SIGNIFICANT APE

MANAGEMENT SUMMARY

PRELIMINARY RESEARCH - RIGHT TO SPEAK WUS - EXPANSION OF THE GROUP ENTITLED TO SPEAK TO INCLUDE STEP- AND FOSTER FAMILIES AND LIMITED RIGHT TO SPEAK DURING TBS AND PIJ EXTENSION HEARINGS

KLANT	Wetenschappelijk Onderzoek- en Datacentrum
KENMERK	MZ/bv/4293
AUTEURS	Wouter Jongebreur, Anneberthe Visser, Maaike Zoutenbier (Significant) and Maarten Kunst (Universiteit Leiden)
DATUM	January 12, 2026
VERSIE	Final 2.0

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Management summary

Background and Objectives

In 2021, the Act on Expanding Victims' Rights (Wet Uitbreiding Slachtofferrechten, WUS) was adopted by the Parliament and Senate. The purpose of the Act is to strengthen the position of victims in criminal proceedings. Its various components came into effect in phases. The former Minister for Legal Protection pledged to evaluate the WUS two years after its implementation. To carry this out effectively, it is important to conduct a baseline measurement. This study concerns the preliminary research for expanding the group of bereaved relatives entitled to speak to include step- and foster families, as well as the limited right to speak during TBS and PIJ extension hearings.

The research consists of three parts:

a. A reconstruction of the policy logic (plan evaluation), including the formulation of measurable indicators;
b. Developing a research design that can measure these indicators in the final evaluation of the WUS (over time);
c. A baseline measurement: mapping the situation prior to the implementation of the two measures.

The research questions are:

1. What is the policy logic?
2. Which (positive and negative) side effects are important to capture in the evaluation?
3. Which indicators for the effects of the two components of the WUS can be distinguished based on the policy logic? And can these be generated from existing records?
4. Are there indicators that cannot be derived from available data sources but are essential given the policy logic? If so, how can these indicators still be captured?
5. In what way can plausible expectations about the effects of the two components of the WUS be provided in the future?
6. What was the situation before the introduction of this provisions? Here, we include the indicators developed when answering research questions 3 and 4.

Research methods

For the three components of the study, we used different research methods. Below, we describe the methods applied for each component.

Research Methods for Policy Logic

Based on a document and literature review, we developed the policy logic for both measures under the WUS. We searched all parliamentary documents related to the WUS. We also reviewed relevant articles and scientific literature collected through the snowball method or predefined search terms.

We created an analytical framework based on the elements of the policy logic, which allowed us to structure information from the sources easily. Using this framework, we drafted the first version of the policy logic. We validated this through eight online interviews with various stakeholders:

a. Policy officer at the Ministry of Justice and Security (Ministerie van Justitie en Veiligheid, JenV);
b. Legal officer at the Ministry of Justice and Security;

a. Implementation coordinator at the Public Prosecution Service (Openbaar Ministerie, OM);
b. Policy officer at the Custodial Institutions Agency (Dienst Justitiële Inrichtingen, DJI);
c. Policy officer at the Council for the Judiciary (Raad voor de Rechtspraak, Rechtspraak);
d. Legal policy advisor at the Central Judicial Collection Agency (Centraal Justitieel Incassobureau, CJIB);
e. Legal policy advisor at Victim Support Netherlands (Slachtofferhulp Nederland, SHN);
f. A judge at the Amsterdam District Court who frequently handles tbs hearings.

Based on their input, we adjusted the policy logic. The advisory committee also reviewed the policy logic twice.

Research Methods for Research Design

Based on the elaborated policy logic, we identified indicators to measure the extent to which the intended objectives of the two measures are achieved. We also formulated indicators for the identified preconditions and side effects. The steering committee provided feedback on the draft version of these indicators.

We then validated and operationalised this version through online interviews with various stakeholders:

a. Data analyst at the OM;
b. Staff member of the Victim Information Point (Informatiepunt Detentieverloop, IDV), functional administrator, and business analyst at the CJIB;
c. Policy advisor and implementation manager at SHN;
d. Data analyst at the Rechtspraak.

Together, we reviewed the list of indicators and discussed what data they had available. We also explored options for registering currently unavailable data. Based on the established indicators and information gathered from interviews, we developed the research design, which we shared in writing with the advisory committee for feedback.

