

Opening the black box of victim-offender mediation

Citation for published version (APA):

van Dijk, J. J. (2024). *Opening the black box of victim-offender mediation: Does participation in vom reduce offenders' risk of reoffending and, if so, how?* [Doctoral Thesis, Maastricht University]. Maastricht University. <https://doi.org/10.26481/dis.20240207jd>

Document status and date:

Published: 01/01/2024

DOI:

[10.26481/dis.20240207jd](https://doi.org/10.26481/dis.20240207jd)

Document Version:

Publisher's PDF, also known as Version of record

Please check the document version of this publication:

- A submitted manuscript is the version of the article upon submission and before peer-review. There can be important differences between the submitted version and the official published version of record. People interested in the research are advised to contact the author for the final version of the publication, or visit the DOI to the publisher's website.
- The final author version and the galley proof are versions of the publication after peer review.
- The final published version features the final layout of the paper including the volume, issue and page numbers.

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OPENING THE BLACK BOX OF VICTIM-OFFENDER MEDIATION

*Does participation in VOM reduce offenders'
risk of reoffending and, if so, how?*

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ISBN: 978-94-6473-356-3

Cover design and thesis layout: Joost Wassink

Printed by: Ipskamp printing Enschede

The research conducted for the studies in this dissertation forms part of a multidisciplinary collaboration between the University of Twente, department of Psychology of Conflict, Risk and Safety (BMS faculty) and Maastricht University, department of Criminal Law and Criminology (Faculty of Law).

PROEFSCHRIFT

ter verkrijging van de graad van doctor aan de Universiteit Maastricht,
op gezag van de Rector Magnificus, Prof.dr. Pamela Habibović volgens het besluit
van het College van Decanen, in het openbaar te verdedigen op woensdag 7
februari 2024 om 13.00 uur

door

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Dit project werd gefinancierd door een NWO Research Talent Grant
(grant number 406.17.555).

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01

GENERAL INTRODUCTION

INTRODUCTION

Most people experience transgressive behaviour in their lives, such as bullying, harassment and/or other (serious) offences. Even as a child, most people have already experienced that someone else broke something of theirs on purpose or took something of theirs, or that they themselves acted wrongfully towards a classmate or other person. In that last situation, you might have received a punishment. However, what I often experienced as a child was that if I had done something wrong, my parents, teacher or other caregiver wanted me to talk about what had happened with the person I had wronged and to apologise to them. I can remember one specific situation when I was around seven years old in which I manipulated a fellow school-mate. I persuaded her to swap her Tweety pen tray with my Donald Duck pen tray because I liked hers more. The mother of my classmate called my mother to explain what had happened.

Consequently, my mother took me to the girl after school to return what was hers and had me offer my apologies. Talking to my classmate made me realise why what I had done was wrong and how my behaviour had made her feel sad. I can still remember how ashamed and guilty I felt at that moment. After this incident, I cannot remember deliberately taking somebody else's property again. So, you might say, lesson learned.¹

RETRIBUTIVE AND UTILITARIAN THEORIES OF PUNISHMENT

The illustration above and my memories about other norm violations I was involved in are minor and sometimes even relatively harmless wrongdoings. However, unfortunately, every year, many people become a victim of a crime. In 2021, Statistics Netherlands reported a total of 757,795 registered crimes in the Netherlands (CBS, 2023), although the actual number of crimes committed is much higher, since many crimes committed are not reported to or detected by the police (van Dijk, 2010). However, when offenders do get caught, they are often punished.

The type of response to a misconduct depends on the type of justice system applied. The conventional criminal justice system that many people know is based on a hybrid form, in which the utilitarian and retributive theories are combined as a response to crime (Blad, 2000; Claessen, 2019b). According to retributive justice, the offender deserves a punishment in proportion to the severity of the crime and the amount of guilt (Bedau, 1978; Claessen, 2019b; Frase, 2005). The primary focus of this type of punishment is not on the future behaviour of the offender or preventing criminality, but on righting the wrong. Punishment is deserved to 'settle the score' (Claessen, 2019b, p. 20). Punishing an offender is therefore seen as something good, as it resettles

¹ This has not been confirmed by my parents or any other caregiver.

the status quo. In other words, it is justified to inflict harm and/or pain (punishment) to offenders, because their behaviour also inflicted harm or pain to someone (Bedau, 1978). This approach seeks to redress the balance damaged by the crime.

The utilitarian approach to punishment primarily focuses on preventing crime through the use of different mechanisms (Carlsmith et al., 2002): rehabilitation, incapacitation, deterrence and denunciation. Rehabilitation identifies and treats problems that underlie offenders' criminal behaviour to try to prevent these risk factors from causing them to reoffend. Rehabilitation programmes are therefore helpful in identifying underlying problems that lead to criminal behaviour (van Ness & Strong, 2014). Incapacitation literally prevents offenders from reoffending in society, as they are incarcerated and thus taken out of society. Deterrence works by making the expected costs of a crime higher than the expected benefits (Carlsmith et al., 2002). According to the denunciation mechanism, imposing a punishment should reinforce important social norms that result in law-abiding behaviour (Frase, 2005). The last two mechanisms can be specifically focused on the accused offender, and/or intended to have a more general impact: to prevent the public from committing an offence (Carlsmith et al., 2002). According to utilitarian theories, punishment is only conducive when it prevents future crimes, and no other instrument exists that leads to the same outcome, which is less evil. In addition, the punishment should be in proportion to the wrongdoing, as it should not inflict more damage to the offender than the crime did to the victim and society (Claessen, 2019b).

In continental Europe punishing is thus justified due to a disbalance caused by an offence. However, when inflicting a punishment, the assumptions underlying the utilitarian theories should be taken into account. Consequently, the punishment imposed can be lower than what would be demanded based on the retributive theory of punishment (Claessen, 2019b).

For justice to be done in a classic criminal justice way, the main involved parties are the state and the offender (Zehr, 2015). The state determines how the offender should be punished based on the law. Napoleon Bonaparte introduced and commissioned this law in the beginning of the 19th century in France and other countries he occupied, such as the Netherlands (Meijer & Meijer, 2002). For comparison, before 1500, it was common for the directly involved parties of an offence to solve the crime, and the state was only involved in such criminal conflicts as a facilitator. It was around 1200 that the state started interfering in criminal conflicts and commissioned people after a crime to sit together and negotiate. When parties could not come to an agreement, the state sanctioned the offender. Around 1500 the application of public criminal law started to grow as monarchs strived for more power. To gain more power, monarchs started controlling the responses to criminal. It was also assumed that direct or indirect victims

were not able to punish proportionately. This resulted in the code Pénal (Claessen, 2019a). This code of law was meant to lower the risk of disproportionate retaliation and aimed to protect victims and offenders (Claessen, 2019a). After the code of law was introduced, the responsibility to react to criminal transgressions was almost exclusively given to the state.

Although this way of punishing has been applied for over 200 years now in Europe (Claessen, 2019a), the criminal justice system has been argued to have some deficiencies. First of all, victims do not have a (primary) role in this system. This is noteworthy, considering that the victim is a primary stakeholder in the offence. Scholars have argued that given that an offence is primarily a conflict between the offender and the victim, then within the conventional criminal justice system, the state has 'stolen' this conflict from the parties directly involved (Christie, 1977). This has led to frustrated victims demanding a more prominent role in the criminal justice system (Claessen, 2019a). Nowadays, victims do have more rights in a criminal trial. For example, in various countries, victims have a right to speak in a court hearing by means of a victim impact statement (Lens et al., 2013). In the Netherlands, victims also have a right to claim damages within the criminal proceeding (cf. Article 51f of the Dutch Code of Criminal Procedure) (Wetboek van Strafvordering art. 51f, 2011). A second deficiency that has been put forward is that the system itself is not always perceived as fair by offenders, victims and the public (Gabbay, 2005). This can be argued to be problematic, because perceived procedural justice is an important predictor of compliance with the law: when people perceive the justice process to be fair, they believe that the authorities are more legitimate (Tyler, 2003). Important contributors to procedural justice are the perception that trustworthy authorities treat parties with respect and that parties have the opportunity to participate in criminal proceedings (Tyler & Huo, 2002, as cited in Tyler et al., 2007). A third deficiency is that the conventional criminal justice system is not always as effective as intended (Gabbay, 2005). For example, incarceration does reduce the risk of reoffending while the offender is incarcerated. However, research shows that detention can negatively affect an offender's well-being, education and employment (Holman & Ziedenberg, 2006). Added to that, almost 50 percent of the offenders reoffends after 2 years upon release (Verweij et al., 2021). Also, having a criminal track record can result in lower employment rates later in life (Apel & Sweeten, 2010). A fourth deficiency to put forward is that, although the conventional criminal justice system addresses underlying causes of criminal behaviour, it fails to address injuries that were suffered (van Ness & Strong, 2014). As van Ness and Strong (2014) put it: 'Crime is not simply lawbreaking; it also causes injury to others' (p. 4). This means that for justice to be done, these injuries need to be taken into account and addressed. Therefore these injuries suffered by direct and indirect victims should also have a place in the justice system. Restorative justice is a form of justice that has been applied to overcome these deficiencies (Umbreit, 1994).

RESTORATIVE JUSTICE

When I talk with people about my research on restorative justice, I notice that many of them are not familiar with this type of justice. Although many people have not heard of it, restorative justice is an established way of dealing with crimes and conflicts.

It existed long before our conventional criminal justice system (Claessen, 2023; van Ness & Strong, 2014; Zehr, 2015). As explained earlier, it was only around 1200 that the state started intervening in criminal conflicts. Due to criticisms of the conventional criminal justice system, restorative justice has received renewed interest (Zinsstag et al., 2011).

In the conventional criminal justice system, crime is primarily seen as a disbalance in the legal order, but restorative justice views crime as an interpersonal conflict.

It is important to understand that within restorative justice, it is acknowledged that everything and everyone in this world is connected (Zehr, 2015). Due to an offence, a negative relationship is created. According to restorative justice principles, crimes create responsibilities, one of which is to put things right. Righting the wrong can only be achieved when the main involved parties in a conflict – the victim(s), the offender(s), and the community – are actively involved (Bohmert et al., 2018; Wong et al., 2016).

This is in contrast to the conventional criminal justice system, in which justice is done when the state determines who is guilty and when pain has been inflicted (Zehr, 2015). In other words, in restorative justice, evil is not responded to in an evil way by intentionally inflicting harm on the offender, but instead, it aims to restore the damage done by actively involving the victim, the offender and the community (Claessen, 2023). In this matter, damage should be defined in its broadest sense: material, immaterial, relational and moral, but also damage to the legal order (Claessen & Roelofs, 2020). In this dissertation, and in line with Zehr (2015), restorative justice is defined as ‘a process to involve, to the extent possible, those who have a stake in a specific offense and to collectively identify and address harms, needs, and obligations, in order to heal and put things as right as possible’ (p. 37). The focus is on finding out who has been hurt, the needs of the parties involved and whose obligation it is to put things right. Only then, according to restorative justice, can justice be done.

Various programmes exist that are based on these restorative justice principles.

The general modality used within restorative justice is a dialogue between the parties that (professional) facilitators or mediators facilitate. This offers victims the opportunity to ask questions, offenders to make amends and show responsibility, and parties to explain the impact of the crime. The two best-known and most commonly used approaches are restorative justice conferencing (RJC) and victim-offender mediation (VOM) (Bradshaw & Roseborough, 2005).

RESTORATIVE JUSTICE CONFERENCING

RJC originated in New Zealand as a way to divert young offenders from court (Bradshaw & Roseborough, 2005). In RJC, every party directly impacted by an offence is included in the conversation: the victim(s), the offender(s), and the community. According to Sherman and Strang (2012), RJC is defined by three elements: 1) the victim(s), the responsibility accepting offender(s), friends and/or relatives of the victim and the offender and other community members are all present in one room for the discussion, which a facilitator guides; 2) all persons present have enough time to express their feelings and emotions about the crime and the impact it had on them, as well as time to indicate what should be done to restore the harm; and 3) the facilitator offers support to reach a conclusion in the conference in the form of group consensus about what the offender could do to restore the harm. Therefore RJC not only focuses on what the offender can do to restore the harm done to the victim. It also aims to determine what the offender can do to make things right within and towards the community. Within this process, the community is encouraged to take responsibility for creating a healthy community in which the victim and offender are taken care of, as this is their responsibility according to restorative justice principles (Claessen, 2023; Zehr, 2015).

In a typical RJC procedure, the facilitator first discusses the aim of RJC and how it works with the offender and victim, so they can decide whether they want to participate. The conference is then scheduled at the victims' convenience. Victims, offenders, supporters, other community members and the facilitator are seated in a circle, and every participant explains how they are emotionally connected to the crime. Subsequently, the offender describes the offence committed, and victims and other participants describe the impact. When the harm has been fully addressed, all stakeholders together decide what the offender can do to repair the harm (Strang et al., 2013). Throughout this process, the facilitator guides the conversation. With this procedure, RJC aims to restore the damage caused by the crime and repair the harm, while holding the offender directly accountable and taking into account the needs of the victim (Bradshaw & Roseborough, 2005; Hayes, 2005).

VICTIM-OFFENDER MEDIATION

According to Liebmann (2000), 'mediation is a process by which an impartial third party helps two (or more) disputants work out how to resolve a conflict. The disputants, not the mediators, decide the terms of any agreement reached' (p. 10). When mediation is applied in cases in the criminal justice context, it is often called victim-offender mediation (VOM) (Hansen & Umbreit, 2018). In VOM, a voluntary conversation is organised between the victim and the offender in the presence of a trained mediator (Hansen & Umbreit, 2018). The mediator structures the process so parties can work towards an agreement. Hence,

besides the victim and the offender, no other stakeholders of the crime are actively involved in the conversation. Support persons, such as family members, can be present but are not an official party in the process. For this reason, VOM is seen as less inclusive than RJC, since in RJC, the community is also involved in the process. While RJC is more commonly used in English-speaking countries, VOM is more commonly used as a restorative justice programme in continental Europe (Dünkel et al., 2015; Zinsstag et al., 2011).

Typically, a VOM procedure starts with the mediator having separate intake meetings with the offender and victim.² During these intake meetings, the mediator explains the aim of VOM and what the process looks like, asks stakeholders about their story, and asks what stakeholders wish to discuss during VOM. After these meetings, the mediator determines if the case is suitable for mediation – for example, whether the stakeholders have a constructive intention and motivation towards each other, and whether bringing the victim and offender together will benefit both parties. It is important that the offender admits responsibility for the offence to some degree (Zehr, 2015) since it is impossible to have a constructive dialogue with an offender who denies having committed the offence or remains silent. The intake meetings also serve to inform parties and enable them to make a well-considered choice as to whether to participate in VOM or not. In cases where parties do not wish to meet face-to-face, other forms of indirect communication are sometimes used in practice, such as shuttle mediation – in which the mediator shuttles the messages between victim and offender – or letter exchange (Bouffard et al., 2017; Jonas-van Dijk et al., 2020). During the conversation, parties can work together towards an agreement in which it is stated how the offender can restore the damage done to the victim (Hansen & Umbreit, 2018). During this process of coming to an agreement, VOM enables parties to ask questions, receive answers, explain the impact and make amends (Hansen & Umbreit, 2018). Note that an outcome agreement is not necessarily part of mediation.

This dissertation focuses on VOM as a modality of restorative justice. The main reason for this decision is the gap in scientific research regarding the impact of VOM on offenders, even though it is the most applied restorative justice practice in Europe (Dünkel et al., 2015). As will become clearer later in this General Introduction, little is known about the extent to which participation in VOM is related to subsequent reoffending and what the exact role of the VOM process is in this relation. In addition, empirical research is missing on what happens in VOM and how this impacts the offender (Suzuki & Yuan, 2021a). Put differently, the relation between VOM and reoffending constitutes a black box in research, which I aim to open in this dissertation. With that, I hope to not only contribute to the scientific knowledge about VOM, but also aim to identify best practices to optimise the VOM process. The other reason to focus on VOM is a practical one. The data gathered for the studies in this dissertation were from Dutch VOM

² For pragmatic reasons, we consistently refer to 'offenders' in the context of this research on VOM, although we are aware that within a criminal case someone is only an offender when proven guilty. However, in the domain of VOM acknowledgement of harm done is a common requirement for offenders to be referred to and participate in VOM (which the mediator checks; see Umbreit et al. (2004)). We therefore considered the term offenders to be warranted here.

programmes, my country of origin. In 2017, mediation within criminal cases was implemented and applied for the first time nationwide in the Netherlands. At the start of this research, it had not yet been examined what the impact of participation in this specific programme was for offenders in terms of reoffending.

VOM IN THE NETHERLANDS

Mediation between victims and offenders outside of criminal cases has a longer history in the Netherlands. In 1997, a first mediation pilot was run in The Hague, in which trained mediators were used to organise mediation contact between victim and offender, most often after conviction (Heslinga et al., 2001). In 2007, the organisation *Perspectief Herstelbemiddeling* (at that moment *Slachtoffer in Beeld*) was assigned by the former Minister of Justice to organise these meetings (Zebel, Lelivelt, et al., 2009). At first only for youth offenders, but from 2009 also for adult offenders. The outcomes of this mediated contact did not have any legal consequences for the outcome of the criminal justice process. It was used in addition to this process. Later, in 2010, a pilot started in Amsterdam, where mediation was used as part of the criminal justice process (mediation within criminal cases). In 2011, mediation was included in the Dutch Code of Criminal Procedure (cf. Article 51f of the Dutch Code of Criminal Procedure), in which it is stated that the public prosecution office is obliged to inform the victim and the offender about the option for mediation outside of [and possibly parallel to] the criminal justice system (Claessen & Roelofs, 2020). In 2020, the code was changed in a way that it also applied to mediation within criminal cases, meaning that a judge or public prosecutor could wait for the conviction until the mediation process was finished. Following a successful pilot that ran between 2013-2016 in six different Dutch court jurisdictions, in 2017, mediation within criminal cases (Mediation in Strafzaken, MiS) was introduced in all eleven court jurisdictions in the Netherlands (Geenen et al., 2019). Now mediation within criminal cases in the common modality in a criminal case (Dekker, 2020). In 2021, 1346 cases were referred to MiS. Of the cases in which mediation actually started (N = 787), 83% were successful and mediation resulted in an outcome agreement (Raad voor de Rechtspraak, 2022). Besides the nationwide development and enrolment of MiS, more local restorative justice initiatives were applied. For example, in the South of the Netherlands one specific mediator employed by the public prosecutor organised meetings between victims and offenders from 1999 until 2021 (Claessen et al., 2015b).

For MiS to be applied in a criminal case, the public prosecutor or judge must refer to MiS.³ In this context, it is important to note that in the Netherlands, the public prosecutor is allowed to impose criminal sanctions in minor cases without a criminal trial under the direction of a judge (*Strafbeschikking*). That is why the public prosecutor can also refer to MiS and decide afterwards whether any sanctions should be imposed.

³ Since 2023, the Council for Child Protection (Raad van de Kinderbescherming) can also directly refer youth offenders to mediation.

The public prosecutor and judge can refer on their own initiative, but also after the parties themselves, their lawyers, or other organisations (for example, probation officers or child protection services) express an interest in mediation. Consequently, the public prosecutor or judge can refer to mediation. The public prosecutor or judge examines whether the offender and, if also present at a court hearing, the victim are open to mediation. If so, the case is handed over to the mediation bureau of the court. A mediation officer then contacts the parties to examine if they are both willing to participate. In most cases, sexual offenses excluded, first the offender is approached. If the offender declines the option for mediation, the mediation officer does not approach the victim. When both parties agree to participate, the mediation officer assigns two mediators to the case. The mediators are independent, which means that they do not work for a public prosecutor or judge. Before the victim and the offender meet face-to-face, the mediators first have separate intake meeting with the parties. Most often, the mediators first meet the offender. If the mediators think a conversation would be helpful for both parties, the face-to-face encounter takes place. The intake-meetings and the face-to-face encounter are usually planned on the same day. At the start of the encounter, parties have to sign an agreement in which they agree with the confidentiality of the encounter and indicate that they participate voluntarily (van Mazijk et al., 2019). During the mediation encounter, the victim and the offender try to agree on what the offender needs to do to repair the damage that was done. In the closing agreement, the arrangements are stated that the parties agreed upon. The closing agreement becomes part of the criminal case file. The public prosecutor or judge takes this agreement into account during the remainder of the criminal justice process. This means that the public prosecutor or judge has the final say in resolving the case (Claessen & Roelofs, 2020).

VOM AND REOFFENDING

Previous studies have shown multiple beneficial outcomes of restorative justice programmes for the well-being of both victims and offenders. Victims experience less fear and anger after participating in restorative justice (Zebel, 2012) and participation can help them to cope with the crime (Hansen & Umbreit, 2018). Research also shows that victims and offenders are more satisfied after a restorative justice process compared to the conventional criminal justice process without VOM (Hansen & Umbreit, 2018) and that they perceive the process as more fair (Abrams et al., 2006; Boriboonthana & Sangbuangamlum, 2013). It is argued that this is due to higher perceived procedural justice: in restorative justice processes parties are actively involved and have a say in the outcome, which is positively related to procedural justice (Miller & Hefner, 2015).

Another outcome of participation in restorative justice that has received considerable attention is less reoffending. Although the main aim of restorative justice is restoring

relations and rightening the wrong, since this is the right thing to do after a crime has been committed (Walgrave, 2006), many scholars have focused on the relationship between participation in VOM and reoffending. This makes sense since restorative justice programmes can be part of the criminal justice system or used as diversion from the criminal justice system. This means that the programme's outcomes can influence how the criminal case is handled. For governments and law enforcement agencies, it is crucial in their response to crime that the interventions they use contribute to lowering the risk of reoffending, as one of the primary aims of the conventional criminal justice system is preventing crime. If restorative justice would heighten the risk of reoffending, governments might discourage its implementation in the criminal justice system.

However, even when participation in VOM is not related to a lower risk of reoffending, there are multiple reasons why participants should be able to participate. Restoring the harm that has been done is morally the right thing to do (Claessen, 2023; Walgrave, 2013b; Zehr, 2015). In addition, studies show that VOM can fulfil the needs of parties and contribute to the well-being of victims and offenders. That is, VOM helps both the victim and the offender to process the offense. Victims have been shown to feel less fear and anger after face-to-face VOM (Zebel, 2012), and VOM might fulfil their need to restore their sense of power and agency (Hansen & Umbreit, 2018; Umbreit, 1994, as cited in ; Shnabel & Nadler, 2015). Offenders might have a need to apologise to the victim (Shnabel & Nadler, 2015) and VOM can give them the opportunity to make amends. In the end, VOM and other restorative programmes are also applied to take into account the needs of the participating parties. The fact that parties have a need to talk to each other is, I believe, already reason enough to offer them the option to participate. It is the parties' right and obligation to be directly involved in restoring the harm.

Many studies have already shown that participation in restorative justice programmes is related to a lower risk of reoffending. The strongest evidence comes from a study by Sherman et al. (2015). In their research, they showed that offenders who were willing to participate in conferencing and who were then randomly assigned to participate in conferencing had a lower risk of reoffending compared to willing offenders who were not allocated to conferencing and whose case was dealt with in the justice system without restorative justice. Since conferencing and VOM differ in terms of the inclusivity of parties directly involved in a crime (McCold & Wachtel, 2003), it is difficult to generalise the outcomes of research on conferencing to VOM. The conferencing facilitator has to ensure that the representation of the community also includes people who see the good in the offender so that the person and the violent act can be separated from each other, which heightens the chance of the offender's reintegration into the community (Umbreit & Stacey, 1996). For direct victims of a crime, it might be more difficult to see the good in the offender. Due to the differences between the programmes, the dynamics in

conferencing and VOM may differ substantially from each other. This means that results from studies into the effects of conferencing may not be generalisable to VOM.

For VOM, many scholars have also concluded that participation can be related to a lower risk of reoffending (e.g. Bergseth & Bouffard, 2007; Bouffard et al., 2017; Claessen et al., 2015a). However, the conclusions for VOM are currently less robust compared to the conclusions that can be drawn for the impact of RJC. After years of research, it is still unclear if the relationship between VOM and reoffending is due to the restorative nature of the VOM process itself and/or pre-existing or external factors.

One such factor is the self-selection bias. In most research, offenders who participated in VOM are compared to offenders who did not participate in VOM. However, participation in VOM is based on informed consent, and parties have a choice to participate or not (Bradshaw & Roseborough, 2005; Latimer et al., 2005). This means that in most studies on VOM to date, offenders who are willing to participate in VOM are compared to offenders who may not want to participate in VOM. It is likely that motivational differences exist between these two groups of offenders, which might also explain a lower risk of reoffending. For example, offenders who are willing to participate might already have a (higher) motivation to desist from crime and might be more inclined to show remorse and apologise (Fellegi, 2008; Lauwaert & Aertsen, 2016). Consequentially, these pre-existing differences might account for the beneficial effects of VOM on reoffending found to date.

Sanctioning is another factor that could also explain the relationship between participation in VOM and a lower risk of reoffending, but that has not been examined to date. In the Netherlands, when VOM is part of the criminal justice system, the public prosecutor or judge has the final say in solving the case (Claessen et al., 2015a). This means that although parties may come to an agreement during mediation, and the public prosecutor or judge takes this into account, a sanction can still be imposed. However, in some cases, no sanction is imposed after a VOM process (Claessen et al., 2015a). Receiving an official sanction could be experienced as stigmatising (Bernburg & Krohn, 2003), which is related to a higher risk of reoffending (Braithwaite et al., 2018). A sanction and a criminal record might also negatively impact future job positions and therefore further increase the risk of criminal behaviour (Uggen, 2000). Therefore, the absence of sanctioning, or receiving a different type of sanction as a result of participation in mediation compared to offenders who did not participate, could explain a lower risk of reoffending as well. This means that (the absence of) sanctioning might offer an alternative explanation for a lower risk of reoffending.

Opening the black box and examining what happens during a VOM process and how this impacts the offender is another way to examine if the VOM process contributes to a lower risk of reoffending. If the VOM process can reduce the risk of reoffending, it is logical to assume that the process involves and incites psychological mechanisms that change the behaviour of the offender. After all, the assumption in psychology is that a psychological change underlies behavioural change. Although ideas and theories exist about how VOM works and the psychological impact it can have on offenders, there is a gap in empirical research to support these ideas. Therefore, empirically identifying the key elements of VOM constitutes a crucial scientific step forward within criminology, forensic psychology and criminal law, as this unravels the factors that promote or hinder VOM's effectiveness. In addition, these psychological mechanisms may also explain the impact VOM can have on reoffending and therefore contribute to the robustness of the conclusions about the impact of VOM on reoffending.

THE PRESENT DISSERTATION

This dissertation aims to fill in some of the gaps that still exist in research on VOM and tries to open the black box of VOM by revealing if, and if so, how participation reduces the risk of reoffending. Using mainly quantitative data, this dissertation tries to unravel the psychological change of offenders during VOM and which working mechanisms of the VOM process may underly this change. Therefore the central research question in this dissertation is: *Does participation in VOM reduce offenders' risk of reoffending and, if so, how?*

First, it is important to examine if participation in a Dutch VOM programme is related to a lower risk of reoffending and if the VOM process contributes to this outcome. Therefore, I aim to examine if a self-selection bias might offer an explanation for a lower risk of reoffending. This will be done for both the mediation programme in the South of the Netherlands and for MiS. In addition, for MiS, the role of sanctioning on the relationship between participation in VOM and a lower risk of reoffending will be examined. To further open the black box of mediation, I will also examine if participation in VOM induces psychological changes in offenders over time, compared to non-participating offenders. To understand how the VOM process might contribute to a lower risk of reoffending, I will try to identify key elements of the VOM process related to psychological outcomes.

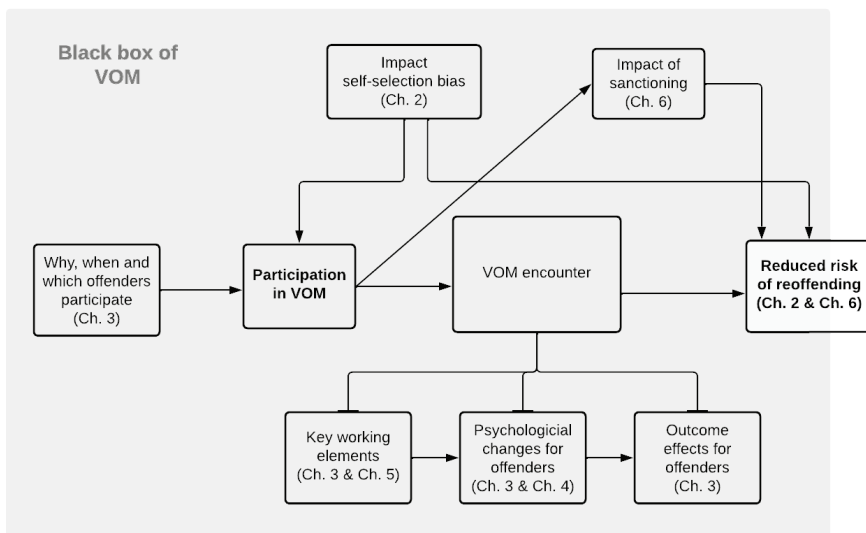
Five studies aim to fulfil these objectives and answer the research question. It is important to note that the empirical chapters are based on separate scientific articles published or currently under review at scientific journals. The status of each article can be found at the start of each chapter. Hence, some theoretical overlap between the chapters is unavoidable. Each chapter may be read and understood on its own;

together, they are meant to provide a good overview of how the VOM process works to reduce the risk of reoffending. Figure 1.1 offers a visual overview of the content of the five different empirical chapters that aim to open the black box of VOM.

Scientific knowledge about what in the VOM process contributes to a lower risk of reoffending is of considerable importance from both an academic and societal viewpoint. Professionals can use practical implications on the key elements of VOM to optimise VOM outcomes for offenders. Insights into these elements might also be translated to other offender sanctions or interventions and applied to other mediation contexts. Showing if and how VOM contributes to reducing a lower risk of reoffending might be a valid reason for governments to stimulate the use of these types of programmes since less criminality and, subsequently, fewer sanctions also mean fewer victims and lower costs.

Figure 1.1

Visual overview of the research aims of the five empirical chapters



CHAPTER 2 - DOES VOM CONTRIBUTE TO A LOWER RISK OF REOFFENDING?

Before it could be examined how the mediation process might lower the risk of reoffending it was important to examine if participation in the mediation process in the Netherlands was at all related to a lower risk of reoffending as in other studies outside the Netherlands (Latimer et al., 2005). Therefore, the first empirical chapter examines this relationship. In 2015 Claessen et al. already examined this for the VOM programme applied in the South of the Netherlands. They found in their research that offenders

who participated in mediation had a lower risk of reoffending compared to offenders who did not participate. However, in their research, they did not examine to what extent this relationship is explained by a self-selection bias or the VOM process itself. Chapter 2 (Jonas-van Dijk et al., 2020) builds on the data of Claessen et al. (2015) and addresses the question as to whether the VOM process or a self-selection bias explains the relationship between VOM and reoffending. This was done by comparing three different offender groups and using secondary analyses on Claessen et al.'s (2015 data: offenders who participated in VOM, offenders who were willing to participate but whose counterparts declined, and offenders unwilling to participate (total N = 1275). If previously found effects of VOM on reoffending are indeed due to a self-selection bias, then it is expected that the groups of offenders who were willing to participate in mediation, regardless of whether their case was solved in court or through mediation, had the same risk of reoffending. For these groups, this risk was expected to be lower compared to offenders who were not willing to participate in mediation because the profile of offenders who were willing to participate is likely comparable. In contrast, if the effects on reoffending were the result of the process that was used to handle the case, it was expected that offenders who participated in mediation had a lower chance to reoffend compared to both the group of offenders who were not willing to participate and the group of offenders who were willing to, but not able to participate. In addition, it was then expected that the two latter groups had the same risk of reoffending.

CHAPTER 3 – HOW DOES VOM CONTRIBUTE TO LOWER REOFFENDING: A LITERATURE SYNTHESIS

The next step in the process is to examine what is currently known about how the VOM process works and how it impacts the offender. Therefore, Chapter 3 offers a synthesis review of the scientific literature to date. Synthesising the literature brings together the existing evidence for a theory (Wong et al., 2013). Therefore, this type of review is theory-driven because it tries to clarify the underlying assumptions of how an intervention should work (Pawson et al., 2004). This was considered the best approach for the study aim, as we wished to explain what is currently known about how VOM works in different contexts and settings and to provide an overview of the VOM process. In this chapter, the VOM process is divided into three phases to offer a complete overview of the process and its elements that might contribute to a lower risk of reoffending. The phase between referring to VOM and the actual encounter (preliminary phase), the actual encounter (execution phase), and the outcome phase. For the first phase, studies were selected that examined reasons for offenders to participate, case characteristics that are related to participation and any other factors that might explain why, when and which offenders participate in VOM. For the execution phase, an overview of studies was given that help explain the immediate

psychological impact of the VOM encounter on offenders and which key working elements of VOM explains this impact. For the last phase, studies were collected that examined the effects of the VOM process on the offender in terms of behavioural changes (including reoffending) and on their perception of the justice process as an outcome of the VOM process. This chapter serves as a deeper introduction to the VOM literature, explains what is currently known about how VOM works, but also shows where important gaps lie and what thus still needs to be examined.

CHAPTER 4 – THE PSYCHOLOGICAL IMPACT OF VOM ON OFFENDERS

In the studies in Chapters 4 and 5, we aimed to start opening the black box of VOM empirically by examining the Dutch mediation practice Mediation in Strafzaken (Mediation within Criminal Cases, MiS). Both chapters were based on the same data collection procedure. In the studies, the aim was to unravel what psychological changes VOM brings about and which key elements of VOM are related to a psychological change. A multitude of theories and ideas already exist that suggest an explanation, but these have not been empirically tested in relation to VOM. One such theory is the theory of reintegrative shaming of Braithwaite (1989). This theory describes two disapproving responses to offenders after a crime that might create shame: a stigmatising and a reintegrative response. When offenders are responded to in a stigmatising manner, disapproval of the crime is disrespectful and the person is labelled as deviant. According to the social reaction or labelling theory (Lemert, 1973), this labelling likely encourages the offender to show deviant behaviour in the future. In other words, stigmatising may foster reoffence. In contrast, when offenders are responded to in a reintegrative manner, disapproval is respectful and focuses on the behaviour rather than on the person. As a result, offenders are less likely to feel labelled or stigmatised as a criminal and are therefore less likely to reoffend (Braithwaite, 1989).

Strongly related to this theory is the paradox of shame of Gausel et al. (2016). They postulate that transgressions can be appraised in two ways: either as a moral failure or as a risk to the transgressor's social-moral image. Offenders who perceive their offence as a moral failure will be self-critical and understand that their behaviour was not according to internalised rules and norms. This may lead to subjective feelings of shame and disgrace. Gausel et al. (2016) explain that the best way to repair this self-defect and deal with these feelings of shame is to restore the defect and the self, which can be done by apologising, offering compensation, and showing the ability to act according to existing rules and norms. However, when the transgression is considered a risk to the offender's social-moral image, offenders might fear condemnation from others. This fear might lead to feelings of rejection. Consequently, offenders might respond defensively to this perceived condemnation and rejection, which may manifest

in avoidance and cover-up. These theories underline the importance of treating offenders in a respectful manner during VOM to avoid impairing offenders' social image.

Research also indicates that VOM might be related to the desistance process. Desistance is the process by which offenders detach themselves from their criminal behaviour pattern (McNeill et al., 2012). Lauwaert and Aertsen (2016) concluded that mediation is not always a trigger for desistance but can support a desistance process already underway. In other words, VOM might contribute to offenders' motivations to desist from crime.

In addition, an important part of VOM is discussing what happened, why the offender committed the offence, and how the offender can take responsibility (Pabsdorff et al., 2011). A central aim of restorative justice is to hold offenders responsible for their wrongdoings (Claessen & Roelofs, 2020; Umbreit et al., 2004; Zehr, 2015).

Research suggests that this goal is achieved during VOM – offenders were held more accountable for their crimes during VOM meetings than during court procedures without VOM (Boriboonthana & Sangbuangamlum, 2013). Talking to the victim and hearing the true impact of the crime can also help offenders realise the actual consequences of their actions and see the victim behind the offence (Choi et al., 2012). In addition, learning the true impact can also lead to stronger feelings of guilt and empathy (Abrams et al., 2006; Meléndez, 2020b; Miller & Hefner, 2015), which may lower the risk of reoffending (Schalkwijk et al., 2016; Tangney et al., 2014; Vaish et al., 2016).

Chapter 4 examines to what degree participation in VOM is related to actual psychological changes. Based on the aforementioned and other theories and ideas that exist about how VOM might impact the offender, it was hypothesised that participation in VOM is related to higher feelings of responsibility, guilt and shame among offenders as well as empathy towards the victim. It was also expected that VOM is related to higher feelings of moral failure among offenders, increasing their intention to desist, and improving their relationship with the victim, relatives and community. Lastly, it was hypothesised that offenders may experience reduced rejection, less concern about condemnation, a lower threat to their social-moral identity, and less victim blame following VOM. Therefore, the psychological changes of offenders who participated in VOM were compared with the changes of offenders who were willing to but did not participate in VOM (total N = 86). A quasi-experimental, pre- and post-measure research design was adopted. By means of this research design, this chapter aimed to unravel the psychological changes after participating in VOM.

CHAPTER 5 – THE FUNDAMENTAL CONDITIONS AND WORKING MECHANISMS OF VOM FOR OFFENDERS

As follow-up research, the study in Chapter 5 examined which key elements of VOM might explain the psychological changes observed in the previous chapter. This study was inspired by research from Shapland et al. (2008). In their research, they examined if the way offenders experienced conferencing impacted subsequent reoffending. They found that the extent to which offenders felt that the conference made them realise the harm done, the extent to which offenders were actively involved and how useful the offenders experienced the conference to be empirically related to less reoffending. Although differences exist between VOM and conferencing, there are also similarities. Elements that explain the impact of conferencing on offenders might also apply to VOM. However, due to the differences that exist between the programmes, it is difficult to directly generalise working mechanisms from conferencing to mediation. With other words, it is interesting to examine if key working elements of conferencing might also apply to VOM. Therefore, the working elements that Shapland and colleagues examined were also investigated in Chapter 5 of this dissertation. However, following on from previous research, additional elements were examined. Based on the synthesis review in Chapter 3, a distinction was made between fundamental (pre-)conditions of VOM (voluntary participation, preparation, and mediator neutrality) and four working mechanisms of the VOM process (learning opportunity, humanising impact, a positive and effective atmosphere and interaction with victim and the victim's response to the offender's apology). The dataset analysed was the same as in Chapter 4 but only considered offenders who participated in VOM (N = 55). In addition to the post-test questionnaires filled out by the offenders, observation forms filled out by the mediators were used. For nine different cases, observation forms were filled out. Therefore, this chapter builds mainly on quantitative data but is supplemented with qualitative data. The combination of these two types of data offered unique outcomes that resulted in scientifically relevant and practically valuable implications.

CHAPTER 6 - VOM AND LOWER REOFFENDING: A MATTER OF (NO) SANCTIONING?

The data used in Chapters 4 and 5 were both drawn from the same mediation programme, MiS. However, for MiS, it was still unknown if participation is related to a lower risk of reoffending. Furthermore, as already explained in this General Introduction, the impact of sanctioning on this relationship has not been examined in previous research on VOM and reoffending. In addition, the research in Chapter 2 of this thesis did not control for bias at the moment of referral. That is, at the moment of referral, the public prosecutor or judge might already make a distinction between the type of offense or

offenders referred to mediation and those not. Therefore, the last empirical study, which can be found in Chapter 6, examined if participation in MiS was related to a lower risk of reoffending, taking into account the (self-)selection bias and the role of sanctioning. Four offender groups were compared: offenders participating in VOM, offenders unwilling to participate in VOM, offenders unable to participate because the victim declined the option, and offenders not referred to VOM. This last group was drawn from the 'research and policy database judicial documentation' (*Onderzoek- en Beleidsdatabase Justitiële Documentatie, OBJD*). To mimic a true experiment, we used propensity score matching to match the non-referred offenders to the referred offenders. It was expected that the relationship between participation in VOM and a lower risk of reoffending is explained by the VOM process as well as a (self-)selection bias and that absence of sanctioning might offer an alternative explanation. By including a non-referred control group and mimicking a true experiment, we sought to provide robust evidence of whether participation in VOM is related to a lower risk of reoffending. As far as we know, this study set-up is the first to assess the impact of VOM on reoffending.

CHAPTER 7 – GENERAL DISCUSSION

This dissertation closes with a general discussion that provides a summary of the main findings of the five empirical chapters. In this, I will also reflect on the combined outcomes of the different studies, look for discrepancies and overlap between outcomes, and explain the most important theoretical implications. The extent to which the black box of VOM has been opened in this dissertation will also become clear. This will be elaborated on in light of the most important limitations. Lastly, the discussion will offer multiple practical implications that may help to further develop and optimise the practice of VOM and restorative justice in general.

02

DOES VOM CONTRIBUTE TO A LOWER RISK OF REOFFENDING?

