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Protection orders in Finland: observed challenges and future development

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Outline of the presentation

- Background of the Finnish Protection orders
- Do Finnish PO's work in violence prevention?
- Some observed problems
- How to do it better

Finnish Act on the Restraining Order

”The purpose of the Act on the Restraining Order is to prevent crimes and to improve the possibilities to interfere with severe harassment. A restraining order means that in order to protect the life, health, freedom or peace of a person, another person may be ordered not to contact him/her. A restraining order may be imposed also when the person protected by the order and the person on whom the restraining order is imposed live in the same household.”

Types of PO's

- Restraining order since 1999
 - Barring order since 2005
 - Both can be issued as extended or temporary
 - Application either from the police or from the District Court
 - Also a prosecuting, police or social service authority may apply for the order if the person threatened is too afraid or unable to do it himself/herself (rarely used)
- Finnish PO's are civil-criminal hybrid orders blurring the division between the criminal and civil law

Number of PO's issued annually in Finland?

-Extremely hard to attain proper numbers

→ "We can produce which ever statistics we like!"

(anonymous police officer)

-Overlapping databases and registers

-Information automatically deleted every two years

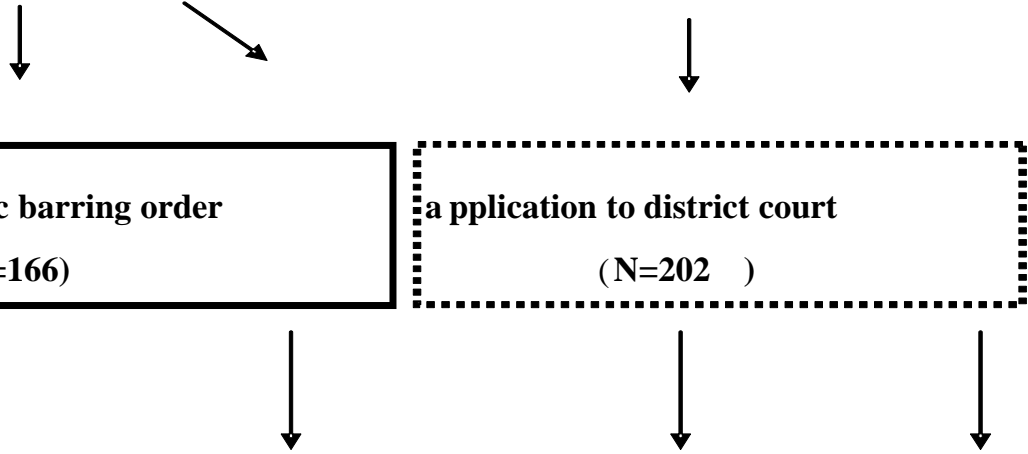
-Lack of education and training (both police and courts)

-Poor practises in data entry (both police and courts)

→ Amount of PO's applied from district courts in 2010: total of 3202, of which 126 barring orders

Applied and issued barring orders in Finland 2005 and 2006

Contact to the police



D I S T R I C T

C O U R T P R O C E S S (N=368)

<p>cancelled , dismissed, rejected ↓ “merely” interim domestic barring order (N= 75)</p>	<p>issued (N= 91)</p>	<p>issued (N= 92)</p>	<p>cancelled, dismissed, rejected (N= 110)</p>
<p>”regular” domestic barring order (N= 183)</p>			

Background of Finnish PO's

1. Historical background
 - Major revisions in criminal law in the 1990s
 - Global trend (pressure?)

2. Political and ideological background
 - Concern over violence against women
 - Goal to prevent future violence and to improve the position of women, children and the elderly
 - Barring order: the victim's right to stay at home when facing violence and/or a legitimate fear of violence
 - PO's as a mean to calm things down so that the protected can re-build and re-organise his/her life

3. PO's as situational crime prevention
 - Tool in identifying high risk cases of violence
 - Mean of reducing situations in which offending is more likely than in others
 - Tool in enabling a situation for leading a non-offending life

Can a piece of paper stop a bullet?