Research Methods for Baseline Measurement

Based on the indicators from the research design, we formulated indicators for the baseline measurement. We considered the information needed to compare the situation before the introduction of the two measures with the situation after implementation. We then determined which research methods were required to measure these indicators.

Some indicators required a quantitative approach. Only the OM had relevant data available. However, due to developments concerning vulnerabilities in digital systems during the summer of 2025, the OM lacked capacity to process our request for cooperation. We were also unable to survey prosecutors and victim coordinators for targeted estimates of missing figures in the system. It remains possible to request these figures retrospectively during the final evaluation.

For qualitative indicators, we conducted interviews. Here too, the OM could not participate. Additionally, we were unable to interview staff from SHN, as they considered the impact of both measures too minor to involve their staff in the study. We were able to speak with other stakeholders in online interviews:

a. Five victim lawyers;
b. Three judges;
c. Two TBS lawyers.

We asked them about their experiences regarding the position of victims before the introduction of both measures. Together, the ten interviewees

provided a comprehensive overview of their varied experiences across different cases and hearings, allowing us to reach saturation in collecting insights. We analysed the information from these in-depth interviews and incorporated it into the relevant chapter of the report.

Reporting

The various components of the study have been compiled into this report. The advisory committee reviewed the report twice and provided feedback, which we incorporated into the final version.

Background Information on the Right to Speak

Development of the Right to Speak

The right to speak was introduced in 2005. Since then, various developments have taken place regarding this right. It applies only to serious criminal offenses such as crimes against life, violent crimes, and sexual offenses. Through this right, victims have become participants in criminal proceedings.

The WUS originates from the Multi-Year Victim Policy Agenda 2018–2021 and consists of several victim rights. The expansion of the group entitled to speak to include step- and foster families took effect on January 1, 2023, and the limited right to speak during TBS and PIJ extension hearings on January 1, 2025.

Expansion of the Group Entitled to Speak to Include Step- and Foster Families

This expansion allows step- and foster families to exercise the right to speak. It is included in paragraph 4 of Article 51e of the Dutch Code of Criminal Procedure (Wetboek voor Strafvordering, Sv). In the legal text, step- and foster families are defined as persons who have a close relationship with the victim and have been part of the victim's household. Other victim rights do not apply to them.

Limited Right to Speak During TBS and PIJ Extension Hearings

The limited right to speak during TBS and PIJ extension hearings allows victims, during a hearing where a change in conditions or conditional termination (where conditions are imposed for the first time) is discussed, to speak about their protection needs. The right to speak is therefore limited. This is included in Articles 6:6:10(4), 6:6:13(4), 6:6:19(3), 6:6:32(5), and 6:6:37(3) of the Dutch Code of Criminal Procedure.

Policy Logic

In the following paragraphs, we present the findings and conclusions from the policy logic, organized by measure.

Policy Logic of the Right to Speak in General

First, we discuss the policy logic of the right to speak in general terms. Since the two measures in our study align with the original objectives of the right to speak introduced in 2005, the general policy logic forms the foundation for the logic of these two specific measures.

The ultimate goal (impact) of the right to speak was to strengthen the position of the victim. Of the four underlying objectives (outcome), only one directly concerned victims: contributing to the recovery of emotional harm suffered by victims and bereaved relatives. Previous evaluations, as well as our own, therefore focus on this objective rather than the other three.

How the right to speak should and could contribute to the recovery of emotional harm was only briefly explained by the legislator, both at its introduction in 2005 and during later expansions. The first evaluation in 2010 showed that the assumed therapeutic effect did not occur. In the 2022

evaluation, researchers therefore adopted a social-psychological perspective and examined recovery in terms of *agency* and *communion*. Victimization can lead to loss of control, feelings of powerlessness, and diminished self-confidence (*agency*), as well as reduced trust in others and feelings of loneliness (*communion*). The evaluation found that the right to speak did contribute to *agency* and *communion* for victims.

Finally, an important aspect in the development of the right to speak is the prevention of (feelings of) secondary victimization. In this context, secondary victimization means that victims are wronged because their knowledge, experiences, and perspectives are marginalized, ignored, or not acknowledged by the system and the professionals working within it.