This chapter is based on:

Jonas-van Dijk, J., Zebel, S., Claessen, J., & Nelen, H. (2020). Victim–offender mediation and reduced reoffending: Gauging the self-selection bias. *Crime & Delinquency*, 66(6-7), 949-972.

INTRODUCTION

Recidivism has a central place in research into the effects of restorative justice. One explanation for this is the growing application of restorative justice within the criminal justice system. Nowadays, restorative justice is not only used in addition to the criminal justice system, but it can also be part of it (Claessen et al., 2015b; Kennedy et al., 2019). For example, instead of a case directly going to court or dealt with by a criminal prosecutor, victim and offender more often get the opportunity to set things right themselves and together decide how the crime can be solved (Claessen et al., 2015a). This can be done, amongst other things, through a constructive dialogue in presence of a trained mediator (Umbreit et al., 2004), often known as victim-offender mediation, family group conferencing and/or peace-making circles (Bradshaw & Roseborough, 2005a).

In their response to crime, it is of great value for governments and society to do this in such a way that it lowers the risk of reoffending and therefore heightens public safety. It is therefore important to examine the effects of different responses to crime. If it would turn out that using restorative justice does not decrease recidivism rates, governments might decide to not use it as a response to crime within the criminal justice system, but complementary to it. However, important to note is that reducing reoffending is not the aim of restorative justice, but an additional positive outcome (Walgrave, 2006). Even when restorative justice does not lower the risk of reoffending it has other positive psychological outcomes for both victims and offenders (Sherman et al., 2005; Zebel, 2012).

Different scholars have already concluded that offenders who participated in restorative justice programs have a lower change to reoffend compared to offenders who do not participate in such programs and undergo the traditional justice procedure and sanction (Claessen et al., 2015a, 2015b; Jackson & Bonacker, 2006; Kennedy et al., 2019; Latimer et al., 2005; Sherman et al., 2015a; Sherman et al., 2015b). A meta-analysis of Sherman and colleagues (2015) of randomized controlled trials (RCT), showed that offenders participating in *restorative justice conferences* have a lower risk of reoffending. However, such conferences differ from VOM in terms of inclusivity. Within conferencing, the victim, offender and others from their community participate in the dialogue and are actively involved to come to an agreement about ways to repair the harm caused and prevent future harm between parties. In VOM, this dialogue and deliberations about reparation and prevention are confined to the victim and offender, without the community present (Bradshaw & Roseborough, 2005).

Importantly, to our knowledge, no RCTs have been done to examine the effects of VOM on reoffending. This means that after years of research the question remains whether its' effects on reoffending are due to the restorative nature or to a selfselection bias,

since participation in VOM is voluntary (Bradshaw & Roseborough, 2005; Latimer et al., 2005; McCold & Wachtel, 2012). This implies that offenders who are willing to participate might differ from offenders who are not. This first group might already have a (higher) motivation to desist from crime and might be more inclined to show remorse and apologize (Fellegi, 2008; Lauwaert & Aertsen, 2016).

In turn, these pre-existing differences might account for the beneficial effects of VOM on recidivism to date. We therefore examined in the current study to what extent the effects of VOM on recidivism are due to a self-selection bias or might be due to the VOM process itself. That is, we investigated whether offenders who were not willing to participate in VOM had a higher change to reoffend, compared to offenders who were and actually participated as well as to offenders who were willing to participate, but were not able to because the other party declined the option of VOM.

VOM

Although the conventional criminal justice system is not the opposite of restorative justice, it is often compared to each other (Zehr, 2015). In conventional justice, when responding to a crime, the main parties actively involved in this process are state and offender.⁴ The victim has no or a more passive role in this type of justice (Claessen, 2017; Dhami, 2012; Zehr, 2015). The focus in this system is on determining who the offender is, whether that person committed the punishable, charged fact(s) and what punishment fits the criminal offence (Zehr, 2015), with the aim of preventing reoffending (Garland, 2001; Muller et al., 2010), retribution and risk reduction (Garland, 2001). Given this offender focus, in recent decades several measures have been taken and instruments developed to strengthen victims' position in the criminal justice system of many countries (Groenhuijsen & Letschert, 2006). One example of this is victims' right to deliver a victim impact statement (VIS) during a court hearing, which may serve as an expressive function for victims as well as to influence the sentencing of the offender (Lens et al., 2013). However, such VISs do not allow victim and offender to resolve the harm done and restore relationships between them, since they are set up as a monologue of the victim to explain the impact of the crime.

Restorative justice, on the other hand, views crime as a violation of the relationship between people, which concerns both victim and offender, but also broader society (Wong et al., 2016; Zehr, 2015). The active participation of the direct involved parties - most often victim and offender - in resolving the crime is considered essential for justice to be done (Bohmer et al., 2018; Bradshaw & Roseborough, 2005; Claessen, 2017; Umbreit et al., 2004; Zehr, 2015). It focuses on the harm that has been inflicted, the needs the involved parties have, and its' aim is to put things as right as possible. This is done by heightening responsibility taking and victim empathy among offenders

⁴ For pragmatic reasons, we consistently refer to 'offenders' in the context of this research on VOM, although we are aware that within a criminal case someone is only an offender when proven guilty. However, in the domain of VOM acknowledgement of harm done is a common requirement for offenders to be referred to and participate in VOM (which the mediator checks; see Umbreit et al., 2004); therefore we considered the term offenders warranted here.

and contributing to the healing process of victims (Claessen, 2017; Zehr, 2015). It is often a dialogue driven process, in which victims have the opportunity to ask questions, offenders can make amends, and both can explain the impact of the crime to each other. Importantly, it is also a voluntary process; forcing offenders' and victims' to participate in restorative justice is considered counterproductive (e.g. Choi et al., 2013). A successful conversation between victim and offender in these type of programs, might result in a decision of the criminal prosecutor to drop the case and withdraw from giving any further punishment (Wong et al., 2016). Internationally, jurisdictions differ with regard to the possibilities to apply restorative justice modalities and the legal consequences of these applications (Hansen & Umbreit, 2018). The findings that are presented in this article are based on research that has been conducted in the Netherlands. In this country the public prosecutor mostly takes the outcome agreements made between victim and offender during VOM in consideration in deciding which punishment (if any) needs to be imposed (Claessen et al., 2015a; Cleven et al., 2015).

VOM is an example of a restorative justice program. Within VOM, victim and offender communicate with each other, in the presence of a trained mediator (Bradshaw & Roseborough, 2005; Umbreit et al., 2004). In advance to a face-to-face meeting between victim and offender, the mediator prepares each party through an individual conversation. Most often VOM ends with a (written) agreement, but this is considered inferior to the conversation itself between victim and offender (Umbreit et al., 2004). In addition to a direct face-to-face conversation, other indirect forms of communication are also used in VOM (Bouffard et al., 2017; Zebel, 2012). For example, letter exchange enables victim and offender to write their questions and answers down on paper, which the mediator then delivers to the corresponding party. Another common indirect modality concerns shuttle mediation, in which the mediator orally communicates the message from one party to the other (Sherman & Strang, 2007). Both options enable victim and offender to communicate, without having to meet each other.

EFFECTS OF RESTORATIVE JUSTICE PROGRAMS

Restorative justice has proven to elicit positive outcomes for both victims and offenders. Research shows that victims who participated in restorative justice report lower feelings of fear and anger afterwards (Cleven et al., 2015; Umbreit et al., 2000; Zebel, 2012). This is in accordance with the aim of restorative justice to be a process that fosters healing (Presser & van Voorhis, 2002). Importantly however, research shows that restorative justice is not healing for every victim. For example, Daly (2006) showed that victims who experienced high to moderate levels of distress after the offense, remained angrier and more fearful of the offender after a restorative conference, compared to victims who experienced weaker feelings of distress after the crime.

Research also indicates consistent higher satisfaction rates among both victims and offenders who participated in a restorative justice process compared to victims and offenders whose cases were dealt within the conventional criminal justice system, without restorative justice (Boriboonthana & Sangbuangamlum, 2013; Latimer et al., 2005; Sherman & Strang, 2007; Umbreit et al., 2000). Both parties also experience restorative justice processes to be fairer and more just, since they have a say in the outcome and feel heard more (i.e. heightened procedural justice; Boriboonthana & Sangbuangamlum, 2013; Hayes & Daly, 2003; Miller & Hefner, 2015; Umbreit et al., 2000; van Camp & Wemmers, 2013). As procedural justice is also related to a lower risk of reoffending (Tyler et al., 2007), in this way restorative justice might achieve a lower risk of reoffending compared to the conventional justice system.

Different scholars also concluded that restorative justice programs are related to a lower risk of reoffending (Bradshaw & Roseborough, 2005; Claessen et al., 2015a; Sherman, Strang, Mayo-Wilson, et al., 2015). Although it is out of scope for this article to examine how participation in a restorative justice program can lower the risk of reoffending, different ideas exist on what the working elements of restorative justice could be. One of these proposed elements is the non-stigmatizing atmosphere of a restorative justice encounter (Bernburg & Krohn, 2003). Instead of labelling the offender as a criminal outcast, which is argued to occur often within contemporary justice systems (Miethe et al., 2000), restorative justice focuses on reintegrating the offender back into the community (Braithwaite, 1989). Harris et al. (2004) argue that when offenders experience guilt, it is inevitable that they also experience feelings of shame. It is important to help the offender deal with these feelings of shame, by emphasizing the positive characteristics of the offender. This so called reintegrative shaming is often considered central to restorative justice and the lower risk of reoffending that may emerge afterwards (Bernburg & Krohn, 2003; Braithwaite, 1989; Shapland et al., 2008). Collins (as cited in Rossner, 2008) on the other hand, explains that the effect of restorative justice on reoffending is due to the emotional connection between victim and offender. Through the emotional atmosphere within a restorative justice interaction, attendees get entrained and in sync with each other on an emotional level, which heightens shared group emotions and solidarity. Collins argues that these shared emotions and solidarity explain a lowered risk of reoffending. Another aspect that can be related to a lower risk of reoffending is discussing the rules that have been broken, the norms that have been violated, and the harm that has been done, within a restorative justice program (Walgrave, 2001). Through this discussion offenders might grow on a moral level and this might help prevent them to reoffend in the future (Fellegi, 2008). Restorative justice also enables victims to explain the consequences of the crime and how it impacted their lives to the offender. This might heighten the ability to take perspective and feelings of empathy for the offender (Lauwaert & Aertsen, 2016), which in turn elicits pro-social

behaviour (Leith & Baumeister, 1998; Martinez et al., 2014; Zebel, Doosje, et al., 2009) and therefore lower the chance that someone reoffends.

However, concerning the observed effects of various restorative programs on reoffending, mixed results exist (Suzuki & Wood, 2018). For example, in an extensive evaluation of three restorative justice programs in England and Wales, Shapland et al. (2008) observed no differences in the prevalence of recidivism between offenders who did and did not participate in these programs, but only found a decrease in the frequency of re-offenses an offender committed after VOM. Other scholars concluded that offenders who participated in a restorative program, had a lower change to reoffend compared to offenders whose cases were solved without restorative justice (Claessen et al., 2015a; Kennedy et al., 2019; Sherman, Strang, Mayo-Wilson, et al., 2015). A very strong conclusion came from a meta-analysis of ten different randomized controlled trials (RCT) of Sherman and colleagues (2015), in which they found that overall, participation in conferencing caused a significant reduction in reoffending among offenders who were compared to offenders who did not participate. However, within conferencing not only victim and offender are involved, but also the community actively takes part in the restorative process (Bradshaw & Roseborough, 2005). The conferencing coordinator has to make sure that the representation of the community should also include people who see the good in the offender, so that the person and the violent act can be separated from each other, which heightens the chance on reintegration back into the community (Umbreit & Stacey, 1996), through reintegrative shaming. Therefore, the dynamics in conferencing and VOM might differ, as well as the chance of getting the process of reintegrative shaming in motion. This means that results from studies into the effects of conferencing are not directly generalizable to VOM.

Bradshaw and colleagues (2005) did perform a meta-analysis of fifteen studies and found that offenders participating in VOM had a lower change to reoffend. These studies were however not set up as RCTs. To our knowledge, no RCT has been performed to date to examine the effects of VOM on reoffending. Therefore, the problem with most of the research into the effects of VOM on reoffending, is that it lacks random assignment and a valid control condition (Latimer et al., 2005). Due to ethical reasons and the voluntariness of VOM, random assignment to experimental and control conditions is often not feasible nor desirable. For example, Stewart et al. (2018) concluded that the effect of VOM found on reoffending should be interpreted with some caution, since the control group consisted of offenders who were not willing to participate. In fact, many studies suffer from this potential bias (Latimer et al., 2005; McCold & Wachtel, 2012; Villanueva et al., 2014). In return, this raises the question to what degree the effects found on reoffending are due to the VOM process itself or to pre-existing differences between offenders. Since restorative justice becomes a more important subject within

conventional criminal justice systems (Claessen et al., 2015a), it is important to examine in a systematic way if participation in mediation can reduce the risk of reoffending and to what extent a self-selection bias explains this reduction.

THIS RESEARCH

This research is a follow-up of the study Claessen and colleagues conducted (see Claessen et al., 2015a; only available in Dutch). In their research, they showed that offenders who participated in VOM, in both direct (face-to-face meeting), indirect (letter exchange or shuttle mediation) and semi-forms of mediation, had a lower risk to reoffend compared to offenders who did not participate in VOM.⁵ However, as in other previous VOM studies, they did not differentiate in their control group between offenders who did not want to participate in VOM and offenders who were willing but not able to participate, because the other party declined. Hence, their findings may also be confounded with a self-selection bias. In the current study, we attempt to test and eliminate this bias by differentiating between these aforementioned groups and doing in-depth, secondary analyses on their dataset.

In this study, we aim at involving a valid control group, to rule out the alternative explanation that self-selection biases underlie the reduced rates of reoffending observed after participation in VOM. We examined four different groups of offenders for this purpose. The first group consists of offenders who participated in direct or indirect forms of VOM (mediation group). The second group concerned offenders who participated in semi-mediation (semi-mediation group). Offenders who were not willing to participate in VOM, and therefore had their case dealt with by a criminal prosecutor or through a court hearing, are part of the third group (court group). The last group consisted of offenders who were willing to participate in VOM, but for whom VOM did not take place, because the other party declined (control group) and whose case was thus dealt with in the same way as the court group.

A lower predicted risk of reoffending for the (semi-)mediation group compared to the control group would point in the direction of a positive effect of the mediation process itself on reoffending, since the offenders in these three groups are all willing to participate and therefore likely to be similar in terms of pre-existing factors that promote participation. A difference in reoffending risk between these groups would probably be due to the way their case was handled: through the conventional criminal justice system only or through mediation. This would confirm the claims of foregoing research that participation in mediation can reduce the risk of reoffending. In contrast, the self-selection bias is confirmed when the risk of reoffending is similar for the control group and (semi-)mediation group, but higher for the court group. In the analyses, it will be controlled for demographic and offender-related variables.

⁵ Explanation of semi-mediation can be found in the method section, subheading 'Mediation, semi-mediation, court and control group'

METHOD CASES

The focus of this research is a VOM program in the south of the Netherlands (Limburg). The cases involved were assigned to VOM as part of the criminal justice system. This means that the criminal prosecutor decided if a case was suitable for VOM, before finalizing the case or before the case went to court. When victim and offender reached an agreement through VOM and the criminal prosecutor agreed with this outcome, most often the case was dismissed, sometimes upon the condition that the offender fulfils the agreements made. However, when one of the parties declines the opportunity for mediation and no mediation occurred or VOM was unsuccessful, the case was solved through the normal criminal justice procedure.

In this study, we analysed 1314 criminal cases in which mediation was offered between 2000 and 2010.⁶ 39 cases were excluded from the data-analysis, because it was unclear whether these cases belonged to the (semi-)mediation group, court group or control group. This left 1275 cases suitable for further analysis. The recidivism data collected covered the period from the date the criminal case was first entered in the judicial data system until July 2014. This means that the period at-risk for offenders varied between 3.5 and 13.5 years.

MEDIATION, SEMI-MEDIATION, COURT AND CONTROL GROUP

In 981 of these 1275 cases, a mediation process started of which 924 were successful.⁷ Claessen et al. (2015a) differentiated between three different kinds of mediation. The first one was direct mediation (336 successful cases), which consisted of a face-to-face conversation between victim and offender, in presence of a trained mediator. The outcome of this kind of mediation was either a written agreement, an oral agreement or no agreement when parties agreed that no further arrangements were necessary from their perspective. The second option for mediation was indirect mediation (297 successful cases), which consisted of either letter exchange or shuttle mediation and yielded the same outcome as direct mediation. The last type of mediation was semi-mediation (291 successful cases). In this type of mediation, the offender had a conversation with the prosecutor and the mediator. There was no victim present, because the victim was either unwilling to participate (but agreed that the prosecutor and mediator would have a mediation session with the offender), or it concerned a victimless offense.

In the current study, we recategorized these three 'mediated contact' groups Claessen et al. (2015a) differentiated into two: the *mediation group* with cases that were solved through direct and indirect forms of mediation between victims and offenders and the

⁶ For more information about the selection of these 1314 cases and the retrieval of the recidivism data, we refer to research of Claessen et al. (2015a)

⁷ The 57 cases, in which mediation was not successful, consisted of the 39 cases that were excluded from further analysis, because it was unclear to which offender group they belonged. The other remaining 18 cases were assigned to the court or control group, based on the registered reason why mediation was unsuccessful.

semi-mediation group. The reason why we chose not to analyse all mediated contact cases as one treatment group, was that semi-mediation fundamentally differed from (in)direct forms of mediation. In semi-mediation, there was no communication between victim and offender and therefore the relationship and inflicted harm between these parties could not be restored or resolved directly by the parties itself, which is one of the key aims of mediation.⁸ This restoration of the relationship and atonement between victim and offender themselves was possible within both direct and indirect forms of mediation. We therefore clustered these direct and indirect mediation cases as one mediation group and kept the semi-mediation apart. The mediation group consisted of 633 cases and the semi-mediation group consisted of 291 cases.

In total, there were 145 cases in which the offender was willing to participate in mediation, but the victim declined the option. This constituted the control group. The court group consisted of cases in which the offender was not willing to participate in mediation. As can be seen in table 2.1, the number of cases in the court group was 206.

Table 2.1

Sample characteristics of the mediation, semi-mediation, court and control group

Offender group	Description	N	Percentage
Mediation	Offenders participated in face-to-face meeting, letter exchange or shuttle mediation	633	49.6%
Semi-mediation	Offenders meeting the criminal prosecutor with a mediator	291	22.8%
Court	Offenders not willing to participate in VOM	206	16.2%
Control	Offenders willing to participate in VOM, but other party declined	145	11.4%
Total		1275	100%

The criminal cases examined contained demographic and judicial information related to the offender (Claessen et al., 2015a). To detect a priori differences between the four offender groups, we used this information to compare the four groups. There were no significant differences between the four offender groups in gender ($X^2(3, N = 1275) = 2.53, p = .471$). In this sample, 1030 cases (80.78%) concerned a male offender.

The mean age of the offender at registration of the case in which mediation was offered, was 36 ($SD = 13.97$; range 13-79 years). No significant differences emerged in age between the four offender groups when the case was assigned to VOM ($F(3, 1253) = 1.43, p = .233$). In addition, no significant differences were found between the four offender groups in age on which they experienced their first criminal case ($F(3, 1274) = 2.45, p = .062, M = 29, SD = 13.74$).

⁸ We are aware that the term semi-mediation might not be the best term to describe the type of conversation between the offender and criminal prosecutor in presence of a mediator. However, we decided to use the term semi-mediation, as it has been used in the research of Claessen et al. (2015a) and to make a clear comparison and distinction between the three types of restorative contact within this study. We elaborate more on this in the discussion.

Most offenders were born in The Netherlands ($N = 1097$, 86.04%). A minority of offenders ($N = 92$, 7.22%) came from other western countries. Other birth countries were Morocco, former Netherlands Antilles, Surinam, Turkey and other non-western countries ($N = 96$, 7.53%). No significant differences were detected in country of birth between the offender groups ($\chi^2(18, N = 1275) = 14.93, p = .667$).

We checked if any differences existed between the offender groups in terms of the number of previous contacts with the criminal justice system (criminal record). A previous contact indicates that there has been a notation from another criminal case of the offender in the judicial data system. Analysis showed that there were no significant differences in the number of previous contacts between groups ($F(3, 1275) = 2.46, p = .061$). The number of previous contacts varied between 0 and 52 ($M = 2.77$).

There were however significant differences in the type of offenses between the four offender groups ($\chi^2(9, N = 1275) = 23.08, p = .006$). Post hoc comparisons revealed that the mediation group consisted of relatively more violent offenses than the other groups. Offenses concerning vandalism, minor aggression and disturbances of the public order were less common in the mediation group and more common in the court group than in the other groups.

In sum, the four offender groups showed few *a priori* differences in terms of gender, age, age of first contact with the criminal justice system, country of birth and criminal record. That said, the mediation group consisted of relatively more violent offenses and less cases concerning vandalism, minor aggression and disturbances of the public order and the court group consisted of relative more cases concerning vandalism, minor aggression and disturbances of the public order.

Data was retrieved through the WODC-recidivism monitor (Wetenschappelijk Onderzoek- en Documentatiecentrum; Scientific Research- and Documentationcentre, RM) of the Ministry of Justice and Security in the Netherlands (Wartna et al., 2011).

This Centre has access to the national judicial database, which contains information about all criminal cases in the Netherlands since 1996. Based on the criminal case number and personal data about offenders in our data set, the RM identified cases that matched these offenders, if present in the judicial database. After this matching procedure, the RM provided us with an enriched dataset containing these criminal cases and variables that enabled us to analyse the prevalence of reoffending of the offenders (Wartna et al., 2011). To protect the privacy of the offenders in the enriched dataset, the RM has stipulated explicit conditions and regulations for researchers to be granted permission to analyse data such as those described here (see Wartna et al., 2011; p. 23). The co-authors of this article fulfilled these conditions and regulations when writing the

article in 2015 (Claessen et al., 2015a). The first author of this article only worked with the anonymous dataset in which no personal data of offenders was documented. In the current sample, the general prevalence of reoffending across the complete time at risk period was 35% (441 of 1275 offenders).

RESULTS

DIFFERENCES IN PREVALENCE OF RECIDIVISM

A logistic regression analysis was conducted with offender group as single predictor, to examine if there were any significant differences in the prevalence of reoffending between the four offender groups (Table 2.2). The analysis showed that there was an overall significant effect of offender group ($Exp(B) = .53, p < .005$). Further analyses revealed that the court group had a significant higher chance to reoffend compared to the mediation group ($Exp(B) = 1.68, p = .001$) and the semi-mediation group ($Exp(B) = 1.90, p = .001$), but not to the control group ($Exp(B) = 1.47, p = .083$). No other significant differences emerged between the groups (all $ps > .20$). This suggests that offenders who are not willing to participate in mediation have a higher risk to reoffend compared to offenders who participated in (semi-)mediation, but not compared to the control group of offenders who were willing but did not participate in VOM. Furthermore, offenders in the control group did not differ significantly from the mediation groups, which indicates that offenders who were willing but unable to participate in VOM occupied an intermediate position between the court and (semi-)mediation groups in terms of their prevalence rate of reoffending.

Table 2.2

Recidivism prevalence per offender group

		Offender group				
		Mediation	Semi-mediation	Control	Court	Total
Recidivism	No	425 (67%)	203 (70%)	93 (64%)	113 (54%)	834 (65%)
	Yes	208 (33%)	88 (30%)	52 (36%)	93 (45%)	441 (35%)
	Total	633 (100%)	291 (100%)	145 (100%)	206 (100%)	1275(100%)

CONTROLLING FOR THE TIME AT RISK

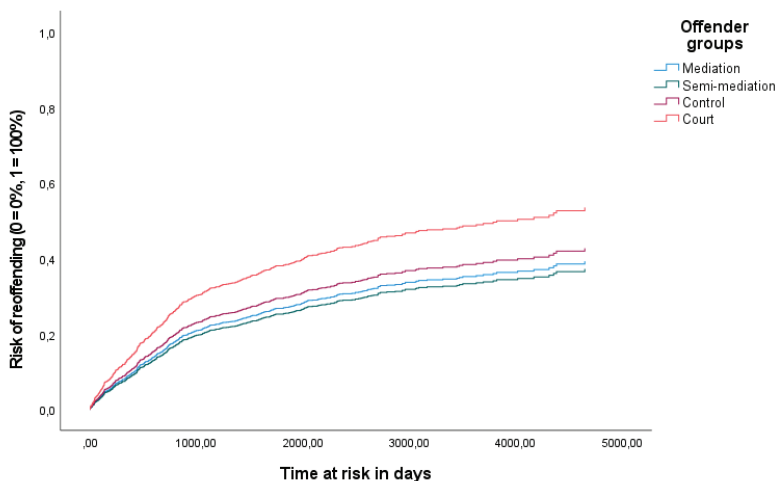
Since the time at risk varied between 3.5 and 13.5 years, it is possible that the above differences in prevalence rates between the four offender groups were due to differences in the time at risk between the groups. If offenders in the court group were longer at

risk than the other groups, offenders in this group also had more time and therefore more opportunities to reoffend and perhaps therefore show a higher prevalence rate. We examined the influence of this time at risk variation by using a cox survival analysis. In this analysis the time at risk, which was the period from the moment the case was entered in the judicial data until the registered date of a next offense in a new criminal case (or in case of no reoffending, time to the end of the observation period), was set as time indicator. Whether or not someone reoffended was used as the status variable. The four offender groups were entered as the sole predictor.

The cox survival analysis showed that adding the offender groups predictor resulted in a significant improvement of the model compared to a model without predictors ($X^2(3, N = 1275) = 13.56, p = .004$). When examining the differences between the groups in more detail, the analysis showed that the court group still stood out. This group had a significantly higher risk to reoffend compared to the mediation group ($Exp(B) = 1.54, p = .001$), and the semi-mediation group ($Exp(B) = 1.65, p = .001$), and a marginally but non-significant higher risk compared to the control group ($Exp(B) = 1.38, p = .066$; Figure 2.1). There was no significant difference between the semi-mediation group and the control group ($Exp(B) = 1.20, p = .305$), between the mediation and the semi-mediation group ($Exp(B) = 1.07, p = .588$) nor between the mediation and control group ($Exp(B) = .90, p = .48$). This analysis again showed that offenders not willing to participate in VOM had a higher risk to reoffend compared to offenders who did participate in (semi-)mediation. Furthermore, offenders in the control group who were willing but unable to participate in VOM again had a reoffending risk in between the court and mediation groups.

Figure 2.1

Predicted risk of recidivism per offender group, controlled for the time at risk



CONTROLLING FOR THE DEMOGRAPHIC AND OFFENDER-RELATED VARIABLES

In addition to the time at risk, also other background variables might constitute other, alternative explanations for the differences in the prevalence of recidivism between the offender groups observed – the descriptive analyses revealed that there were differences in the type of offense committed between the offender groups.

To statistically control for the influence of the available demographic (gender, age during (VOM) case, country of birth) and offender-related variables (age during first judicial contact, criminal record, type of offense) on recidivism, we performed an additional cox survival analysis. In step 1 of this analysis, we first included these demographic and offender-related variables as predictors (an overview of all the $Exp(B)$ and p-values can be found in table 2.3). This resulted in a significantly improved model compared to a model without predictors ($X^2(17, N = 1273) = 179.32, p < .005$). In the second step, we added the offender group as a predictor to the model, which again resulted in a significant improvement of the model ($X^2(3, N = 1273) = 11.84, p = .008$). This analysis also showed the same pattern in which the court group stood out as having the highest predicted risk to reoffend over time (Figure 2.2). Similar to the previous analyses, the mediation ($Exp(B) = .72, p = .008$) and the semi-mediation group ($Exp(B) = .64, p = .003$) had a significantly lower risk to reoffend compared to the court group.⁹ In addition, the control group again showed to have a recidivism risk in between the court group and (semi-)mediation groups, since this group did not differ significantly from the court group ($Exp(B) = .85, p = .353$), nor did it differ from the mediation and semi-mediation group ($Exp(B) = 1.19, p = .271$; and $Exp(B) = 1.33, p = .105$ respectively). No other significant differences emerged between the offender groups (all p 's $> .11$).

To conclude, when statistically controlling for time at risk and the demographic and offender-related variables that were available in the current study, the results showed that offenders who participated in (semi-)mediation had a significantly lower change to reoffend compared to offenders who were unwilling to participate in mediation. However, offenders who were willing to participate, but for whom VOM was declined by their victim showed a risk of recidivism that was somewhat worse than offenders who received mediation and somewhat better than offenders in the court group – although not significantly so in either direction.

⁹ Differentiating between a direct and indirect mediation group did not change the pattern of results in this study

Table 2.3

Overview of the Exp(B) and p-values of the cox survival analysis controlling for time at risk, demographic and offender-related variables

			Exp(B)	p
Step 1	Gender (0 = Male)		.78	.078
	Age during VOM case		.99	.144
	Age first judicial contact		.98	.001
	Type of offense*	Violent offenses (excluding sexual offenses)	.69	.050
		Property crime (without violence)	.64	.107
		vandalism, minor aggression and disturbances of the public order	.75	.167
		Violent offenses (excluding sexual offenses)	.69	.050
	Country of birth**	Netherlands	.70	.174
		Morocco	.75	.545
		Former Netherlands Antilles	1.21	.350
		Suriname	1.51	.519
		Turkey	1.53	.274
Step 2	Offender group***	Mediation	.72	.008
		Semi-mediation	.64	.003
		Control	.85	.353

* Reference group = others (drug related, sexual offenses, traffic violation e.g.)

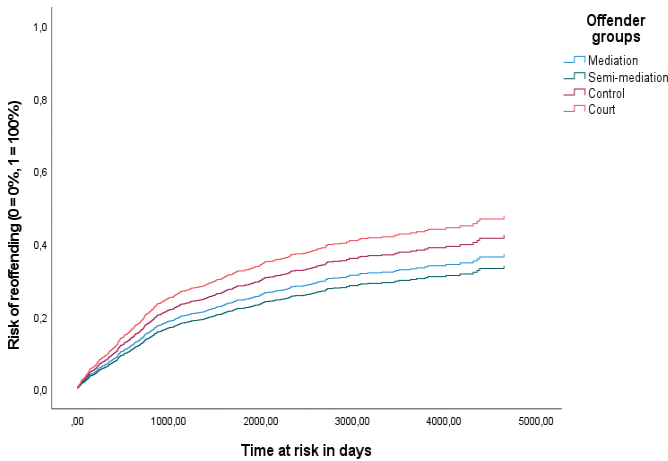
** Reference group = other non-western countries

*** Reference group = court group

¹⁰ Please note that for presentational reasons in Table 3, we choose to take the court group as the reference group (0). As a result, the Exp (B)'s of the comparisons between the court and mediation groups indicate values below 1. Such changes in coding do not affect the pattern of results

Figure 2.2

Predicted risk of recidivism per offender group, controlled for the time at risk, demographic and, offender-related variables



DISCUSSION

Although foregoing research indicates that participation in VOM and conferencing is related to a lower chance to reoffend (Bradshaw & Roseborough, 2005; Sherman, Strang, Barnes, et al., 2015; Sherman, Strang, Mayo-Wilson, et al., 2015), for VOM it is still unclear whether this is due to the mediation process itself or due to a self-selection bias among those who participate. In the current study we zoomed in on the self-selection bias by comparing four different groups of offenders: offenders who were willing to participate in mediation and whose cases were solved through 1) mediation, 2) semi-mediation, or 3) through court/the criminal prosecutors, because mediation was turned down by the other party and 4) offenders who were not willing to participate in mediation.

When previously found effects in VOM studies are indeed due to a self-selection bias, we expected to observe that the three groups of offenders who were willing to participate in mediation, no matter if their case was solved in court or through (semi-)mediation, would have the same risk of reoffending. For these three groups, we then also expected this risk to be lower compared to offenders who were not willing to participate in mediation. This was expected because the profile of offenders who are willing to participate is likely comparable. If the effects on recidivism were the result of the process that is used to handle the case, we would expect that offenders who participated in (semi-)mediation had a lower chance to reoffend compared to both the group of offenders who were not willing to participate and the group of offenders who were willing to, but not able to participate. In addition, we would expect that the two latter groups had the same risk of reoffending.

The results of this study showed a pattern, which can be best interpreted as an outcome in between these two expectations. We found that offenders who are not willing to participate had a significantly higher risk of reoffending than the mediation groups, replicating previous findings in the domain of VOM (e.g. Bradshaw & Roseborough, 2005; Latimer et al., 2005). In principle, two factors can explain the outcome that the court group had a higher risk to reoffend compared to the (semi-) mediation group: the mediation process itself and/or pre-existing differences. Removing one of these factors can enable us to examine what the effects of the other factor are. We tried to remove the self-selection bias through inclusion of a group of offenders who presumably have the same criminogenic profile (the control group) as the group of offenders who did participate in mediation. We then observed that the differences in reoffending between the court (unwilling) and control group became smaller than between the court and mediation groups: the difference between the control group and the court group was not significant. However, neither was the difference between the control group and (semi-) mediation group. This intermediate position suggests that part of the association between VOM and reduced reoffending might be due to pre-existing differences between offenders who are willing to participate and offenders who are not and part might be due to the experiences during the mediation process itself. We therefore cautiously conclude that the beneficial impact VOM seems to have on reoffending might be a combined effect of offenders' willingness to take restorative steps and take part in VOM, as well as the VOM encounter itself (and subsequent arrangements made) with the victim (see also Lauwaert & Aertsen, 2016).

Although our findings corroborate other studies in that it showed that offenders participating in mediation have a lower risk to reoffend compared to offenders unwilling to participate in mediation and this seems to be partly due to processes during mediation, it is not clear what these processes are, which is one of this studies' limitations. The research design did not allow for deeper analyses and more nuanced outcomes, since we could not take into account the quality and content of the meetings, the outcome agreements and whether or not someone adhered to the outcome agreements. Therefore we can also only speculate about why semi-mediation yielded the lowest risk of reoffending of all the offender groups (although not significantly different from the mediation and control group). In this type of mediation, there was no contact between victim and offender. It only differs from the traditional justice process in that the offender had a conversation with the criminal prosecutor in presence of a mediator, to come to an agreement, instead of the offender passively accepting the punishment the prosecutor decided on or imposed through a court hearing. Although this semi-mediation might entail a victim-oriented conversation between these parties, it misses the restoration of and contact between victim and offender, which is one of the core elements of mediation and restorative justice (Umbreit et al., 2004; Zehr, 2015).

The question is why this type of contact yielded this pattern of results. It might be due to the absence of a formal punishment, which might have made integration back into the community easier (Lauwaert & Aertsen, 2016), as well as made offenders not experience the negative consequences of a judicial sanction (Bernburg & Krohn, 2003). They might also have perceived the process as fairer, since they had a say in the outcome, thus increasing the procedural justice they experienced. This would also explain why there is no difference found between the semi-mediation and the other mediation groups, because in all groups the offender had an active role in deciding what happens with the case. Another aspect that might explain this outcome, could be that both types of mediation might have elicited a pedagogical effect, through which offenders learned what they did wrong and in turn grew in their morality more (Fellegi, 2008). However, this remains speculation, since the processes during any of the mediation forms examined here were not studied in depth.

Further systematic research is needed to examine how mediation unfolds and how and when this has an impact on offenders. Future research could use observational studies to examine what happens during mediation and how this affects offenders in terms of for example victim empathy, feelings of guilt and shame (Chapters 4 and 5). Subsequently one can examine if this change in their 'criminogenic profile' (assessed through using pre- and post-measures) explains a lower risk of reoffending. It might be possible even to discover the key working factors of mediation and in return, mediation can be further optimized. Most notable, Shapland et al. (2008) did in part adopt such a systematic approach by performing (post-mediation only) interviews with offenders and observing mediation sessions to explore how mediation works. Although limited in the number of mediation cases examined, their results suggest that for mediation to be as effective as possible it is important that offenders are actively involved, they want to meet the victim, that the conference made offenders understand the harm done and they experienced the mediation as useful. More generally, different scholars propose that it is the non-stigmatizing atmosphere, the communication of emotions, the emotional connection between victim and offender, the perceived procedural justice and/or the discussion of the rules that have been broken, and the norms that have been violated which are the key working factors of mediation that influence the offender (Bernburg & Krohn, 2003; Braithwaite, 1989; Rossner, 2008; Shapland et al., 2008; Tyler et al., 2007).

Another limitation of this study is that conclusions are based on the assumption that the (semi-) mediation and control group share the same profile, since both groups of offenders were willing to participate in mediation. However, we could not test their motivations prior to participation, which means that there still could have been differences. For example, victims might have declined because they expected the offender not to be sincere. This might have said something about the offenders' motivations or

reasons to participate. Another example to reflect on is that victims who decline the option for mediation in itself might also negatively affect offenders. This could have made offenders more angry or it might have been an indication that victims label the offender as criminal, because they were too afraid to meet the offender, which could have impacted the risk of reoffending (Bernburg & Krohn, 2003). Future research could use a pre- and post-measure set up to examine if these group have a similar profile and how VOM and the criminal justice process have an effect on this profile.

Although we do not exactly know how VOM may bring about a lower risk of reoffending, this research is, to our knowledge, the first to show that the relation between participation in VOM and a lower risk of reoffending, found in foregoing research, is most probably not completely based on a self-selection bias. The lower risk of reoffending for offenders participating in VOM seems to be explained by both their willingness to take restorative steps and the VOM meeting as well. Being willing to participate thus does not seem to explain all the effects: there is likely to be something about VOM encounters (and its' consequences) that influences the offender.

03

HOW DOES VOM CONTRIBUTE TO LOWER REOFFENDING: A LITERATURE SYNTHESIS

This chapter is based on:

Jonas-van Dijk, J, Zebel, S., Claessen, J. & Nelen, H. (2022). How can the victim-offender mediation process contribute to a lower risk of reoffending? A synthesis literature review. *The International Journal of Restorative Justice*, 6(2), 207-234. Doi: 10.5553/TIJRJ.000144

INTRODUCTION

The practice of and research into restorative justice has continued to expand in recent years (D'Souza & L'Hoiry, 2019). Contrary to the conventional criminal justice system, restorative justice does not focus on imposing a punishment on the offenders to reach justice (Bradshaw & Roseborough, 2005; Okimoto et al., 2012; Wenzel et al., 2008). Instead, its central aim is to resolve the conflict and repair the relationship between the parties directly involved in a crime – victim, offender and the broader community (Bazemore & Umbreit, 2001; Claessen & Roelofs, 2020). The theory of restorative justice emphasises that every party involved has specific needs after an offence and these needs have to be met for justice to be done (McCold & Wachtel, 2003; Wenzel et al., 2008; Zehr, 2015). In order to fulfil these needs, the parties who have a direct stake in the case should be personally involved.

Different programmes of restorative justice exist in practice. Victim-offender mediation (VOM) is one of the best known, next to restorative justice conferencing (RJC) (Bradshaw & Roseborough, 2005; Coates et al., 2017). In VOM, a voluntary conversation is organised between the victim and the offender in the presence of a trained mediator. In this way, VOM acknowledges that an offence happened between two people in the context of a broader community that only can be resolved with the active involvement of the victim and the offender (Bradshaw & Roseborough, 2005). Before the conversation takes place, the mediator typically has an intake meeting with the victim and offender separately (Claessen & Roelofs, 2020; Hansen & Umbreit, 2018). During this intake meeting, the aim of mediation is explained, and stakeholders are asked what they wish to discuss. After these meetings, the mediator determines whether the case is suitable for mediation, whether the stakeholders have a constructive intention and motivation towards each other and whether bringing the victim and the offender together could potentially hurt one of them. In cases where parties do not wish to meet face-to-face, other forms of indirect communication can be used as well, such as shuttle mediation or letter exchange (Bouffard et al., 2017; Jonas-van Dijk et al., 2020).

VOM distinguishes itself from RJC due to the strong emphasis on the interaction between victim and offender. RJC is more inclusive than VOM, since RJC also has a strong emphasis on involving family members of the parties, support persons and members of the community (Bradshaw & Roseborough, 2005; Hansen & Umbreit, 2018). Therefore, RJC not only focuses on restoring the harm done to the victim, but also what the offender can do to make things right within and towards the community. During a conference, all parties can explain how the crime impacted their lives. When the harm has been addressed fully, all stakeholders together decide what the offender can do to repair the harm (Strang et al., 2013). In addition, Sherman et al. (2015) state that facilitators in RJC have a less prominent controlling role than the mediator in VOM. Given the important differences between VOM and other restorative justice programmes, this research focusses solely on VOM.