- In general: thorough evaluations of Acts on PO's are rare and have mixed findings

-Weaker evaluations suggest that on the average PO's do reduce violence (Häkkinen et. al, 2003)

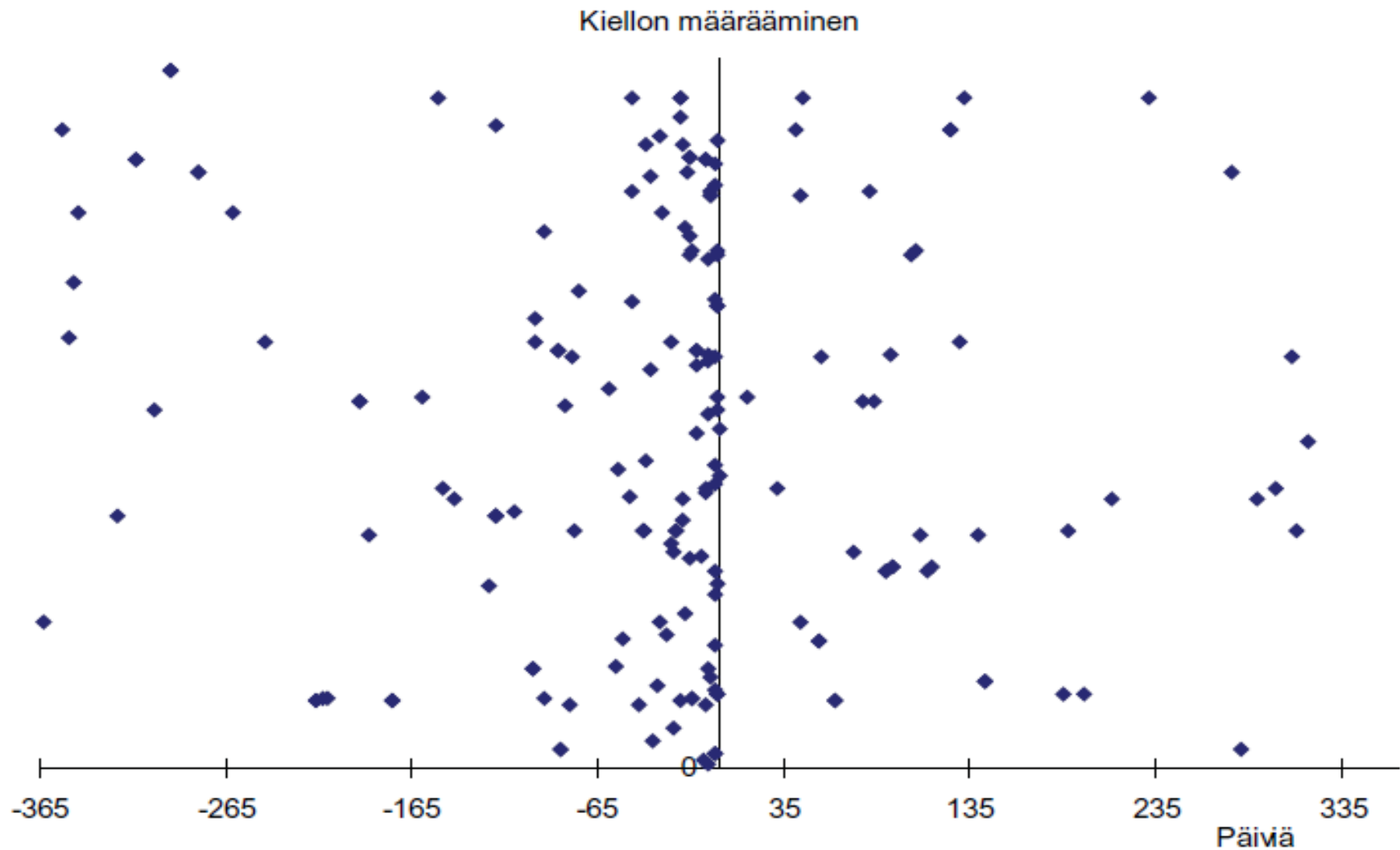
-On the other hand: PO's can provoke and lead to increased violence (Rantala et. al, 2008) → risk can be reduced by appropriate handling of cases

-Very high homicide risk in a Finnish follow up study of men put under protection order during the first year the PO act was in force (Stoat et. al 2005)

- The introduction of the barring order did not reduce the amount of female homicide victims in 2005 and 2006

→ Protection orders can deter abuse to some extent but they are not sufficient measures in terms of providing protection from continued abuse (Klein 1996)

Assaults committed by persons with a barring order one year before and after (n=169) (Rantala et. al 2008)



Kuvio 11 Varsinaiseen kieltoon määrättyjen pahoinpitelyepäilyt poliisiaineistossa (n=169)

However, according to Rantala et. al (2008) data...