Policy Logic for Expanding the Group Entitled to Speak to Include Step- and Foster Families

The legal basis (input) for expanding the group entitled to speak to include step- and foster families lies in the legislative amendment. The activities (throughput) to implement this measure included: drafting policy frameworks, protocols, and guidelines; providing information and communication to professionals; adapting (registration) systems; and integrating these activities into the workflows of the relevant chain partners. The execution of these activities enabled step- and foster families to exercise the right to speak (output).

The legislator had two objectives (outcome) with this expansion:

a. Align with today's diverse family structures;
b. Contribute to the recovery of emotional harm and recognition of victimhood among step- and foster families as victims.

For the first objective, the legislator noted that more and more children are cared for and raised by caregivers who are not blood relatives but have a close bond with the child. Expanding the group entitled to speak therefore brings the right to speak in line with both social reality and existing legal responsibilities of step- and foster parents, making their position regarding the right to speak equal to that of blood relatives.

For the second objective, granting the right to speak to step- and foster families acknowledges them as victims and recognizes that they too may suffer emotional consequences of the crime. The mechanisms of *agency* and *communion* apply equally to step- and foster families as to blood relatives. In this way, the right to speak can also contribute to their emotional recovery.

With this expansion, more victims fall within the group entitled to speak, thereby strengthening the position of step- and foster families as victims (impact).

Prerequisites for successfully implementing this measure include well-configured (registration) systems among chain partners and clear work instructions for professionals.

Finally, we included possible side effects in the policy logic:

a. The assessment by the public prosecutor (OvJ) of whether a bereaved person belongs to the group entitled to speak may become more complex because the relationship between the victim and a step- or foster parent or child is not always formally documented or easily proven. This can lead to greater interpretative discretion and variation in applying the right to speak.
b. The right to speak may also increase the workload for the Council for the Judiciary and the Public Prosecution Service. The likelihood of reaching the statutory maximum of three speakers is higher when more victims are entitled to speak. This results in longer hearing times per case. The workload increase for the

Public Prosecution Service arises because more victims need to be assessed and/or because assessments take more time due to complex family relationships.

c. Step- and foster families are recognized as victims through the right to speak, which can help prevent secondary victimization.

Policy Logic of the Limited Right to Speak During TBS and PIJ Extension Hearings

The legal basis (input) for the limited right to speak during TBS and PIJ extension hearings lies in the legislative amendment. The activities (throughput) to implement this measure were the same as those for expanding the group entitled to speak. These activities resulted in victims being allowed, during TBS and PIJ extension hearings where conditional termination or modification of conditions is at issue, to orally explain their protection needs during the hearing (output).

The legislator had three intended objectives (outcome) with the introduction of the limited right to speak:

a. Recovery of emotional harm and recognition of the victim (during the enforcement phase);
b. Increasing the effectiveness of protection orders;
c. Providing information to the judge.

For the first objective, the legislator aimed to give victims a voice during the enforcement phase through the limited right to speak. This leads to recognition, which in turn contributes to recovery. The return of a TBS detainee to society can cause fear for the victim, potentially undermining feelings of *agency* and *communion*. The limited right to speak can strengthen feelings of connectedness and moral recognition (*communion*) by ensuring victims are heard and seen during the hearing. It also contributes to *agency* because the victim can personally present protection needs to the judge. Recovery is most supported when the judge acts upon the victim's requests.

For the second objective, the legislator indicated that good communication with the victim is an important success factor for the effectiveness of protection orders. Enhancing victims' sense of safety is a key goal of these orders. This sense of safety increases when victims feel acknowledged. The limited right to speak can contribute to this recognition by allowing victims to be literally heard.

For the third objective, judges can directly hear from victims what their protection needs are and why. When this information is conveyed only through the Public Prosecution Service, it is indirect, which may reduce the personal nuance and persuasive power of the message.

The policy logic of the limited right to speak also highlights the risk of secondary victimization. For example, the term "right to speak" may create the false expectation that victims have a similar right during the trial phase. When these expectations are not met, this can lead to disappointment and undermine the victim's recovery process. Additionally, the limited influence victims can exert through this right may cause frustration. Clear and accurate information for victims is essential to prevent secondary victimization.