VOM AND RECIDIVISM

Although reducing reoffending is not the primary aim of VOM (Zehr, 2015), a fair share of research has focused on this relationship. Most findings favour VOM responses over conventional criminal justice responses as a way of dealing with crime and preventing reoffending, with observation time periods between VOM and the possibility to reoffend varying from 1 to 13.5 years (Bergseth & Bouffard, 2007, 2013; Bouffard et al., 2017; Claessen et al., 2015a, 2015b; Jonas-van Dijk et al., 2020; Nugent & Paddock, 1995, 1996; Roy, 1993a; Stewart et al., 2018; Stone, 2000; Umbreit et al., 2000). This favourable association between VOM and reoffending is shown for both juvenile and adult offenders, and holds when controlling for age, gender, race, family structure, number of siblings and prior offending record (Bergseth & Bouffard, 2013; Jonas-van Dijk et al., 2020; Nugent & Paddock, 1996).

However, other studies indicate that VOM does not seem to have a different association with reoffending, compared to conventional criminal justice (Boriboonthana & Sangbuangamlum, 2013; Gomis-Pomares et al., 2021; Jara et al., 2016; Niemeyer & Shichor, 1996; Roy, 1993b; Umbreit, 1994; Umbreit & Coates, 1993; Villanueva et al., 2014). In a study of Niemeyer and Shichor (1996) there was even a slightly higher, non-significant, risk of reoffending for offenders who participated in VOM. However, this study suffered from problems with the comparison group.

The current state of research shows no conclusive evidence for a causal relationship between VOM and reoffending. Yet, there are indications to believe that (aspects of) the VOM process may contribute to a lower risk of reoffending, for example when self-selection effects are explicitly accounted for (Jonas-van Dijk et al., 2020). The follow-up question, which has not been thoroughly examined to date, is what conditions or mechanisms of the VOM process could explain the favourable association with reoffending (see also, Bolitho, 2017; Suzuki & Yuan, 2021). Therefore, the aim of this article, is to create an as complete as possible overview of what is currently known about the VOM process and its outcomes. This will then be interpreted in relation to the risk of offenders' reoffending. Therefore, the research question in this review study is: *How can the VOM process contribute to a lower risk of reoffending based on the insights from existing empirical research?* With a literature review, we aim to add to existing research by filling the knowledge gap about how the VOM process might be related to a reduced risk of reoffending. Filling this gap could shed more light on what is so far unknown and offer starting points for new research. Also, discovering under which circumstances VOM elicits (the most) beneficial outcomes, might help to identify best practices, which can be used to optimise the VOM process.

We divided the VOM process into three phases to answer the research question. The first phase occurs before the actual encounter – the preliminary phase. For this phase, we search for studies that examined reasons for offenders to participate, case characteristics related to

participation and any other factors that explain why, when and which offenders participate in VOM. This will shed light on whether or not a self-selection bias exists. In most studies that have examined the relation between VOM and reoffending, a comparison is made between offenders who did or did not participate in VOM. However, as VOM is a voluntary process, pre-existing differences might exist between these two groups, which might also explain a lower risk of reoffending (Jonas-van Dijk et al., 2020; Latimer et al., 2005).

The second phase, the actual encounter, is called the execution phase. In this phase, an overview of studies will be given that help to explain the immediate psychological impact of the VOM encounter on offenders and which key working elements of VOM may explain this impact. The last phase is the outcome phase of VOM. For this phase, studies will be collected that examined the effects of the VOM process on the offender in terms of behavioural changes and their perception of the justice process as an outcome of the VOM process.

With this information collected about the three phases, an overview that is as complete as possible can be given of the VOM process and its elements. In the Conclusion, we will state how findings for the three phases can explain a lower risk of reoffending. This will be done by connecting the studies found to existing theories put forward to explain the impact of VOM on reoffending.

Theories that might explain the relationship between VOM and reoffending

Different theories have been put forward to explain the relationship between participation in restorative programmes and a lower risk of reoffending. Although these theories have been proposed more often with programs like conferencing, we believe that some of these might be applicable to VOM as well. One such theory is Braithwaite's theory of reintegrative shaming (Bradshaw & Roseborough, 2005). This states that there are two different ways to respond to deviant behaviour. When the offender is responded to in a stigmatising way, this person is labelled as deviant. According to labelling theory, the person will be likely to act in accordance with this label, and therefore has an increased risk of reoffending (Bernburg & Krohn, 2003). However, when the offender is responded to in a reintegrative way, the act of the offender is disapproved, but the offender is treated as in essence a good person (Braithwaite et al., 2018). It is expected that within restorative justice, the offender experiences the ability to reintegrate, instead of being labelled as a criminal.

According to Daly and Hayes (2001) reintegrative shaming is closely connected to elements of the procedural justice theory. This theory explains that the chance of offenders obeying the law is higher when they perceive the justice process as fair and just (Tyler et al., 2007). For justice to be perceived as just, respect, decision-maker neutrality, being treated fairly, and having a say are important elements (Tyler, 1990 as cited

in Daly & Hayes, 2001). As restorative justice programmes are expected to adhere to all these elements of procedural justice, this could explain a lower risk of reoffending (Hipple et al., 2014). This lower risk is also related to the defiance theory in which it is postulated that the risk of reoffending is increased when offenders perceive the sanction as unfair and humiliating (Hipple et al., 2014). Since offenders have a say in the outcome in restorative justice, it is expected that they perceive their sanction as more just and, accordingly, restorative justice can contribute to law-abiding behaviour.

In this review, we examine what is currently known about (what happens during) the VOM process and what the outcomes of this process are for offenders. These findings will be interpreted in light of the proposed theories that offer explanations for the favourable relationship between VOM and reoffending.

METHOD

REALIST SYNTHESIS REVIEW

A realist synthesis review method was used to answer the research question. Synthesising literature brings together existing evidence for a theory (Wong et al., 2013). Therefore, this type of review is theory driven, because it tries to clarify the underlying assumptions of how an intervention, and therefore a theory, should work (Pawson et al., 2004). As Pawson et al. (2004) state: 'Interventions are theories' (p. 4). We considered this the best approach for our study aims, since VOM is an intervention based on a theory of restorative justice and the question for this review is what aspects of this intervention/theory could contribute to reducing the risk of reoffending. We wished to examine if theories put forward to explain the underlying relationship between VOM and reoffending can be supported by evidence from empirical research.

Another reason to use this type of review is that much research in the field of restorative justice is qualitative in nature. Therefore, qualitative and quantitative research need to be combined to obtain a complete review. A realist synthesis uses the dimensions of relevance (does the study address the theory) and rigour (do the generated and credible data come from trustworthy methods) to decide if a study meets the inclusion criteria (Pawson et al., 2004, p. 22; Wong et al., 2013), instead of the research design. A realist synthesis can therefore provide a complete overview of how the process of an intervention works. In addition, it can reveal knowledge gaps that might be examined in the future. On the other hand, because all types of research designs are included in the synthesis review, no causality can be inferred from the results, which could be viewed as a weakness. However, the aim of a synthesis is not to find evidence for causality, but rather to describe and map the complete process. The steps to perform the synthesis are based on the process sketched by Pawson et al. (2004).

INCLUSION CRITERIA

Only research that has examined VOM empirically in the criminal justice context is included in this review. However, some programmes have a different name but entail the same structure as VOM. We therefore included all research in which a restorative justice programme is examined that can be described as VOM, as how it was defined in this research: a restorative justice program in which preparation eventually can lead to a conversation between the victim and offender in the presence of a trained mediator. Accordingly, we excluded programmes based on family group conferencing and peace making circles or other programs that included more participants with a primary stakeholder role in addition to the victim and offender since this is what distinguishes VOM from RJC (Hansen & Umbreit, 2018). Also, programmes in which a meeting was organised with a person representing a victim, instead of the direct victim or bereaved family members were excluded. The type of programme concerned had to be clear from the programme description. If the study lacked a clear programme description or if it was uncertain whether it concerned VOM or a type of conferencing, the study was not included in the review. The mediated contact in the included studies comprised direct (e.g., face-to-face) or indirect contact (e.g., letter exchange or shuttle mediation). Studies that focused on the experience of victims during a VOM process were also excluded, since this review focused on offenders. Due to the language proficiencies of the researchers involved in this paper, only studies written in either English or Dutch were included in the review.

The most important inclusion criterion in this synthesis review is the relevance of the empirical research reported. This is superior to the specific methodological approach of the studies concerned. In addition to this, research should contain unique, primary empirical data (outcomes). This means that former reviews and meta-analyses were not included in this current synthesis review. Besides relevance, we also selected for rigour of the study. These quality standards of relevance and rigour were based on Wong et al. (2013, p. 35): studies that were relevant to the review of sufficient rigour were identified and included in the review.

SAMPLING

A systematic approach was adopted to sample and identify relevant articles. The search engines used were: JSTOR, PsycINFO, Scopus, SpringerLink, Taylor & Francis, Web of Science, Wiley Online Library, Social science research network and HeinOnline. These databases cover psychological, social, and criminological research, where we expected to find the most appropriate studies. Besides scientific journals, we also included book chapters, dissertations and theses. The search terms used covered all three examined phases of VOM and can be found in Table 3.1

(search done in November 2020). Snowballing was also used when studies referred to specific other relevant articles. The first author used snowballing until saturation of data.

The search query resulted in 1922 hits. After a first scan of the title and the abstract and filtering out double occurrences, 106 articles were left for further examination. Studies excluded from the original 1922 hits often explained the application of restorative justice in a specific country or were cases where mediation was mentioned in the article but not in the context of criminal justice. Another reason to exclude articles was when it was not clear, based on the description of the programme, if it concerned RJC or VOM (e.g. Miers et al., 2001), no distinction was made between data drawn from RJC or a VOM programme, data from different programmes were treated as one dataset (e.g. Calhoun & Pelech, 2010) or victim representatives were used in the VOM program (e.g. Vieira, 2003). After reading the abstract, description of the study’s aim and programme 41 of these 106 articles met the inclusion criteria and could be used for this review. Snowball sampling based on these 41 articles added another 12 relevant articles.

Table 3.1:
Search queries used for the realist synthesis review

Characteristic OR profile OR participation OR motivation	AND offender AND Victim-offender mediation OR victim-of- fender reconciliation program OR victim-offender meeting OR Restorative justice program
Mechanisms OR process OR predictor	
Impact OR outcome OR results OR effects	
Reoffending OR re-offend OR recidivism OR desis- tance OR relapse	

Of the 53 relevant studies, 18 (34 percent) used a qualitative research design, 28 (53 percent) a quantitative design and 7 (13 percent) combined both research designs. Most of the studies concerned programmes in North-America ($N = 31$, 57 percent), of which 28 were in the US. Twenty-one programs were located in Europe. This is interesting because VOM is mainly used as a restorative justice programme in Europe, whereas in the US, restorative justice conferencing is more commonly used as (well as) a restorative justice practice (Zinsstag et al., 2011). Therefore, we would have expected to include more studies examining a European practice. An explanation could be that these studies are written in a language other than English or Dutch and so could not be included in this literature review. Another explanation is that most research into restorative justice has been done in Australia, Canada, New Zealand, the United Kingdom and the United States (Lanterman, 2021).

The relevant studies were completely read. A summary was made of the programme examined in a study, together with the research aims and outcomes. For the actual synthesis, we adopted a thematic content analysis, using inductive coding (Burnard et

al., 2008). When all studies were summarised, the first author coded the findings. As a first step, the first author indicated to which phase a research finding belonged: preliminary, execution, or outcome phase. After this, the first author coded all findings of the included studies, using Atlas.ti. Subsequently, themes were searched for in the codes. Table 3.2 provides an overview of all relevant articles used for this review. It also shows which phase(s) an article was found to fit.

Table 3.2

Overview of the literature used in the realist synthesis review

Author(s)	Country of programme	Programme/ sample characteristics	Alternative or supplemental to traditional justice system	Type of research	Phase examined
Abrams et al., 2006	US	Juvenile offenders, age 15-24 (N = 7)	Alternative	Qualitative	Preliminary Execution Outcome
Bergseth & Bouffard, 2007	US	Juvenile offenders, mean age 14.7 (N = 330)	Alternative	Quantitative	Outcome
Bergseth & Bouffard, 2013	US	Juvenile offenders, mean age 14.95 (N = 551)	Alternative	Quantitative	Outcome
Boriboonthana & Sangbuangamlum (2013)	Thailand	Adult offenders (N = 477)	Supplemental	Qualitative and quantitative	Execution Outcome
Borton (2012)	US	Adult offenders. mean age 31 (N = 212)	Supplemental	Quantitative	Preliminary
Bouffard, Cooper & Bergseth (2017)	US	Juvenile offenders, mean age 14.97 (N = 551)	Alternative	Quantitative	Outcome
Choi (2008)	US	Juvenile offenders, age 13-17 (N = 37)	Supplemental	Qualitative	Preliminary Execution
Choi & Gilbert (2010)	US	Juvenile offenders, age 13-17 (N = 37)	Supplemental	Qualitative	Execution
Choi, Green & Gilbert (2011)	US	Juvenile offenders, age 13-17 (N = 37)	Supplemental	Qualitative	Execution
Choi & Severson (2009)	US	Juvenile offenders, age 13-17 (N = 37)	Supplemental	Qualitative	Execution
Claessen, Zeles, Zebel and Nelen (2015a)	The Netherlands	Juvenile and adult offenders, mean age 36 (N = 1314)	Supplemental	Quantitative	Outcome
Claessen, Zeles, Zebel and Nelen (2015b)	The Netherlands	Young (age < 23) and adult (age > 23) offenders (N = 1314)	Supplemental	Quantitative	Outcome

De Mesmaecker (2013)	Belgium	Juvenile and adult offenders, age 15-76 (N = 54)	Supplemental	Qualitative	Preliminary Execution
Gerkin (2009)	US	Juvenile and adult offenders (N = 14)	Alternative	Qualitative	Preliminary Execution
Gomis-Pomares et al. (2021)	Spain	Juvenile offenders, age 14-18 (N = 104)	Alternative	Quantitative	Outcome
Jara, García-Gomis and Villanueva (2016)	Spain	Juvenile offenders, age 14-18 (N = 210)	Alternative	Quantitative	Outcome
Jonas-van Dijk et al. (2020)	The Netherlands	Juvenile and adult offenders, mean age 36 (N = 1314)	Supplemental	Quantitative	Outcome
Kirkwood (2010)	Scotland	Juvenile and adult offenders, mean age 31 (N = 3184)	Alternative	Quantitative	Preliminary
Lauweart & Aertsen (2015)	Austria Belgium	Austria: juvenile and young adult offenders, age 14-21 (N = 31) Belgium: Adult offenders, age 24-69 (N = 25)	Alternative Supplemental	Qualitative	Preliminary Execution
Lauweart & Aertsen (2016)	Belgium	Repeating offenders, men, age 24-69 (N = 25)	Supplemental	Qualitative	Preliminary Execution Outcome Outcome
Martire (2015)	Canada	Juvenile offenders, age 12-19 (N = 1180)	Alternative	Quantitative	Preliminary
Meléndez (2015)	Barcelona, Spain	Adult offenders, age 18-70 (N = 40)	Alternative	Qualitative and quantitative	Preliminary Execution Outcome
Meléndez (2020a)	Barcelona, Spain	Adult offenders, age 18-70 (N = 40)	Alternative	Qualitative and quantitative	Execution
Meléndez (2020b)	Barcelona, Spain	Adult offenders, age 18-70	Alternative	Qualitative and quantitative	Execution
Messmer (2019)	North America	Juvenile offenders (N = 46)	Alternative	Quantitative	Execution
Miller & Hefner (2015)	Australia and US	Interviewed facilitators	Supplemental	Quantitative	Preliminary Execution Outcome
Niemeyer & Shichor (1996)	US	Juvenile offenders (N = 100)	Supplemental Alternative	Quantitative	Preliminary Outcome
Nugent & Paddock (1995)	US	Juvenile offenders, age 7-18 (N = 241)	Alternative	Quantitative	Outcome
Nugent & Paddock (1996)	US	Juvenile offenders, age 7-18 (N = 241)	Alternative	Quantitative	Outcome

Pabsdorff et al. (2011)	Scandinavia	Juvenile and adult offenders, age 15-55 (N = 31)	Alternative and supplemental	Qualitative	Execution
Poulson & Elton (2002)	US	Juvenile offenders (N = 433)	Alternative	Quantitative	Outcome
Presser & Hamilton (2006)	US	Juvenile offenders, age 12-17 (N = 14)	Supplemental	Qualitative	Execution
Roberts (1995)	Ukraine	Juvenile and adult offenders (N = 10)	Supplemental	Quantitative and qualitative	Preliminary Execution Outcome
Roy (1993b)	US	Juvenile and adult offenders, age 11-37 (N = 59)	Alternative	Quantitative	Outcome
Roy (1993a)	US	Juvenile offenders, age 15-17 (N = 446)	Alternative	Quantitative	Outcome
Rypi (2016)	Sweden	Case study	Supplemental	Qualitative	Preliminary
Rypi (2017)	Sweden	Juvenile offenders (N = unknown)	Supplemental	Qualitative	Outcome
Stewart et al. (2018)	Canada	Juvenile and adult offenders, mean age 34/35 (N = 244)	Supplemental	Quantitative	Outcome
Stone (2000)	US	Juvenile offenders, age < 17 (N = 455)	Alternative	Qualitative	Outcome
Szmania (2006)	US	Interviewed mediators (N = 5)	Supplemental	Qualitative	Execution
Tong et al. (2017)	US	Adult offenders (N = 31)	Supplemental	Qualitative	Preliminary Execution
Top (2013)	The Netherlands	Juvenile and adult offenders (N = 90)	Supplemental	Qualitative	Execution
Umbreit (1992)	US	Juvenile offenders, age 7-18 (N = 823)	Alternative and supplemental	Quantitative	Outcome
Umbreit (1993)	US	Juvenile offenders, age 10-19 (N = 206)	Alternative and supplemental	Quantitative	Outcome
Umbreit (1994)	US	Juvenile offenders, age 10-18 (N = 441)	Alternative and supplemental	Quantitative	Outcome
Umbreit (1999)	US	Juvenile and adult offenders, average age 24 (N = 610)	-	Quantitative and qualitative	Outcome
Umbreit & Coates (1993)	US	Juvenile offenders, age 7-18 (N = 948)	Alternative and supplemental	Quantitative and qualitative	Preliminary Execution Outcome

Umbreit, Coates & Roberts (2000)	US	Four offender groups from different programs	Alternative and supplemental	Quantitative	Preliminary Execution Outcome
van Denderen et al. (2020)	The Netherlands	Adult offenders, mean age 42 (N = 57)	Supplemental	Qualitative	Preliminary Execution
Villanueva, Jara, García-Gomis (2014)	Spain	Juvenile offenders, age 14-18 (N = 210)	Alternative	Quantitative	Outcome
Wyrick & Constanzo (1999)	US	Juvenile and adult offenders, mean age 18 (N = 2363)	Alternative and supplemental	Quantitative	Preliminary
Zebel et al. (2017)	The Netherlands	Youth and adult offenders, mean age 21 (N = 199)	Supplemental	Quantitative	Preliminary
Zebel (2012)	The Netherlands	Juvenile and adult offenders (N = 63)	Supplemental	Quantitative	Execution Outcome

RESULTS

Preliminary phase: When and why do offenders (not) participate in VOM?

The preliminary phase is when cases are referred to VOM, victim and offender receive the option for VOM and decide whether to participate or not. The review showed that the chance of VOM being used in a case depends on different case characteristics. First, it can depend on the type of offense (Kirkwood, 2010; Martire, 2015; Niemeyer & Shichor, 1996; Wyrick & Costanzo, 1999). For example, participation rates are higher for property offences compared to personal offences (Martire, 2015; Niemeyer & Shichor, 1996; Wyrick & Costanzo, 1999). Type of offender is another influencing characteristic. Participation rates are higher when the offender is white (Wyrick & Costanzo, 1999), male (Kirkwood, 2010; Wyrick & Costanzo, 1999), younger (Kirkwood, 2010; Martire, 2015; Wyrick & Costanzo, 1999), and when it concerns a first-time offender (Kirkwood, 2010; Martire, 2015).

Time elapsed since the offence is a process characteristic related to whether or not VOM takes place. According to Martire (2015) participation rates of victims and offenders are higher when the number of days between offense and referral is lower. However, in a study of Wyrick and Constanzo (1999), participation rates were lower for property crimes when the time elapsed was longer. The converse was true for personal offences. Zebel et al. (2017) also observed an effect of time elapsed, but only for victims: the probability of a victim participating after a serious offence increased over time but decreased over time after a minor offence. Borton (2012) found no relationship between time elapsed and severity of the crime. Research shows that when offenders are contacted first or when they initiate contact themselves, the chances of VOM starting are higher (Kirkwood, 2010).

Offenders have different internal motivations to participate in VOM. These can be divided into altruistic, or victim-focused reasons and reasons for the offender's own benefit, which we call self-focused (Meléndez, 2015). Self-focused reasons include the wish of offenders to keep their records clean or to impress the court, to move on and feel better, to find closure and to be forgiven (Abrams et al., 2006; Choi, 2008; Lauwaert & Aertsen, 2016; Meléndez, 2015; Roberts, 1995; Umbreit, 1999; Umbreit & Coates, 1993). Offenders also participate so they can communicate on equal terms, settle the difference with a third party present, and in the hope that the victim might drop the case (Meléndez, 2015; Roberts, 1995). They also want to clarify their own role and provide an explanation (Choi, 2008; Lauwaert & Aertsen, 2016), so that victims would understand them and feel less negatively towards them (Pabsdorff et al., 2011; Tong et al., 2017; Umbreit, 1999).

Some offenders participate (also) to explain to the victim what happened, apologise to the victim and show regret, make amends, help the victim, and/or restore the relationship with the victim where this person is a relative. These are all victim-focused motivations (Choi, 2008; Kirkwood, 2010; Lauwaert & Aertsen, 2016; Miller & Hefner, 2015; Tong et al., 2017; Umbreit & Coates, 1993; van Denderen et al., 2020). Roberts (1995) and Van Denderen et al. (2020) found that offenders also participate in VOM to live peacefully and restore the relationship with the victim. It should be noted that some of these victim-focused motivations might also be self-focused. For example, apologising could be a way to restore an offender's social image. However, the distinction between the two types of motivations is that self-focused motivations are exclusively focused on the offender and not on the victim.

Besides reasons for participation, offenders also have reasons to not participate in VOM: they do not want to admit guilt (Niemeyer & Shichor, 1996; Roberts, 1995), they want to work out problems themselves, or they live too far away (Roberts, 1995). Sometimes offenders are also advised not to participate by their lawyers or parents (Roberts, 1995), which can be seen as an external factor.

In some cases, offenders do not want to participate because they are unfamiliar with or do not trust the VOM process (Roberts, 1995). On the other hand, unfamiliarity may have led some offenders to actually participate because they did not know they had a choice (Abrams et al., 2006; de Mesmaecker, 2013; Umbreit et al., 2000).

Other researchers report that parties are often not aware of the goals of VOM (Gerkin, 2009; Pabsdorff et al., 2011; Tong et al., 2017). All of these reasons emphasise the importance of good preparation in the preliminary phase. The mediators play a key role in preparing the execution phase and the parties involved. They need to prepare parties to ensure they follow the restorative standards and do not harm each other

in the process (Rypi, 2017). According to Rypi (2016) mediators determine during the preparation if offenders are remorseful and take responsibility and victims will not show too much anger towards the offender during VOM. If offenders and victims have feelings not in accordance with these prescriptive rules, this could have a negative impact on the outcomes of VOM (Rypi, 2016).

In conclusion, the studies found suggest that three main factors play a key role in the chances of VOM taking place: case characteristics (offense, offender and referral process characteristics), offender motivations (internal [victim- and self-focused] and external), and the degree of preparation of parties, in which the mediator plays a key role.

EXECUTION PHASE: WHAT ARE THE KEY WORKING ELEMENTS OF VOM?

Multiple studies included in the review have observed mediation encounters and asked parties about their experiences with a VOM encounter. This provides a picture about what happens during an encounter and how this impacts the offender. One important recurring element in multiple studies is the role of the mediator. First of all, mediators have an important role in opening and initiating the conversation between the victim and offender (Pabsdorff et al., 2011). Research by Szmania (2006) revealed that the opening statements of the mediator often offer encouragement, set the tone for the mediation and explain the role of the mediator. The mediator therefore has a crucial role in facilitating a constructive dialogue so that parties can socially interact, which is important for the effectiveness of the VOM meeting (Pabsdorff et al., 2011). In addition, research suggests that offenders may experience no tension or nervousness due to the helpful work of the mediator (Meléndez, 2020b), which is important as many offenders can be very nervous and anxious at the start of the process (Abrams et al., 2006; Choi et al., 2011). Further, offenders state they find it helpful that the mediator keeps things under control, offers encouragement, and listens with empathy (Choi, 2008; Choi & Gilbert, 2010; Pabsdorff et al., 2011; Szmania, 2006).

During the VOM process mediators need to remain neutral and should not be biased towards one of the parties (de Mesmaecker, 2013). This is another strong point of mediation that emerges in the studies according to offenders. They did not feel judged, which they often do in traditional justice. VOM offers offenders the opportunity to settle the conflict outside of a court setting where they feel they are viewed as a criminal (Lauwaert & Aertsen, 2015). Offenders indicate that they experience getting a second chance, having a voice, being empowered, and maintaining dignity (Choi, 2008; Miller & Hefner, 2015). In that sense, VOM has a humanising impact on the offender since during VOM, offenders might feel that they are perceived as more human (Abrams et al., 2006). This can also be seen in the finding that victims perceive and understand the offender in

a more human way due to participating in VOM (Abrams et al., 2006; Meléndez, 2020a). The findings suggest that VOM is a place for offenders to show their good side and confirm their pro-social identity (Lauwaert & Aertsen, 2016; Meléndez, 2015, 2020a).

Another crucial element of the VOM encounter that emerges is the interaction itself with the victim. The findings show that VOM can help the victim and the offender to find common ground and understand each other (Choi, 2008; Choi et al., 2011; Meléndez, 2020a). Within a constructive dialogue, the interaction can heighten offender's feelings of empathy and shame, and increase the taking of responsibility (Choi et al., 2011; Meléndez, 2015; Top, 2013). Offering an apology during the encounter can also help to empathise with the victim (Choi & Severson, 2009). Furthermore, the conversation can also help to restore the relationship with the victim (Lauwaert & Aertsen, 2016; Van Denderen et al., 2020). Or at least not worsen the relationship (Meléndez, 2020b).

This interaction with the victim is also a learning opportunity for the offender (Choi, 2008). Different studies indicate that through talking to victims and hearing the consequences of the crime for them, offenders may realise the full impact, see different aspects of the crime, and understand the extent of the harm caused (Abrams et al., 2006; Choi et al., 2011; Lauwaert & Aertsen, 2016; Marsh & Maruna, 2016; Miller & Hefner, 2015; Tong et al., 2017). Especially in cases where no physical harm has been inflicted on the victim, offenders may not realise that there is an actual victim. As Choi et al. (2011) puts it, VOM helps them to put a human face on the crime. VOM also helps offenders to take the victims' point of view (Lauwaert & Aertsen, 2016; Meléndez, 2020b), which consequently may result in an immediate impact on the offender: it can make them empathise more with the victim, elicit feelings of remorse and accountability (Meléndez, 2020b; Miller & Hefner, 2015) and result in feelings of shame and guilt (Abrams et al., 2006). Notably however, Meléndez (2020b) only observed a small number of offenders who feel remorseful or guilty during VOM. This suggests that VOM does not always elicit a change in the offenders' feelings of remorse and guilt. Importantly, Meléndez (2020b) argues that when offenders do not think that mediation helped them to appreciate the victim's point of view, this might be due to lack of involvement of offenders in the mediation encounter. Abrams et al. (2006) indicate that this development of empathy and seeing the victim in a different light, as an immediate impact of VOM on offenders, might explain a lower risk of reoffending.

Research from Messmer (2019) might further explain this increased awareness of the impact of the crime as an immediate outcome of VOM. They compared the social interaction within VOM meetings with the interaction in diversion conversations with a social worker. The findings indicated that during a VOM meeting, the discussion of the consequences of the offence becomes more important for the victim, which means that

during VOM, the consequences of the offence are discussed in more detail. Also, Pabsdorff et al. (2011) postulate that during VOM, the main focus is on what happened, why it happened and how offenders can take responsibility. This focus on the consequences of the crime and the offenders' responsibility might make offenders more aware of the impact of their actions. This might also explain why Boriboonthana and Sangbuangamlum (2013) found that offenders thought they were held more accountable in a VOM meeting than in a court hearing.

During the interaction between victims and offenders, the mediator keeps playing an important role. The mediator has to control and monitor the conversation, in terms of the content discussed and the power dynamics. Presser and Hamilton (2006) show that power dynamics are different in every VOM encounter and can be used for different purposes. For example, they explain that adult victims often have more control in a VOM encounter than a juvenile offender, but they argue that this does not always have a negative impact. This control resulted in the victim teaching the offender a valuable lesson and/or empathising more strongly with the offender. However, in cases in which the victim is a police officer who interacts with offenders in a punitive and authoritarian manner, this might arouse irritation (Marsh & Maruna, 2016). Similarly, Gerkin (2009) argued that efforts should be made to prevent offenders from experiencing victim lecturing during VOM. Victim lecturing means that the victim is talking down the offenders, for example by warning them of the consequences should they reoffend. It communicates that the victim feels they have a superior position to the offender, resulting in a negative power balance (Gerkin 2009). It would therefore seem that power imbalance does not necessarily have to be a bad element, as long as offenders do not experience it as authoritarian power and feel treated with respect.

Another learning process during the VOM-encounter is that offenders can learn how to deal with future behaviour, to prevent them from reoffending. Different studies indicated that VOM led to offenders using reasoning, self-reflection, and consequential thinking (Meléndez, 2015; Tong et al., 2017; van Denderen et al., 2020). Meléndez (2015, 2020b) also drew the conclusion that VOM can contribute to the offenders' problem-solving skills in daily life. Although discussing future behaviour seems to be an important element of VOM, it is not always discussed during VOM meetings (Pabsdorff et al., 2011).

OUTCOME PHASE: WHAT ARE THE OUTCOMES OF VOM FOR OFFENDERS?

Now that important key working elements of VOM have been identified, the question about what the outcomes of the VOM process can be for offenders remains. We started this article by indicating a number of studies that report findings that suggest that the VOM process might contribute to a reduced risk of reoffending (e.g. Claessen et

al., 2015b; Jonas-van Dijk et al., 2020). A second outcome observed of VOM is that offenders who participated in VOM more often complete the restitution agreement, compared to offenders who did not participate in VOM (Roy, 1993a; Umbreit, 1993a, 1994; Umbreit & Coates, 1993). This might constitute an important explanation for a lower risk of reoffending. That is, various studies show that offenders who complete their treatment (completers) have a lower risk of reoffending than non-completers, even when controlling for a multitude of pre-existing differences between these two groups (Butzin et al., 1999; Hanson & Bussiere, 1998; Zebel et al., 2014). This might well apply to offenders who participate in VOM and complete the restitution arrangements that were set up. However, a self-selection effect might once again be playing a role here: offenders who complete their treatment or arrangements, might differ at the beginning of the process from non-completers.

A third outcome is that VOM can support the desistance process of offenders (Abrams et al., 2006; Lauwaert & Aertsen, 2016). In this desistance process offenders attempt to disentangle themselves from their criminal behaviour pattern (McNeill et al., 2012). Both Abrams et al. (2006) and Lauwaert and Aertsen (2016) conclude that a VOM process in itself does not seem to initiate the desistance process, but functions as a support for the process that has already started. According to research from Meléndez (2015) new problem-solving skills, a pro-social identity and new bonds formed due to VOM can support offenders in their desistance process. Lauwaert and Aertsen (2015, 2016) indicated that the open-mindedness, non-judgemental attitude and the willingness to listen to and understand the victim and the non-judgemental attitude of the mediator were of great importance for their desistance process. These findings suggest that learning new skills and the humanising impact of VOM during the execution phase are apparently important elements for the desistance process. However, some offenders also indicated that their participation in the VOM process was not related to their desistance process (Lauwaert & Aertsen, 2015).

A final outcome of the VOM process that has received considerable attention by different researchers is its perceived fairness. Various scholars claim that a VOM process is perceived as fairer than the conventional justice process (Abrams et al., 2006; Boriboonthana & Sangbuangamlum, 2013; Umbreit, 1992, 1999; Umbreit et al., 2000). In line with this, offenders are also (more) satisfied with or positive about a VOM process (Boriboonthana & Sangbuangamlum, 2013; Meléndez, 2015; Poulson & Elton, 2002; Umbreit, 1993b; Zebel, 2012). According to Abrams et al. (2006) this post VOM satisfaction is due to offenders being able to obtain closure and clarification during VOM. Obtaining closure is another positive outcome of VOM for offenders that is observed (Abrams et al., 2006; Lauwaert & Aertsen, 2016). In the research of Abrams et al. (2006), obtaining closure was a predictor for perceived fairness of the process.

However, not every study shows that offenders are more satisfied after VOM compared to the conventional criminal justice system; sometimes, no differences are observed (Umbreit, 1992, 1993b, 1994; Umbreit & Coates, 1993). Importantly, no studies observed that offenders were less satisfied after a VOM process compared to offenders whose case was dealt with in the conventional justice system without VOM.

Recapitulating these outcomes, we can conclude that most studies indicate beneficial outcomes of VOM in terms of reoffending, completing restitution, contributing to the process of desistance, perception of fairness, satisfaction with the process, and obtaining closure. However, a minority of studies did not find a difference between VOM and the conventional justice system without VOM.

All findings of the literature review can be found in figure 3.1. It should be noted that the relations indicated in the figure have not been tested directly in the studies included in the review. This means that no causality can be assumed. However, this figure does give an idea about what happens during an encounter and how this may impact the offender. As can be seen, some of the outcomes of VOM do not have a direct relation with elements that might be present in a VOM encounter. Based on the review it is not yet clear what elements of VOM exactly influence to what extent offenders perceive VOM as more fair and just, or find closure. Assumptions can be made based on the working elements of VOM, but the studies included in the review do not give a direct relation between the working elements and the outcome variables, except for desistance.

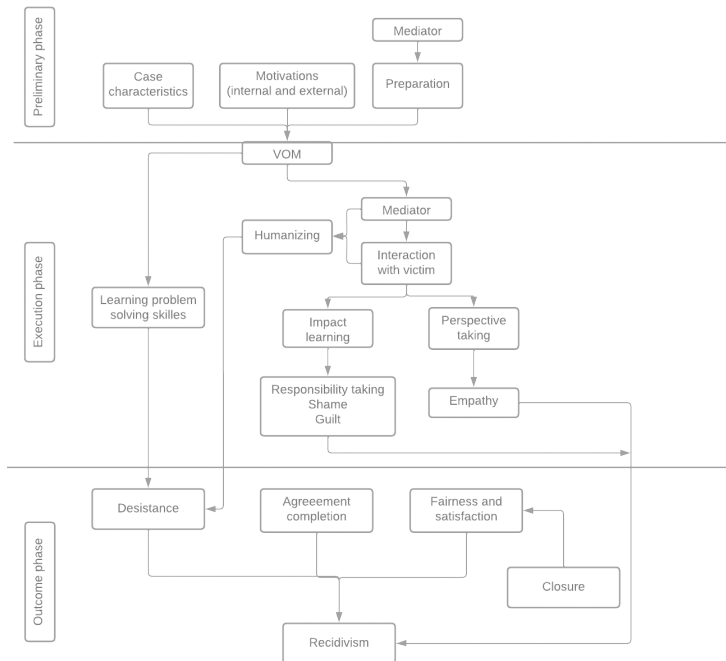
CONCLUSION

Previous research shows that participation in VOM is related to a lower risk of reoffending. However, possible explanations for this relation remain unclear. Therefore, the current literature review aimed to answer the question *How can the VOM process contribute to a lower risk of reoffending based on the insights from existing empirical research?*

In the Introduction to this article, we proposed that a self-selection bias might explain the correlation between VOM participation and a lower risk of reoffending. As long as no random assignment experimental design is used to examine the relation between VOM and reoffending, this self-selection bias will be a plausible explanation. In line with this, the literature review showed that offenders have

Figure 3.1:

Schematic overview of the (working) elements of the VOM process found in the realist synthesis review that could be related to the risk of reoffending



different motivations for participating in VOM, such as taking responsibility, willingness to apologise, or expressing regrets. Other research has already indicated that these feelings are related to a lower risk of reoffending (Hosser et al., 2008; Vaish et al., 2016). However, it is not clear if these motivations differ from motivations of offenders who are not willing to participate in VOM. Since random assigning offenders to VOM or conventional justice is ethically challenging, given that participation in VOM is voluntary, future research could examine if the feelings and motivations of offenders willing to participate differ from those unwilling to participate. If differences exist between these groups of offenders, it will be clearer if a self-selection bias exists. Depending on the differences, this might explain a lower risk of reoffending for offenders who participate in VOM. On the other hand, knowing what motivates offenders to participate in VOM could be used in the preparation phase. If, for example, offenders who participate feel more responsible, a victim-impact conversation with non-willing offenders might possibly trigger feelings of responsibility and consequently motivate offenders to participate.

Once the victim and the offender are willing to participate in VOM, it is important to have a constructive dialogue. Based on the review, a constructive power balance between victim and offender emerged as an important element for a constructive dialogue. In addition, the conversation enables parties to understand each other (Choi, 2008), which presumes a balance in perspective. On top of that, research from Top (2013) indicated that when the victim positively reacts to gestures of the offender, this increases feelings of sympathy for the victim and more taking of responsibility in the offender. This means that a balanced interaction with the victim in terms of conversation and understanding can lead to increased feelings and emotions, that have been related to a lower risk of reoffending (e.g. empathy, responsibility taking, guilt, and shame) (Hosser et al., 2008; Vaish et al., 2016).

The humanising impact of VOM could also explain a lower risk of reoffending. Due to the non-judgemental attitude of the mediator and the victims changing their perspective of the offender, the offender might perceive gaining a second chance and not being treated as a criminal. This supports the reintegrative shaming theory, which proposes that when the offender is responded to in a reintegrative way, the act of the offender is disapproved, but the offender is treated as a good person (Bradshaw & Roseborough, 2005). In addition, the humanising element also seems to be of importance for the desistance process of offenders. Therefore, the humanising element of the VOM encounter can explain a lower risk of reoffending after participation.

What might be underlying this humanising effect could be that owing to VOM, victims can explain the offender's behaviour, leading to the victims conceding the offender's behaviour. Miller et al. (1999) argue that people who can explain criminal behaviour often condone that behaviour more strongly. However, Miller et al.'s research did not focus on the relationship between a direct victim and offender but between an observer and perpetrator. Therefore, what exactly underlies the humanising effect remains a matter of speculation, since it has not been systematically examined. It might be interesting for future research to examine which factors underlie this, so that these can be used to improve the conversation between victims and offenders and amplify the humanising impact of VOM, which in turn could lead to a lower risk of reoffending.

The learning element is one last important element in the encounter, which is not part of a theory. This learning is two-fold. Hearing the victim's story may help the offenders to understand and realise the true impact of their crime. Also, discussing future behaviour during VOM can help offenders to learn new problem-solving skills. These skills can be used in the future, to prevent someone from reoffending. However, it has been observed that discussing future behaviour is not always part of a VOM encounter (Pabsdorff et al., 2011). Given the learning impact it might have,

it could be an interesting consideration for practitioners to focus more on this aspect during a VOM encounter, while keeping the autonomy of the stakeholders in mind. However, Meléndez (2020b) stresses that it is also important to talk about what happened in the past. Talking about what happened in the past can shed light on criminogenic factors that caused the offender to show deviant behaviour, for example substance abuse. This can make offenders aware of what caused their criminal behaviour.

The previously named elements can all be part of a constructive VOM encounter. However, for a constructive dialogue to take place, the parties need to be actively involved and voluntarily participate in the conversation (de Mesmaecker, 2013). Properly preparing offenders for the encounter seems to be an important aspect of motivating offenders to actively participate in VOM as it enables them to make a voluntary, autonomous decision to participate. Voluntary participation is one of the three fundamental principles of restorative justice. The other two are a neutral mediator and confidentiality (de Mesmaecker, 2013). The mediator plays an important role in ensuring that these principles are adhered to, which is also revealed in the literature review. The mediator needs to properly prepare the offender and ensure the offender can make the voluntary decision to participate. Also, the mediator needs to make the parties aware that the encounter is confidential. That might enable parties to feel safer and be more open to talk. Lastly, based on the current literature review, the neutral attitude of the mediator already appears to be an important factor for the offender's positive experience with VOM. Failure to adhere to these three principles might prevent a constructive dialogue from taking place. Therefore, the elements found in the current review might be subdivided into fundamental conditions, which should always be present in a VOM process (voluntary participation, proper preparation, neutral and non-judgemental mediator) and working mechanisms, which may vary in every encounter (e.g., balance of power, humanising impact, learning, mutual understanding, finding common ground). For future research it would be interesting to examine the impact of the degree of adherence to fundamental conditions on the impact working mechanisms have on the outcomes of VOM: what would happen during an encounter when one or more of the fundamental conditions is not (sufficiently) adhered to (See Chapter 5)? Does this result in the absence of some of the working mechanisms or in a lower impact of the working mechanisms on the outcomes of VOM?

