the enforcement of restraining orders and criminal justice contact bans. After a violation the police does not always act or report the crime, which makes it possible to prosecute the violation. In the Netherlands, when the intention is to impose a restraining order after an emergency call, only the administrative law risk screening tool domestic violence, the RIHG, is applied. At a later stage of the criminal procedure this screening usually is not included in the file. The B-Safer tool is not applied which was designed specifically for intimate partner violence. The risk of repeated violence is therefore not always screened systematically and because RIHG is not part of the file, PPS and judges have a lack of insight in the level of risk involved. This may also explain why so few criminal justice measures are taken to protect victims.

In addition to restraining orders the police can offer additional protection by more frequent surveillance or immediate response after an alert call. Other possibilities are the use of the AWARE programme or additional guarding in the framework of the Guarding and Safeguarding system. The police could also keep an eye out, for instance through the neighbourhood police officer, or stay in touch through contact persons in the victims' environment. These possibilities are hardly ever applied in practice. Victims feel safer when there is a contact person in the police office that they can always contact by mail or phone. The way this is dealt with varies within the police organisation. There are districts where victims are always able to contact a specific person, whereas in other



districts the neighbourhood officer plays a role. There are also districts without any policies with regard to this.

Finally the police sometimes has a regulating conversation with the perpetrator, in which it is made clear that violence is not only an offence in public but also in private settings. The Public Prosecution could hold more of these conversations. These regulating conversations may contribute to a change and are being experienced as supportive by victims. Victims also feel more protected if they can reach out to a specific police officer in a threatening situation.

### *6.3.6 Respectful treatment/discrimination*

Respect treatment is essential for the way people experience contact with the police. If they have been treated respectfully, received clear explanations, and have been asked the right questions, victims feel supported. Specialised police officers are better able to treat victims in an adequate manner.

### *6.3.7 Training*

Huge differences can be found in the expertise of the police and the Public Prosecution in the field of domestic violence. Domestic violence is no longer an obligatory subject in police education, although attention is paid to the subject in the curriculum. In the Judiciary a course on domestic violence is offered, but it is not obligatory.

A number of police officers are specialists in domestic violence cases, they have ample knowledge and experience in the field of domestic violence. But part of the police force has too little (basic) knowledge, which causes a lack of proper and adequate action at the moment a crisis report on domestic violence arrives. In this way important (context) information is not noted down and signals are missed. This prevents the building of proper case files. It is generally acknowledged that domestic violence should be offered as a subject for training because it is a complex matter and the police are often confronted with the issue.

### *6.3.8 Interagency*

Since the start of the 21st century a chain approach for domestic violence has been the express point of departure in national policy. Short contact lines and good collaboration with chain partners are seen as important conditions to gain as complete a picture of the case as possible and arrive at a meaningful settlement. At the same time however, practice shows that it is very difficult to work together in a good way, owing to differences in tasks and competences, but also differences in perspectives and terminology (Tierolf, Lünemann & Steketee, 2014). Very often chain partners are not well informed of each other's duties and positions.



Within ZSM the criminal justice partners work in unison in order to decide quickly whether to take a case to court or to settle out of court. The presence of Veilig Thuis seems essential for arriving at a meaningful settlement. In practice however it does not often happen this way. Until recently there were many forms of Domestic violence consultation in the so-called Safety Houses, in which different organisations consulted each other, but after the establishment of ZSM these are withdrawing more and more. The merging of Advice and Report Centers of Child Abuse (AMK) and Domestic Violence Support Centers (SHG) in Veilig Thuis (the service for consultation and registration of Domestic Violence and Child Abuse), however, created a new means of collaboration, the consultation between Veilig Thuis, police and Public Prosecution. This is where domestic violence cases are dealt with for which immediate safety has to be organised and cases with a high risk of recurrence.



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