Through the limited right to speak, victims also gain a role during the enforcement phase, thereby strengthening their position (impact).

Prerequisites for the limited right to speak include well-configured (registration) systems, comprehensive information for professionals about the content and scope of the limited right to speak, clear communication to victims, and clear work instructions and cooperation agreements for and among chain partners.

Finally, the policy logic identified several possible side effects of the limited right to speak:

1. **For the victim:**
   a. Risk of disappointment if it is unclear that the right to speak is limited.
   b. Risk of secondary victimization due to these false expectations.
   c. Direct confrontation with the offender during the hearing can be emotionally burdensome.
2. **For the criminal process:**
   a. Additional hearing time.
   b. The judge plays a role in limiting the right to speak.
   c. Differences may arise in how judges handle this.
3. **For the offender:**
   a. Confrontation with a speaking victim may cause setbacks in treatment for the TBS detainee or juvenile.
   b. Attention during the hearing may shift toward the victim.
4. **For chain partners:**
   a. Clinics and juvenile institutions must prepare TBS detainees or juveniles for possible confrontation with the victim, which requires extra time. This must also be addressed in aftercare. A bottleneck is that clinics or institutions are not informed in advance whether the victim will actually speak.
   b. Chain partners supporting victims need extra time to prepare victims for the right to speak and the hearings.
5. **Other:**
   a. Forensic therapists and lawyers gain more insight into victim interests.

Research Design

In the following paragraphs, we present the findings and conclusions from the research design, organized by measure.

Structuring the Evaluation Process

Because the two components of the WUS examined in this study differ significantly, the final evaluation will need to focus on two separate research designs, each with its own set of indicators.

The policy logic assumes a logical relationship between the various elements. The evaluation should not only measure the presence of individual elements but also the connections between them. However, this is challenging shortly after a measure has been introduced. It is possible, based on plausibility, to make preliminary statements about effects through a realistic evaluation. The emphasis here is on identifying the mechanisms behind the legislative change, with the core of this being the measurement of indicators. The policy logic shows that the WUS was not always developed based on scientific and empirical evidence, making it difficult to demonstrate a causal link between the different elements. Nevertheless, by measuring indicators, it is possible to identify achieved results, preconditions, and side effects.

Purpose and Research Questions of the Evaluation

The purpose of the evaluation is to gain insight into the effects of both components of the WUS so that the added value of the WUS in practice can ultimately be assessed. The related questions are:

1. To what extent does the expansion of the group entitled to speak to include step- and foster families / the limited right to speak during TBS and PIJ extension hearings contribute to achieving the WUS policy objective of strengthening the legal position of victims?
2. How are these measures implemented in practice, what are the bottlenecks and success factors, and what costs are involved?

Operationalization of the Evaluation

Based on the policy logic, we developed a number of indicators for both measures that should be central to the evaluation. In the research design, we provided an initial proposal for how the research questions can be answered and how the indicators can be measured.

Some indicators ideally require a quantitative approach. However, our research shows that chain partners keep very limited data on these two measures. The systems do not accommodate this or only allow entries in open text fields, which are not consistently completed. Although relatively easy to request, the systems therefore provide a very limited picture. Discussions with chain partners revealed that adapting (registration) systems to make these quantitative data available is not a priority or would require too much time and effort, which is disproportionate to the value of the information.

We therefore expect that no additional quantitative data (compared to what is currently available) will be accessible for the final evaluation. We propose using alternative (more qualitative) methods to measure these indicators, which can provide an equally reliable picture of how the two measures function in practice.

Expansion of the Group Entitled to Speak to Include Step- and Foster Families

In the report, we included a complete overview of the indicators and research design for the first measure. Since none of the chain partners record the relationship between the victim and those entitled to speak, and none record whether someone actually speaks, collecting quantitative data for the output indicators is not possible. A questionnaire for victim coordinators at the OM and judges offers a good alternative because they generally have a clear overview of their caseload. The outcome indicators are more qualitative in nature and can be collected through interviews or a questionnaire for step- and foster families who have exercised the right to speak. Conversations with victim lawyers provide a good alternative if it is not possible to speak with enough victims. For measuring indicators related to preconditions and side effects, interviews with various chain partners (OM, Rechtspraak, and SHN) are the most logical method.