The literature review clearly shows that VOM can positively impact offenders. The high satisfaction and fairness rates of VOM offer support for the procedural justice and defiance theory. The finding that almost all offenders perceive mediation as fair and are satisfied after the process (more than after a traditional justice process without mediation) could explain a lower risk of reoffending since the chance of offenders obeying the law is higher when they perceive the justice process as fair and just

(Tyler et al., 2007). Besides being able to obtain closure, what underlies this perceived fairness and satisfaction remains unclear. The possibility of having a say in the settlement and being treated humanely and respectfully might contribute greatly to the perceived fairness. Hence, it would be worth examining the underlying factors that explain a high perceived fairness and satisfaction so that practitioners and programme designers can take these into account.

Offenders who participated in VOM were also shown to complete their restitution agreement more often compared to offenders who did not participate (Roy, 1993a). Since completing treatment has already been related to a lower risk of reoffending (Zebel et al., 2014), this finding might also explain a lower risk of reoffending for participation in VOM. The good lives model (GLM) could offer an explanation here as well. The GLM is a rehabilitation theory that helps offenders to develop and implement a life plan that does not correspond with criminal behaviour (Willis et al., 2013).

According to this model, ‘humans [are] by nature active, goal-seeking beings who are consistently engaged in the process of constructing a sense of purpose and meaning in their lives’ (Ward & Brown, 2004, p. 246). This is reached when primary human goods are achieved, such as relatedness, which can manifest itself by being reliable and honest (Ward & Brown, 2004). It could therefore be the case that offenders who participate in VOM and have a say in the agreement, consequently aim to reach their primary good of relatedness, by fulfilling their agreement and staying away from criminal behaviour.

A last positive (observed) outcome effect of VOM is that it can benefit the desistance process. However, quite often, the offender had already started the desistance process and VOM could then contribute to this. In turn, this also indicates that the motivation of offenders willing to participate in VOM might already be different from offenders unwilling to participate – pointing to the role of a self-selection bias.

ANSWERING THE RESEARCH QUESTION

This literature review provides a good overview of what is currently known about the VOM process and how it can explain a lower risk of reoffending. Theories and processes put forward to explain the underlying effects of VOM seem to be reasonable explanations: the theory of reintegrative shaming, the procedural justice theory, the defiance theory, and the self-selection bias. In addition, the review showed fundamental conditions that might underly a constructive dialogue. This constructive dialogue with its working mechanisms can impact the feelings and emotions of the offender. As a result, this can support their desistance process and seem to influence the perceived fairness and satisfaction levels. Eventually all these factors may impact the risk of reoffending.

On the other hand, this review also shows which research gaps still exist. Much remains unknown about the fundamental conditions and working mechanisms: for example, what is necessary to properly prepare offenders, how can an effective interaction ritual be achieved, what actually makes the VOM process fairer, and why exactly are offenders more satisfied after a VOM process? Future research could focus on these questions, to further improve the VOM process. Figuring out what is most effective in the VOM process could potentially maximise the outcomes.

LIMITATIONS

Although this literature review provides a good overview of the current status of research into VOM, the results should be interpreted in the light of certain limitations. This review builds on both qualitative and quantitative data. Therefore, the relations proposed between the different elements are not causal relationships. Instead, they reveal a pattern of how the VOM process could be related to a lower risk of reoffending. In addition, this review only used literature written in either English or Dutch. More research might have been published but not included due to the authors' language proficiencies.

04

THE PSYCHOLOGICAL IMPACT OF VOM ON OFFENDERS

This chapter is based on:

Jonas, J., Zebel, S., Claessen, J., & Nelen, H. (2022). The psychological impact of participation in victim-offender mediation on offenders: evidence for increased compunction and victim empathy. *Frontiers in psychology*, 12. Doi: 10.3389/fpsyg.2021.812629.

INTRODUCTION

The practice of (and research into) restorative justice continues to grow (D'Souza & L'Hoiry, 2019). The key component of restorative justice is giving the offense back to the main involved parties of a crime: victims, offenders, and the community. Instead of aiming to punish offenders, restorative justice focuses on what the involved parties need. In this way, attempts are made to resolve the harm that has been done, and offenders are encouraged to take responsibility. Facilitating and organizing a constructive dialogue between the parties is important to achieve these goals (Claessen & Roelofs, 2020; Umbreit et al., 2004; Zehr, 2015). This dialogue should give victims and offenders the opportunity to ask questions about the offense, explain the consequences of the offense, and come to a mutual agreement about how to repair the damage that has been inflicted.

Victim-offender mediation (VOM) is an example of a restorative justice program (Hansen & Umbreit, 2018). VOM is a dialogue-driven process, in which victims and offenders have the opportunity to communicate voluntarily with each other about the offense, in the presence of a trained mediator (Hansen & Umbreit, 2018). First, the mediator meets with the offender and the victim separately. When the mediator appraises that a constructive meeting between the offender and victim is possible and desired, a joined conversation may take place. If the parties want contact but do not want to meet face-to-face, other means of communication are possible, such as exchanging letters or exchanging messages via the mediator (shuttle mediation) (Claessen & Roelofs, 2020; Hansen & Umbreit, 2018; Zebel, 2012).

Evidence suggests that VOM can benefit both victims and offenders (e.g. Abrams et al., 2006; Jonas-van Dijk et al., 2020; Saulnier & Sivasubramaniam, 2015). Restorative justice often increases the satisfaction of victims and offenders compared with conventional criminal justice procedures without the option of restorative justice (Meléndez, 2015; Poulson & Elton, 2002). VOM can also reduce anger and fear in victims (Zebel, 2012) and gives offenders the chance to deal with their emotions by apologizing and showing regret (e.g. Choi, 2008; Lauwaert & Aertsen, 2016).

Restorative justice programs like VOM may also reduce the risk of reoffending. Although this is not the aim of restorative justice (Zehr, 2015), it is one of the most researched themes in relation to VOM. Multiple studies have concluded that offenders who participate in VOM have a lower risk of reoffending than offenders who did not participate in VOM do (Bergseth & Bouffard, 2013; Claessen et al., 2015a; Jonas-van Dijk et al., 2020). However, some researchers are critical about the effects of VOM on reoffending. Jonas-van Dijk et al. (2020) have argued that reduced reoffending could be based on self-selection bias, since participation in mediation is voluntary. This means that offenders

who are willing to participate in VOM might be less likely to reoffend than offenders who are not willing to participate are (Elbers et al., 2020). Nevertheless, Jonas-van Dijk et al. (2020) have shown that self-selection bias may partly but not completely explain reduced reoffending and that the VOM process itself is at least partly responsible.

If VOM can reduce reoffending, it is logical to assume that it incites psychological mechanisms that change the behavior of the offender. However, the psychological changes that underly this reduced reoffending after VOM remain undefined. To our knowledge, systematic quantitative research studies have not been conducted to answer this question. This article intends to fill this knowledge gap.

PSYCHOLOGICAL IMPACT OF VOM

Multiple qualitative studies have examined what happens during a VOM meeting and how this influences participants. Research indicates that talking to the victim can help offenders realize the impact of their crime and see the victim behind the offense (Choi et al., 2011). This can lead to stronger feelings of guilt and empathy (Abrams et al., 2006; Meléndez, 2020a; Miller & Hefner, 2015), which might lower the risk of reoffending (Schalkwijk et al., 2016; Tangney et al., 2014; Vaish et al., 2016). Empathy is often differentiated into cognitive and affective dimensions. The cognitive factor, perspective taking, describes the ability to put oneself in another person's position and imagine their perspective. The affective factor, empathic concern, describes the ability to feel and understand the feelings of another person (De Corte et al., 2007; Leith & Baumeister, 1998). Based on these qualitative studies, it is expected that offenders who participated in VOM have stronger feelings of guilt, higher victim empathy, and more perspective taking than offenders who did not participate in VOM do.

An important part of VOM is discussing what happened, why the offender committed the offense, and how the offender can take responsibility (Pabsdorff et al., 2011). A central aim of restorative justice is to hold offenders accountable for their wrongdoings (Claessen & Roelofs, 2020; Umbreit et al., 2004; Zehr, 2015). Research suggests that this goal is achieved during VOM – offenders were held more accountable for their crimes during VOM meetings than during court procedures without VOM (Boriboonthana & Sangbuanglum, 2013). Based on this, we expect that offenders who participated in VOM will report feeling more responsible for their offense than offenders who did not participate in VOM will. We are also interested in victim blaming because this might interfere with the ability of offenders to take responsibility for their actions – i.e., offenders who blame the victim might take less responsibility (Henning & Holdford, 2006). Since we expect offenders to take more responsibility after participating in VOM, we also expect reduced victim blaming among these offenders.

The relationship between the offender and the victim, relatives, and community can be restored by VOM. The victim and offender might find common ground during VOM and resolve their conflict (Meléndez, 2015). Van Denderen et al. (2020) observed that VOM can restore the relationship between the victim and offender if they knew each other before the offense. Participating in VOM can also impress friends and relatives of the offender (Shapland et al., 2007), which we believe might help them to restore their relationships even though they are not part of the conversation. We therefore expect that offenders who participate in VOM will view their relation with the victim, relatives, and community as more positive after VOM than offenders who do not participate in VOM and are therefore less willing to restore this relationship will.

Another important factor that is often associated with restorative justice practices, is the experience of shame among offenders. The reintegrative shaming theory of Braithwaite (1989) describes two disapproving responses to offenders after a crime that might create shame: a stigmatizing or reintegrative response. When offenders are responded to in a stigmatizing manner, disapproval about the crime is disrespectful and the person is being labelled as an outcast. According to the societal reaction or labelling theory (Lemert, 1973), this labelling likely encourages the offender to show deviant behavior in the future. In other words, stigmatization may foster reoffence. When offenders are responded to in a reintegrative manner, disapproval is respectful and focuses on the crime rather than on the person. As a result, offenders are less likely to feel labelled or stigmatized as a criminal and are therefore less likely to reoffend (Braithwaite, 1989).

In a similar vein, Gausel and colleagues (2016) defined how people respond after committing a transgression. They postulated that a transgression can be appraised in two ways: either as a moral failure or as a risk to their social-moral image. Much like when the offender is responded to in a reintegrative manner, offenders who perceive their offense as a moral failure will be self-critical and understand that their behavior was not according to internalized rules and norms. This may lead to subjective feelings of shame, humiliation, and disgrace. Gausel and colleagues (2016) explained that the best way to repair this self-defect and deal with these feelings of shame is to restore the defect and the self. By apologizing and/or offering compensation to victims, offenders can show themselves and others that they are acting according to existing rules and norms.

However, when the transgression is considered a risk to their social-moral image, offenders might fear condemnation from others, which may lead to feelings of rejection. According to Gausel and colleagues (2016), offenders are likely to respond defensively to this perceived condemnation and rejection, which may manifest into avoidance and cover-up behaviors, such as not taking responsibility and attempts to justify or rationalize their behavior.

These theories and arguments underline the importance of treating offenders in a respectful manner during VOM to avoid impairing their social-moral image. Previous research has indicated that restorative justice programs are experienced as less stigmatizing and judgmental than traditional retributive justice procedures (Lauwaert & Aertsen, 2016; Shapland et al., 2008). It has also been argued that retributive punishments can increase recidivism because the official reaction (e.g., going to a court hearing, being treated as a suspect) facilitates labelling and stigmatization (Miethe et al., 2000). Taken together, it is expected that offenders who have participated in VOM will consider their behavior more immoral (a specific self-defect) and feel more ashamed about this than offenders who have not participated in VOM will. However, they will be less concerned about condemnation and experience less rejection. This could explain how participating in VOM might lower the risk of reoffending.

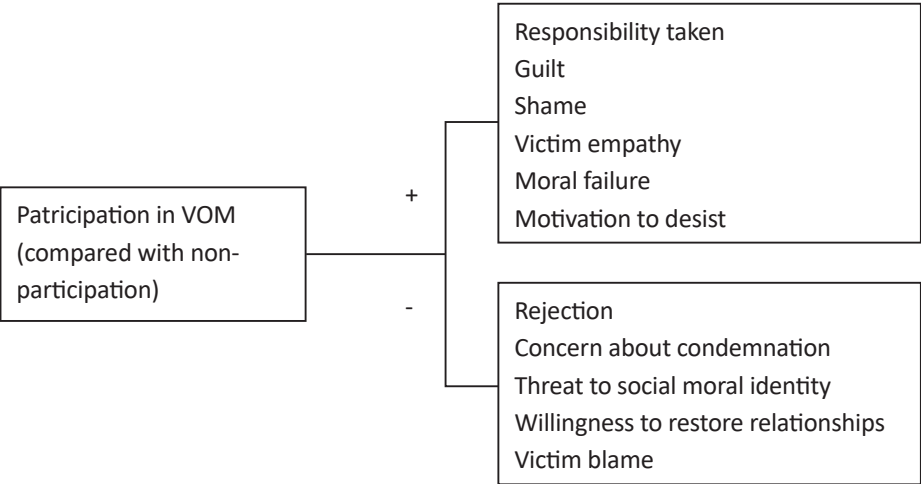
If offenders who participated in VOM feel less rejected than offenders who did not participate in VOM do, then their social moral identity may be less threatened after VOM. Shnabel and Nadler (2008, 2015) explained that an offenders' social-moral image might be impaired after an offense. Every person has different social identities, with which they identify with other people and groups based on traits, family bonds, or other life experiences (Aquino & Reed II, 2002; Markus, 1977). The moral-social identity is one such social identity (Aquino & Reed II, 2002). When offenders are perceived as socially immoral (belonging to the immoral group of 'criminals'), they might need to restore their moral-social identity to avoid social exclusion (Shnabel & Nadler, 2008, 2015). VOM may allow offenders to do this by giving them the opportunity to make amends and their victims the opportunity to show understanding and grant forgiveness. In this way, the victim confirms that the offender is not a criminal, reducing the risk of social exclusion. Thus, in line with reduced feelings of rejection after VOM, it is expected that offenders who have participated in VOM experience a lower threat to their social moral identity than offenders who did not participate in VOM do.

The last factor that we will consider is the motivation to desist from crime. Desistance is the process by which offenders detach themselves from their criminal behavior pattern (McNeill et al., 2012). Some scholars refer to desistance as a key turning point in the life of criminals (Laub & Sampson, 1993). Lauwaert and Aertsen (2016) concluded that mediation is not always a trigger for desistance, but can support a desistance process that is already underway. This indicates that mediation is not a turning point in itself, but rather a way to reinforce motivation to desist from crime. There may also be a difference in the motivation to desist between offenders who are willing to participate and offenders who are not willing to participate in VOM. Even if offenders have already started to desist, the VOM process probably supports and further reinforces this motivation (Lauwaert & Aertsen, 2016).

Therefore, it is expected that offenders are more willing to desist from crime after VOM compared to offenders who did not participate in mediation.

In this research, we investigated the psychological effects of mediation on offenders. We compared offenders who participated in mediation with those who did not (most often because the victim declined). Figure 4.1 gives a visual overview of our hypotheses, based on the literature discussed above.

Figure 4.1
Overview of the hypothesized relations between participation in VOM and the dependent variables of interest



METHOD
VOM PROGRAM IN THE NETHERLANDS

We focused on mediation in criminal cases (*Mediation in Strafbzaken* [MiS]) in the Netherlands. At the time of data collection for this study (October 2018 - August 2020), MiS was a relatively new practice in the Netherlands. In 2017, after a pilot of three years, MiS was applied to all eleven criminal courts in the country. In MiS, a case is most often assigned to mediation after being referred from the public prosecutor. In a minority of MiS cases, the judge offers mediation during a court hearing. The public prosecutor or judge examines whether the victim and offender are open to mediation to deal with their criminal case. If so, the case is handed over to the mediation bureau at the criminal court. A mediation officer then contacts the offender and victim to confirm that they are both willing to participate. Sometimes, after receiving more information or having more time to think, parties decide to withdraw. When both parties agree to participate, the mediation officer assigns two mediators

to the case and a meeting is scheduled. Before the offender and victim meet face-to-face, the mediators meet each party separately. In these pre-meetings, the mediator asks what happened, what the consequences were, and what the individual wants to achieve from mediation. The mediators always meet the offender first during this preparatory process. If the mediator thinks a conversation would be helpful for both parties, the actual mediation takes place. Most often, mediators plan the pre-meetings and mediation on the same day. In this study, all VOM meetings were face-to-face encounters between offenders and victims. During mediation, the victim and offender try to agree what the offender will do to repair the damage that was done. With permission from both parties, this agreement is communicated to the referring judge or public prosecutor, who take this agreement into account when deciding which punishment to impose. This means that the judge or public prosecutor has the final say in how the case will be solved (Claessen & Roelofs, 2020).

DESIGN

This research used a quasi-experimental pre- and posttest design to compare offenders who participated in VOM with those who did not. At the beginning of the VOM process, after referral to MiS, offenders were asked to fill in the first questionnaire. Six to eight weeks after the mediation dialogue between the parties had taken place, or six to eight weeks after it was decided that mediation would not start, offenders were asked to fill in the second questionnaire. It was not possible to assign people randomly to the groups so we adopted a quasi-experimental approach. We aimed to compare these two groups while controlling for demographic and case-related variables. Participants who participated in mediation are referred to as the mediation group and participants who did not participate in mediation are referred to as the court group as their criminal case was handled by the conventional justice system.

PARTICIPANTS

Ninety offenders participated in this study.¹¹ After screening the data, four participants were excluded from further analyses. Two were excluded because of missing data (> 50%) and extreme answers, one was excluded because they withdrew consent, and one was excluded because they scored neutral on every item and were manic at the time of the crime so did not remember what had happened. Of the remaining 86 participants, 64 were male (74%) and 22 were female (26%). The majority of these offenders were born in the Netherlands ($N = 63$, 73%) and almost half indicated high school ($N = 39$, 45%) as their highest level of education. A minority of offenders ($N = 21$, 24%) were religious. More than half of the participants were either married or had a stable relationship (62%) and 37% were single. Just over half of the participants

¹¹ Participants were asked to participate in the study after referral to the mediation process, but before the mediation process started. For pragmatic reasons, we consistently refer to 'offenders' in the context of this research on VOM, although we are aware that within a criminal case an individual is only an offender when proven guilty

lived together with their partner and/or children ($N = 48$, 56%) and 52% ($N = 45$) had children. Most offenders worked ($N = 52$, 61%). Others were unemployed ($N = 23$, 27%) because they were unfit for work or sick ($N = 6/23$), were retired ($N = 6/23$), were looking for a job ($N = 7/23$), or were addicted at the time of the offense ($N = 1/23$). Three offenders did not give a reason for their unemployment. Forty-seven offenders indicated that they were first-time offenders (55%). Table 4.1 summarizes the demographic characteristics.

Not all 86 participants completed a pretest and posttest. Thirty-seven participants filled in both the pretest and the posttest, whereas 35 participants completed the pretest only. Fourteen offenders only completed the posttest because their consent to participate arrived after the pretest had to be conducted. Fifty-five (64%) offenders participated in VOM and 31 (36%) did not because the victim declined (27/31, 87%) or because the offender declined (4/31, 13%).¹² One offender refused to participate because he did not see the value of VOM. It was not clear why the remaining three offenders refused to participate. The victims were not asked why they refused to participate. Table 4.2 shows the number of participants per pre- and postmeasure. We asked offenders why they wanted to participate in VOM. In both groups, these reasons were to apologize or show regret, to talk things over with the victim, to rest the case more quickly without a judge or criminal prosecutor, to get on good terms with the victim, and to show the victim how wrong their behavior was. One offender in the mediation group said he participated in VOM to show his good side to the judge. There were no differences in reasons for participation between the two groups.

The majority of offenders committed a personal offense ($N = 62$, 73%) – 48 of these were cases of violence or assault, eight were cases of threat, two were cases of stalking, one was an attempted homicide, one was a case of insult, one was a case of domestic violence, and one was a case of personal injury. Sixteen offenders committed a property offense – 11 of these were cases of vandalism, two were cases of theft, two were cases of trespassing, and one was a case of fraud. These cases were referred from ten different court jurisdictions in the Netherlands, but were not evenly distributed throughout the country. Most cases were from Limburg ($N = 12$, 14%), Amsterdam ($N = 15$, 17%), Overijssel ($N = 18$, 21%), and Noord-Holland ($N = 13$, 15%). However, all MiS bureaus had similar working procedures. Importantly, 11 cases (13%) were not administered by the MiS, but by a mediation practice in the Limburg region in the south of the Netherlands, with a criminal prosecutor leading the mediation rather than an independent mediator (Claessen et al., 2015a). This difference in mediation practices was accounted for in the analysis.

¹² Analysis in this research were also done while leaving out the four offenders who were not willing to participate and this yielded the same patterns of results.

Table 4.1

Overview of the demographic and case-specific variables of offenders (N = 86)

		N	%
Gender	Male	64	74
	Female	22	26
Highest education completed	Elementary school	2	2
	High school	39	45
	College	23	27
	Missing	22	26
Country of birth	Netherlands	63	73
	Other	5	6
	Missing	18	21
Religious	Yes	21	24
	No	48	56
	Missing	17	20
Living situation	With parents	13	15
	Living alone	24	28
	Living with partner/children	48	56
	Missing	1	1
Personal situation	No relationship	32	37
	In a relationship	53	62
	Missing	1	1
Being parent	Yes	47	55
	No	38	44
	Missing	1	1
Daily life activity	Student	9	11
	Unemployed	23	27
	Working	52	61
	Missing	1	1
Type of case	Personal	62	72
	Property	16	18
	Traffic	3	4

	Missing	5	6
District	Limburg	12	14
	Amsterdam	15	17
	Gelderland	5	6
	Overijssel	18	21
	Noord-Holland	13	15
	Rotterdam	2	2
	Den Haag	6	7
	Oost-Brabant	4	5
	Midden-Nederland	3	4
	Zeeland-West-Brabant	8	9
First time offender	No	18	21
	Yes	47	55
	Missing	21	24

Table 4.2

Number of participants per measurement, distributed by group

	Pretest	Posttest	Pre- and posttest	Total number of cases
Mediation group	20 (36%)	12 (22%)	23 (42%)	55
Court group	15 (48%)	2 (6%)	14 (45%)	31

DEPENDENT VARIABLES

Responsibility taking. All dependent measures were assessed using 5-point Likert-scales or an alternative scale as indicated. For the 5-point Likert scale, participants rated to what extent they agreed with statements on a scale from strongly disagree (1) to strongly agree (5). If a different scale was used for a variable, this will be specifically mentioned. Otherwise, a 5-point Likert-scale is used. The scales and questionnaires were developed in 2017.

Responsibility taking was measured with four items. This construct measured to what extent offenders felt responsible for their offense leading to a police report and for the damage that their offense inflicted on the victims. Items included 'I feel responsible for the offense' and 'It is my responsibility to restore the damage and pain that has been done to the victim'. An exploratory factor analysis with one fixed factor indicated one underlying factor with an eigenvalue of 3.13 explaining 78% of the variance on the pretest and one underlying factor with an eigenvalue of 3.21 explaining 80% of the

variance on the posttest. All items loaded high on this factor (Factor loadings (FLs) > .76).¹³ Reliability analyses indicated that the scale was reliable in the pretest and posttest ($\alpha = .91$ and $\alpha = .92$).

Feelings of guilt about the offense. Feeling guilty about the offense and towards the victim was measured with six items. These items were derived from the State Shame and Guilt Scale developed by Marshall and colleagues (as cited in Tilghman-Osborne, 2007). An exploratory factor analysis with one fixed factor on the pretest indicated one underlying factor with an eigenvalue of 4.25 explaining 71% of the variance on the pretest. The factor analysis with the posttest items showed two factors with an eigenvalue higher than one, but all items loaded high (FLs > .54) on the first factor with an eigenvalue of 3.50 explaining 58% of the variance. Items included '[When I think back about the offense] 'I feel guilty' and 'I feel regret'. The scale was reliable in the pretest and posttest ($\alpha = .91$ and $\alpha = .85$).

Shame. The items measuring appraisals and feelings of shame and rejection were adapted from those developed by Gausel and colleagues (2016). We aimed to distinguish between the two proposed appraisals (moral failure and concern about condemnation) and feelings (rejection and shame). With a factor analysis, we largely found the same distinctions between appraisal variables as Gausel and colleagues (2016) did. Concern about condemnation was measured with three items and perceived moral failure was measured with two items. An example item measuring concern about condemnation was 'I am being rejected by others because of the offense' and an example of an item measuring perceived moral failure was 'What I did was wrong'. Both appraisal scales were valid and reliable. An exploratory factor analysis with two fixed factors and two appraisal measure items entered simultaneously on the pretest and posttest indicated two underlying factors with an eigenvalue of 2.95 (concern about condemnation) and 1.46 (perceived moral failure), explaining 59% and 29% of the variance on the pretest and two underlying factors with an eigenvalue of 3.12 (concern about condemnation, all FLs > .94) and 1.34 (perceived moral failure, all FLs > .87), explaining 62% and 27% of the variance on the posttest. The concern about condemnation scale was reliable in the pretest and posttest ($\alpha = .94$). The two items measuring appraisal for moral failure strongly correlated on the pretest ($r(65) = .71, p < .005$) and on the posttest ($r(47) = .72, p < .005$).

However, the factor analysis with the items that were supposed to measure rejection (three items) and shame (three items), showed one clear factor indicating rejection (eigenvalue of 3.64, explaining 61% of the variance), but not a second factor with an eigenvalue greater than 1 (just below 1). The item 'I feel ashamed' loaded weakly on the rejection factor but strongly on the second fixed factor, as intended.

¹³ The cut off score for factor loadings (FLs) of the exploratory factor analyses (EFA) was set at 0.4.

We therefore used this item as our measure of shame. The item 'I feel small', which loaded high on both factors but was intended as an indicator of shame, was omitted from further analysis. The rejection scale therefore consisted of four items, including 'When I think back about the offense, I feel alone'. With a Cronbach's α of .85 on both the pretest and posttest, the rejection scale was reliable.

Empathy. To correctly measure empathy, we intended to use items that measured both empathic concern and perspective taking. However, an exploratory factor analysis with two fixed factors on the pretest showed one factor with an eigenvalue of 5.62 explaining 70% of the variance. The same factor analysis on the posttest showed two factors with an eigenvalue of 5.16 and 1.10, explaining 78% of the variance. Looking at the factor loadings on the posttest, four items loaded high on factor one (FLs > .69). These items measured to what extent offenders could imagine how the victim felt, to what extent they were sorry for the victim, and to what extent they were able to put themselves in the victim's shoes. These factors covered both the affective and cognitive scale. Therefore, it was decided to form one scale for empathy instead of distinguishing between empathic concern and perspective taking. The empathy scale was reliable in the pretest ($\alpha = .93$) and the posttest ($\alpha = .92$).¹⁴

Threat to social moral identity. The perceived threat to the offender's social moral identity was measured with four items adopted from Shnabel and Nadler (2008). An exploratory factor analysis with one fixed factor showed that all the items loaded high on the factor with an eigenvalue of 2.2, explaining 55% of the variance (FLs > .48), except for one item. These items measured to what extent the offender thought that others see them as unreliable and criminal because of the offense. A reliability test with the remaining three items showed that, after deleting the item measuring to what extent offenders thought that the victim perceived them as a bad person, the Cronbach's α increased from .69 to .93. The two remaining items also correlated strongly with each other on the pretest ($r(66) = .88, p < .001$) and the posttest ($r(47) = .94, p < .001$), and therefore formed the scale 'threat to moral identity'.

Restoring damaged relation with victim. Two items measured to what extent the relationship with the victim was damaged by the offense. However, these items correlated negatively and weakly together ($r(68) = -.26, p = .032$), so we analyzed them separately. One item was 'If I run into the victim on the street right now, it would be very awkward', which was named relationship awkwardness. The other item was 'At this moment, I would like to restore the relationship between the victim and myself' and was named 'relationship restoration'.¹⁵

¹⁴ Three other items were included to measure empathic concern and perspective taking. However, these three items did not load on the empathy factor and measured perceived emotions. Analysis of this factor did not yield any effects.

¹⁵ Initially we also examined to what extent offenders wanted to restore the relationship with family, friends, the community and the self. However, for validity reasons, we decided to not include that scale. In addition, analysis did not show any effects.

Motivation to desist. Motivation to desist measured to what extent offenders thought they would repeat their actions, whether they were able to prevent themselves from repeating their actions, and how likely they thought they were to repeat their behavior. These three items all measured one construct. An exploratory factor analysis with one fixed factor showed one factor with an eigenvalue of 2.08, explaining 69% of the variance on the pretest and one factor with an eigenvalue of 1.93, explaining 64% of the variance on the posttest (all FLs > .62). An example of an item measuring this variable was 'I consider myself able to avoid repeating my negative behavior in the future'. Both scales were reliable (pretest $\alpha = .77$, posttest $\alpha = .73$).

Victim blame. We asked offenders to what extent they blamed the victim for what happened since we believe that this could interfere with other outcomes. Offenders who highly blame the victim for what happened might be less influenced by VOM.¹⁶

PROCEDURE

Data were collected between October 2018 and August 2020. When a case was referred to mediation and the mediation officer had contact with offenders, the mediation officer informed offenders about the research and asked if they wanted to participate in the study. In the first months of data collection the mediation officer asked offenders, during the first contact, to participate in the study. Multiple mediation officers indicated that offenders already received a high amount of information with that phone call and these calls are quite emotional. It was therefore not the right moment to also inform offenders about the study, in their view. In these first months, we did not recruit many participants, so changed our recruitment procedure. From May 2019 onwards, an intern contacted offenders by phone, after a mediation officer had already made contact, to explain the study and invite them to participate. If offenders were willing to participate in the study, their name, email address, phone number, and case number were sent to the first author. The first author then sent the offender an email, explaining the research and including a link to the questionnaire. If the offenders did not fill in the questionnaire within one week, a reminder was sent by email. When offenders did not fill in the questionnaire after two weeks, they were called to ask if they were still willing to participate and reminded to fill in the questionnaire.

The mediation officer or the intern also informed the first author whether mediation would start or not. When mediation started, the first author was told when the face-to-face meeting would take place. Six to eight weeks after the mediation dialogue or after the researcher was informed that mediation would not start, a second questionnaire was sent to the offenders. The same reminders were sent after one and two weeks if the offenders did not complete the questionnaire.

¹⁶ This item was part of scale to measure neutralizing. However, a factor analysis showed that this item did not load high on the neutralizing scale. Since analysis showed no differences between the two groups on neutralizing and the sample showed no signs of neutralizing ($M = 1.7$), we decided to not further report this variable.

The online-platform Qualtrics was used to distribute the survey. Personal links to the questionnaire were sent to offenders so the researcher could track which offenders had completed the questionnaire. When offenders opened the questionnaire, they first had to read an informed consent statement. The informed consent stated the aim of the research, how long it would take to participate, and that the study used a pretest and posttest. As an incentive to give informed consent, participants were told they could win one of five 15-euro gift cards. We explained how their data would be handled (that it would not be sent to others and that it would be stored in a secure digital environment) and that data would be made anonymous. Participants also allowed researchers to retrieve their judicial documentation after two years to see whether re-offences had been committed.¹⁷ Offenders were allowed to withdraw their participation at any time without an explanation.

The questionnaire started with questions about demographics (gender; education; country of birth of the offender and their parents; religion; home situation; whether or not the offender had children and took care of these children; and the offender's daily life activity). After demographics, the questionnaire measured the dependent variables on a 5-point Likert scale.

The posttest also started by obtaining informed consent and measuring demographics. Not all demographic variables were measured a second time since it was planned to measure these variables in the pretest only. Since this research was part of a larger project, other constructs were also measured on the posttest. These included how well prepared the participant was for mediation and how they experienced mediation or the justice process without mediation. Feelings of reintegrative shaming and stigmatization were also measured in the posttest. We also asked offenders if they had offered an apology and how it was received by the victim, and if the rules and norms they had violated during the offense were discussed in the mediation. Lastly, offenders were asked why they participated in mediation. These constructs were measured to determine which elements of the VOM process are responsible for the psychological outcomes (Chapter 5). The focus of the present study was to determine whether VOM causes psychological changes in the offender. This study was approved by the Ethics Committee of the Faculty of Behavioural, Management and Social Sciences at the University of Twente (File number: 191033).

¹⁷ Data on reoffending will be used in future research.

MULTIPLE IMPUTATION

Some data were missing because participants dropped out or did not complete both a pretest and posttest. Listwise deletion would have resulted in a very small sample and low power, which might have biased the outcome (van Ginkel et al., 2020). Every variable contained some missing data; in total, 31% of the values were missing. Only 29 cases did not have missing data on the pretest and posttest. Most missing values were from posttest variables.

To maintain a sample of 86 participants, multiple imputation (MI) was applied, using SPSS statistics.¹⁸ With MI, complete versions of an incomplete dataset are formed, by replacing missing data points with a predicted value, based on a regression model plus a random error term (Little & Rubin, 1989; van Ginkel et al., 2020). This method has several advantages over listwise or pair wise deletion, but has not been used frequently in social sciences because of several misconceptions (van Ginkel et al., 2020). Some scholars have claimed that MI has disadvantages because it assumes that data are missing at random (Patrician, 2002) and it is very hard to determine if data are missing at random (Allison, 2000). Other researchers contradict this assumption of missing at randomness, as long as predictors that might explain missing at randomness are included when data is imputed (van Ginkel et al., 2020). What also should be taken into account when using MI, is to not accept imputations that are very different from the observed data (van Buuren, 2018). We decided to use MI in this study because listwise and pairwise deletion could also lead to bias if data are not missing at random (van Ginkel et al., 2020) and reduce the sample size and statistical power.

Using default settings in IBM SPSS statistics 25, MI was used to estimate and fill in missing data. All measured variables with missing data were imputed and used as predictors. The variables that did not have missing data (gender and mediation practice) were added as predictors for the imputation of other variables. The minimum and maximum constraint were set according to the 5-point Likert-scale and were rounded to the nearest integer. Considering the amount of missing data, 30 imputations were done and pooled outcomes were used in hypotheses testing (White et al., 2011). Because SPSS bases imputation on the whole dataset and the data consist of two different groups (court group and mediation group), two separate imputations were conducted: one on a dataset containing the measures of the mediation group only and one on a dataset containing the measures of the court group only. Once the imputation was done, the datasets were added together.¹⁹ Table 4.3 shows the pooled means and standard deviations (SD) of the original data and the MI data.²⁰ The means and SDs of the original data were almost the same as those of the imputed data (largest difference in means is 0.1). Since the imputed dataset shows the same pattern as the original data and provides a

¹⁸ T-tests and chi-square tests were done to examine selective drop out. Drop out was examined for seventeen variables, of which three were significant. In analyses it will therefore be controlled for background variables. Details on these tests are available on request.

¹⁹ Imputations were also done for the complete dataset. However, the means of these imputed data were deviant from the original data. It was therefore decided to impute the data in two different datasets.

²⁰ The pooled SDs were manually obtained from the standard error of the mean, multiplied by the square root of the sample size.

complete data set with 86 participants, these data were used to test the proposed hypotheses.

RESULTS

DESCRIPTIVE STATISTICS

The mean values of the whole sample (Table 4.3) showed that offenders were not concerned about condemnation or did not feel rejected at the pretest ($M = 1.8\text{--}2.3$) or posttest ($M = 1.7\text{--}2.1$). They were quite neutral on their feelings of shame ($M = 2.1\text{--}2.9$) and on their willingness to restore the relationship with the victim ($M = 2.9\text{--}3.5$). The offenders scored low to neutral on awkwardness to meet the victim ($M = 2.2\text{--}3.3$) but scored high on blaming the victim in both the pretest ($M = 3.8$ and $M = 4.0$ respectively) and the posttest ($M = 3.8$ and $M = 3.7$ respectively). The offenders did not experience a high threat to their social moral identity ($M < 2.0$) and already had a high motivation to desist from crime on the pretest (court group $M = 3.9$ and mediation group $M = 4.0$). This indicates that our participants were not afraid of being rejected or perceived as an outcast by others.

The pretest scores of the two groups were similar for all variables, except for awkwardness to meet the victim where participants in the mediation group scored an average 0.7 points higher than participants in the court group did. However, more differences between the groups emerged on the posttest (Table 4.3). We observed differences in scores on taking responsibility, feeling guilt, feeling shame, appraising moral failure, and empathizing with the victim. The mediation group scored consistently higher on these variables in the posttest than the court group did. Interestingly, responsibility taking and victim empathy increased from the pretest to the posttest in the mediation group, but not in the court group. There were also differences between the two groups in scores on awkwardness when meeting the victim in the posttest. However, in contrast to the pretest scores where the mediation group scored higher, the mediation group scored lower than the court group in the posttest.

We observed that guilt, moral failure, rejection, shame, concern about condemnation, and responsibility taking correlated positively with each other but that there was no correlation between concern about condemnation and responsibility taking (Table 4.4). Interestingly, lower scores on the abovementioned variables (except for rejection) were related to more victim blame. Furthermore, wanting to restore the relationship with the victim correlated positively with empathy but negatively with victim blame. This indicates that wanting to restore the relationship with the victim is related to stronger victim empathy and lower victim blame.

Table 4.3

Original and imputed means and standard deviations, and number of participants per variable per group

	M (SD) Original data (N = 16–42)				M (SD) Imputed data (N = 86)			
	Court		Mediation		Court		Mediation	
	Pretest	Posttest	Pretest	Posttest	Pretest	Posttest	Pretest	Posttest
Responsibility taking	2.4 (1.1)	2.3 (1.2)	2.6 (1.2)	2.9 (1.0)	2.4 (1.1)	2.3 (1.0)	2.6 (.92)	2.9 (1.1)
Guilt	2.6 (1.2)	2.4 (.94)	3.1 (1.0)	3.0 (.91)	2.7 (1.2)	2.4 (.76)	3.1 (.95)	3.0 (.80)
Shame (one item)	2.5 (1.4)	2.1 (1.1)	2.9 (1.4)	2.7 (1.4)	2.5 (1.4)	2.0 (1.2)	2.8 (1.5)	2.7 (1.4)
Moral failure	2.5 (1.3)	2.1 (1.1)	2.8 (1.2)	2.8 (1.1)	2.5 (1.3)	2.2 (.99)	2.9 (1.2)	2.8 (1.0)
Concern about condemnation	1.8 (1.1)	1.7 (.83)	2.1 (1.1)	1.6 (.79)	1.8 (1.1)	1.7 (.66)	2.2 (1.1)	1.7 (.70)
Feeling of rejection	2.0 (.88)	2.0 (.85)	2.3 (.96)	2.0 (.95)	2.0 (.71)	2.1 (.69)	2.3 (.89)	2.1 (.84)
Empathy	2.7 (1.2)	2.6 (1.2)	2.9 (1.2)	3.3 (1.1)	2.7 (1.2)	2.6 (.99)	3.0 (1.1)	3.2 (.97)
Victim blame (one item)	3.9 (1.3)	3.9 (1.2)	4.1 (1.2)	3.8 (1.5)	3.8 (1.3)	3.8 (1.2)	4.0 (1.3)	3.7 (1.5)
Threat to moral identity	2.0 (1.1)	1.6 (.90)	1.9 (1.0)	1.7 (.91)	2.0 (1.0)	1.7 (.80)	1.9 (.98)	1.8 (.86)
Awkwardness (one item)	2.6 (1.4)	2.9 (1.4)	3.3 (1.3)	2.2 (1.1)	2.6 (1.4)	2.9 (1.5)	3.3 (1.3)	2.2 (1.2)
Restore victim relationship (one item)	3.2 (1.3)	3.2 (1.2)	3.5 (1.0)	2.9 (1.1)	3.2 (1.4)	3.2 (1.4)	3.5 (1.1)	2.9 (1.3)
Motivation to desist	3.9 (.73)	3.9 (1.2)	4.1 (1.0)	4.2 (.71)	3.9 (.72)	4.0 (.85)	4.0 (.92)	4.1 (.69)

Table 4.4

Pearson correlations between the dependent variables on the posttest

	1	2	3	4	5	6	7	8	9	10	11	12
1. Responsibility taking	-											
2. Guilt	.601**	-										
3. Moral failure	.593**	.667**	-									
4. Concern about condemnation	.197	.418**	.276*	-								
5. Rejection	.243*	.333**	.279*	.519**	-							
6. Shame	.461*	.631**	.519**	.240*	.309**	-						
7. Empathy	.608**	.708**	.561**	.336**	.332**	.547**	-					

8. Victim blame	-.303**	-.312**	-.304**	-.245*	-.080	-.309*	-.422**	-				
9. Threat to social moral identity	-.015	.250*	.155	.636**	.418**	.181	.153	-.074	-			
10. Awkwardness	-.168	-.012	-.127	.169	.130	.082	-.127	.186	.249*	-		
11. Restore victim relation	.195	.165	.130	.043	.047	.162	.258*	-.241*	-.009	-.032	-	
12. Desisting	.305**	.450**	.382**	.186	.275*	.358**	.435**	-.184	.079	-.041	.197	-

Note: *Pearson correlation $p < .05$

Note: **Pearson correlation $p < .01$

HYPOTHESIS TESTING

Multiple regression analyses were used to test whether mediation (versus no mediation) is associated with differences in the dependent variables. Using a plot of the standardized residuals and the standardized predicted values, we checked for linearity and homoscedasticity. A histogram of the residuals was used to check the assumption of normality. These assumptions were met.