- Most evicted persons suffered from multiple problems, including alcoholism and mental health problems and had extensive criminal records
- What happens when you throw such people out to the streets?
 - Increased frequency of being taken into police custody from public places mostly due to drunkenness, their own victimisation of violence and an increase in petty thefts, suicides, displacement effects, intensified criminal life-styles...
- Many of the evicted were already marginalised, and in general the order appears to have reinforced their marginalisation

Few other methodological issues

- The problem of hidden crime in register-based studies
 - For ethical reasons it is not possible to conduct a survey examining the experiences of the protected
 - The quality of process implementation varies – both among police officers as well as court judges
 - There is no single key to success: multiple factors can have effects, the people involved come from different backgrounds and circumstances; impossible to generalise effects or outcomes
- What about the observed concrete problems with PO's?

Large percentage of withdrawal of applications



“Less than half of restraining applications are granted

“In 2010, the number of denied applications was around 1600, and in about half of these cases the plaintiff voluntarily withdrew the application.

Legal psychologist told the paper that the bar is set too high in the Finnish legal system for filing restraining orders, with many lawyers and judges fearing that granting an order will in many cases only provoke more violence from the offending party.” (Turun Sanomat 17 April 2012)”

Large percentage of withdrawal of applications

- According to Rantala et. al (2008) almost half of the barring orders did not lead to a court order. The cancellation was mostly due to the applicants' withdrawal
- There are reasons to assume that in many cases the cancellation was caused by pressure or threats from the other party. For this reason violence may have continued, although concealed.

"After thinking the issue through she states that after all, she herself probably has cut herself while being heavily under the influence of alcohol and drugs. She says she has cut herself previously various times before." (excerpt from police report)

PO's limits to prevent violence

A Kosovan gunman kills ex-girlfriend then four people at Finland mall before committing a suicide

"A gunman went on a New Year's Eve shooting rampage killing his ex-girlfriend and four workers at a shopping centre before turning the gun on himself.

One woman and three men were shot dead at the Sello mall in Espoo, six miles west of Helsinki. The gunman, who was dressed in black, had killed his ex-girlfriend in a nearby apartment before heading to the shopping centre in mid-morning.

The ex-girlfriend, a Finnish woman born in 1967, also worked at the mall and had taken out a restraining order against him, police said."

(Daily Mail 2 January 2010)



PO's limits to prevent violence

Vantaa double-murder linked to ruthless assault in Kotka

“A 27-year old man is suspected of the murders of his 55-year-old mother and 26-year-old girlfriend in a flat in Asola, Vantaa.

Both victims were killed in brutal fashion with an edged weapon on 10 December, a day before the suspect ruthlessly assaulted a 55-year-old man at the Kotka bus station, the police believe.

According to the officer in charge of the investigation, the suspect has a prior criminal record, and had threatened and assaulted his mother before.

The police had issued a temporary restraining order on him, but the order was never enforced, as the mother did not show up for the district court hearing, police reveals.”

(Helsinki Times 3 January 2013)



The apartment building where two women were found murdered. The police then connected the killings to a man held for an assault in Kotka

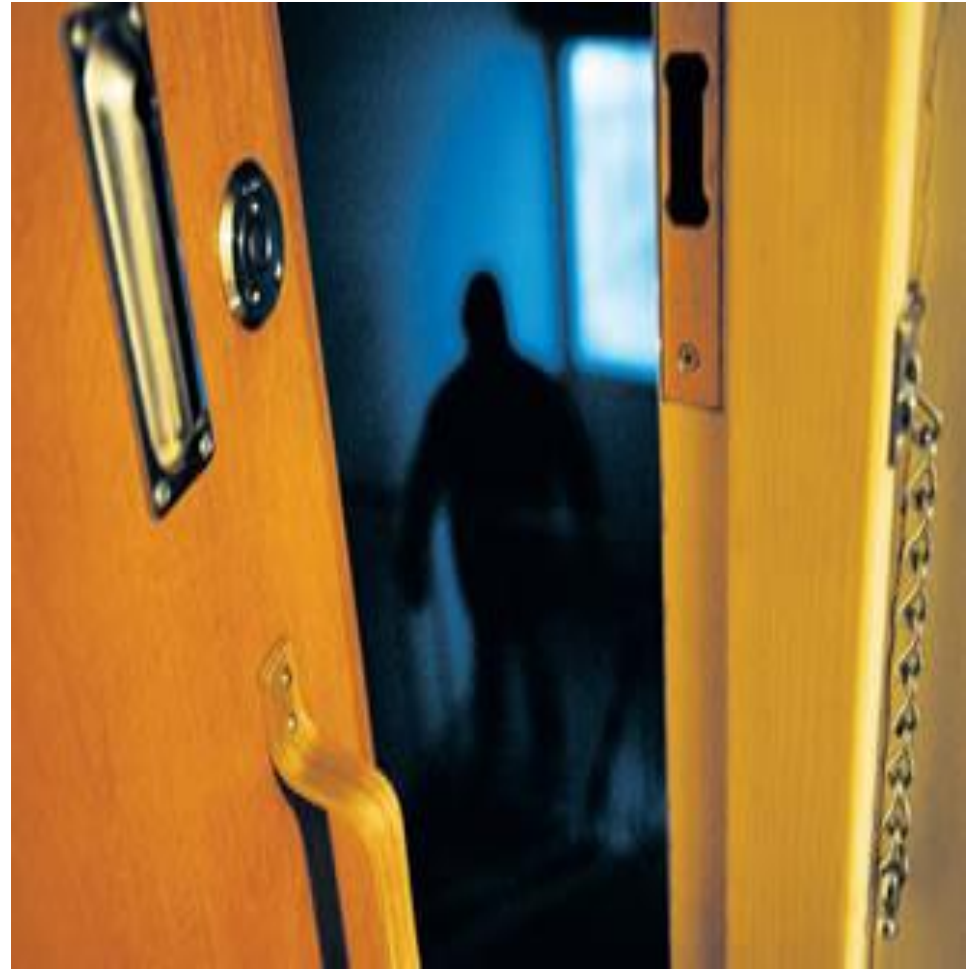
Preventing, defining and monitoring breaches