Limited Right to Speak During TBS and PIJ Extension Hearings

From the OM systems, it is possible to determine how many hearings the right to speak applies to (output indicators). It is also possible to measure how many victims have been informed about the right to speak. SHN also records how often they support victims by accompanying them to a TBS hearing. However, it is again not recorded whether the right to speak is actually exercised. A questionnaire for judges can provide insight into this. Other output indicators can be measured through interviews with victims and involved chain partners. Interviews with victims (and possibly victim lawyers) and judges are the most logical methods for measuring outcome indicators. Indicators related to preconditions and side effects can be measured through interviews with the relevant chain partners (CJIB, OM, SHN, Rechtspraak, (youth) probation services, clinics, and juvenile institutions). In addition, conversations with victims, forensic therapists, and lawyers are also necessary to measure all indicators.

Baseline Measurement

In the following paragraphs, we present the findings and conclusions from the baseline measurement, organized by measure.

Expansion of the Group Entitled to Speak to Include Step- and Foster Families

Before the legislative amendment, step- and foster families formally had no right to speak, which made their position in criminal proceedings more limited and unequal compared to biological family members. In practice, step- and foster families were often present at hearings. Victim lawyers, OM

and SHN generally supported the entire family and did not distinguish between step- and foster families and biological relatives. Occasionally, step- and foster families were allowed to speak, but only if the court and the defense raised no objections.
Interviewees also noted that step- and foster families were the first to be excluded when the maximum of three speakers was reached. Alternative routes were sometimes used to give them a voice, for example by incorporating their message into the statement of a family member who did have the right to speak.

This unequal position did not reflect modern family structures in today's society. Step- and foster families often had responsibility for care and upbringing and a meaningful bond with the victim, but no formal right to speak. Particularly when biological family members were more distant from the victim yet still allowed to speak, this led to complex situations. The absence of the right to speak meant that the victimhood of step- and foster families was not acknowledged (*communion*).

As a result, their sense of control and recognition was undermined (*agency*). Without the right to speak, step- and foster families were limited in their ability to act, which diminished their autonomy and contributed to feelings of powerlessness (*agency*). For example, they remained dependent on others (biological family, judges, the defense) to be allowed to speak. Furthermore, the lack of a right to speak felt like exclusion: step- and foster families felt they were not important enough and perceived themselves as "second-class" victims. They were also unable to share their story with the judge or the defendant—components that contribute to connection and recognition—thus undermining their *communion*.

Limited Right to Speak During TBS and PIJ Extension Hearings

Before the introduction of the limited right to speak, victims had a very limited role in TBS and PIJ extension hearings. Victims and bereaved relatives were entitled to timely, clear, and careful information during the enforcement phase. In cases of possible termination of the measure, victims' protection needs were also requested. Victims could attend hearings. This all was supposed to contribute to *agency* and *communion*. Victim lawyers indicated that they did not always receive authorization to assist victims during the enforcement phase. As a result, whether a lawyer accompanied and supported the victim at hearings varied.

Prior to the introduction of the limited right to speak, informing and consulting victims did not function optimally. It was inconsistent, meaning victims did not always receive necessary information (about hearings) in time. Interviewees noted that information provision has generally improved in recent years. Requesting protection needs usually worked better, partly because these needs were often identified earlier in the TBS or PIJ measure, for example during leave applications.

Occasionally, victims attended TBS extension hearings, but this was more often not the case, and they had no active role. Two victim lawyers reported rare instances where victims were allowed to speak during the hearing. In those cases, they spoke not only about protection needs but also about the crime and its impact.

The degree to which victims wanted to be involved in the enforcement phase varied. Interviewees generally observed that bereaved relatives often wanted active involvement, while victims of sexual or stalking cases tended to stay away. Victims who wanted to remain involved primarily had an information need—they wanted to know if and when someone would be released. Beyond this, their presence often had symbolic value: they wanted to show they still mattered.