In these regression analyses, the mediation group was coded as 1 and the court group was coded as 0. We controlled for the pretest scores of the dependent (posttest) variables, which controlled for any differences in pretest scores between the mediation and court group. We used an Anova test to determine whether pretest scores were different between the two groups. One significant difference was found and these results are available on request. To eliminate self-selection bias, we controlled for pretest scores in the analyses. We also controlled for all demographic and case-related background variables that were assessed in this study: age, gender, type of case (dummy coded), highest finished education (dummy coded), country of birth (of the offender and their parents), religion, living situation (dummy coded), personal status, having children or not, daily life activity (dummy coded), and if someone was a first offender or not.

In line with our expectations, the regression analyses showed a significant effect of participation in VOM on responsibility taking ($B = .59$, $t = 2.45$, $p = .014$), guilt ($B = .44$, $t = 2.15$, $p = .031$), appraisal for moral failure ($B = .59$, $t = 2.12$, $p = .035$), shame ($B = .74$, $t = 2.16$, $p = .031$), and victim empathy ($B = .54$, $t = 2.25$, $p = .025$). Offenders who had participated in mediation scored significantly higher on variables in the posttest than offenders who did not participate in VOM did. Also, a significant effect was found for awkwardness ($B = -.86$, $t = -.26$, $p = .011$); offenders who participated in VOM thought that it would be less awkward to meet the victim in daily life afterwards than offenders who did not

participate did. Except for pretest scores, other background variables did not significantly affect the dependent variables (Table 4.5). As shown in Table 4.6, no other significant effects were found. These regression analyses partly confirmed our hypotheses. Eliminating the four offenders who were not willing to participate in mediation from the model did not yield different outcomes.

Table 4.5

Pooled regression coefficients for the significant effects, with type of group as predictor, controlled for demographic and case-related variables (N = 86)

	Responsibility taking				Guilt				Appraisal for moral failure			
	B	SE	T	P	B	SE	T	P	B	SE	T	P
Age	.004	.01	.43	.668	.000	.01	.04	.972	<.005	.01	.001	.999
Case type (property = 0)	.09	.54	.17	.867	.21	.46	.46	.645	.04	.62	.06	.951
Case type (personal = 0)	.20	.57	.35	.725	.17	.49	.34	.735	.08	.66	.12	.906
Mediation practice (no mediation = 0)	.07	.35	.20	.840	.12	.30	.40	.690	-.05	.39	-.14	.893
Gender (male = 0)	.07	.25	.27	.791	.07	.21	.34	.732	.13	.27	.49	.625
Education (preschool = 0)	.28	.79	.35	.727	.17	.65	.26	.165	.15	.74	.20	.845
Education (high school = 0)	-.02	.24	-.06	.949	.03	.21	.13	.894	.01	.27	.05	.964
Country of birth (Netherlands = 0)	-.16	.63	-.26	.796	-.18	.50	-.37	.713	-.13	.66	-.19	.849
Country of birth father (Netherlands = 0)	.05	.52	.09	.925	.01	.40	-.02	.988	-.02	.53	-.03	.976
Country of birth mother (Netherlands = 0)	.08	.57	.15	.883	-.001	.51	-.002	.999	-.07	.59	-.12	.906
Religious (no = 0)	.02	.28	.09	.932	-.03	.22	-.14	.889	.130	.30	.43	.665
Living situation (with parents = 0)	-.18	.50	-.36	.723	-.003	.41	-.007	.995	-.28	.54	-.52	.605
Living situation (alone = 0)	.25	.39	.64	.523	.28	.34	.84	.404	-.01	.45	-.02	.984
Relationship (no = 0)	.11	.38	.30	.765	.05	.30	.15	.881	.25	.42	.60	.55
Parent (no = 0)	-.12	.30	-.40	.686	-.02	.25	-.08	.935	-.001	.31	-.004	.996
Daily life activity (student = 0)	-.25	.58	-.43	.667	.06	.46	.13	.899	.04	.58	.07	.941
Daily life activity (employed = 0)	-.02	.27	-.06	.956	.17	.22	.78	.44	.09	.29	.30	.762
First offender (yes = 0)	.22	.30	.73	.468	.16	.26	.62	.534	.11	.33	.33	.745
Score on pretest	.32	.12	2.68	.008	.26	.10	2.52	.012	.21	.13	1.660	.098
Type of group (court group = 0)	.59	.24	2.45	.014	.44	.21	2.15	.031	.59	.28	2.12	.035

	Shame				Empathy				Awkwardness			
	<i>B</i>	<i>SE</i>	<i>T</i>	<i>P</i>	<i>B</i>	<i>SE</i>	<i>T</i>	<i>P</i>	<i>B</i>	<i>SE</i>	<i>T</i>	<i>P</i>
Age	.01	.02	.61	.540	-.001	.01	-.10	.921	<.005	.01	-.02	.987
Case type (property = 0)	.47	.78	.61	.546	-.03	.56	-.05	.957	.06	.69	.09	.930
Case type (personal = 0)	.39	.87	.45	.650	.14	.60	.24	.815	.03	.77	.04	.967
Mediation practice (no mediation = 0)	-.11	.53	-.22	.829	.27	.37	.73	.464	.26	.48	.54	.590
Gender (male = 0)	.17	.36	.47	.641	.31	.25	1.23	.220	.08	.32	.24	.812
Education (preschool = 0)	.06	.382	.15	.881	.02	.86	.03	.980	.12	.87	.13	.895
Education (high school = 0)	.08	.96	.08	.934	-.02	.25	-.08	.937	-.02	.31	-.07	.948
Country of birth (Nether- lands = 0)	-.29	.81	-.36	.722	-.19	.63	-.31	.758	.13	.66	.19	.848
Country of birth father (Netherlands = 0)	.02	.62	.04	.972	.03	.52	.06	.951	.03	.59	.05	.962
Country of birth mother (Netherlands = 0)	.21	.73	.29	.771	-.12	.61	-.19	.849	.27	.63	.43	.665
Religious (no = 0)	-.29	.37	-.69	.488	-.13	.28	-.46	.647	-.03	.34	-.09	.929
Living situation (with parents = 0)	.02	.75	.03	.978	-.25	.54	-.56	.650	.17	.65	.26	.797
Living situation (alone = 0)	.18	.58	.31	.760	-.01	.373	-.02	.984	.44	.52	.86	.392
Relationship (no = 0)	.19	.49	.38	.703	.13	.35	.38	.705	.10	.44	.22	.824
Parent (no = 0)	.01	.40	.02	.987	.04	.29	.12	.901	-.43	.37	-1.18	.238
Daily life activity (student = 0)	-.08	.79	-.10	.917	-.03	.51	-.06	.950	.05	.71	.07	.941
Daily life activity (em- ployed = 0)	.04	.39	.09	.926	-.07	.26	-.25	.800	-.67	.36	-.74	.461
First offender (yes = 0)	-.04	.41	-.09	.932	.21	.29	.72	.475	-.08	.39	-.20	.844
Score on pretest	.26	.14	1.94	.054	.38	.11	3.52	<.001	.31	.13	.24	.020
Type of group (court group = 0)	.74	.34	2.16	.031	.54	.24	2.25	.025	-.86	.34	-.26	.011

Note: significant outcomes are given in bold

Table 4.6

Pooled regression coefficients for type of group as predictor, controlled for demographic and case-related variables for the non-significant outcomes (N = 86)

	<i>B</i>	<i>SE</i>	<i>T</i>	<i>P</i>
Concern about condemnation	-.23	.18	-1.30	.196
Rejection	-.17	.22	-.79	.429
Threat to social identity	.06	.21	.27	.786
Need to restore victim relation	-.41	.38	-1.10	.275
Motivation to desist	.04	.20	.18	.858
Victim blame	-.24	.34	-.69	.493

DISCUSSION

The main goal of this research was to examine whether VOM changes psychological outcome variables in offenders. Our findings offer some support for the proposed hypotheses. Analyses showed that offenders who participated in VOM took more responsibility six to eight weeks after VOM than offenders who did not participate in VOM did. This is in accordance with previous qualitative research, which showed that hearing the impact of the offense from the victim during VOM affects the amount of regret and responsibility the offender feels (Choi et al., 2011; Miller & Hefner, 2015). Pabsdorff et al. (2011) also indicated that VOM focuses on how offenders can take responsibility for their actions, which may explain our findings.

Offenders who participated in VOM had higher feelings of guilt than offenders who did not participate in VOM did. However, this effect does not seem to be due to the VOM process increasing feelings of guilt, but was rather due to consolidation of guilt during and after the VOM process. That is, feelings of guilt decreased compared with the premeasure in the court group but not in the mediation group. The same was true for shame; offenders who participated in VOM felt more ashamed afterwards than offenders who did not participate did, probably because feelings of shame were consolidated during VOM. Marsh and Maruna (2016) also argued that offenders might experience more guilt and shame after VOM, because they are more aware of the impact of their crimes. According to Gausel et al. (2016), feelings of shame are related to the appraisal of a moral failure, which is in agreement with our findings. Offenders who participated in VOM showed a higher appraisal of moral failure than offenders who did not participate in VOM did. By understanding the effects of their behavior, offenders might realize that this behavior was not in accordance with the moral rules of society. As a consequence, offenders might experience a higher moral failure and become more self-critical of their behavior. Participating in VOM did not affect concern about

condemnation or rejection, possibly because the participants scored relatively low on these variables in the pretest. Nevertheless, these scores did not increase, which suggests that VOM does not have a stigmatizing effect.

Offenders also showed more victim empathy after VOM, in agreement with previous findings. Lauwaert and Aertsen (2016) argued that VOM helps offenders to understand their victim's point of view and empathize with their victim (Meléndez, 2020b; Miller & Hefner, 2015).

In our study, participating in VOM had no effect on the perceived threat to social moral identity or on wanting to restore the relationship with the victim. This could be because our participants did not feel that their social moral identity was threatened and did not want to restore their relationship with the victim before VOM started. VOM might have had more of an effect if the offender had already felt this threat and had this willingness.

It is important to note that we did not measure the variables immediately after VOM, but rather six to eight weeks later. This indicates that VOM has an impact for at least 6–8 weeks. However, it is unclear how sustainable these effects are in the long run. Reoffending is typically investigated after more than one year (Hansen & Umbreit, 2018; Jonas-van Dijk et al., 2020), so it remains unclear whether the psychological changes we observed are relevant to reoffending behavior. It would be interesting to adopt a longitudinal research design in a future study and administer an additional questionnaire to offenders months or a few years after the mediation encounter and to determine whether any reoffences have occurred. This would uncover whether the psychological changes observed after the mediation encounter are related to reoffending behavior. However, the dropout rates that we and others have observed (Cleven et al., 2015) indicate that achieving an adequate sample size would be challenging in a longitudinal research set up.

Another strength of our study is that most outcome variables did not differ significantly between the two groups when VOM started and that any differences were controlled for in the analyses. Since both groups almost entirely consisted of offenders who were willing to participate, the effects we observed are most probably due to the VOM process and not due to self-selection bias. Motivations to participate in VOM were also comparable for offenders who participated in VOM and those who did not. However, the outcomes we observed may have been due to the punishment imposed on the offender. After mediation, the public prosecutor or judge decides which, if any, punishment to impose. The agreement made between the victim and offenders during mediation may have resolved what happened. This means that, in some cases, offenders in the mediation group might not have received a punishment whereas offenders in the court group did.

The effect of punishment on the outcome variables and reoffending should be examined in future studies (Chapter 7). The reasons the victims rejected participation in VOM may also explain our results. We did not ask the victims to explain why they declined VOM, but this information could have said something about the offender. For example, the victim might have thought that the intentions or motivations of the offender to participate were insincere. This should also be investigated in future research.

We did not observe the expected effects of VOM on all outcome variables. One explanation could be that, in both groups, offenders highly blamed the victim for what happened and the VOM process did not lower this victim blame. This blame might have influenced the effectiveness of the VOM program. Another explanation could be the small sample size, which negatively affected the power of the study. We wanted to include more participants but this was not possible because of time limits and restrictions related to the Covid-19 pandemic. Because of the Covid-19 pandemic, organization of new mediation encounters was restricted between March 2020 and September 2020. There was also a high dropout rate, especially on the posttest. It was challenging to motivate offenders to participate in both the pretest and posttest. This problem with dropout has also been reported in similar studies (Meléndez, 2015). We used MI to account for dropout, which means that conclusions were based on data that were partly estimated by a statistical program. However, the original dataset showed highly similar patterns to the imputed dataset, suggesting that our conclusions are reliable.

Another explanation for not observing stronger effects of VOM on the outcome variables, could be that the single one-hour face-to-face conversation between the victim and offender was not enough to affect the offenders and their relation with the victim. Umbreit (1994) also claimed that a VOM program should not be expected to elicit major effects. Milder effects are more common in these types of programs, which means there are limits on what VOM can achieve (Daly, 2017). VOM can maximize a desisting process that has already begun (Lauwaert & Aertsen, 2016). We also observed that offenders in this study were already highly motivated to desist from crime. As Woolpert noted (as cited in Wyrick & Costanzo, 1999) “One should not expect exposure to a victim offender reconciliation program (VORP) by itself to have a major impact on offenders, whose lives are typically beset by countless personal problems and repeated instances of failure and antisocial behavior. For some, participating in a VORP may be the first socially approved act they have successfully performed. Any program that shows evidence of even slight improvement in the outlook and conduct of offenders, however, is welcome” (p. 255).

Every VOM program is unique and we did not examine which elements of the program were responsible for the effects we observed, which makes it hard to generalize the

outcomes. However, our VOM program is similar to the four-step VOM process described by Hansen and Umbreit (2018), so we believe that our findings can be generalized to other VOM programs that focus on the conversation between the victim and the offender. Future research should combine observational data with data from a pre- and postmeasure questionnaire to examine which elements of a VOM program are responsible for psychological change in offenders. One element could be the mediation style, which may differ between mediators. The mediator has an important role during the VOM process because they can help the offender with the desistance process, for example (Lauwaert & Aertsen, 2016). Therefore, it might be worth examining how the mediation style affects the attitude and behavior of the offender.

Although this study had some limitations, it revealed important patterns of VOM participation on offenders. To our knowledge, this is one of the first studies to examine the psychological effects of VOM on offenders using a pretest and posttest and with a control group of offenders who were willing to participate in VOM but did not – these data have been missing in other studies into restorative justice practices (Elbers et al., 2020). However, the effects we observed are modest and should be interpreted with caution because of the small sample size and the use of MI. The small sample size might heighten the change on small variations in offender characteristics, which might have influenced the outcomes. However, we controlled for background variables and considered how they may have influenced the results. Nevertheless, the findings suggest that VOM can foster conducive feelings and cognitions among offenders in terms of responsibility taking, feelings of shame, perceived moral failure, feelings of guilt, and victim empathy. We also observed that VOM seems to make offenders more aware of the impact of their crime, which might explain these psychological changes. One VOM meeting might not move mountains, but can elicit psychological changes in offenders that may reduce the risk of reoffending (Jonas-van Dijk et al., 2020; Latimer et al., 2005). Future studies should examine whether these psychological changes indeed reduce the risk of reoffending.

05

THE FUNDAMENTAL CONDITIONS AND WORKING MECHANISMS OF VOM FOR OFFENDERS

This chapter is based on:

Jonas-van Dijk, J., Zebel, S., Claessen, J., & Nelen, H. (Revise and resubmit). The working mechanisms of the victim offender mediation process: How might participation explain psychological outcomes in offenders?

INTRODUCTION

Victim offender mediation (VOM) is an example of a restorative justice program, that offers offenders and victims of a crime the opportunity to contact each other and talk about the offense (Claessen & Roelofs, 2020; Zehr, 2015). The focus of restorative justice (RJ) is on restoring the damage that has been done, including the damaged relationship between victim, offender, and community by actively involving those three parties. In that way, offenders are able to take active responsibility, explain what happened, and apologize (Hansen & Umbreit, 2018). VOM can offer victims the opportunity to ask questions, tell their story, and help them to process the crime (Bazemore & Umbreit, 2001). In presence of a mediator, victim and offender together can come to an agreement in which it can be stated what the offender can do to (further) restore the damage that has been done.

Participation in VOM can have beneficial effects for both the victim and the offender. It has been shown that both parties can feel more satisfied after a VOM process and experience it as fairer compared to the conventional criminal justice system in which VOM is not offered (Baldry, 1998; Hansen & Umbreit, 2018). In addition, participation in VOM is associated with reduced feelings of fear and anger of victims (Hansen & Umbreit, 2018; Zebel, 2012). VOM can also help to learn the offender what the actual impact of the crime is (Choi et al., 2011), heighten victim empathy (Baldry, 1998; Jonas-van Dijk et al., 2022b), and support the desistance process (Lauwaert & Aertsen, 2016).

It is common (although not a given) that restorative justice programs, such as VOM, are part of the criminal justice process (Claessen et al., 2015a). It can thus be argued that restorative justice programs should elicit crime reduction effects that are better or at least not worse than similar cases that go through the conventional criminal justice system without restorative justice (Claessen et al., 2015a). In line with this argument, multiple studies show that participation in VOM during the criminal justice process is related to a reduced risk of reoffending (Bergseth & Bouffard, 2013; Claessen et al., 2015a; Jonas-van Dijk et al., 2020; Stewart et al., 2018). On the other hand, other studies have observed no differences between the effects of VOM and the effects of the conventional criminal justice process without VOM on reoffending (Boriboonthana & Sangbuangamlum, 2013; Villanueva et al., 2014).

Jonas-van Dijk et al. (2022b) recently postulated and showed empirically psychological outcomes that participation in VOM can have for offenders, which they argue may explain in part a reduced risk of reoffending. That is, in their study they examined if offenders who participated in VOM showed a different psychological outcome over time compared to offenders who did not participate in VOM. They cautiously concluded that

offenders who did participate in VOM showed higher feelings of guilt, took more responsibility, were more aware of their moral failure, showed more victim empathy, and thought it would be less awkward to meet the victim in the future than those who did not participate.²¹ In their study, Jonas-van Dijk et al. (2022b) substantiated which of these psychological outcomes are likely to reduce the risk of reoffending: victim empathy, responsibility taking, and feelings of guilt. These psychological outcomes all have been linked empirically to a reduced risk of (re)offending (Gausel et al., 2016; Hosser et al., 2008; Tangney et al., 2014).

However, the question that remains unanswered to date is which mechanisms of the VOM process might bring about these psychological outcomes among offenders, that consequently may put them at a lower risk of reoffending (Suzuki & Yuan, 2021). It is this question this current paper tries to answer. Insight into these mechanisms of the VOM process that may elicit conducive psychological outcomes within the offender can help to enrich and optimize the practice of VOM to facilitate such changes.

Based on the existing literature to date (Jonas-van Dijk et al., 2022a) two main categories of mechanisms of the VOM process can be identified as candidates for fostering psychological outcomes among offenders. The first category contains mechanisms that can be considered as fundamental conditions of a VOM-process. These are requirements that should be present or taken into account in every VOM process, such as voluntary participation and a neutral mediator. The second category contains working mechanisms that are related to the VOM-encounter itself: what happens during VOM that directly impacts the psychological outcomes. Jonas-van Dijk et al. (2022a) suggest that the fundamental conditions might influence the impact of the working mechanisms. It could be that when the fundamental conditions are not met or are adhered to less strongly, some of the working mechanisms might not be present during a VOM meeting. The other option is that when fundamental conditions are not completely fulfilled, the working mechanisms do occur in a VOM meeting, but their impact on the psychological outcomes in offenders is attenuated. Below these mechanisms will be elaborated upon per category.

FUNDAMENTAL CONDITIONS OF VOM

VOLUNTARINESS OF PARTICIPATION

In the literature three fundamental requirements of VOM were found, that seem to be important working mechanisms for bringing about psychological outcomes in offenders (Jonas-van Dijk et al., 2022a). The first one is voluntary participation in VOM, which is also one of the three core principles of VOM (next to a neutral mediator and confidentiality; see Umbreit et al., 2004). When offenders are well informed about VOM and are aware

²¹ This current research is a follow-up study of the study Jonas-van Dijk et al. (2022b) conducted.

that participation is voluntary, this could influence the effectiveness of the conversation. It seems logical to expect that offenders who completely voluntarily participate in VOM are more actively involved than offenders who feel (partly) forced to participate. Thus, we believe that this voluntariness could also have an (indirect) impact on the psychological outcomes among offenders, since it might influence the perceived quality of the conversation.

PREPARATION OF PARTIES

Related to the voluntary participation, is proper preparation of the parties. When the mediator successfully manages the expectations and explains what the parties can expect to happen during a VOM meeting, this might have a positive impact on the course and perceived quality of the dialogue between the victim and the offender. That is, research indicated that offenders who were well prepared, also showed to be more involved in the VOM encounter (Gerkin, 2009). Gerkin (2009) also postulates that when participants are not aware of the aim of restorative justice, they become subjects of the process instead of participants. Hence, this suggests that proper preparation has an impact on the quality of the conversation and thus might impact the psychological outcomes in offenders.

PROFESSIONAL COMPETENCIES OF THE MEDIATOR

The last condition that we believe is a fundamental part of VOM, is the role of the mediator. Although every mediator might have a different style which could result in a variety of encounters, some tasks of the mediator are fundamental and should be present in every VOM-process (Jonas-van Dijk et al., 2022a). For example, the mediators play an important role in preparing the offender and the victim during an intake meeting (Jonas-van Dijk et al., 2022a). Mediators also play an important role in the encounter itself: they open the conversation, set the tone, listen carefully, guide the conversation by asking open questions, summarize, and make sure that parties are able to have a good conversation (Pabsdorff et al., 2011; Szmania, 2006). In all of this, the mediator should be neutral and make sure parties feel safe (Umbreit et al., 2004).

WORKING MECHANISMS OF THE VOM-ENCOUNTER **A LEARNING OPPORTUNITY**

Previous theorizing and empirical research suggest mechanisms of the VOM-encounter itself that may help to explain psychological outcomes within the offender. One such mechanism is that VOM can offer a learning opportunity for offenders, by talking to the victim (Choi, 2008). Talking to the victim and hearing the full consequences of the crime may contribute to the psychological outcomes for the offender. This learning opportunity can consequently influence feelings of remorse, accountability, shame, and guilt among

offenders (Abrams et al., 2006; Miller & Hefner, 2015). In addition, talking to the victim during the encounter can help the offender to realize that there is an actual victim, which might explain victim empathy (Meléndez, 2020). As Choi et al. (2011) explain it, VOM can help put a human face on the crime. Therefore, in this research we try to find indications that by talking to the victim during an encounter, offenders become more aware of the impact of the crime on the victim and if this might be related to psychological outcomes that might be found in the offender afterwards.

HUMANIZING IMPACT

A theory related to VOM is the reintegrative shaming theory of Braithwaite. It postulates that the manner in which society reacts to an offender after crime with the intention to invoke remorse, can influence the risk of subsequent deviant behavior (Braithwaite, 1989). When offenders perceive to be responded to in a respectful way, while their acts are disapproved, this is called reintegrative shaming. In contrast, when the disapproval is not only focused on the act, but also on the offender as a person of bad character, the offender can experience being labelled and stigmatized as a criminal, which is called disintegrative shaming (Braithwaite et al., 2018). According to labelling theory, the offender might then act upon this labelling and will stand at risk to commit more crimes in the future (Bernburg & Krohn, 2003). In this way, the response of society to the offender can thus impact future criminal behavior. Previous research already indicates that offenders perceive restorative justice programs as less stigma-tizing compared to the conventional criminal justice system (Shapland et al., 2008). In particular, research from Abrams et al. (2006) and Baldry et al. (1998) found that during a VOM meeting offenders experience to be perceived more as human, which indeed suggest that VOM can be reintegrative. An open-minded and non-judgmental attitude of the victim and the mediator might foster this humanizing effect (Lauwaert & Aertsen, 2015). It also helps when the victim is really motivated to listen to the offender (Lauwaert & Aertsen, 2015).

POSITIVE ATMOSPHERE AND INTERACTION WITH A COOPERATIVE VICTIM

In addition, the atmosphere during a VOM meeting is expected to have an influence on psychological outcomes within the offender. Based on the interactional ritual theory, an effective conversation as part of a restorative justice program is characterized by a shared focus of attention and emotional mood, during which a mutual feeling of group membership and solidarity arises (Hausmann et al., 2011; Rossner, 2011). A smooth conversation, synchronized bodily actions, and power balance are elements of an effective interaction ritual, which can increase offenders' willingness to conform to social morality (Hausmann et al., 2011). Eventually, this can reduce the risk of reoffending (Sherman et al., 2005). A good atmosphere during a VOM-meeting might have an influence on an

effective conversation between the involved parties. We expect that a positive atmosphere and an open and cooperative attitude of the victim towards the offender are related to the psychological outcomes.. One could argue that this mechanism can also be placed in the previous category of fundamental conditions of VOM, since preferable every VOM-encounter has a positive atmosphere (facilitated by the mediator). However, since the atmosphere is something that is not completely controllable and can fluctuate naturally during the encounter itself, we consider it to be an element of the VOM-encounter.

As part of the interaction with the victim, we will also focus on the offenders' apologies. An apology is considered to be a key element of a restorative justice process (Choi et al., 2012). When offenders apologize to victims during VOM encounters, the perceived sincerity of that apology is in 'the eyes' of the victims: they decide whether they perceive it as genuine and accept it (Bonensteffen et al., 2020; Choi & Severson, 2009). We are therefore especially interested in the response of the victim to the offender's apology and how this is in turn perceived by the offender. Whether or not victims respond positively towards a remorseful offender might impact the further course and impact of VOM. We expect that when offenders do not perceive victims to respond in a positive way to their apologies, this negatively influences to what extent offenders experience psychological outcomes such as remorse and empathizing with the victim.

THIS STUDY

The aim of this study is to identify and examine the fundamental conditions and working mechanisms of a VOM encounter identified in the literature that might explain the psychological outcomes observed in offenders that participated in VOM in the research of Jonas-van Dijk et al. (2022b): increases in victim empathy, responsibility taking, feelings of shame and guilt, heightened awareness of moral failure, and reduced awkwardness for meeting the victim in the future. This might answer the proposed research question: which mechanisms of VOM might bring about these psychological outcomes.

METHOD

VOM IN THE NETHERLANDS

This research examined a VOM program in the Netherlands: mediation in criminal cases (in Dutch 'Mediation in Strafzaken' (MiS)). This program is part of the criminal justice process, which means that the criminal prosecutor or judge can refer cases to VOM. When the victim and the offender participate and come to an agreement during VOM, this agreement is communicated back, with consent of the parties, to the referral

agency. The criminal prosecutor or judge then decides which, if any, punishment needs to be imposed. Therefore, the referral agency stays responsible for the case and has a final say in how the criminal case should be solved.

When a case is referred to VOM in the Netherlands during the criminal justice process, the referral agency hands over the case to the mediation bureau of the court. The mediation officer at this bureau then has contact with the victim and offender to confirm that both are willing to participate in the process. If this is the case, the mediation officer assigns two independent mediators to the case; co-mediation is applied in this process. Before the dialogue between the victim and the offender takes place, the mediators first have separate meetings with the offender and with the victim. When parties are willing to meet each other and the mediators think a (face-to-face) meeting will be helpful for both parties, the actual encounter takes place. The preparatory meetings and encounter are most often planned on the same day. When an agreement is reached, parties have two days to reflect and withdraw. After that time, the agreement is communicated to the referral party. The entire duration of this VOM process (from referral to finalization) is expected to take place within six weeks (Ministry of Justice and Safety, 2021).

RESEARCH DESIGN

Both qualitative and quantitative data were obtained. Offenders were asked to fill out a pretest at the start of the VOM process and a posttest 6-8 weeks after the VOM encounter took place. For the quantitative data a correlational research design was used and the answers on the posttest questionnaire were analyzed. We did not examine the differences between the pre- and posttest scores in this paper. Previous research showed that these differences were very small (Jonas-van Dijk et. al., 2022b). However, in that study differences did exist on the outcome variables between offenders who participated in mediation and those who did not. It is for this reason that we considered it key to examine how the working mechanisms and fundamental conditions correlate with the outcome variables on the posttest.

In addition to these questionnaires, the mediators that handled the cases of these offenders were asked to fill out an observation form, right after the mediation encounter. This observation form included both Likert-scale questions, as well as open ended questions - hence these latter questions comprise the qualitative element of this research. For the observed cases we did look to what extent offenders showed a change in the outcome variables on the posttest compared to the pretest. First, this offers a more detailed insight into the impact of VOM for individual offenders. In addition, we asked mediators to what extent they saw a change happening with the offenders in the outcome variables. We wanted to examine if this observed change was in line with the change found between the pre- and posttest.

PARTICIPANTS

For the quantitative data in this study, in total 55 offenders participated. Twenty-three (42%) offenders filled in both the pretest and the posttest. Twenty (36%) offenders filled out the pretest but then dropped out and did not fill in a posttest. For twelve (22%) offenders the researcher was informed too late that they would participate in VOM and therefore no pretest could be completed, but they did fill out a posttest.

Table 5.1 provides an overview of this sample.

Almost three quarters of the sample was male ($N = 41$, 74%). Age varied between 15 and 67 (mean age 39).²² Most participants were born in the Netherlands ($N = 40$, 73%), were in a relationship ($N = 32$, 58%), and were a parent ($N = 29$, 51%). The largest number of participants indicated high school as their highest finished education ($N = 24$, 44%). Most of the participants were not religious ($N = 29$, 53%). A small minority of the participants still lived with their parents ($N = 7$, 13%). Most offenders were living alone ($N = 17$, 31%) or with their partner and/or children ($N = 31$, 56%). In their daily life, participants were student ($N = 4$, 7%), unemployed ($N = 15$, 27%), or (self-)employed ($N = 35$, 64%). Considering the type of case, most were personal offences ($N = 38$, 69%). The cases came from ten different court jurisdictions in the Netherlands. The highest amount came from Amsterdam ($N = 10$, 18%), Overijssel ($N = 14$, 26%), and Noord-Holland ($N = 9$, 16%).

In nine of the cases in which offenders filled out the pre- and/or posttests, mediators were also willing to fill out an observation form (directly) after the VOM session, which formed the qualitative data. Since (almost) every case involved two mediators, some cases had two observations. This resulted in thirteen different observations, for those nine cases. Four of those nine observed cases concerned conflicts between neighbors or were related to a conflicting neighbor issue. That is, two cases concerned physical abuse of neighbors, in one case neighbors were threatening each other and destroyed each other's property and in one case the son of an elderly woman physically abused his mother's neighbor. In two of the nine observed cases a traffic controller (victim) tried to correct the offender, which in one case resulted in an offender dragging the victim for a few meters with his car and in the other case the offender pushed the victim which resulted in psychological consequences. One of the nine cases concerned a case of fraud; the offender asked victims at the door of their house to give him some money to visit his sick daughter. In that way he made [according to the mediator] thousands of victims. Twenty-two of these victims filed a police report and two of those victims were willing to talk to the offender in this case. The eighth case concerned a man who threatened two children with a machete, because the children scared his dog with fireworks. In the last case one man was a suspect of physically abusing another

²² The two minors participating in this study received permission from their parents before filling out the questionnaire

man during a night out. All mediations ended with a (signed) agreement and could therefore be considered as successful. In table 5.2 an overview can be found of the characteristics of the nine observed cases by mediators.

Table 5.1

Overview of the sample characteristics

		<i>N</i>	%
Gender	Male	41	74
	Female	14	26
Highest education completed	Elementary school	1	2
	High school	24	44
	College	14	26
	Missing	16	29
Country of birth	Netherlands	40	73
	Other	1	2
	Missing	14	26
Religious	Yes	12	22
	No	29	53
	Missing	14	26
Living situation	With parents	7	13
	Living alone	17	31
	Living with partner/children	31	56
Personal situation	No relationship	23	42
	In a relationship	32	58
Being parent	Yes	28	51
	No	27	49
Daily life activity	Student	4	7
	Unemployed	15	27
	(Self-)employed	35	64
	Missing	1	2
Type of case	Personal	38	69
	Property	11	20
	Traffic	2	4
	Missing	4	7
District	Limburg	4	7
	Amsterdam	10	18
	Gelderland	3	6
	Overijssel	14	26
	Noord-Holland	9	16

	Rotterdam	2	4
	Den Haag	3	6
	Oost-Brabant	2	4
	Midden-Nederland	2	4
	Zeeland-West-Brabant	6	11
First time offender	No	9	16
	Yes	31	56
	Missing	15	27

Table 5.2
Overview of the nine cases that mediators observed

Case name	Place of encounter	Duration of encounter	Persons present	Number of observations
Conflicting neighbors	Police station	Unknown	Offender (f) Victim (f)	2
Threatening neighbors	Court of law	90 minutes	Offender (f) Victim (m) Husband victim Daughter offender	1
Physical violence between neighbors	Mediator's office	60 minutes	Offender (m) Victim (m)	1
Fence fight between neighbors	Court of law	120-135 minutes	Offender (m) Victim(m) Mother victim Brother offender	2
Violence in traffic	Court of law	70 minutes	Offender (m) Victim (m)	1
Driving away from traffic accident	Unknown	60 minutes	Offender (m) Victim (m) Caregiver victim	2
Case of fraud	Court of law	75 minutes	Offender (m) Victim (f)	1
Man threatening two children	Court of law	45 minutes	Offender (m) Victim (m) Mother victim	1
Violence while going out	Court of law	60-75 minutes	Offender (m) Victim (m) Girlfriend victim	2

Note: m = male, f = female

MEASUREMENTS

OFFENDER MEASURES

For all questions posed to offenders 5-point Likert-scale were used, ranging from strongly disagree to strongly agree. The items used to measure voluntariness of the participation, preparation, professional competences of the mediator, the positive atmosphere and interaction with a cooperative victim were all derived from research from Shapland et al. (2006; 2007). For the positive atmosphere and interaction with a cooperative victim it was decided to use single-item scales (satisfaction, being treated with respect, being able to speak freely, feel safe, feel listened to, being taken seriously by the victim, having equal possibilities to speak, and have a say in the outcome). The reason is that we believed it would be most insightful for practitioners to know how each element is related to the psychological outcomes, instead of how the overall construct is related to psychological outcomes. To measure to what extent mediation offered a learning opportunity, we measured if offenders became more aware of the rules and norms that were broken. Since no scale existed yet to measure this construct, items were created. The same accounts for the items to measure victims' response to offenders' apology. In order to measure the humanizing impact of mediation, items were derived from Harris (2006). The items measured reintegrative shaming and stigmatizing. A detailed description of the scales can be found in table 5.3.

MEDIATOR MEASURES

The observation form filled out by mediators measured the working mechanisms from their perspective. They were asked to indicate to what extent they thought violated rules and norms were discussed during, but also to what extent they thought offenders became more aware of how their behaviour violated these rules and norms. 5-point Likert-scale were used to measure this. In addition, they were able to give other remarks about the discussion of rules and norms in an open-ended question.

To measure the amount of stigmatizing experienced by the mediators, they were asked to indicate to what extent they thought victims stigmatized the offender during VOM. In addition, they were asked about reintegrative shaming: whether the victim was looking at the offender more positively during VOM, whether victims indicated towards the offender that they thought it was a positive thing that the offender participated in VOM, and if not the offender, but only the act was disapproved. We also asked whether the mediators thought offenders had the feeling that the victim looked at them more positively.

Mediators also described how the VOM encounter started and how it ended, what the atmosphere was like, what the attitudes of the parties were like, and whether

it was an emotional dialogue. They had the possibility to give any other remarks about the atmosphere of the VOM-process. Mediators filled out a Likert-scale to measure how actively involved both parties were, if they treated each other and the mediator(s) with respect, if the parties showed provocative behaviour, and if the mediation ended positively. This resulted in a description of the general atmosphere from the mediators' perspective.

Mediators also indicated if they thought the apology offered was sincere, if the victim perceived it as sincere, and if the victim accepted the apology, measured on Likert-scales. Lastly, mediators were asked to give a brief summary of the content of the apology and to give any other notable remarks about the apology.

PSYCHOLOGICAL OUTCOME VARIABLES (OUTCOMES AFTER THE VOM PROCESS)

In this research we examined six variables that previous research suggest are impacted by participation in VOM (Jonas-van Dijk et al., 2022b): victim empathy, responsibility taking, feelings of guilt and shame, and experience of moral failure, and awkwardness for meeting the victim in the future. Jonas-van Dijk and colleagues (2022) showed that offenders who participated in VOM experience more victim empathy, feelings of responsibility, guilt, and shame, and experience a higher moral failure in comparison to offenders who did not participate in VOM and had their cases dealt with solely through the criminal justice system. For a complete description of these variables, we refer to the original research of Jonas-van Dijk et al. (2022).

Mediators were also asked to indicate to what extent offenders showed those variables at the beginning of the mediator encounter, on a 5-point Likert-scale ranging from not at all to very much. In addition, we asked the mediators to what extent these feelings that the offender showed decreased or increased during the encounter, on a 5-point Likert-scale ranging from showing much less, to showing much more. Finally, to gauge the relationship between the victim and the offender, we have asked mediators to indicate to what extent the relationship between the parties has been restored during mediation.

Table 5.3

Description of the constructs, number of items, factor loadings, reliability analysis outcomes and an item example

	Construct	N items	Factor loadings	Reliability	Item example
Fundamental conditions	Preparation	5	>.71	$\alpha = .83$	'I felt as if I was well prepared for mediation'
	Voluntariness	3	>.62	$\alpha = .53$	'My participation in VOM was voluntary'
	Professional competences mediator	2	-	$r = .85^*$	'The mediator was neutral' 'I was taken seriously by the mediator'
Working mechanisms	Satisfaction	1	-	-	-
	Being treated with respect	1	-	-	-
	Being able to speak freely	1	-	-	-
	Feel safe	1	-	-	-
	Feel listened to	1	-	-	-
	Having equal possibilities to speak	1	-	-	-
	Have a say in the outcome	1	-	-	-
	Being taken seriously by victim	1	-	-	-
	Apology acceptance	3	>.90	$\alpha = .92$	'The victim accepted my apology'
	Stigmatizing	4	>.70	$\alpha = .89$	'During the mediation session you felt that you were treated as criminal'

Reintegrative shaming	5	>.70	A = .82	'During the mediation session you have learned that people care about you'
Learning	3	>.86	A = .89	'Due to mediation, I became more aware of how wrong my behaviour was'

Note * = correlation is significant at the .01 level (2-tailed).

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PROCEDURE

A complete description of the procedure to administer the pretest and posttest can be found in research from Jonas-van Dijk (2022b). To send out the mediation forms to the mediators, the researcher was informed which mediators were handling a case in which the offender was participating in the research. By email, the researcher then asked these mediators to fill in the observation form, right after the encounter. In this email a

Qualtrics link was added: an online platform where the questionnaire was administered. In addition, the principal researcher of this study asked the mediators permission to be present herself during the encounter. Unfortunately, this was only possible in one of the observed cases. Mediators were offered a gift card of twenty euros as incentive for participation in the study. This study received ethical approval from the Ethics Committee of the Faculty of Behavioural, Management and Social Sciences at the University of Twente (File number: 191033) and from the public prosecution office.

RESULTS

MULTIPLE IMPUTATION

Due to missing data, it was decided to use multiple imputation, to maintain a sample of 55 participants for the quantitative analyses (the correlations between psychological outcomes and mechanisms). With multiple imputation a complete version of a dataset can be formed, based on an incomplete dataset. Based on a regression model and a random error term, missing datapoints in the dataset are replaced by predicted values (Little & Rubin, 1989). The advantage of this method in comparison to alternatives, such as listwise or pairwise deletion, is that the sample remains intact. This is especially an advantage in the context of smaller samples, such as in this study. In addition, listwise or pairwise deletion could result in a bias when data is not completely missing at random (van Ginkel et al., 2020).

Imputation was done using default settings in IBM SPSS statistics 25. The minimum and maximum constraint was set according to the Likert-scale and rounded to the nearest integer. In total 40 imputations were performed, based on the amount of missing data (White et al., 2011). Almost 40 percent of all data of the offenders used in this study was missing, for which 40 imputations were necessary (White et al., 2011). The rounded means of the original data were compared to the imputed data; these showed to be highly similar (Table 5.4). Therefore, the imputed data was used in the analysis and pooled outcomes were interpreted. The pooled parameter estimates are calculated by taking the average of the parameters from all imputed outcomes. Standard errors are pooled by combining variance within the imputation and the between imputation variance (Eekhout, n.d.).