Abusive ex-partners hard to deter

“According to the police, of the approximately 200 restraining orders imposed in the Helsinki region last year over half have been violated.

Helena and her four children had only been in their new home a week when her ex-husband came to the door in the night and tried to force his way in, shouting and breaking objects in the yard.

The same thing happened again the next night, and on both occasions the ex-husband managed to evade the police before they arrived on the scene.



*Police found him the next morning, however, in a nearby wood, seemingly biding his time for the next attack.”
(Helsinki Times 26 January 2012)*

Preventing, defining and monitoring breaches: the case of Matti and Liisa

- **”Matti had called Liisa and asked her to go on a trip to Tallinn with him. Liisa went to reserve the tickets together with Matti. Later Matti called and told he was waiting for Liisa outside because the plan was to go to Tallinn. Liisa says she then told Matti she doesn’t want to go on a trip. Liisa states that after that Matti had stayed and hanged-around at Liisa’s yard.”**
- **”Matti admits he has breached the restraining order. He states that Liisa called her in the afternoon and asked him to go shop for some groceries.”**

Preventing, defining and monitoring breaches : the case of Matti and Liisa

”The police has had several similar assignments to the apartment. According to Matti, Liisa often invites him to her flat. Once again, there are no implications of a breaking and entering.”

”Neighbour Simo tells he has often called the police either because Liisa has asked him herself or because there have been cries of help from the apartment. Simo tells that according to his understanding Liisa lets Matti voluntarily to her flat. Simo does not have the impression that Matti has forced himself into the apartment. Simo says he has mentioned about this to Liisa and told her that she doesn’t have to let Matti in. Liisa has replied: ”You know, love is sometimes complicated”.

Drafting the law on barring order: the idea of rational individuals

In my view, analysing harms did not reach a very concrete level but it was known that the weakness is that in many cases the downhill [of the evicted] will become even steeper. That it makes them fall flat, become abandoned. I don't remember suicide as a word but they take the road of ruination, or even worse. All we could see was that maybe some brochures would make these men acquire help. That we did discuss. But on the other hand, Maybe some one would calm down. (Law drafter A.)

The values were such that this will be carried out no matter what. We thought that the preconditions would be so harsh that the law would be rarely implemented and in serious cases. Maybe we also thought that it is simply a question of choice: either one hits the road. So is it the one who is battered or the batterer? In this model we thought it is better that it is the batterer. (Law drafter B.)

Four concrete examples of observed problems

- **Large percentage of withdrawal of applications**
- **PO's limits to prevent violence**
- **Preventing, defining and monitoring breaches**
- **Poor understanding of the target group lives and problems → idea of rational individuals**

How to do it better?

- Better co-ordination between the support network and the (judicial) process
- Re-definition of regulations and professional directions
- Harmonising the procedures regarding children and identifying the special needs of other vulnerable groups
- Developing realistic interventions → e.g. MARAK, house-calls after the PO is in force, social support, treatment possibilities etc.
- Electronic monitoring in most serious cases?
- Criminalisation of unwanted communication and stalking?