Interviewees had mixed views on the impact of victim presence on the atmosphere during hearings. Two judges said the impact was limited, while

a TBS lawyer noted that the attitude of the prosecutor and judge toward the detainee was friendlier when the victim was absent. Judges specialized in TBS cases generally handled this better. For victims, the court's attitude toward them was important. When a judge acknowledged their presence and paid attention to it, victims experienced this positively as recognition of their victimhood. However, there were also cases where judges reacted negatively to their presence.

The setting of a TBS or PIJ extension hearing is complex for victims. These hearings focus primarily on treatment and reintegration of the detainee, with the court often expressing positive views on their progress. This often contrasts sharply with the victim's perspective and can be confronting. Victim lawyers could prepare victims for this when they provided support.

Protection needs were known to the judge before the hearing, but judges lacked insight into the motivation behind these needs. Generally, requested protective measures were granted, except when demands were excessive (e.g., banning someone from an entire city). Judges interviewed were unaware of how these decisions were communicated back to victims.

The return of a TBS or PIJ detainee to society can evoke fear and insecurity in victims, leading to feelings of powerlessness (*agency*). This relates to their lack of influence over the decision, undermining their sense of control (*agency*) and recognition and moral connectedness (*communion*). Before the introduction of the limited right to speak, victims could make their voices heard by attending hearings, expressing protection needs, and communicating information preferences. These were intended to support *agency* and *communion*. However, when victims were informed late or not at all, they had less control over attending hearings. They were also dependent on how the prosecutor and/or judge raised their protection needs, with no control over this. The lack of feedback after hearings on how protection needs were addressed contributed to feelings of uncertainty and powerlessness. Furthermore, judges' attitudes toward victims varied. A distant or inappropriate attitude undermined feelings of recognition and connectedness. Victims could only obtain information about the detainee's progress and likelihood of (conditional) release by attending hearings. The study shows this could help alleviate fear and insecurity and give victims a sense of control.

Finally, interviews highlighted risk factors that increased the likelihood of secondary victimization. Informing and consulting victims was not always consistent, leading to incomplete information. Victims often received no feedback on how their protection needs were handled and had broader information needs than currently met. Despite improved judicial attitudes, some situations were reported where victims felt treated indifferently. These shortcomings in information provision and treatment may have caused victims to feel unheard or not taken seriously, posing a risk of secondary victimization.

Conclusions from Initial Experiences

In the interviews for the baseline measurement, we also gathered some initial experiences with the implementation of both measures. We briefly discuss these here because they provide relevant information for the final evaluation.

Expansion of the Group Entitled to Speak to Include Step- and Foster Families

Interviewees consider the expansion a logical step. However, they emphasize that recognition of victimhood through the right to speak does not stand alone but is closely linked to the ability to exercise other victim rights. These rights, however, are not provided under the WUS: step- and foster families do not receive a victim preference form, do not have the same information rights, and must proactively indicate that they wish to speak, for

example. Based on these findings, we recommend that the final evaluation pay sufficient attention to the relationship between the right to speak and other victim rights for step- and foster families, and the implications for emotional recovery (in terms of *agency* and *communion*).

The baseline also shows that judges do not always have visibility into the number of speakers in relation to the maximum of three allowed. SHN, victim lawyers, or the Public Prosecution Service often discuss this with victims beforehand, meaning the decision does not reach the judge. In the final evaluation, it is important to consider this when measuring the indicator "number of times the maximum number of speakers was reached."

Limited Right to Speak During TBS and PIJ Extension Hearings

For the limited right to speak, interviewees indicated that explaining protection needs is not the greatest need for victims. Their need lies more in receiving sufficient information or explaining the consequences of the crime. This poses a risk that the limited right to speak contributes only marginally to emotional recovery, as the measure does not address these needs. It is therefore important for the evaluation to determine whether the limited right to speak adequately aligns with victims' actual needs.

We also observed that information provision is not always adequate, and victims do not always receive correct and timely information about hearings during the enforcement phase. This is an important precondition for successful implementation of the limited right to speak. The final evaluation should therefore examine the presence of this precondition and its effect on the functioning of the measure.

Additionally, interviewees stressed that managing expectations and clearly informing victims is crucial to avoid disappointment with the limited right to speak. For this reason, the evaluation should pay attention to how victims were informed about the limited right to speak and how chain partners communicated this—also in relation to victims' experiences with the measure.