Table 5.4

Means and standard deviations of the original and imputed variables

	Mean (SD) original data (N = 33-35)	Mean (SD) imputed data (N = 55)
<i>Fundamental conditions</i>		
Preparation	4.1 (.64)	4.1 (.58)
Voluntariness	4.1 (.67)	4.1 (.65)
Impartial mediator	4.2 (1.0)	4.1 (1.1)

Taken seriously by mediator	4.2 (1.4)	4.1 (1.1)		
Working mechanisms				
Satisfaction	4.0 (.94)	3.9 (1.0)		
Being treated with respect	4.2 (.92)	4.2 (1.0)		
Being able to speak freely	4.3 (.84)	4.3 (.95)		
Feel safe	4.3 (.77)	4.3 (.80)		
Be listened to	4.0 (1.1)	3.9 (1.2)		
Taken seriously by victim	3.0 (1.4)	3.0 (1.4)		
Having even possibilities to speak	4.1 (1.1)	4.0 (1.2)		
Have a say in outcome	3.6 (1.2)	3.6 (1.2)		
Apology acceptance	3.9 (.98)	3.9 (.85)		
Stigmatizing	2.1 (1.2)	2.2 (1.0)		
Reintegrative shaming	3.3 (.90)	3.3 (.81)		
Awareness broken rules and norms	2.8 (1.6)	2.8 (1.0)		
Psychological changes variables	Pretest	Posttest	Pretest	Posttest
Empathy	3.0 (1.2)	3.3 (1.1)	3.0 (1.1)	3.3 (.97)
Guilt	3.1 (1.0)	3.0 (.91)	3.1 (.95)	3.0 (.79)
Shame	2.9 (1.4)	2.7 (1.4)	2.9 (1.5)	2.7 (1.5)
Responsibility	2.6 (1.2)	2.9 (1.0)	2.6 (1.1)	2.9 (.92)
Moral failure	2.8 (1.2)	2.8 (1.1)	2.8 (1.2)	2.8 (1.0)
Awkwardness meeting the victim	3.3 (1.3)	2.2 (1.1)	3.3 (1.3)	2.2 (1.2)

EXAMINATION OF THE MEAN-SCORES

Before we turn to the correlation analysis, we want to give a closer look at the means of this offender population, to examine how this population in general scored on the fundamental conditions, working mechanisms, and psychological outcome variables. Table 5.4 shows that this sample overall perceived a positive atmosphere; the scores for satisfaction, being treated with respect, feeling able to speak freely, being listened to, being taken seriously by the mediator, having even possibilities to speak and have an impartial mediator were all between 4.0 and 4.3. Only the score for being taken seriously by the victim was a bit lower, with 3.0. So, it seems that the offenders in the sample did not always experience to be taken seriously by the victim, as this score was neutral. This might be a negative indication for the overall interaction with the victim.

The sample showed to be well prepared and to participate voluntarily (both mean scores 4.1). The experience of stigmatization was low (mean score 2.1) and that of reintegrative shaming was neutral (mean score 3.3), just as the score on awareness of broken rules and norms (2.8). This sample of offenders indicated that the victim accepted the apology (mean score 3.9).²³

²³ In Jonas-van Dijk et al. (2022b) differences were found for some of the psychological variables, but this was due to the comparison with offenders who did not participate in VOM.

Looking at the psychological outcome variables, it can be observed that for most of the variables the changes were modest in size. A decrease of .1 or .2 was observed for empathy, guilt, shame, and moral failure. For responsibility taking we observed an increase of .3. So, it seems that offenders took a bit more responsibility after participation in VOM. The biggest change was observed for awkwardness to meet the victim in the future. A decrease of 1.1 suggest that offenders felt less awkward to meet the victim again in the future.²³

CORRELATION ANALYSES AND OBSERVATIONS

To examine which conditions and mechanisms of VOM might be associated with psychological outcomes, correlation analyses were used. Although causal relationships cannot be inferred from a correlation analysis, it does give insight into what conditions and mechanisms of the VOM process are related to the six psychological outcomes that have been found in previous research. In the analyses we have correlated the proposed working mechanisms with the scores on the psychological variables on the posttest. It was decided to look at the scores on the posttest, since the differences Jonas-van Dijk et al. (2022) found between offenders who participated in VOM and those who did not, were observed after the VOM-process. It would therefore be logical to examine how the different elements of VOM are related to the scores on the posttest. All correlations can be found in table 5.5.²⁴

In addition to the correlations, we have analyzed the observational data collected among mediators after the VOM encounter. Using Atlas.ti the data was structured, which made it possible to look for patterns. In this qualitative data it was searched for mechanisms or observations done in the mediation encounter that underpin and may complement the observed correlations. In addition, the observations were used to examine if mechanisms were observed that were not included or shown in the correlation analyses.

Empathy. The analysis showed that offenders' overall satisfaction with the mediation encounter, the offender experiencing to be taken seriously by the victim, experiencing even possibilities to speak during VOM and having a say in the outcome were all positively and significantly correlated to empathy. This indicates that a higher score on these elements is related to a higher score on victim empathy on the posttest and therefore these elements might be important to heighten victim empathy.

Turning to the qualitative data, we could see different observations that fit the correlations. In the fraud case, in which the offender already showed a high level of empathy at the start of the case and showed even an increase, the mediator observed that: 'She [the victim] actually wanted to get to know the offender behind the monster and give

²³ In Jonas-van Dijk et al. (2022b) differences were found for some of the psychological variables, but this was due to the comparison with offenders who did not participate in VOM.

²⁴ A partial correlation analysis, in which it was controlled for the pretest score on the psychological outcome variables, resulted in the same patterns of correlations.

him a second chance', which suggests that the victim took the offender seriously. This is in accordance with the correlation between empathy and being taking seriously. In another case in which the offender showed a small increase in feelings of empathy the mediator said that both the victim and the offender were interested in each other's stories. In the case in which the offender threatened two children with a machete, the data showed that the offender showed a small decline in his feelings of empathy. Remarkable the mediator observed that 'the minor victim did not really care about it [the offense] anymore' and did not show to take more empathy or perspective. The offender in the machete case also did not feel to be taken seriously by the victim, which could be due to the victim not caring about the offense anymore. In this same case the mediator observed that 'the mother of the victim accepted the apology, but could not forgive the offender'.

Table 5.5

Correlations between the fundamental conditions, working mechanisms and psychological outcomes among offenders who participated in VOM (N = 55)

	Empathy	Guilt	Shame	Responsibility taking	Moral failure	Awkwardness meeting victim
<i>Required conditions</i>						
Preparation	.24	.22	.18	.20	.15	-.32*
Voluntariness	.21	.22	.12	.29*	.13	-.23
Impartial mediator	.27	.22	.19	.04	.17	-.08
Taken seriously by mediator	.26	.19	.16	.04	.11	-.05
<i>Working mechanisms</i>						
Satisfaction	.36*	.31*	.26	.21	.30*	-.17
Being treated with respect	.21	.11	.002	.15	.11	-.23
Being able to speak freely	.24	.20	.16	.09	.16	-.03
Feeling safe	.19	.20	.09	.11	.03	-.17
Being listened to	.24	.08	.15	.10	.13	-.24
Taken seriously by victim	.55**	.30*	.26	.36**	.36*	-.46**
Having even possibilities to speak	.32*	.28	.23	.14	.26	-.07
Have a say in outcome	.31*	.22	.005	.16	.28	-.38*
Perceived acceptance of the apology by the victim	.32**	.15	.08	.28*	.22	-.53*
Stigmatizing	-.21	-.07	-.05	-.02	-.09	.41**
Reintegrative shaming	.29*	.19	.08	.20	.26	-.34*
Increased awareness broken rules and norms	.34*	.30*	.34*	.37**	.36**	-.02

Note: * correlation is significant at the .05 level (2-tailed)

Note: ** correlation is significant at the .01 level (2-tailed)

This might explain why this offender felt as if the victim did not experience his apology as sincere and why this offender scored neutral on the questions to what extent the victim accepted and appreciated the apology. This is in accordance with the positive correlations found between acceptance of a sincere apology and higher empathy.

Guilt. Three elements were positively correlated with feelings of guilt: satisfaction with the mediation encounter, being taken seriously by the victim, and being made aware of the broken rules and norms. This means that a higher score on these elements is related to a higher score on guilt on the posttest. Research from Jonas-van Dijk et al. (2022b) already indicated that offenders who participated in VOM had higher feelings of guilt in comparison to non-participating offenders, not because of increases in their feelings of guilt, but due to consolidation of these feelings where guilt dropped among non-participants. In the observed cases we also did not see an increase in the offenders' feelings of guilt. The changes that were observed, were very small decreases. At an item level we saw that this was not due to offenders feeling less guilty or remorseful, but due to them feeling less tensed and afraid. This could be considered a positive outcome of VOM as well. In two cases the mediators also observed offenders to be relieved, which might indicate that offenders felt less tensed and afraid. As one mediator noted: "Both parties were, as it were, "overwhelmed" by the positive effect of the mediation encounter. This turned out to be a huge relief for all, because as a result of the incident (threatening and screaming and vandalizing at the neighbors) there was fear of facing each other and fear of anger and repetition.". Only one offender showed a significant increase in his feelings of guilt as he scored low on the pretest and high on the posttest.

What is noteworthy is that in one case it seemed helpful for the VOM process that the offender showed to be feeling guilty: 'There was immediate full acknowledgment of guilt by the offender and a willingness to compensate all damage suffered. The case was therefore concluded relatively easily with a settlement agreement'. In a different case, in which both parties were suspects, the mediator observed that only one party acknowledged guilt, whereas the other party did not. Remarkably the mediator reported that 'There was some discussion with V2 [the offender who did acknowledge guilt] about the content of the first proposed agreement, in particular about the request to the public prosecutor and to what extent he seemed more guilty than the other party.' Based on these quotes it seems important for the quality of the VOM-process that the right person(s) acknowledge guilt.

Shame. Feelings of shame positively correlated with being made aware of the broken rules and norms; a higher score on shame on the posttest was related to being made more aware of the broken rules and norms. In the cases observed by the mediators it was hard to find specific examples of how the mediator encounter could influence

feelings of shame. First of all, we saw that offenders who were already highly ashamed of their wrongdoings at the start of the VOM-process continued to score high on these feelings afterwards. The same applied to offenders who scored low on feelings of shame, since they continued to score low. In addition, the mediators also did not report anything specific about how ashamed offenders showed to be or how this changed during VOM. Lastly, in all cases the mediators observed that the broken rules and norms were discussed, which might explain why nothing specific can be said about the variable shame.

Responsibility taking. Taking responsibility was positively correlated with being taken seriously by the victim, and acceptance of the apology. One mediator observed that: “The offender took responsibility, did not think it was chic of herself, nor did she think it was a good example for her child. But to call it that way happened in a very quick breath, which made the victim doubt the credibility”. In this case the offender did not feel to be always taken seriously or that the victim accepted her apology. Although the mediator indicated that the offender took responsibility, the scores on the questionnaire did not correspond to this observation: The offender did not show to feel more responsible after participation. Possibly because the victim doubted their credibility. This fits the correlation found.

Being made aware of the broken rules and norms also positively correlated with responsibility taking. In one case, the threatening neighbor’s case, the offender showed a real increase in his feelings of responsibility, which might be due to the offender becoming more aware of what rules and norms have been broken. In this case the mediator observed that ‘the fact that the act was qualified as a threat was an eye-opener and that behavior was subsequently also qualified is incorrect’. This quote really showed that due to the conversation with the victim the offender became aware of how her behavior was wrong and not in accordance with existing rules and norms.

Interestingly responsibility taking is the only psychological variable that positively correlated with experiencing to participate voluntarily. In eight of the observed cases the offenders scored high on voluntariness. Only one offender, in the conflicting neighbor case, scored neutral. This is the same case in which the victim doubted the credibility of the offender’s responsibility taking. The mediator reported about the intentions of the offender for participation the following: “Here too, the dividing line between offender and victim was thin. The suspect herself believed that she [the victim] should not have filed a report, which made her now a suspect. Might as well have been the other way around”. Since the offender in this case felt as if she was a victim too, and to her opinion the victim should be treated as offender as well, this might have forced her partly to participate. Noteworthy is that this mediation was “very difficult,

minimal visible result, but for both [parties] this was the maximum achievable.”, which might be related to the offender not participating voluntarily. Possibly this had a negative impact on the dialogue between parties

Moral failure. Being aware of moral failure positively correlated with being taken seriously by the victim, perceived acceptance of the apology by the victim, perception of the apology being perceived as sincere by the victim, and being made aware of the broken rules and norms. Which means that a higher score on these elements is related to a higher awareness of moral failure. In one observed case (fraud case), in which the offender’s awareness of moral failure increased, the mediator observed that ‘He [the offender] said he was very sorry and looked at her [the victim]. The victim saw that he meant it. This was reinforced by the fact that he himself asked what she needed from him. He also immediately refunded the money to her’. In this case, both the mediator and the offender perceived that the victim experienced the apology as sincere and accepted it, what underpins the found correlation.

In the observations we saw that in cases in which offenders became more aware of their moral failure the mediator specifically observed that due to the story of the victim, the offender became aware of the impact of his actions: “He only now heard about the impact of his actions and then had to cry” (fraud case) and ‘The offender did not expect that what happened had so much impact on the victim’ (violence in traffic case). This again indicates that hearing the story of the victim can contribute to becoming more aware of one’s actions.

We observed one offender to be less aware of her moral failing after participation, which corresponded with the observation of the mediator: ‘Parties mainly wanted to prove themselves right and tell the other person what she did wrong. Little selfreflection, but this was more due to powerlessness and incompetence, than due to unwillingness.’ When offenders are not willing or able to self-reflect, it might also be harder to make them aware of the broken rules and norms, which might explain in this case why the offender became less aware of her moral failing. In this same case ‘... the victim doubted the credibility [of the offender]’ and ‘the victim reluctantly accepted the apology as it was quickly overturned by defence’, which could have resulted in the offender experiencing the victim to not take her seriously, and to not accept the apology. This is also in accordance with the found correlations.

Awkwardness meeting the victim. Interestingly, most of the correlations between the working elements and awkwardness to meet the victim were negative; preparation, being taken seriously by the offender, having a say in the outcome, reintegrative shaming, and the acceptance of the apology all negatively correlated with this

psychological variable. Stigmatizing on the other hand correlated positively with awkwardness to meet the victim again.

In multiple cases mediators noticed that the relationship between parties was improved due to the mediation session, which also might have resulted in the offender feeling less awkward to meet the victim again in the future. In one case the mediator said: “The best proof of coming closer together was that, while writing down the agreement, they [the victim and the offender] drank a cup of coffee together and talked further in a relaxed atmosphere”. In the fence fight case, the offender still scored high on awkwardness for meeting the victim again in the future. Typical in this case is that parties showed to have little confidence in each other: ‘the victim had no intention of getting a different opinion [about the offender], which might explain the feelings of stigmatization of this offender. This underpins the positive correlation between feeling stigmatized and awkwardness to meet the victim again.

THE INFLUENCE OF THE FUNDAMENTAL CONDITIONS

Interestingly, most fundamental conditions did not correlate with the psychological outcome variables. However, as explained in the introduction, the fundamental conditions might impact the working mechanisms, or the relation between the working mechanisms and the psychological outcome variables. This might explain why no direct correlation can be found between the fundamental conditions and psychological outcome variables.

To examine the first option, that is, to what extent the fundamental conditions predict the working mechanisms, we again did correlational analyses. Table 5.6 provides an overview of the correlations. It shows that preparation, an impartial mediator, and being taken seriously by the mediator have a positive correlation with most of the working mechanisms: satisfaction, being treated with respect, being able to speak freely, feeling safe, being listened to, and having even possibilities to speak. In addition, preparation is also positively correlated with being taken seriously by the victim, higher perception of acceptance of the apology and reintegrate shaming. Being taken seriously by the mediator is positively correlated to a higher perception of acceptance of the apology as well. This means that when these fundamental conditions are adhered to in a greater extent, the working mechanisms are also present to a higher extent, according to the experience of the offenders. In addition, two negative correlations were found with the working mechanism stigmatization. If offenders reported more strongly that they felt well prepared and had an impartial mediator, they experienced to be stigmatized to a lesser extent. Finally and importantly, the perceived voluntariness of participation did not correlate with any of the working mechanisms.

Table 5.6
Correlations between the fundamental conditions and working mechanisms

	Satisfaction	Being treated with respect	Being able to speak freely	Feeling safe	Being listened to	Taken seriously by victim	Having equal possibilities to speak	Have a say in outcome	Perceived acceptance of the apology by the victim	Stigmatizing	Reintegrative shaming	Increased awareness broken rules and norms
Preparation	.40**	.40**	.43**	.61**	.49**	.44**	.42**	.27	.50**	-.48**	.41**	.07
Voluntariness	.16	.19	.15	.14	.08	.23	.18	.28	.15	-.04	.11	-.05
Professional competencies mediator	.42**	.55**	.66**	.51**	.51**	.29	.63**	.25	.34*	-.34*	.33*	.07

Note: * correlation is significant at the .05 level (2-tailed)

Note: ** correlation is significant at the .01 level (2-tailed)

To examine if the fundamental conditions work as moderator and impact the association between the working mechanisms and the psychological outcome variables, multiple linear regression analyses were used. The psychological outcome variables were the dependent variables. The working mechanisms and conditions were the predictor variables and were all centered. The interaction terms between the four conditions and mechanisms were added in the analyses. This means that we looked at 216 interactions of which four were significant ($p < .05$) and seven were marginal significant ($p = 0.5 - .06$). Only five percent of the interactions were (close to being) significant, and hence there is a high risk of type 1 error (false positives). However, we do think it is well worth reporting these outcomes. In the correlational analyses above (Table 5.6), it became clear that voluntariness as one of the three conditions did not correlate with any of the working mechanisms. Interestingly, ten of the eleven (marginal) significant interactions we observed all involved the condition of voluntariness (Table 5.7). The results show that for six of the eleven (marginal) significant interactions the correlations were positively moderated by the degree of voluntariness that offenders experienced: between feeling listened to and empathy, between feeling safe and empathy, between being able to speak freely and guilt, between feeling safe and guilt, between reintegrative shaming and responsibility, and between feeling safe and responsibility taking. This means that the more offenders perceived to be able to participate voluntarily, the stronger the association between these working mechanisms and the psychological outcome variables. This matched our expectations.

The other five interactions were not as expected. The correlations between being taken seriously by the victim and empathy, between having a say in the outcome and empathy, between being taken seriously by the victim and guilt, and between being made aware of the broken rules and norms and guilt were all negatively moderated by voluntariness. This means that when offenders to a greater extent felt they could participate voluntarily, the correlation between these working mechanisms and the psychological outcome variables became weaker. This also applies to the correlation between having a say in the outcome and responsibility taking, since this correlation is negatively moderated by preparation.

Table 5.7

(Marginal) significant outcomes of the multiple linear regression analyses with the interaction terms between the fundamental conditions, working mechanisms and psychological outcomes

Fundamental condition	Psychological outcome	Working mechanism	B	t	p	CI	Slope low (-1 SD) fundamental condition	Slope high (+1 SD) fundamental condition
Voluntariness	Empathy	Feeling safe	.60	1.90	.058	-.20 – 1.22	-.41	.37
		Feeling listened to	.50	1.90	.058	-.02 – 1.01	-.16	.48

		Taken seriously by victim	-.36	-2.29	.026	-.68 – -.04	.56	.13
		Say in outcome	-.36	-1.89	.059	-.73 – 0.01	.48	-.003
	Guilt	Speak freely	.53	1.89	.059	-.20 – 1.09	-.30	.39
		Feeling safe	.60	2.25	.025	.08 – 1.13	-.31	.46
		Taken seriously by victim	-.30	-1.99	.046	-.60 – -.01	.26	-.09
		Awareness broken rules and norms	-.37	-2.01	.045	-.73 – -.01	.43	-.01
	Responsibility taking	Feeling safe	.56	1.88	.061	-.03 – 1.15	-.34	.39
		Reintegrative shaming	.53	1.96	.50	.000 – 1.06	-.10	.59
Preparation	Responsibility taking	Say in outcome	-.47	-1.97	.050	-.93 – -.001	.31	-.23

DISCUSSION

Recent research suggests that offenders who participated in VOM show a number of beneficial psychological outcomes afterwards: they take more responsibility and show more victim empathy, are more aware of their moral failure, report higher feelings of guilt and shame, and report feeling less awkward to meet the victim again afterwards in comparison to offenders who did not participate in VOM (Jonas-van Dijk et al., 2022b). Psychological variables such as responsibility taking, feelings of guilt and shame, and empathy have been linked to a lower risk of reoffending in previous research (Hosser et al., 2008; Vaish et al., 2016), which further substantiates the finding that participation in VOM might contribute to a lower the risk of reoffending (Jonas-van Dijk et al., 2020; Latimer et al., 2005; Stewart et al., 2018). However, it has not been examined to date which mechanisms of the VOM process itself might underlie these psychological outcomes. This research aimed to examine this question by using qualitative data from observation forms filled in by mediators and quantitative data from offender-questionnaires. When research can show which key mechanisms of VOM are related to psychological outcomes, these key elements might lead to best practices and could be used to optimize VOM in the future. In this research we examined fundamental conditions of the mediation process, such as voluntary participation and proper preparation, as well as specific working mechanisms of the mediation encounter, for example the interaction with the victim, the atmosphere, and the apology.

WORKING MECHANISMS OF THE MEDIATOR ENCOUNTER

In line with previous research (Jonas-van Dijk et. al., 2022a), this research indicates that a constructive interaction with the victim during VOM is key for the beneficial psychological impact VOM can have on offenders. It is important for offenders that the victim takes them seriously, as this is related to higher victim empathy, higher feelings of guilt, higher responsibility taking, and higher awareness of moral failure. In line with this, it is also important that offenders experience the victim to accept their apology and perceive it as sincere. Such a receptive and accepting response by the victim might be hard to bring about however, as it is the victim who decides to accept the apology and whether or not the apology is perceived as sincere (Bonensteffen et al., 2020). The results of this study indicate that it is most conducive for offenders when the victim has an open and cooperative attitude – although this by no means can be a requirement or demand for victims to participate.

The current research confirms that VOM can function as a learning process. Being made more aware of the broken rules and norms during VOM is related to more victim empathy, higher feelings of guilt and shame, more responsibility taking and a higher moral failure. Considering that we found this relation with five of the six examined variables, this might serve as indication that talking about the broken rules and norms is an important element of VOM. Research of Abrams et al. (2006) and Miller and Hefner (2015) also indicate that moral learning of the offender can lead to feelings of remorse, accountability, shame, and guilt. Our findings corroborate this. Since all mediators observed that during the encounter the broken rules and norms were discussed, the observations in general did not yield any specific patterns. However, two clear observations indicate that due to the story of the victim, the offender became more aware of the impact of the crime, which was also related to being more aware of moral failure. This is in accordance with previous research in which it was shown that talking to the victim makes offenders more aware of the impact of the crime (Choi et al., 2011; Lauwaert & Aertsen, 2016; Marsh & Maruna, 2016), and supports the conclusion that VOM can function as a learning process.

Unexpectedly, no correlation was found between reintegrative shaming and stigmatizing and feelings of shame. However, according to this research, reintegrative shaming is linked positively and significantly to more victim empathy. Since in previous research empathy has been related to a lower risk of reoffending (Schalkwijk et al., 2016), this suggests that one of the ways reintegrative shaming during VOM might influence the risk of reoffending is through victim empathy. This might be a reason for mediators to safeguard (and facilitate as best as they can) a reintegrative shaming atmosphere during an encounter. Future research could examine which elements of mediation are

experienced as reintegrative. Another reason to foster reintegrative shaming and minimize stigmatizing during the encounter, is that more reintegrative shaming and less stigmatization seem to be related to feeling less awkward to meet the victim in the future. When this awkwardness is reduced, it might be easier to talk to that person when a problem arises again in the future. This might also prevent further escalations and therefore reoffending.

One last important finding of this research is the change that was observed in offenders' feelings of guilt. Jonas- van Dijk et al. (2022b) already indicated that offenders who participated in VOM showed higher feelings of guilt afterwards compared to offenders who did not participate. However, this was not due to an increase of feelings of guilt, but due to consolidation of those feelings (whereas the level of guilt declined for offenders who did not participate in mediation). The data of the case study showed that most offenders did show a small decrease in their feelings of guilt. However, this decline was mostly due to them feeling less tensed and bad, which could be seen as a positive outcome of VOM. Offenders are still aware that they are guilty but seem to feel less negative about it.

IMPACT OF THE FUNDAMENTAL CONDITIONS

An unique feature of the research reported here is that it examined the impact of fundamental conditions of the VOM-process on (the relation between) the working mechanisms and psychological outcomes for offenders. Consistent with our reasoning in the introduction and previous findings (Jonas-van Dijk et al., 2022a) this research suggests that adherence to the fundamental conditions of the VOM process is likely to impact the working mechanisms of the VOM encounter itself. That is, offenders who report that they felt well-prepared, experienced the mediator to be neutral and to take them seriously this seems to be positively associated with the experience of multiple working mechanisms: e.g., increases in satisfaction with the VOM process, having even possibilities to speak, perceiving the apology to be sincerely accepted, and reintegrative shaming. Since these working mechanisms also showed to be positively related to psychological outcomes, these findings suggest that adhering to the fundamental conditions could thus indirectly also increase the psychological outcomes.

Importantly, we observed that the fundamental condition perceived voluntariness of participation did not have a direct relation with any of the working mechanisms. It did however operate as a moderator for the relation between working mechanisms and psychological outcomes. That is, when offenders report more strongly that their participation was voluntary, this strengthened the association between feeling listened to and empathy, feeling safe and empathy, being able to speak freely and guilt, between

feeling safe and guilt, between reintegrative shaming and responsibility taking, and between feeling safe and responsibility taking; when offenders perceive the working mechanism to be highly present during mediation. This shows the importance of the fundamental condition of voluntary participation in VOM.

Unexpectedly however, for some associations between working mechanisms and psychological outcomes a lower voluntariness seemed to strengthen the association.

This was true for the association between being taken seriously by the victim and empathy and guilt, between having a say in the outcome and empathy, and between being made aware of the broken rules and norms and guilt. Although speculative, what might explain these unexpected findings for the working mechanisms being taken seriously by the victim and having a say in the outcome (for which input of both parties is needed) is that when offenders felt their participation was not entirely voluntary this may have lowered their positive expectations regarding the interaction with their victim during the VOM encounter. It might be that the actual interaction with the victim during the encounter surpassed the negative expectations, which as a result may have boosted the association between these working mechanisms and psychological outcomes. Our observation that the other working mechanisms for which a high degree of voluntariness did strengthen the associations with outcomes all involved mechanisms over which the mediator could exert some control (e.g., offenders feeling safe, being able to speak freely) – reinforced our speculation.

For the association between the working mechanism being made aware of broken rules and norms and feelings of guilt which was also strengthened when offenders reported lower degrees of voluntariness, victim lecturing might offer an explanation. It could be that offenders who felt that their participation was not entirely voluntary may have expected the victim to lecture them during VOM. The offender may have experienced however, in the actual encounter itself, that such victim lecturing did not occur – and therefore the degree of awareness of broken rules and norms during the meeting was related more strongly to feelings of guilt. So again, their negative expectations might have been surpassed during VOM. However, as said, this remains speculation. Future research could ask offenders after their participation to what extent the actual encounter was (in) consistent with their expectations and in what way.

For offenders who experience to be highly prepared for participation in VOM the relation between having a say in the outcome and responsibility taking becomes weaker. An explanation could be that when offenders are highly prepared and know what they want in mediation and consequently can have say in the outcome, they feel that they took their responsibility. Possibly due to this, they tend to feel less responsible for the pain caused to the victim, since they feel that they did what they could to restore what

has been broken during the encounter.

LIMITATIONS

Although this research offers both practical and theoretical insights, it is important to interpret these outcomes with a number of shortcomings in mind. First, no causal relationship between any of the mechanisms and psychological outcomes can be drawn from the results. The sample is too small to infer any causality and the analysis might be underpowered. Therefore, based on this research it is only able to offer and interpret patterns.

It is also not clear if the working mechanisms explain the psychological outcomes or if it is other factors, such as the willingness of offenders to desist from crime, or motivations to make things right. For example, it could be that offenders who participate in mediation are highly motivated to make things right and therefore take more responsibility or feel more guilty. High responsibility taking or feelings of guilt are then not due to working mechanisms, but due to a selection bias. More research is needed to understand how mechanisms of VOM can cause psychological outcomes within offenders. We would therefore suggest to use qualitative research designs to more specifically examine the working mechanisms by means of (participant) observation. For example, proper preparation seems important, but what entails proper preparation? Interviewing offenders and observing mediation encounters would offer valuable insights into what constitutes these working mechanisms and fundamental elements. With outcomes of such a qualitative research designs, valid and reliable scales could be formed which could subsequently be used to examine the impact of working mechanisms in a larger sample of offenders. If patterns are reoccurring in multiple studies, best practices could eventually be drawn. Therefore, this research offers unique data, insights, and starting points for future research, since it is the first research that tries to examine which mechanisms of VOM might be related to psychological outcomes in offenders.

What should also be taken into account, is that the unraveled elements were mainly based on the offenders' experience. For example, offenders were asked to what extent mediators were neutral. However, this was not confirmed by a third party or the researchers. This means that a bias might have impacted the outcomes: possibly, offenders were in general positive about mediation and therefore experienced the mediator to be neutral. In future research a researcher could observe mediation encounters as a third party to confirm the offenders' experiences.

It would also be better to observe and code during the encounter. However, this could influence the conversation, since participants might consciously experience that they are observed and therefore hinders the ability to speak freely. This could be solved by video recording the encounter, which would enable a researcher to code the encounter

while observing and gives an opportunity to include a second observer to check for interrater-reliability.

Another important factor that should be examined in future research is the impact of the encounter on the victim. In this research the focus was on the offender. Therefore, the patterns found and implications drawn from the findings only apply to the offender. It is unclear what the working mechanisms of VOM are for the victim. Future research should adopt a broader study design, in which both victims and offenders are observed and for both parties the psychological changes are measured.

CONCLUSION

With these limitations in mind, it can be concluded that this research has found three working mechanisms that might be related to offenders' psychological outcomes after they have participated in VOM. Practice could focus on these mechanisms to increase the psychological impact of VOM for offenders. The first mechanism is a constructive dialogue with the victim, in which the victim takes the offender's perspective and shows empathy and the offender is being taken seriously by the victim. The second mechanism to take into consideration is to maximize reintegrative shaming and minimize stigmatizing. This can be strived for during the pre-meetings before the actual encounter and making sure that victims are not (solely) focused on revenge. The last mechanism is using VOM as a learning process. For VOM to be a learning process it is important that the victim is able to explain the actual impact of the offense and offenders become (more) aware of their moral failure. When practitioners take these mechanisms into account, this might positively influence the psychological impact of VOM on offenders and hence, might reduce the risk of reoffending.

This research also showed that three fundamental conditions might have a direct influence on the working mechanisms or indirectly on the relations between the mechanisms and psychological outcomes: a neutral mediator who takes the offender seriously, proper preparation of parties and voluntary participation. Future research could use the recommendations given to further examine the relation between the fundamental conditions, the working mechanisms, and the psychological outcomes for offenders as well as victims – which may help to further develop restorative justice practices.

06

VOM AND LOWER REOFFENDING: A MATTER OF (NO) SANCTIONING?

This chapter is based on:

Jonas-van Dijk, J., Zebel, S., Claessen, J., & Nelen, H. (Revise and resubmit).

Participation in victim-offender mediation predicts less reoffending:

A propensity score matched case-control study.

INTRODUCTION

One aim of the criminal justice system is to reduce the risk of future criminal behaviour (Carlsmith et al., 2002; Claessen, 2019b; Frase, 2005). This means that it is important for governments that the programs used in the criminal justice process have the possibility to impact the risk of reoffending. One such program is victim-offender mediation (VOM). In VOM victims and offenders of an offense get the opportunity to discuss the crime, ask questions, and come to an agreement on how to best solve the crime (Hansen & Umbreit, 2018). VOM is an example of a restorative justice program. Whereas in the conventional criminal justice system crime is seen as a violation of rules and norms, restorative justice views crime as a violation of the relationship between people, which can only be solved by active involvement of the main involved parties of a conflict – victim, offender, and the community (Bohmert et al., 2018; Wong et al., 2016). It aims to focus on the needs of the victim while actively holding the offender accountable. According to restorative justice principles, crimes create obligations of which one is to make things right (Zehr, 2015). The general mean used within restorative justice is a dialogue between the parties, such as VOM. In VOM, a voluntary conversation is organized between the victim and the offender in presence of a trained mediator (Hansen & Umbreit, 2018). The mediator structures the process so parties can work towards an agreement. The application of restorative justice as a response to crime continues to grow (D'Souza & L'Hoiry, 2019). Restorative justice programs can be applied at every moment of the criminal justice process. It can be used as either supplemental to or as alternative for the contemporary criminal justice system (Claessen & Roelofs, 2020; Zebel et al., 2017). Since crime reduction is an important aim of the criminal justice system, it is important that when restorative justice is part of the criminal justice process, this program should also be able to contribute to reducing the risk of reoffending.

Research does indeed suggest that restorative justice programs, such as VOM, impact the risk of reoffending (Bergseth & Bouffard, 2013; Claessen et al., 2015a). However, there are critics who argue that the effects of VOM on reoffending might be explained by a self-selection bias, since studies so far have not adopted a study design that can infer a causal relationship (Latimer et al., 2005). To be able to infer causality, random assignment of offenders to either VOM or the conventional criminal justice system would be necessary. However, such a design is hard to realise. Due to the voluntary nature, it is practically hard and ethically undesirable to randomly assign people to VOM. As a result in most studies examining VOM, researchers compare a group of offenders who participated in VOM, with a group of offenders who did not participate in VOM. Considering the voluntary nature of VOM, this might mean that researchers are comparing offenders who are willing to participate in VOM to offenders who are not. Offenders who participate in VOM might have different motivations and psychological

needs compared to offenders who do not participate. Hence, a self-selection bias might explain the relation found between participation in VOM and a lower risk of reoffending (Latimer et al., 2005). For this reason, it is important to include valid control groups to examine the effects of VOM on reoffending.

Jonas-van Dijk et al. (2020) examined if the impact of VOM on reoffending was due to a self-selection or due to the VOM process by including a control group of offenders willing to participate in VOM, but unable to because the other party declined the option. In their research a comparison was made between (a) offenders who participated in VOM, (b) offenders who were willing but unable to participate and (c) offenders who were unwilling to participate. They found a significant difference in reoffending risk between offenders who participated in VOM and those who were unwilling to participate. However, the group of offenders who were willing but unable to participate did not significantly differ from the other two groups. The risk of this group was somewhere in between the groups of offenders who participated in VOM and the group of offenders who were unwilling to participate. They therefore cautiously concluded that the impact of VOM on reoffending is explained by a combination of a self-selection bias and the VOM process itself.

Despite the inclusion of an additional control group in the research of Jonas-van Dijk et al. (2020), inferring causation between participation and a lower risk of reoffending is still not possible. A good approach when a true experiment with random allocation is not possible is to use a propensity score matched control group. With propensity score matching the aim is to statistically mimic an experimental design with random allocation (Beal & Kupzyk, 2014). Propensity score matching means that for every case the change of getting assigned to VOM is calculated based on background or confounding variables. This is the propensity score. Subsequently every referred case is matched, based on the propensity score to a non-referred case, which mimics the random assignment. Due to the balance in confounder variables, effects that are found in the analyses can be with more certainty ascribed to the process the case went through: VOM or the conventional criminal justice process. Using propensity score matching comes closest to a true experiment, when random assignment is not possible. However, the conclusion that can be drawn about the effects, is as strong as the matching that was used (Wermink et al., 2010). When more confounding are included, the matching becomes stronger and the conclusions drawn are more robust. The first aim of this study is *to include a valid control group based on propensity score matching to test more rigorously the relation between participation in VOM and a reduced risk of reoffending*.

Another limitation in the research of Jonas-van Dijk et al. (2020) that will be taken into account in this current research, is the role of sanctioning. When VOM is part of the criminal justice system, the judge or public prosecutor has a final say in how the case is solved

(Jonas-van Dijk et al., 2022b). This means that although parties may come to an agreement during mediation, and the judge or public prosecutor takes this into account, a punishment can still be imposed. However, in some cases no sanction is imposed (Claessen et al., 2015a). Receiving an official sanction could be experienced as stigmatizing (Bernburg & Krohn, 2003), which is related to a higher risk of reoffending (Braithwaite et al., 2018). A sanction and a criminal record, might also negatively impact future job positions and subsequently increase the risk of criminal behaviour (Uggen, 2000). Therefore, the absence of sanctioning, or receiving a different type of sanction as a result of participating in mediation might explain a lower risk of reoffending as well (Claessen et al., 2015a; Jonas-van Dijk et al., 2020). This means that sanctioning might offer an alternative explanation for a lower risk of reoffending. Hence, the second aim of this study is to examine *the role of sanctioning on the relationship between participation in VOM and the risk of reoffending*.

HYPOTHESES

In this research the risk of reoffending of four different offender groups will be compared. Three groups of offenders that were examined in the research of Jonas-van Dijk et al. (2020) were included in this current research as well: (a) offenders who participated in VOM (mediation group), (b) offenders who were unwilling to participate in VOM (unwilling group), and (c) offenders who were willing to, but unable to participate, because the victim declined the option (unable group). In addition, (d) a group of non-referred offenders was added to this study. This last group was formed using propensity score matching. With these four different groups four different scenarios are possible. In the first scenario the relation between participation in VOM and a lower risk of reoffending is explained solely by the mediation process. As support for this scenario, the risk of reoffending should be lower among offenders who participated in VOM than in all other groups and the other groups do not significantly differ. A second scenario is when a self-selection bias is responsible for the lower risk of reoffending. This would be true when offenders who were willing to participate in VOM (the mediation and unable group) had a lower risk of reoffending compared to offenders who were unwilling to participate. In a third scenario the effects are due to a selection at referral. This means that at the moment of referral the referring agency already makes a distinction in the type of offender and/or case that is referred to mediation. This would mean that offenders who were not referred to mediation had a significant higher risk of reoffending compared to those offenders who were referred. The fourth and last scenario, which is our main hypothesis, is that the relation between VOM and a reduced risk of reoffending is related to both a (self-)selection bias and the mediation process. It is then expected that offenders who participated in VOM had a significant lower risk of reoffending compared to offenders who were unwilling to participate and non-referred offenders. The unable group would have a risk in between the other groups and do not significantly differ from the other groups.

This last scenario would be in accordance with findings of Jonas-van Dijk et al. (2020). Lauwaert and Aertsen (2016) also suggest a self-selection bias explaining the impact of VOM on desistance, since they indicate that VOM supports a desistance process that already started, which indicates that offenders might already have a specific motivation that non-participants might not have. On the other hand, Jonas-van Dijk et al.'s (2022b) findings suggest that the participation process brings about a psychological change, such as increased responsibility taking and higher feeling of guilt and shame. These psychological variables are shown to be related to prosocial behaviour and a lower risk of offending (Gausel et al., 2016; Hosser et al., 2008). The findings from previous research suggest that a combination of the VOM-process and a self-selection bias offer an explanation for a lower risk of reoffending.

Concerning the role of sanctioning, it was expected that offenders who participated in VOM and did not receive any (additional) sanctioning had a lower risk of reoffending compared to offenders who participated in VOM and did receive a punishment from the referral party. This is based on previous findings that indicate that receiving a sanction is experienced as stigmatizing (Bernburg & Krohn, 2003). When offenders participate in VOM and receive no additional sanction, this absence of an official sanction might offer an alternative explanation for the positive impact of VOM on reoffending.

INDICES OF REOFFENDING

Most often in research that examines the risk of recidivism it is only measured if offenders reoffend (prevalence). According to Nagin et al. (2009) it is harder to find a treatment effect when only the prevalence is taken into account. In addition, an offender who offends multiple times with severe crimes, would have been treated as a same reoffender compared to someone who commits one minor offense when only prevalence would have been analysed (Nagin et al., 2009). Next to prevalence, it could also be examined how often offenders did so (incidence) and how severe reoffences are. Although we believe that measuring prevalence offers interesting insights into the effectiveness of a program, we also think that measuring incidence and severity gives a more complete picture of recidivism after VOM.

METHOD

VOM IN THE NETHERLANDS

After a pilot of four years, VOM is being practiced in all court jurisdictions in the Netherlands since 2017. This program is called mediation in criminal cases (Mediation in Strafzaken; MiS) and will be the program under investigation in this research. In 2021, 1.346 cases were referred to MiS nationwide. Of the cases in which mediation actually started ($N = 787$), 83% was successful (Raad voor de Rechtspraak, 2022).

For MiS to be applied in a case, the public prosecutor or judge refers a case to mediation. An offender or victim can opt for mediation themselves as well, but the referring party is always the public prosecutor or judge of a case. When both parties agree to participate in MiS, the case is handed over to the mediation bureau of the court. A mediation officer from the bureau needs reaffirmation from both parties that they are (still) willing to participate. It sometimes happens that parties withdraw after receiving more information or had time to think about their participation. When both parties agree to participate, the mediation officer assigns two independent mediators to the case. Before the actual encounter between the victim and the offender takes place, the mediators, often on the same day as the actual encounter, first have separate meetings with the offender and the victim, to explore if VOM would be beneficial for both parties. If both the parties and the mediators are convinced that a meeting would be helpful, the actual encounter takes place. Sometimes parties bring supporters to mediation, however the main focus of the VOM-encounter is on the victim and the offender. Therefore, this type of program cannot be considered conferencing. When the parties come to an agreement during mediation, this agreement is, with consent, communicated back to the referring agency. When a party does not want the mediator to communicate the content of the agreement, it is only communicated that a successful mediation process took place. The public prosecutor or judge then decides which punishment to impose, if one is still necessary. This means that the referral agency has a final say in how the case will be solved (Claessen & Roelofs, 2020). This type of set-up can be considered typical VOM (Umbreit et al., 2004)

DATA COLLECTION PROCEDURE

The cases that were selected for this study were referred to the mediation bureaus between October 2013 and October 2016. During this period a pilot ran at six court jurisdictions in The Netherlands: Amsterdam, Breda, Den Bosch, The Hague, Noord-Holland, and Rotterdam. For all cases that contained a valid case-number and a date of birth of the offender, the researchers requested recidivism data (N = 582).

The encrypted dataset with the data retrieved from the mediation bureaus was sent to the WODC-recidivism monitor (Wetenschappelijk Onderzoek- en Documentatiecentrum; Scientific Research- and Documentationcentre). The WODC-recidivism monitor is a longitudinal research project with the aim of unravelling the course of offenders and the effects of criminal interventions. Based on the case-number and date of birth of the offender, the WODC is able to withdraw the recidivism data from the 'research and policy database judicial documentation' (Onderzoek- en Beleidsdatabase Justitiële Documentatie, OBJD). The OBJD is an encrypted copy of the official Dutch judicial documentation system (JDS). The JDS stores data of over three million persons and more than ten million criminal cases. New data is automatically added to the system. Every three

months the OBD is refreshed with the most recent data (Wartna et al., 2011). In addition to the recidivism data, the WODC also added the following information about the offender: gender, age during MiS case, country of birth, age during first judicial contact, criminal record, type of offense, and type of punishment. The datafile was encrypted and sent back to the researchers. This resulted in a total N of 357 of which 221 offenders participated in VOM, 51 offenders were unwilling to participate in VOM, and 85 offenders were unable to participate in VOM, because the victim declined the option.

From the pool of over three million offenders, the non-referred sample of offenders was drawn. Preferably, we would have used a sample from the same court districts and same time period as the offenders who were referred to VOM during the pilot period. However, the WODC-recidivism monitor does not register if a criminal case has been referred to mediation or not. This means that we could not use a control group with cases of the same court districts in which the pilot ran, since cases in which mediation was offered could not be filtered out of the selection. We therefore used one control group in which cases were documented in the judicial database between October 2013 and October 2016, but only cases that were initially registered in the districts that were not part of the mediation pilots: Gelderland, Overijssel, Midden-Nederland, and Noord-Nederland. In this way, the changes are brought to a minimum that this control group included cases that were referred to mediation. However, since crime (rates) differ within the districts, but also the type of offenders in different districts might differ, and we also did not want this difference to impact the outcome, we decided to include a second control group of cases that were documented in the judicial database between January 2011 and December 2012, right before the start of the mediation pilots. In this second group we only included the districts where the pilots did run later in time between October 2013 and October 2016. We believe that by constructing those two different control groups, we were best able to compare the impact of a case being referred to mediation or not on reoffending. Ethical approval for this study was obtained from the Ethics Committee of the Faculty of Behavioural, Management and Social Sciences of the University of Twente (File number: 191033) and from the Dutch public prosecution office (File number: 552007).

PROPENSITY SCORE MATCHING

In this study we had data of in total 277.387 cases. However, most cases were not referred to mediation ($N = 277.030$, 99.9%). In only 221 cases offenders participated in VOM, in 85 cases the offender was unable to participate, because the victim declined the option, and in 51 cases the offender was unwilling to participate. The recidivism data were retrieved in March 2022. This means that the period-at-risk of all cases varied between 5.5 and 11 years.

With t-tests and chi-square tests it was examined whether differences existed between the referred group of offenders and the non-referred groups of offenders in terms of offender and case-related variables. In Table 6.1 it can be seen that significant differences existed between the referred group and non-referred group on country of birth, number of previous contacts with the criminal justice system, age of the first contact with the criminal justice system, and the type of offense. To mimic a true experiment, but also considering the imbalance in background variables and sample size between the groups it was decided to use propensity score matching. With this method, the chance of being part of the referred (vs. non-referred) group is estimated with a logistic regression analysis, including the background variables: gender, country of birth, criminal record, age of the first contact with the criminal justice system, age at moment of referral of the (non-)referred case, and type of offense. These background variables were based on research from Nagin (2009) in which it was argued that to have an acceptable comparison variables that explain who the person is (age, race, and gender) and what the person has done (criminal history, and offence type) should be included in the matching process. The score between 0 and 1 is called the propensity score: the higher the score, the higher the change of being referred to VOM. Based on the propensity scores three non-referred cases were matched to each referred case. Many-to-one matching was used to remain enough power to do the statistical analyses (Beal & Kupzyk, 2014). The caliper width was set to 0.0001, to get the best balance in background variables. A non-replacement method was used, which means that a non-referred case could only be matched once to a referred case. As can be seen in Table 6.1, matching led to more balance between the referred and non-referred group. However, on two variables a significant difference remained, namely on country of birth and type of offense. In the analyses that will follow in this study the influence of these variables was controlled for statistically. Cases that were not matched were excluded from data-analysis. Type of sanction was not used as confounding variable in the matching procedure, since type of sanctioning is used as outcome variable as well.

This study was preregistered at OFS.²⁵ The expectations that were tested in this study are in accordance with the preregistration. However, at the preregistration we did not state that propensity score matching would be used. This was decided on later for multiple reasons. Only after receiving the non-referred control group, we observed the disbalance in background variables and in sample sizes (see Table 6.1). In addition, propensity score matching would result in even more robust outcomes and conclusions in comparison to the analyses that were planned without propensity score matching.

²⁵ Registration DOI: <https://doi.org/10.17605/OSF.IO/DQPM7>.

Table 6.1

Pre- and post-matching referred and non-referred cases to mediation t-test and chi-square test, using many-to-one (3-1) matching

	Unmatched			Matched		
	Referred $N = 357$ Non-referred $N = 276.793$			Referred $n = 357$ Non-referred $n = 2509$		
T-Test	F	T	P	F	T	P
Criminal record	36.84	4.38	<.001	1.09	.94	.17
Age first contact criminal justice system	5.38	-2.22	.013	.47	.02	.492
Age at moment of (non-) referral	2.01	-.09	.465	.04	-.27	.394
Chi-square test	χ^2	DF	P	χ^2	DF	P
Gender	.052	1	.820	.25	1	.616
Country of birth	34.05	7	<.001	23.19	7	.002
Type of offense	550.24	9	<.001	335.16	9	<.001

SAMPLE

In the sample, most of the offenders were male ($N = 2330$, 80%) and were born in the Netherlands ($N = 2267$, 78%). This ratio is also true for the four subsamples, as shown in Table 6.2. On average, offenders have a criminal record with five offenses before the (non-)referred case. The mean age offenders had their first contact with the criminal justice system was 26. The mean age at the moment of non-referral was higher ($M = 33$). For the types of offense there were a number of differences between the groups. For the total sample, most cases were cases of violence ($N = 897$, 31%) or property crimes without violence (826, 28%). These cases were also largely present in the non-referred groups. In the mediation and unable group by far the largest group of cases were cases of violence ($N = 164$, 74% and $N = 56$, 66%). What stood out is that in the unwilling group 20% of the cases ($N = 10$) concerned cantonal facts.

Table 6.2
Overview of sample characteristics of the matched sample

	Total (N = 2907)	Mediation (N = 221)	Unwilling (N = 51)	Unable (N = 85)	Non-referred (N = 2508)
Gender (male)	2330 (80%)	184 (83%) ^{a,*}	38 (75%) ^a	68 (80%) ^a	2009 (80%) ^a
Country of birth	2267 (78%)	178 (81%) ^a	41 (80%) ^a	70 (82%) ^a	1946 (78%) ^a
	76 (3%)	4 (2%) ^a	- ^a	4 (5%) ^a	67 (3%) ^a
	59 (2%)	1 (0.5%) ^a	- ^a	- ^a	55 (2%) ^a
	74 (3%)	11 (5%) ^a	2 (4%) ^a	4 (5%) ^a	56 (2%) ^a
	53 (2%)	7 (3%) ^a	1 (2%) ^a	- ^a	45 (2%) ^a
	197 (7%)	7 (3%) ^a	7 (14%) ^b	3 (4%) ^{b, b}	176 (7%) ^{a, b}
	138 (5%)	13 (6%) ^a	- ^a	4 (5%) ^a	120 (5%) ^a
	43 (1%)	-	-	-	43 (2%)
Criminal record	4.7 (SD = 8.9)	3.8 (SD = 5.6)	4.6 (SD = 12.7)	5.3 (SD = 9.6)	4.7 (SD = 9.0)
Age first contact criminal justice system	26.0 (SD = 13.5)	27.0 (SD = 13.1)	27.7 (SD = 13.8)	22.3 (SD = 10.1)	26.0 (SD = 13.6)
Age at moment of (non-) referral	33.4 (SD = 14.7)	34.8 (SD = 14.4)	34.1 (SD = 13.6)	30.1 (SD = 12.6)	33.4 (SD = 14.8)
Type of offense	897 (31%)	164 (74%) ^a	25 (49%) ^{a, b}	56 (66%) ^b	626 (25%) ^c
	42 (1%)	1 (0.5%) ^a	- ^a	2 (2%) ^a	39 (2%) ^a
	43 (1%)	5 (2%) ^{a, b}	- ^{a, b}	7 (8%) ^b	30 (1%) ^a

	Property crimes without violence	826 (28%)	10 (5%) ^a	2 (4%) ^a	1 (1%) ^a	813 (32%) ^b
	Vandalism, aggression and public order	386 (13%)	26 (12%) ^a	4 (8%) ^a	9 (11%) ^a	337 (13%) ^a
	Drugs	154 (5%)	1 (0.5%) ^a	— ^{a, b}	— ^{a, b}	153 (6%) ^b
	Traffic	206 (7%)	6 (3%) ^a	10 (20%) ^b	4 (5%) ^a	183 (7%) ^a
	Other	193 (7%)	3 (1%) ^a	— ^{a, b}	3 (4%) ^{b, b}	187 (8) ^b
	Canton fact	147 (5%)	3 (1%) ^a	10 (20%) ^b	3 (4%) ^a	129 (5%) ^a
	Unknown/not classifiable	13 (0.5%)	2 (1%) ^a			

* Each superscript letter denotes a subset of the four offender groups whose column proportions do not differ significantly from each other at the .05 level, based on the Bonferroni method.

DEFINING THE DEPENDENT VARIABLE REOFFENDING

To examine the risk of reoffending for offenders we used three different indices (Nagin et al., 2009). First, it was examined whether or not people reoffended (prevalence) in the observation period. Subsequently it was examined, for those offenders that did reoffend, how often they did so (incidence). Lastly it will be examined if differences in severity exist between the four offender groups. Severity of reoffense was divided in three categories based on the threat of the maximum punishment in a case: relatively minor cases (maximum punishment is less than 4 years in prison), medium case (maximum punishment is between 4 to 8 years in prison), and severe case (minimum of 8 years in prison). For each offender we computed the mean severity of the repeated offenses based on these categories.

RESULTS

PREVALENCE OF RECIDIVISM

The first step in analysing the data was to inspect the observed prevalence of recidivism and see if there were notable differences between the four offender groups. Table 6.3 shows that the mediation group and unwilling group contained the lowest percentages of offenders who reoffended. These are considerably lower than for the other two offender groups.

To examine if there were any significant differences between the offender groups a logistic regression was conducted. The analysis showed an overall significant effect of offender group on reoffending ($X^2(3) = 28.52, p < .001$). Further analyses, comparing the distinct groups of offenders with each other, revealed that the non-referred group ($Exp(B) = 2.04, p < .001$) and the unable group ($Exp(B) = 1.88, p = .015$) had a significant higher risk of reoffending compared to the mediation group. No difference was found between the mediation group and the unwilling group of offenders ($Exp(B) = 1.09, p < .792$). A significant difference was also found between the unable to participate group and the non-referred group ($Exp(B) = 1.88, p < .031$). No other significant differences were found (all p 's $> .132$).

Table 6.3

Recidivism prevalence per offender group

Recidivism	Mediation	Unwilling	Unable	Non-referred	Total
No	143 (65%)	32 (63%)	43 (51%)	1013 (47%)	1230 (49%)
Yes	78 (35%)	19 (37%)	42 (49%)	1130 (53%)	1270 (51%)
Total	221 (100%)	51 (100%)	85 (100%)	2143 (100%)	2500 (100%)

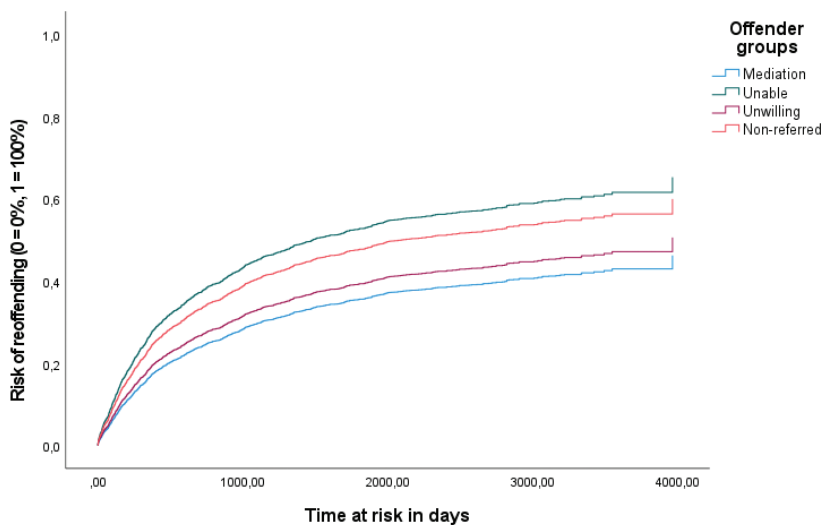
CONTROLLING FOR TIME AT RISK

Since the time at risk varied between 5.5 and 11 years for the offenders, it could be that the significant differences found in the logistic regression analysis were due to differences in time at risk between the groups. Offenders who are longer at risk to reoffend, had more time to reoffend and therefore might have a higher prevalence. A cox survival analysis was therefore used to statistically control for any variation in time at risk between the groups. The time at risk was set as time indicator. The status variable used was whether or not someone reoffended. The four different groups of offenders were used as predictor.

Adding the offender groups as predictor in the cox survival analysis resulted in a significant improvement of the model ($\chi^2(3, N = 2542) = 13.41, p = .002$). Comparisons of the groups showed again that the non-referred group ($Exp(B) = 1.48, p < .001$) and the unable group ($Exp(B) = 1.70, p = .005$) had a significant higher risk of reoffending compared to the mediation group (Figure 6.1). No difference was found between the mediation group and the unwilling group of offenders ($Exp(B) = 1.14, p < .618$) nor between the unable and unwilling group ($Exp(B) = 1.50, p = .142$). The non-referred group also did not significantly differ from the unwilling ($Exp(B) = .77, p = .260$) and unable group ($Exp(B) = 1.16, p = .354$).

Figure 6.1

Predicted risk of recidivism per offender group controlling for time at risk



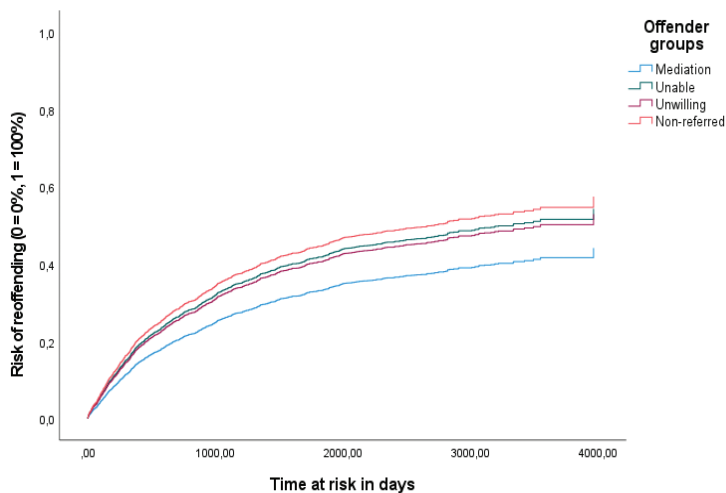
CONTROLLING FOR DEMOGRAPHIC AND OFFENSE-RELATED VARIABLES

Propensity scores were used, based on demographic and offender-related variables, to form the control groups of non-referred cases. It could therefore be argued that these background variables cannot account for the effects found. However, we only distinguished between referred and non-referred cases, but in the analysis compare four different offender groups. Differences might have still existed in background variables within the four offender groups. Since these background variables could also account for differences found in reoffending rates, another cox survival analysis was conducted. In this analysis it was controlled for the demographic (gender, country of birth, age at moment of (non-)referral) and offense-related (criminal record, age first criminal contact, and type of offense) background differences between the four offender groups.

In the first step the background variables were entered as predictors in the model, which resulted in a significantly improved model compared to the model without predictors ($X^2(7, N = 2542) = 767.52, p < .001$). In the second step the offender groups were added as predictor to the model. Another significant improvement of the model was found ($X^2(3, N = 2542) = 16.53, p = .009$). This analysis showed a comparable pattern with the previous cox survival analysis. Again, a significant difference was found between the non-referred offender group and the mediation group ($Exp(B) = 1.55, p < .001$). The difference between the mediation and unable group was no longer significant, but did show the same trend with a non-significant outcome ($Exp(B) = 1.37, p = .095$). Again, no significant differences were found between the mediation group and the unwilling group ($Exp(B) = 1.27, p = .355$), between the unable and unwilling group ($Exp(B) = .77, p = .923$), or between the non-referred group and the unable ($Exp(B) = .89, p = .44$) and unwilling group ($Exp(B) = .82, p = .386$). A visual overview can be found in figure 6.2.

Figure 6.2

Predicted risk of recidivism per offender group controlling for time at risk, demographic, and offense-related variables



THE ROLE OF SANCTIONING

Before we examine the impact of sanctioning on the prevalence of reoffending, it was first examined with a chi-square test if differences exist in the type of sanctions the offender groups received. Testing this difference was not preregistered, but was an explorative analysis. This analysis was included, because we saw in the data differences in types of sanctioning, that might indicate that after a VOM process different types of sanctions are given.

This test showed to be significant ($X^2 = 341.41$, $p < .001$). Looking at the differences between the four groups, a Bonferroni test showed that the mediation group significantly more often did not receive a sanction, compared to the other three groups (Table 6.4). The mediation group also received community service less often, compared to the unable and non-referred group. The unwilling and non-referred group received a monetary sanction more often and their cases resulted in technical dismissals more often compared to the VOM group. No other significant differences existed between the VOM and the other groups. However, since differences in type of sanction differed for the VOM group in comparison to the other three groups, it is important to examine the impact of sanctioning on the differences found in the risk of reoffending.

Therefore, another cox survival analysis was conducted while next to controlling for the demographic and offense related variables, it was also controlled for the role of sanctioning. In the first step we again included only the background and offense related variables. In the

second step the offender groups were added as variable, just as with the previous cox survival analysis, resulting in a significant improvement of the model ($\chi^2(3, N = 2542) = 10.97, p = .012$). Lastly, type of sanction was added to the model. This did significantly improve the model ($\chi^2(7, N = 2542) = 15.22, p = .033$). When sanctioning was added to the model the patterns of differences between the offender groups remained unchanged.

Offenders in the mediation group still had a significant lower risk of reoffending compared to the non-referred group ($Exp(B) = 1.40, p = .008$). But no other significant differences were found between the mediation group and the unwilling group ($Exp(B) = 1.28, p = .345$), nor the mediation group and the unable group ($Exp(B) = 1.29, p = .194$). In Table 6.5 an overview is given of the outcomes of the last cox survival analysis. These findings indicate that sanctioning does not explain the difference we observed in the risk of reoffending between the mediation group and the non-referred group. The pattern of these findings, as shown in Figure 6.3, is mostly in accordance with the fourth scenario and with our expectations: offenders who participate in VOM have a lower risk of reoffending compared to offenders who were not referred to VOM and thus did not participate, and the unable had a risk in between these two groups that not significantly differ from any of the groups. Only the risk of the unwilling group of offenders was not as expected.

Figure 6.3

Predicted risk of recidivism per offender group, controlled for the time at risk, demographic, and offense-related variable

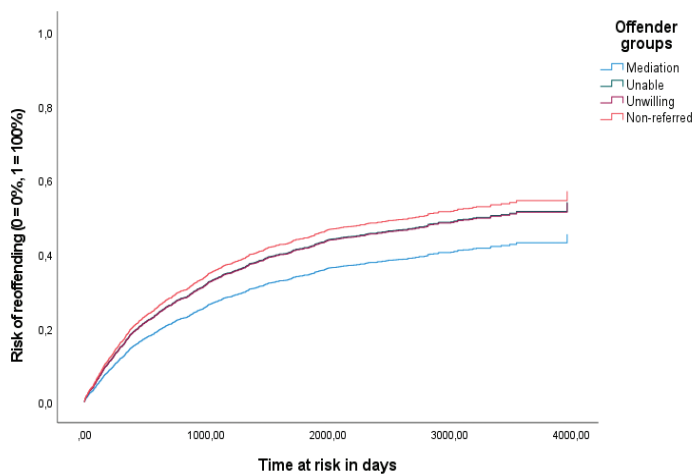


Table 6.4

Overview of the type of sanction of the matched sample based on the (non-)referred case

	Total	Mediation	Unwilling	Unable	Non-referred
Type of sanction	<i>N</i> = 2907	<i>N</i> = 221	<i>N</i> = 51	<i>N</i> = 85	<i>N</i> = 2907
Unconditional custodial sentence	202 (7%)	8 (4%) ^a	– ^a	6 (7%) ^a	187 (8%) ^a
Community service	690 (24%)	30 (14%) ^a	11 (22%) ^{a, c}	38 (45%) ^b	600 (24%) ^c
Conditional custodial sentence	63 (2%)	3 (1%) ^a	– ^a	– ^a	59 (2%) ^a
Money penalty	784 (27%)	15 (7%) ^a	12 (24%) ^{b, c}	13 (15%) ^{a, b}	736 (29%) ^c
No sentence/measure*	572 (20%)	140 (63%) ^a	16 (31%) ^c	18 (21%) ^{b, c}	388 (16%) ^b
Acquittal	163 (6%)	8 (4%) ^a	4 (8%) ^a	2 (2%) ^a	145 (6%) ^a
Technical dismissal	285 (10%)	6 (3%) ^a	7 (14%) ^b	5 (6%) ^{a, b}	263 (11%) ^b
Other/unknown**	148 (5%)	11 (5%) ^a	1 (2%) ^a	3 (4%) ^a	130 (5%) ^a

*This includes policy dismissals and guilty without sanction or measure.

**This includes the following sanctions: conditional measure, learning punishment, other transaction, and technical decision.

Note: Each superscript letter denotes a subset of the four offender groups whose column proportions do not differ significantly from each other at the .05 level, based on the Bonferroni method

Table 6.5

Overview of the Exp(B) and p Values of the Cox Survival Analysis Controlling for Time at Risk, Demographic, Offense-Related Variables, and sanctioning

	Exp(B)	Sig.
<i>Step 1</i>		
Gender (0 = male)	.82	.014
Country of birth ^a		.225
The Netherlands	.77	.250
Morocco	.73	.272
Former Netherlands Antilles	1.13	.668
Suriname	.70	.227
Turkey	.60	.128
Other Western Countries	.90	.679
Other non-western countries	.90	.687
Age at case of referral	.99	<.001
Age at first judicial contact	.98	<.001

Criminal history	1.00	<.62
Type of offense ^b		.002
Violence (exc. sex offences and property crimes with violence)	1.57	.379
Sex offences	1.92	.245
Property crimes with violence	2.11	.173
Property crimes without violence	1.90	.207
Vandalism, aggression and public order	1.65	.330
Drugs	1.24	.675
Traffic	1.29	.626
Other	1.21	.711
Canton fact	1.51	.434

Step 2

Offender group ^c		
Unable	1.29	.194
Unwilling	1.28	.345
Non-referred	1.40	.008

Step 3

Type of sanction ^d		
Unconditional custodial sentence	.97	.820
Community service	1.14	.554
Conditional custodial sentence	.87	.283
Money penalty	.80	.110
No sentence/measure	.92	.596
Acquittal	.82	.165
Technical dismissal	1.23	.182

a Reference group = Unknown

b Reference group = Unknown/not classifiable

c Reference group = Mediation group

d Reference group = Other/Unknown

INCIDENCE OF REOFFENDING

To examine if participation in VOM resulted in less reoffences (i.e., the number of repeat offenses among offenders who did reoffend), which is a count-value, a Poisson regression was conducted. This analysis was thus conducted for the offenders in our data that had 1 or more new offenses after their criminal case. However, the data showed to be overdispersed since the variance was bigger than the mean. For that reason, it was decided to use a negative binomial regression analysis. In the analysis we controlled for the demographic and case-related background variables. The type of sanction and time at risk per offender were also included. The model showed a significant improvement

($\chi^2(31, N = 1282) = 1110.14, p < .001$). Type of offender group also showed to have a significant impact on the model ($W^2(3, N = 1282) = 18.60, p < .001$). Comparing the four offender groups the analysis showed that the non-referred group of reoffenders committed more reoffences compared to the mediation group ($Exp(B) = .67, p < .001$), the unable group ($Exp(B) = .69, p = .012$) and the unwilling ($Exp(B) = .54, p = .011$). No significant difference was found between the mediation group and the unable group ($Exp(B) = 1.03, p = .864$) or the unwilling group ($Exp(B) = .81, p = .401$). The unable and unwilling group also did not significantly differ ($Exp(B) = .78, p = .368$). Table 6.6 offers an overview of the adjusted means of the number of reoffences.

Table 6.6

Adjusted means and standard error of the number of reoffences per offender group

Offender group	N	Mean rate of reoffences	SE
Mediation	78	2.60	.36
Unwilling	19	2.09	.43
Unable	43	2.68	.53
Non-referred	1142	3.88	.32

SEVERITY OF REOFFENSE

Since a mean score of severity was calculated based on the three categories of severity, the variable was treated as a linear scale. Therefore, to examine if the severity of reoffences for the offender groups differed an Anova was conducted. In the Anova we again controlled for the background and case-related variables, type of sanction, and observation time. The analysis showed that the mean of severity did not differ between the four offender groups ($F(3, 1281) = 86, p = .461$), which also shows in the adjusted means (Table 6.7). This means that participation in VOM does not seem to lower the severity of repeat offenses compared to the other three offender groups in which cases were handled by means of the traditional criminal justice system.

Table 6.7

Adjusted means and standard error of the severity of repeat offenses per offender group

Offender group	Adjusted mean severity	SE
Mediation	1.44	.07
Unwilling	1.47	.08
Unable	1.39	.11
Non-referred	1.51	.04

DISCUSSION

This research had two aims. The first aim was to revisit the impact of participation in VOM on reoffending, using an improved research design compared to previous research. By comparing four different offender groups and using propensity score matching it was tried to mimic a true experiment. The second aim of this research was to examine if sanctioning after a VOM process was different compare to a criminal justice process without VOM and to what extent sanctioning impacts the relation between VOM and reoffending.

Previous research shows that participation in VOM is related to a lower risk of reoffending (e.g. Bergseth & Bouffard, 2007; Bouffard et al., 2017; Jonas-van Dijk et al., 2020). This research also found a difference in reoffending risk, namely between offenders who participated in VOM and those who were not referred to VOM. Since this non-referred group of offenders was set up using propensity score matching and was matched on variables that are considered to be crucial for a good matching procedure, we tried to lower the risk of a confounding (self-)selection bias.

Jonas-van Dijk et al. (2020) cautiously concluded that the relation between VOM and a reduced risk of reoffending was due to both a self-selection bias and the VOM process. This conclusion was based on the outcome that the offenders who participated in VOM had a significantly lower risk of reoffending compared to the unwilling offenders and that the unable offenders scored in the middle and did not significantly differ from both groups. In this research we found that offenders who were unable to participate in VOM did not have a higher or lower risk of reoffending compared to offenders who received VOM or offenders who were not referred and thus did not receive VOM. However, in this study the risk of reoffending for the unable group does not fall in between the risk of the groups of offenders who were not referred and who participated in VOM. The risk for the unable group of offenders in this current study was more comparable to the offenders who were not referred to VOM. So, based on these outcomes we cautiously conclude that it seems that the relation between participation in VOM and a lower risk of reoffending is mostly due to the VOM process and that the role of the self-selection bias is limited.

Unexpectedly, we did not find a difference between the risk of reoffending of offenders who participated in VOM and those who were unwilling. This is not in accordance with findings from Jonas-van Dijk et al. (2020). What might be an explanation for this is the observation that a relatively high number of cantonal facts merged in this 'unwilling' group. Potentially these offenders were unwilling to participate because they thought their cases were too trivial and/or did not consider themselves to be 'guilty' – as a requirement for participation in VOM is that an offender takes responsibility for the offense. Based on the type of offense in the unwilling group of offenders this seems to

be a different type of offender group containing cases that might be less suited for mediation, which could explain why no difference was found between this group and the mediation group.

In previous research it has been suggested that the relationship between VOM and reoffending might potentially be explained by the decision to not impose a sanction after a successful mediation process (and agreements made) between parties (Jonas-van Dijk et al., 2020). When VOM is part of the justice system the agreement made between the offender and the victim is communicated to the public prosecutor or judge of case. This professional takes the agreement into account when deciding which sanction to impose, if any is still necessary. First of all, this research indeed showed that sanctioning after VOM is different compared to cases in which VOM did not take place. After VOM more often it is decided not to impose a sanction or a policy dismissal follows. This suggests that VOM is considered as an alternative manner of dealing with a criminal case, instead of sanctioning. Importantly, when the type of imposed sanction was taken into account in the analyses, the patterns remained the same: offenders who participated in VOM still showed a lower risk of reoffending compared to offenders who were not referred to VOM, with again the unable group showing a higher but (non-significant) recidivism rate. This means that the relation between participation in VOM and a lower risk of reoffending is not explained by the (absence of or kind of) a sanction. Even when no additional sanction is given, offenders who participate in VOM have a robust lower risk of reoffending. This also implies that VOM might result in lower costs, since sanctioning costs money. A crime reducing impact, in combination with less sanctioning, resulting in lower costs might be good reasons for governments to implement VOM as an intervention in the criminal justice system. One critical note that should be made in this light though is that it is unknown if no sanction followed because of VOM or if, without VOM, also no sanction would have followed. It might be that minor cases that would already end with a dismissal are referred to VOM by the criminal prosecutor. Although VOM might then still impact the offenders, it is important for practitioners to realise that VOM is a serious program that is not only effective in minor cases (Umbreit et al., 1999).

This research also showed that reoffenders who were not referred to VOM committed more reoffences compared to reoffenders who were referred to mediation. This might indicate a selection at referral. This research also suggest that VOM does not impact the severity of future reoffences differently compared to reoffences following the traditional justice process. However, this might also be due to lighter offenses being referred to VOM, since in the matched control group relatively low custodial sentences are given.

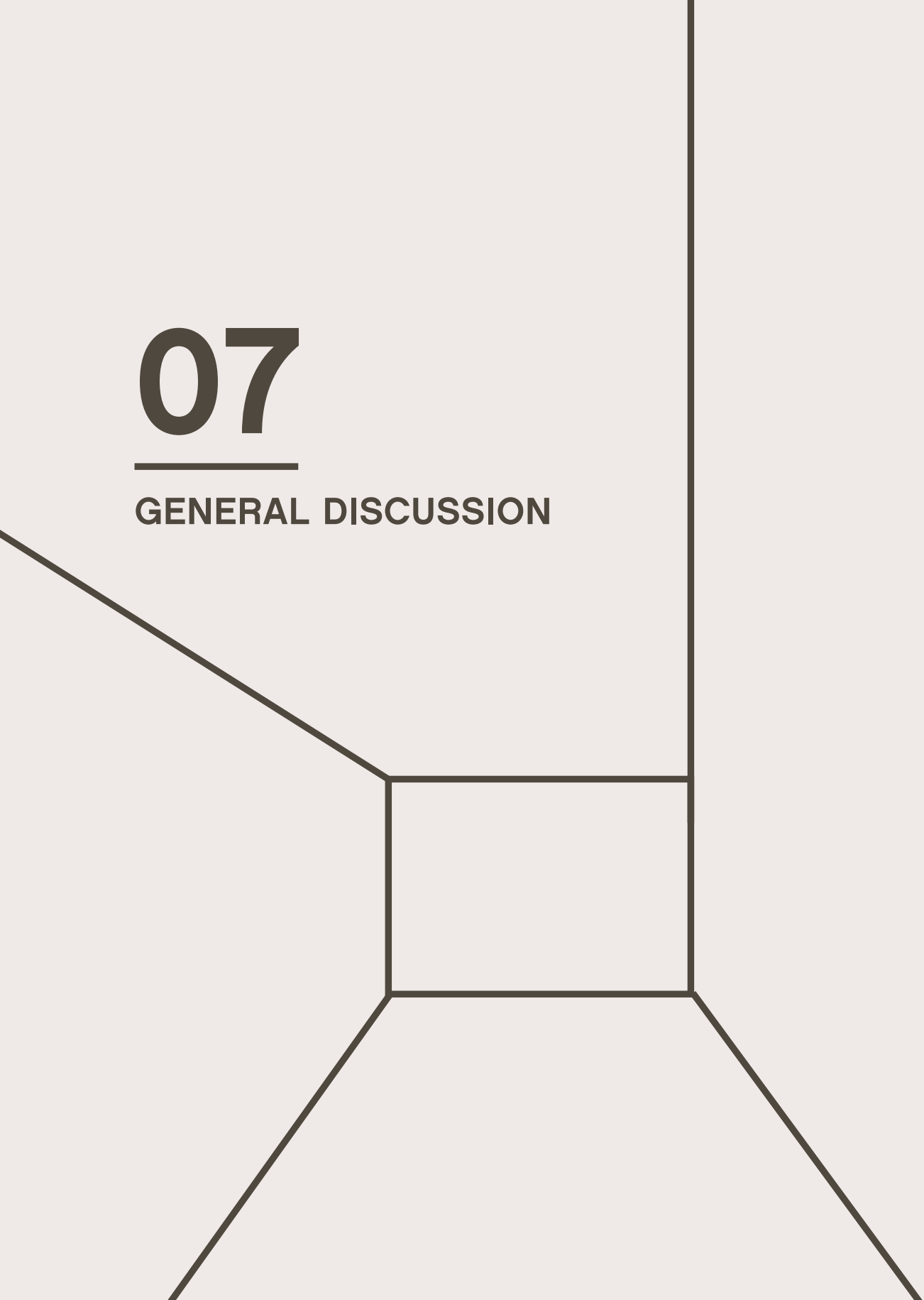
LIMITATIONS

Although propensity score matching used in this research resembles random allocation and this is to our knowledge the first study in the domain of VOM to have used this method to form a good comparison group, the quality of the matching depends on the background variables used in the matching procedure. In this research variables were included that explained who the person is (age, sex, race) and what the person has done (case type and criminal history). However, according to Nagin (2009) the matching procedure would have been even stronger when variables were included related to individual characteristics (mental, personality, or substance use disorders). In this research we did not have that kind of data. Also information about someone's life circumstances would have benefited the robustness of the matching procedure (Wermink et al., 2010). It could be that offenders in the non-referred group had different mental, personality, or substance abuse disorders or different life circumstances compared to offenders who participated in mediation. Differences on these kind of background variables could also explain the difference in risk and incidence of reoffending.

Even though this research is still limited in inferring causal relations, we believe that an improved research design is used to examine the relation between VOM and reoffending. With this research it becomes more certain that participation in VOM predicts a lower risk of reoffending compared to when VOM is not offered and that this relation is not explained by (the absence of) sanctioning and other offense related factors, such as type of offense and offense history.

07

GENERAL DISCUSSION



INTRODUCTION

The application of restorative justice within the criminal justice system has increased worldwide in recent years (D'Souza & L'Hoiry, 2019). It was already applied in 36 European countries in 2015 (Dünkel et al., 2015), and it seems impossible to picture a society without any form of restorative justice. In restorative justice, the crime is 'handed back' to the original parties: the victim, the offender and the community (Christie, 1977). Through the active involvement of these parties, restorative justice aims to resolve the crime, taking into account the needs of the parties and holding the offender directly responsible. As elaborated in the General Introduction, the application of restorative justice came as a response to deficiencies noted in contemporary criminal justice, in which crimes are considered violations that need to be settled between the state and the offender (Gabbay, 2005). In particular, the relative disregard for the needs of victims in the criminal justice system was an important reason for the rise of restorative justice. The main aim of restorative justice is not to punish the offender but to restore relations and make things as right as possible (Claessen, 2023; Zehr, 2015). A dialogue is most often used as a means to actively involve the main involved parties in this process of rightening the wrong.

VICTIM-OFFENDER MEDIATION

Victim-offender mediation (VOM) is a common and prevalent form of restorative justice around the world (McCold & Wachtel, 2003). The impact of this programme on offenders was examined extensively in this dissertation. A crucial aspect of this programme is that the victim and the offender have a conversation in the presence of a trained mediator (Hansen & Umbreit, 2018). The community and support persons of the victim and the offender are not an official party in this process. Most often, when VOM is part of the criminal justice process, the victim and the offender try to come to an agreement on how the offender can restore the damage inflicted. The mediator guides the conversation to help the parties towards that agreement. In this process, the victim and the offender are able to ask and answer questions, explain the impact of the crime and show their emotions, and make amends.

Three of this dissertation's five studies examined a Dutch VOM programme called mediation in criminal cases (*Mediation in Strafzaken*, MiS). Since 2017, MiS has been implemented nationwide in the Netherlands and is an integral part of the criminal justice system, being the common modality of restorative justice in criminal cases. In this VOM process, either the public prosecutor or judge refers a case to mediation since these are the professionals who eventually decide how and when a crime is solved and justice has been done (Vermaas, 2022). Since MiS is part of the criminal justice system,

the outcome agreements of mediation are taken into account in deciding which (if any) sanction to impose (cf. Article 51h par. 2 of the Dutch Code of Criminal Procedure). In the Netherlands, co-mediation is applied, meaning that two independent mediators are assigned to a case. These mediators are not paid by the criminal justice system but work independently. Before the actual encounter between the victim and the offender takes place, the mediators first have separate intake meetings with the parties. Then, when the mediators have assessed that a joined meeting is likely to benefit both the victim and the offender, and these parties are willing to meet each other, the encounter takes place. This process of intake meetings and the mediated encounter usually takes place on the same day (van Mazijk et al., 2019). With this procedure, MiS employs a typical VOM process that is also prevalent in other European countries (Dünkel et al., 2015; Hansen & Umbreit, 2018).

AIM OF THIS DISSERTATION

Previous research has shown that offenders' participation in VOM can be predictive of a lower risk of reoffending compared to when they decline participation (Claessen et al., 2015a). However, such research often suffers from a self-selection bias (Latimer et al., 2005). That is because most empirical studies on this topic to date compared offenders who participated in VOM and offenders who did not. Since participation in VOM is voluntary, this means that offenders who are willing to participate are compared to offenders who are unwilling to do so. Such comparisons are therefore likely to be confounded with pre-existing differences between these groups, such as differences in motivation to desist and pro-criminal attitudes. For example, Lauwaert and Aertsen (2016) indicated that mediation supports a desistance process that already started. In other words, offenders who participated were – a priori – already motivated to withdraw from their criminal lifestyle. Such pre-existing differences comprise the self-selection bias (Latimer et al., 2005). Therefore it was not yet clear what brings about the relationship between participation in VOM and lower reoffending: is it a (self-)selection bias and/or is it the process of establishing and having mediated contact itself in VOM? As stated in the Introduction, the central research question of this dissertation was, therefore: *Does participation in VOM reduce offenders' risk of reoffending and if so, how?*

Multiple sub-questions were formulated to answer the central research question. The first one was if a self-selection bias might offer an explanation for a lower risk of reoffending. If the VOM process contributes to a lower risk of reoffending, the following question is what psychological changes can be observed within the offender due to VOM. Previous research has suggested that talking to the victim might psychologically impact the offender, as it impacts victim empathy and guilt (Choi, 2008). However, to our knowledge, the psychological change of offenders participating in VOM has not

been compared to those whose case was dealt with under contemporary criminal justice without VOM. When these groups are compared, a more robust answer can be given to the question of whether VOM elicits a psychological change. Should the VOM process incite psychological changes within the offender, the follow-up question is what key elements of this process might explain these changes; another sub-question posed in this dissertation. This question is important because identifying such key elements might inform and inspire best practices and optimise the VOM process.

The last aim of this dissertation was to establish the role of sanctioning on the relationship between participation in VOM and lower reoffending. When VOM is part of the criminal justice system, the outcomes of VOM could impact future sanctioning (Claessen et al., 2015a). Offenders may receive a lower sanction, a different type of sanction or maybe no sanction at all. This (absence of) sanctioning could impact reoffending as well. This means that sanctioning might offer an alternative explanation for why participation in the VOM process predicts a lower risk of reoffending.

This dissertation aimed to answer these questions through different studies and study designs. We first examined to what extent participation in a mediation programme in the South of the Netherlands was related to a lower risk of reoffending. As explained in the General Introduction, in this programme, one specific mediator employed by the public prosecutor led the conversation instead of having two independent mediators leading VOM, as in MiS. Hence, this is a different programme than MiS. Consequently, a review synthesis of the scientific literature aimed to shed light on what was already known about the impact of VOM on the offender and what elements of the VOM process could possibly explain psychological changes within offenders. Then, empirical data were drawn from cases that were referred to MiS to examine if participation in VOM predicted psychological changes within the offenders and which fundamental and working mechanisms of VOM could explain these changes. The last study examined if participation in MiS predicts a lower risk of reoffending through mimicking, or coming closer to an experimental research design – in doing so, this study accounted for the limitations of the first empirical chapter.

This final chapter offers an overview of the main findings. In addition, it reflects on the strengths and limitations while also offering suggestions for future research. Furthermore, it offers theoretical and practical implications based on the empirical work of this dissertation. At the end of the dissertation, some recommendations will be presented that may help to further develop and optimise the practice of VOM and restorative justice in general.

SUMMARY OF THE MAIN FINDINGS

STRONGER EVIDENCE THAT PARTICIPATION IN VOM PREDICTS LOWER REOFFENDING

Previous research has shown that participation in VOM is related to a lower risk of reoffending (Bergseth & Bouffard, 2013; Claessen et al., 2015a). The outcomes of Chapter 2 concur with these previous studies. Results showed that participation in a VOM practice in the Dutch Province of Limburg was related to a lower risk of reoffending. In addition to replicating this relationship, the findings also expanded the literature on the nature of this relationship: it showed that it is likely to be due to both the VOM process itself and a self-selection bias. As Latimer et al. (2005) argued, most research in the area of restorative justice suffers from a self-selection bias because of the voluntary nature of participation. This latter aspect of the VOM process makes random assignment in VOM research difficult. As an important innovation compared to previous studies in this domain, an additional control group was added in Chapter 2 that consisted of offenders who were willing to participate in VOM but who were unable to because the victim declined. Since these offenders, just like the offenders who participated in VOM, were willing to participate, we assumed they shared comparable pre-existing motivations and background variables. Should the effects found in previous research be due solely to a self-selection bias, it was expected that the offenders who were willing to participate in VOM would have a lower risk of reoffending compared to offenders who were not willing to participate in VOM. On the other hand, should the relationship found between VOM and reoffending be due solely to the VOM process, it was expected that offenders who participated in VOM had a lower risk of reoffending compared to both the offenders who were unable to participate and the offenders who were unwilling to participate. The results presented in Chapter 2 showed that offenders who participated in VOM had a lower risk of reoffending than offenders who were unwilling to participate (court group). However, the control group, the offenders who were willing but unable to participate, did not differ in their risk of reoffending compared to both groups. Their risk of reoffending was in between the other two groups (see Figure 7.1). In other words, these findings suggest that the lowered risk of reoffending is likely to be due to a combination of the VOM process and a selection bias.

However, it is important to state that the study in Chapter 2 had several shortcomings. First, it did not take into account the role of sanctioning. Sanctioning could have also impacted the risk of reoffending, aside from the mediated contact in VOM itself. Previous research suggests that receiving an official punishment can be experienced as stigmatising, which can result in a heightened risk of reoffending (Miethe et al., 2000). In the VOM programme under investigation, the outcome agreement of VOM is taken into account by the public prosecutor or judge in deciding which (if any) sanction should be

imposed. This also means that after having participated successfully in VOM, there is a possibility that the offender does not get an official sanction imposed. This absence might explain the lower risk of reoffending. Another limitation of the study is the type of programme included. In Chapter 2, this concerned a specific type of VOM programme in which the mediator was employed by the public prosecutor's office (Claessen et al., 2015a). Due to the position of this specific mediator, offenders might perceive the mediator to have control over them. That is why in France, for example, lawyers and public prosecutors are not allowed to act as mediators (Lauwaert & Aertsen, 2002). This might have negatively affected the perceived neutrality of this mediator among offenders, as well as victims.

In the study that underlies Chapter 6, these limitations were taken into account. This study examined MiS, in which two independent mediators guide the process. As explained before, this process can be interpreted as a typical form of VOM (Hansen & Umbreit, 2018). Four offender groups were compared: 1) offenders who participated in VOM, 2) offenders unable to participate in VOM because the victim declined the option, 3) offenders unwilling to participate in VOM and 4) offenders who were not referred to VOM. This last group of offenders was formed using propensity score matching and based on a sample from the 'research and policy database judicial documentation' (*Onderzoek- en Beleidsdatabase Justitiële Documentatie, OBDJ*). To mimic a true experiment, we used propensity score matching to match the non-referred offenders to the referred offenders.

With propensity score matching, the aim is to statistically mimic an experimental design with random allocation (Beal & Kupzyk, 2014). This means that based on demographic and case-related variables, every referred and non-referred offender received a propensity score, which indicated the chance of being part of the referred group. Consequently, every referred offender was matched based on this propensity score to three different non-referred offenders with the (almost identical) propensity score.

The results presented in Chapter 6 reconfirm the previous finding from Chapter 2 that participation in VOM predicts a lower risk of reoffending. That is, offenders who participated in VOM were found to have a lower risk of reoffending compared to offenders who were not referred to VOM (Figure 7.2). Similar to the findings presented in Chapter 2, offenders who were willing but unable to participate in VOM did not significantly differ from those who participated in VOM. However, the difference between these two groups was larger in Chapter 6 than in Chapter 2. This might indicate that the influence of a self-selection bias is smaller than initially thought based on Chapter 2. In any case, the results suggest that the impact on reoffending is not to be due solely to a self-selection bias or a bias at the moment of referral. This would be true if the risk of offenders unable to participate were comparable to the risk of offenders who did participate in mediation. Based on the outcomes of both Chapter 2 and Chapter 6, the VOM process itself seems to impact the reoffending risk.

Figure 7.1

Predicted risk of recidivism per offender group in Chapter 2, controlled for the time at risk, demographic and offender-related variables

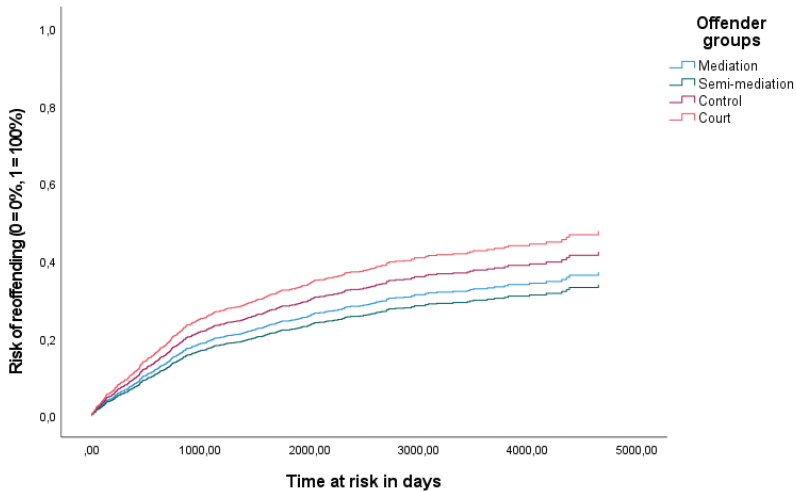
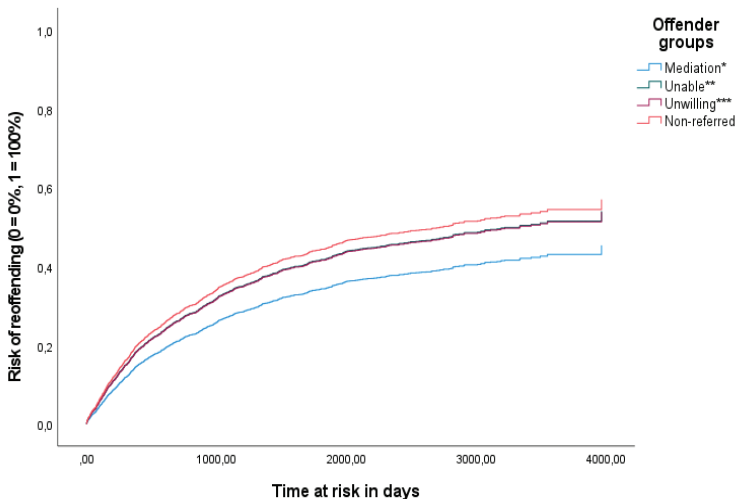


Figure 7.2

Predicted risk of recidivism (0 = 0%, 1 = 100%) per offender group in Chapter 6, controlled for the time at risk, demographic and offender-related variables and type of sanction



*Both the mediation group in Chapter 2 and Chapter 6 participated in mediation.

** The unable group in Chapter 6 and the control group in Chapter 2 consisted of offenders not able to participate in VOM.

*** The unwilling group in Chapter 6 and the court group in Chapter 2 both consisted of offenders not willing to participate in VOM.

The offenders unwilling to participate in VOM had a risk of reoffending more comparable to those who were unable to participate, which was different from the findings in Chapter 2 (in which the control group had a higher risk of reoffending than the mediation group). However, this group of offenders seemed to be a different type of offender group in Chapter 6 than in Chapter 2, containing cases that might have been less suited for mediation, such as cantonal facts (minor transgressions). Potentially these offenders were unwilling to participate because they thought their cases were too trivial and/or did not consider themselves to be responsible. Given that a requirement for participation in VOM is that an offender confesses or at least takes responsibility for the offence, this suggests the unsuitability of the unwilling group for mediation in Chapter 6.

In addition, Chapter 6 reveals that the offenders examined received a sanction less often and less severe after a (successful) VOM, compared to offenders in a criminal justice process without VOM, even when controlling for between-group differences in terms of offender- and case-related factors (e.g. criminal record, type of offence, gender and age). This therefore suggests that successful completion of VOM sometimes worked out *de facto* as an alternative form of sanctioning within the criminal justice system. While the findings in Chapter 6 show that the chance of receiving a sanction is significantly lower after VOM, this in itself did not explain the reduced risk of reoffending after VOM compared to non-referred offenders. When we controlled for sanctioning, no change was detected in the recidivism patterns. With that finding, it seems plausible to conclude that the absence of sanctioning or receiving a lower or different sanction after VOM does not explain why participation in VOM is associated with a lower risk of reoffending – instead, it is more likely to be explained by the VOM process itself.

PARTICIPATION IN VOM IS RELATED TO PSYCHOLOGICAL CHANGES

The lower risk of reoffending can be interpreted as a behavioural change. After all, offenders who participated in VOM show a different behaviour pattern afterwards, with less reoffending compared to offenders who were not willing to participate in VOM (Chapter 2) or those who were not referred to VOM (Chapter 6). In this dissertation, it was therefore assumed that psychological changes underlie the lower risk of reoffending. The literature synthesis in Chapter 3 indeed indicates that participation in mediation can impact the offender psychologically in multiple ways. The VOM process can help offenders empathise with the victim, heighten the offender's feelings of shame and guilt, and increase their responsibility-taking (Abrams et al., 2006; Choi et al., 2011; Choi & Severson, 2009; Meléndez, 2015; Top, 2013). These increases in victim empathy and feelings of remorse, guilt, and responsibility seem to be the result of the development of mutual understanding during VOM (Choi, 2008; Choi et al., 2011; Meléndez, 2020a) and offenders being made aware of the full impact of their actions (Abrams et al., 2006;

Meléndez, 2020b; Miller & Hefner, 2015). Another outcome of the literature synthesis is that the VOM process can support the desistance process that the offender has already started. In this desistance process, offenders attempt to disentangle themselves from their criminal behaviour pattern (McNeill et al., 2012). The literature suggests that VOM does not initiate such a desistance process but instead seems to facilitate this (Abrams et al., 2006; Lauwaert & Aertsen, 2016). This desistance process can thus be interpreted as a selfselection bias: those who want to participate in VOM might be more motivated to desist beforehand. However, the literature synthesis suggests that VOM can contribute to this desistance process and psychological change. Although previous research already gave an insight into the psychological impact the VOM process could have, this psychological impact was not yet directly and empirically compared to the psychological change of offenders whose case was dealt with in contemporary criminal justice without the option for VOM. This is what the study in Chapter 4 aimed to do.

The quasi-experimental research in Chapter 4 yielded results that concur with the findings in the synthesis review. The study in Chapter 4 examined if offenders who participated in VOM showed different psychological outcomes compared to offenders who were willing but unable to participate because the victim declined the option for participation. The comparison between these groups is most interesting because both groups are willing to participate and can therefore be argued to have comparable motivations to enter the process (and perhaps also comparable background variables). It was expected that the VOM process would increase feelings of responsibility, guilt and shame among offenders, as well as victim empathy. It was also expected that VOM would lead to higher feelings of moral failure, increase the intention to desist and improve the relationship with the victim, relatives and community. Lastly, it was hypothesised that offenders would experience reduced feelings of rejection, would be less concerned about condemnation, would feel a lower threat to their social-moral identity and would blame the victim to a lesser extent. With a pre- and post-test questionnaire, the psychological changes of the two groups of offenders were compared while controlling for several important demographic and case-related variables (such as criminal record, age and type of crime). The outcomes of this study indicated that 6 to 8 weeks after VOM, offenders who participated took more responsibility compared to offenders who did not participate. Participating offenders were also shown to have stronger feelings of guilt and feel more ashamed than non-participants. However, this effect does not seem to be due to the VOM process increasing feelings of guilt and shame compared to the pre-measure, but rather to consolidating these feelings that existed before the VOM process. That is, feelings of guilt and shame decreased in offenders unable to participate in VOM, but did not decrease for offenders who did participate. As a result, VOM participants reported stronger guilt and shame on the post-measure than non-participants. Here it is important to note that offenders, on average, did not score on the high end of the scale.

This means that offenders who participated in VOM remained neutral on their feelings of shame and guilt, whereas offenders who did not participate in VOM scored on the low end of the scale. We therefore believe that offenders who participated in VOM do not suffer from their consolidated feelings of shame and guilt.

Offenders who participated in VOM also showed a higher appraisal of moral failure than offenders who did not participate in VOM. This means that offenders are more aware that their behaviour does not follow existing societal rules and norms. However, unexpectedly, participation in VOM did not lower concern about condemnation or rejection. Hence, offenders felt more guilty and ashamed after participating in VOM compared to offenders who did not participate and did not report decreased feelings of rejection. Another psychological outcome found was heightened victim empathy after participation in VOM, which was also in accordance with the synthesis review. Finally, offenders reported that it would be less awkward for them to meet the victim again in the future. All of the analyses included a control for the scores on the pre-test, which means that the differences found between the two groups on the post-test are not due to the scores on the pre-test.

THE IMPACT OF FUNDAMENTAL CONDITIONS AND WORKING MECHANISMS OF VOM

The question of which fundamental conditions and working mechanisms of the VOM process might explain the psychological changes observed in Chapter 4 was addressed in Chapter 5. If these conditions and mechanisms can be uncovered and best practices identified, this might help to optimise the practice of VOM. The study in Chapter 5 therefore examined how adhering to different fundamental conditions and working mechanisms of the VOM process are related to the psychological outcomes we observed in Chapter 4. These conditions and mechanisms were also identified in the literature synthesis, but to our knowledge, no research had yet investigated the empirical relationship between these conditions and mechanisms on the one hand and the psychological outcomes on the other.

Fundamental conditions are based on the core principles of restorative justice and can be considered an essential requirement that should be present in every VOM process: voluntary participation, a proper preparation by the mediator and a neutral and non-judgmental mediator. In both Chapter 3 and Chapter 5, we argued that these conditions need to be present to come to a constructive dialogue. Within this constructive dialogue, the working mechanisms might then instigate psychological changes in the offenders.

According to the synthesis review, one of these important working mechanisms for offenders is a positive balance of power. This means that offenders do not perceive the victim to have more power or to be lecturing them in a negative way during the dialogue. Mutual understanding and finding common ground are therefore important. The VOM process has been argued to enable parties to understand each other (Choi, 2008), which presumes a balance in perspective; if the offender offers sincere apologies, it is desirable that the victim responds positively. Whether or not victims respond positively towards a remorseful offender could be important for the further course and impact of VOM. For example, research shows that non-forgiveness might lead to feelings of victimhood within the offender and subsequently could hinder reconciliation (Thai et al., 2021). Although forgiveness is not always accomplishable and it can definitely not be demanded from a victim, we do believe that it is important that the victim responds positively and with an open and cooperative attitude towards the offender.

Another working mechanism is that the VOM process can be experienced as humanising when the offender perceives a second chance is given and does not feel treated as a (hardened) criminal during the process. Offering offenders a learning opportunity in which they learn the real impact of their crime might also function as a working mechanism.

In Chapter 5, it was empirically examined if fundamental conditions and working mechanisms were related to the psychological outcomes within the offender. Three fundamental conditions (voluntary participation, proper preparation, and mediator neutrality) and three working mechanisms (learning opportunity, humanizing impact, positive atmosphere and interaction with a cooperative victim) were examined. It was expected that adhering to three fundamental conditions and the occurrence of four working mechanisms of VOM would be positively and robustly related to the psychological outcomes observed in Chapter 4. In addition, it was hypothesised that the fundamental conditions either moderated the association between the working mechanisms and the psychological outcomes or directly influenced the occurrence of the working mechanisms. Qualitative and quantitative data were collected and analysed in a unique research design to examine this. That is, offenders who participated in VOM filled out a questionnaire, which generated the quantitative data. For nine of the cases in which offenders filled out a questionnaire, observation forms were also filled out by the mediators involved, which comprised the qualitative data.

In line with previous research, Chapter 5 suggests that an open and cooperative attitude of the victim during VOM is crucial for the beneficial psychological impact of VOM to occur for offenders. This attitude of the victim is characterised by the offenders reporting that they felt taken seriously by the victim and experiencing that the victim accepted the apology offered, which was related to them reporting higher victim empathy,

higher feelings of guilt, more responsibility-taking and a higher awareness of moral failure. In line with this, the offender perceiving the victim to accept the apology was also related to more victim empathy, responsibility-taking, higher awareness of moral failure and feeling less awkward about meeting the victim in the future.

The literature synthesis in Chapter 3 also indicated that VOM could offer a learning opportunity for offenders. The findings of Chapter 5 corroborated this finding by showing that offenders reporting that they felt being made more aware of the broken rules and norms was empirically related to more victim empathy, higher feelings of guilt and shame, more responsibility-taking and a higher experience of moral failure. It therefore seems that this learning component is an important factor for psychological outcomes to occur during the VOM process. A finding that is in accordance with a statement from Schalkwijk (2022), who already suggested that self-reflection of youthful offenders in restorative programs might bring about a psychological change.

Humanising was a last working mechanism found to be empirically related to psychological changes among offenders after VOM. The more offenders experienced obtaining a second chance and not being labelled as a criminal during VOM, the more they reported empathy for the victim afterwards. In line with this, the synthesis review also indicated that VOM could have a humanising impact on the offender.

Next to these working mechanisms, the study in Chapter 5 also offered support for the proposed impact of the fundamental conditions. Consistent with the expectations and findings in Chapter 3, the study suggests that adherence to the fundamental conditions of the VOM process is associated with the occurrence of the working mechanisms of the VOM encounter itself. That is, offenders who reported that they felt well-prepared, experienced the mediator to be neutral and to take them seriously also reported a higher occurrence of multiple working mechanisms: e.g., increases in satisfaction with the VOM process, experiencing equal possibilities to speak, perceiving the apology to be sincerely accepted and the degree of reintegrative shame felt. Since these working mechanisms, in turn, were also shown to be positively related to the psychological outcomes, these findings may suggest that adhering to the fundamental conditions could also therefore indirectly increase the psychological outcomes of VOM for offenders. In addition, the fundamental condition of voluntary participation seemed to work as a moderator since it altered the relation between working mechanisms and psychological outcome variables. When offenders reported more strongly that their participation was voluntary, this strengthened the association between feeling listened to and victim empathy, feeling safe and victim empathy, being able to speak freely and guilt, between feeling safe and guilt, between reintegrative shaming and responsibility-taking, and between feeling safe and responsibility-taking.

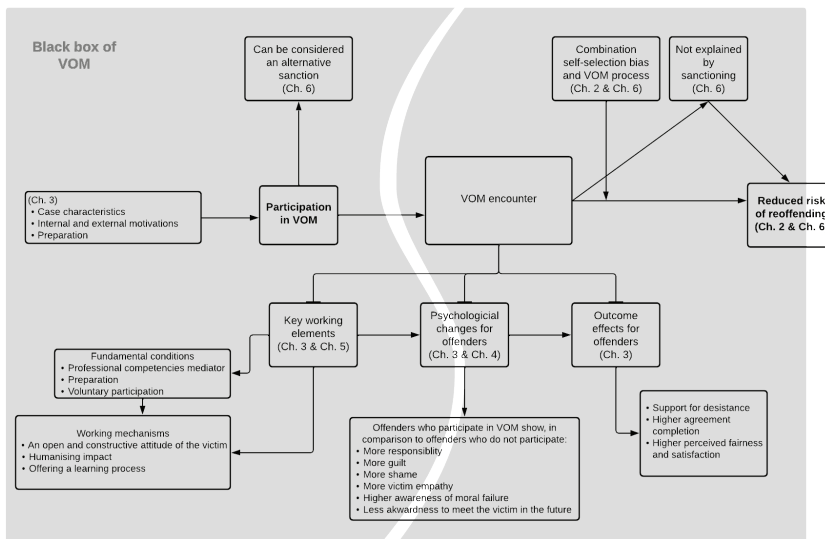
It was expected that when offenders feel pressured to participate and their choice for participation was not voluntary, this would have had a negative psychological impact. However, the findings in Chapter 5 showed that for some psychological outcomes, it might be positive when offenders do not experience to be completely voluntarily participating. In line with this, Choi (2008) examined a mediation programme which was part of the formal diversion programme, meaning that mediation was mandatory. He also found that this type of mediation positively impacted offenders, although it was mandatory. However, it is important to examine to what extent coercion can work as a reinforcer for the positive outcomes and if there is a crossover point: does too much pressure negatively impact the psychological outcomes for offenders? An overview of the summary of the findings can be found in Figure 7.3.

THEORETICAL IMPLICATIONS AND LIMITATIONS

Altogether, this research aimed to open the black box of VOM in terms of its association with a lower risk of reoffending. By means of the different types of studies and research designs, a systematic attempt was made to provide as complete a picture as possible of how the VOM process works to change offenders' behaviour. A first theoretical implication is that this dissertation offers stronger evidence that participation in VOM predicts a lower risk of reoffending than was currently available in the literature. The innovative design of this PhD research has contributed to this conclusion and has shed more light on the correlation between VOM and the risk of reoffending. In this dissertation, two important comparison groups were included that are often absent in other studies: a group of offenders who were not referred to VOM (and drawn using propensity score matching) and a group of offenders who were willing but unable to participate in VOM (due to the victim declining the offer). Being able to compare and show how VOM participators differ from these two comparison groups makes the conclusions in this dissertation more robust compared to previous research on VOM.

Another theoretical implication is related to the psychological impact of VOM on offenders. Some scholars claim that a VOM programme should not be expected to elicit major effects in offenders. Milder effects are more common in these types of programmes. After all, in VOM, the victim and the offenders only have one conversation. It should be noted that the changes observed in offenders who participated were rather small, just as scholars claim (Daly, 2017; Umbreit, 1994; Wyrick & Costanzo, 1999). However, compared to offenders who did not participate in VOM, there is reason to conclude that VOM has a significant and robust psychological impact. An impact that is missing for offenders who do not participate

Figure 7.3
Visual overview of the summary of the findings



in VOM. For example, the outcomes showed that VOM does not increase feelings of guilt and shame during and after the VOM process. A critic might therefore say that VOM does not actually bring about a psychological change for these variables. However, feelings of guilt and shame decreased in offenders unable to participate in VOM but did not decrease for offenders who did participate. It would therefore appear that the VOM process consolidates the feelings of guilt and shame among offenders.

The two pathways of shame can explain why feelings of shame are not decreased due to VOM (Gausel et al., 2016). In the first pathway, a failure is experienced as a moral failure or specific self-defect: I did something wrong. This means that people feel bad about their specific behaviour in a situation but not about themselves as a person per se. They are aware that their behaviour was not according to internalised rules and norms. Consequently, people feel ashamed and want to repair and compensate for what they did. Therefore, this pathway of shame has been shown to be more likely to elicit pro-social behaviour towards the harmed other. This dissertation found that offenders who participate in VOM become more aware of their immoral behaviour and feel ashamed for longer than offenders who did not participate. The scales used to measure these variables were based on the first pathway of shame. In other words, since participation in VOM is positively related to psychological mechanisms related to pro-social behaviour, this might explain the relation between VOM and lower reoffending.

Like shame, guilt is also often related to pro-social behaviour (De Hooge et al., 2007; Tangney et al., 2014). This might explain why we found the same outcome for feelings of shame and guilt. So, although VOM might not decrease feelings of shame or guilt, it does not seem to make people feel bad about themselves as a person. Interestingly, Tangney et al. (2014) showed that the extent to which offenders were able to experience guilt was negatively related to recidivism. Since shame and guilt seem to elicit comparable reactions within people, this might offer an additional explanation why offenders who participated in VOM have a lower risk of reoffending.

In the second pathway of shame, a failure is experienced as a risk to someone's social image and people are concerned about condemnation: I did something wrong and therefore other people might think I am a bad person. Hence, transgressors feel bad about themselves. According to the theory, this concern for condemnation leads to feelings of rejection and causes self-defensive behaviour, such as avoidance behaviour or covering up. The outcomes of this dissertation indicated that people are not more concerned about condemnation or feel more rejected after VOM compared to a justice process without VOM. Hence, we could not find support for the expectation that VOM is related to a lower concern for condemnation and feelings of rejection compared to offenders who did not participate.

Interestingly, psychological factors such as empathy, guilt and shame have been related to more pro-social behaviour and less offending behaviour (Gausel et al., 2016; Hosser et al., 2008; Tangney et al., 2014). Guilt and shame can motivate people to obey social and moral rules (Hosser et al., 2008). Tangney et al. (2014) indicate that people with a higher empathic concern are prone to feel more guilty and subsequently commit fewer crimes. This means that this dissertation unravelled psychological outcomes in offenders due to their participation in VOM which might explain a lower risk of reoffending. To my knowledge, this indirect explanation of a lower risk of reoffending has not been empirically shown in previous research. However, a limitation is that this relation could not be examined directly either in this research. It is unknown at this moment whether and how the psychological changes observed in this dissertation are related empirically to a lower risk of reoffending.

Feeling less awkward about meeting the victim in the future, another finding in this dissertation, might also explain a lower risk of reoffending. This finding may indicate that the sting is out of the conflict due to the conversation parties had in VOM. This outcome suggests a form of restoration of relationships between people, which is one aim of restorative justice (Zehr, 2015).

This dissertation also unravelled which elements of VOM are related to psychological changes: another contribution to the theory about how VOM works since it was

still unknown which mechanisms of VOM might be related to a psychological change or a lower risk of reoffending (Suzuki & Yuan, 2021). Since these psychological factors have been related to prosocial behaviour and less offending, this strongly suggests how the VOM process might contribute to a lower risk of reoffending. Unfortunately, however, the empirical data of the working mechanisms could not be related to recidivism data in this dissertation, so it remains unclear whether previously observed associations between psychological outcomes and reoffending hold as well in this context. However, it is likely that these associations hold since previous research in different contexts has provided evidence for these associations with recidivism. What should be considered is that the unravelled elements were mainly based on the offenders' experience. For example, offenders were asked to what extent mediators were neutral. However, this was not confirmed by a third party or the researchers. This means that a bias might have impacted the outcomes: possibly offenders were in general positive about mediation and therefore experienced the mediator to be neutral. It is unclear if the offenders' experiences differ from the actual mechanisms and conditions present in the VOM process. In future research, a researcher could observe mediation encounters as a third party to confirm the offenders' experiences.

The distinction made and interplay between fundamental conditions and working mechanisms in this dissertation is another contribution to the theory of VOM. With both a literature synthesis as well as a from the empirical research reported here, this dissertation showed that adhering to fundamental conditions might explain the presence of working mechanisms in a VOM meeting or positively influence the relationship between working mechanisms and the psychological outcomes. However, the sample in the empirical study was rather small. For stronger conclusions to be drawn about this, more research is needed that examines how the interaction between fundamental conditions and working mechanisms impacts the offender.

Overall, it can be said that this dissertation opened the black box of VOM (see Figure 7.3). It has given more insight into the psychological impact of VOM, identified mechanisms that could be related to the psychological impact and showed what the impact is on reoffending. However, the insight into the black box after the studies in this dissertation is not yet crystal clear. It can be argued that the studies have opened multiple cracks in the door of the black box. Future studies examining this black box and the patterns of how VOM works might help to open the door even more. Using more qualitative research designs and methods – observations in particular – and analysing VOM encounters more deeply could shed more light on the fundamental conditions and working mechanisms and how these are related to the psychological impact on offenders.

METHODOLOGICAL IMPLICATIONS AND LIMITATIONS

PROPENSITY SCORE MATCHING

An important reason for writing this dissertation was the lack of a valid control group in other studies that examined the impact of VOM on reoffending. Ideally, a true experimental design is used to properly examine the impact of an intervention, such as VOM. In a true experiment, participants are randomly allocated to either the experimental or control conditions. However, random allocation was difficult and not possible ethically. The best approach when a true experiment is not possible is to use propensity score matching (Beal & Kupzyk, 2014), as in Chapter 6. To our knowledge, this is the first study in VOM that used propensity score matching and is, therefore, the closest to a true experiment. On the other hand, propensity score matching does have a limitation. The quality of the matching depends on the type and number of covariates used in calculating the propensity score. In Chapter 6, background variables that can be argued to explain who the person is (e.g., age, race, and gender) and what the person has done (e.g. criminal history and offence type) were included. However, the matching procedure would have been even stronger when variables were included that explained what (if any) conditions the person is suffering from (mental, personality, or substance use disorders), as well as more dynamic life circumstances (e.g. job, relationship status, being a parent) (Wermink et al., 2010). Therefore, this propensity score matching procedure could be optimised in future research by including confounding variables that cover who the person is, what the person has done, and the conditions someone suffers from. For future research in which random assignment is not an option, we suggest using propensity score matching, taking into account all the types of background variables offered by Nagin (2009). It has also been argued that other matching procedures exist that imitate a block-randomised experiment instead of a simple randomised controlled experiment (King & Nielsen, 2019). In a randomised controlled experiment, there is still a risk of imbalance in covariates. In a block-randomised experiment, this risk is lowered by blocking the assignment of people to the treatment or control condition based on covariates, such as demographic variables. With that, a block-randomised controlled trial aims to have zero imbalance in covariates/background variables (King & Nielsen, 2019). Therefore, the outcomes of blocked randomised controlled trials are more robust. Ultimately, the best way to examine a causal relation is to use a simple or blocked randomised controlled trial instead of mimicking one with a statistical program.

Sherman and colleagues (2015) used a randomised control trial to examine the relationship between participation in restorative justice conferencing and reoffending. Due to the voluntary nature of participation, the researchers informed participants after they gave consent to participate in conferencing, that they would be assigned either to conferencing or not. This study showed that offenders who participated in conferencing had

a lower risk of reoffending compared to those who did not. With such a research design, a causal relationship might be established with regard to VOM. However, with this approach, it is important, just as Sherman et al. did, to inform people beforehand that a chance exists that they are not assigned to VOM, even though they are willing to participate. In that way, people have a choice to participate in the study and expectations are managed, which might prevent them from being disappointed (Sherman, Strang, Barnes, et al., 2015). However, one might discuss whether it is ethically acceptable and even necessary to exclude at this point willing suspects and victims from a programme that can reduce the potential risk of recidivism (Shapland, 2021). In the end, most research, including the two studies in this dissertation, show the potential positive impact of participation in VOM on lowering reoffending.

PRE- AND POST-TEST DESIGN

In previous research, especially in qualitative research, offenders are often asked after their participation how they thought VOM had impacted them or made them feel (Choi, 2008). The downside of these types of studies is that it cannot be examined with certainty if an actual change happened due to VOM. First of all, when an offender's psychological state is measured only after the VOM process, it cannot be known if this state has changed over time. Also, when offenders are asked to describe the impact of VOM, they might give socially desirable answers that a researcher can work with. And lastly, even if a change is detected in offenders who participate in VOM it cannot be concluded if this change is due to VOM when there is no group to compare the change with. A group of offenders who did not participate in VOM needs to be included to examine if their psychological change is different from those who did participate in VOM. The studies in Chapters 4 and 5 adopted a pre- and post-test design to overcome this limitation. Asking the same questions at two different times made it possible to quantify if a change occurred in offenders and compare this change between offenders who participated in VOM and those who did not. However, this resulted in a considerable amount of drop-out in these studies. Due to drop-out, multiple imputation (MI) had to be used. With MI, complete versions of an incomplete dataset are formed. This method has several advantages over listwise or pair-wise deletion but has not been used frequently in the social sciences because of several misconceptions (van Ginkel et al., 2020). Some scholars have claimed that MI has disadvantages because it assumes that data are missing at random (Patrician, 2002), and it is very hard to determine if data are missing at random (Allison, 2000). Other researchers contradict this assumption as long as predictors that might explain missing at random are included when data is imputed (van Ginkel et al., 2020). In our study, we ensured that every possible predicting variable in the data file with missing values was included in the imputation model. Another factor that should be taken into account when using MI is not to accept imputations that are very different

from the observed data (van Buuren, 2018). In Chapters 4 and 5, imputed data was used to maintain the sample and these data were compared to the original data and showed the same patterns.

Dropout was not the only problem in this study. It was hard to find offenders prepared to participate in the studies in Chapters 4 and 5. It took almost two years to collect the samples used in these studies. Based on the sample sizes, it is hard to draw causal conclusions. That is also an important limitation to keep in mind when interpreting the outcomes of this dissertation. No causal relationships can be drawn based on the outcomes. The outcomes should be interpreted as patterns.

As too few offenders who were unwilling to participate in MiS participated in the study, it was not possible to examine if there are pre-existing differences between willing and unwilling offenders. Initially, the aim was to include such a study so that more robust conclusions could be drawn about the possible self-selection bias. More data needs to be collected to examine this more thoroughly in the future.

Another factor that should be considered when considering the sample is the possible bias of having a group of offenders willing to participate in this study. Since many offenders dropped out, but also many offenders declined the option to participate, a bias might already exist in the type of offenders participating in this study. It could be that these are the more exemplary offenders: the ones who want to genuinely apologise, take responsibility, and feel guilty. Consequently, the questionnaires' answers might have been positively skewed.

RELATION BETWEEN PSYCHOLOGICAL CHANGES AND REOFFENDING

The studies in Chapters 4 and 5 build on a post-test survey administered 6-8 weeks after the VOM encounter. This means that the sustainability of the psychological outcomes observed is not clear. Reoffending is typically measured after more than one year (Hansen & Umbreit, 2018; Jonas-van Dijk et al., 2020), so it remains empirically unclear whether the psychological outcomes found after 6-8 weeks are related to reoffending behaviour over the timespan of several years. Although the psychological outcomes found have been linked theoretically and empirically in the literature with pro-social behaviour and less reoffending behaviour, it was not possible to test this relationship empirically. It would be interesting for future research to adopt a longitudinal research design and administer an additional questionnaire among offenders months or even years after the VOM encounter. This would uncover whether the psychological outcomes observed shortly after the encounter last for a longer period of time. In addition, the psychological impact observed in Chapter 4 could be related empirically to reoffend-

ing behaviour in a few years. However, considering the amount of dropout, achieving an adequate sample size without dropout to conclude any causal relationships would be challenging (Cleven et al., 2015; Shapland, 2006). What might be interesting to do in the future is to try to increase the number of participants and administer more pre- and post-tests than in the current studies, add this data to the data from Chapters 3 and 4 and retrieve the recidivism data for the offenders used in the research. Then for these offenders, it could be examined to what extent the psychological outcomes are related to a lower risk of reoffending.

GENERALISABILITY

When interpreting the results of this dissertation, it is important to keep several other limitations in mind. First, I have examined two specific VOM practices in the Netherlands. Although these practices work according to a typical VOM procedure (Hansen & Umbreit, 2018), in the end, every VOM practice has its own specific way of working. It might be that the psychological outcomes or the effective working mechanism are different for other VOM practices. An example is how VOM is embedded in the criminal justice system, such as how a public prosecutor can refer before a criminal trial has started. Furthermore, mediators in the Netherlands must follow a specific training to become mediators in criminal cases. This training might be different from that given in other countries.

It is also important to realise that this dissertation only focused on the impact of VOM on the offender. However, VOM is an interaction between the offender and the victim. Before best practices can be applied, the impact, and especially the working mechanisms for victims, should also be considered. After all, the needs of the victims differ from those of the offender (Shnabel & Nadler, 2008). So, what works for the offenders does not have to work for the victims. In addition, working mechanisms that seem important to the offenders might be hard to translate into best practices since the (voluntary) behaviour of the victim plays an important part in adhering to these mechanisms. For example, it seems important for offenders that the victim responds positively to their genuine apology. However, a victim cannot be forced to react in a specific way to the offender's apology and willingness to make amends. Ultimately, 'sincerity is in the eye of the beholder' (Bonensteffen et al., 2020): only the victim can decide whether they perceive the apology as sincere, and the victim cannot be forced to accept an apology. Thereby, the finding in this dissertation that offenders do not feel more ashamed or more guilty might work counterproductively for victims. Research shows that victims want to have an impact with their participation, which can manifest itself by, for example, making offenders more aware of their responsibilities (Wemmers & Cyr, 2004). When offenders do not show that they feel more ashamed or guilty,

victims might perceive that they do not have an impact on the offenders, and subsequently, the victims' needs are not fulfilled. However, this is speculation for now. Future research could use methods described in this dissertation to examine the impact of VOM on the victim as well, aiming to find best practices that work for both parties. To examine the dynamics between parties I suggest to involve the offender and the victim in one research design. In that way the interaction between parties can be examined in more depth, as well as how different working mechanisms and fundamental conditions influence both parties.

PRACTICAL RECOMMENDATIONS AND CONCLUDING REMARKS

A society without any crime or people doing each other wrong is a utopia. However, at the very least, I believe we should strive to respond to wrongdoing in a way that considers the needs of the victims, the offenders and the community. One of those needs is reducing crime. With the studies in this dissertation, a strong point can be made that VOM can make a considerable contribution to reducing the risk of future reoffending. This can potentially result in fewer victims, fewer repeat offenders, and lower costs due to new criminal offences. The findings also suggest what patterns of psychological outcomes can be observed in offenders after participation in VOM and which fundamental conditions and working mechanisms are related to these psychological outcomes. Practitioners might want to learn about and take these conditions and mechanisms into account in a VOM process so they can attempt to facilitate that the offenders will experience being taken seriously and VOM is experienced as humanising rather than stigmatising.

Based on this dissertation, different suggestions can be made to practitioners to increase the chance of a beneficial psychological impact of VOM on offenders (see Table 7.1 for an overview). As previously stated, a constructive dialogue should be aimed for in which parties take each other seriously, in which a balance emerges in power and perspective, and in which a learning opportunity is provided for the offender (Choi, 2008; Gerkin, 2009). To accomplish this, mediators should invest in properly preparing parties to ensure that both are actively involved (Gerkin, 2009; Shapland et al., 2008). Mediators can facilitate this by ensuring that both the victim and offender are aware of the aims of VOM, what the process looks like, and what is expected from them. Mediators should also examine if victims would be able to respond openly and cooperatively towards a genuine offender to heighten the chance of perspective-taking. If victims are unable to immediately be open to a genuine offender, then it could be helpful if they explain their reaction. Acknowledging this misbalance might help the offender to experience being taken seriously. Mediators might also want to help the victim, during the intake meeting, in formulating how to explain the impact of the crime to

the offender. When the victim is able to explain the impact in a good manner, this might make offenders more aware of what the consequences of the actions were, since hearing the consequences of the crime can offer a learning impact (Choi, 2008; Jonas-van Dijk et al., 2022a). A suggestion to heighten the chance of offenders realising the impact of their crimes is to ask them to reflect during the conversation on what they have learned from the victim’s story. Learning through reflection enhances the extraction of knowledge from an experience (Fenwick, 2001), which means that this active reflection might help offenders learn from their conversation with the victim. Let the offenders explain in their own words what VOM taught them about why their behaviour was wrong. Since VOM also gives the opportunity to learn new problem-solving skills (Choi et al., 2011; Meléndez, 2015), it is suggested that mediators make this a part of the VOM encounter: discuss what the offenders, but maybe also the victim, could do in a comparable situation in the future. This new learned behaviour could become part of the outcome agreement to reinforce this future behaviour.

Table 7.1
Overview of the practical implications for mediation practitioners

What	How
Facilitating a constructive dialogue	Balance in power between parties Balance in perspectives and acknowledge imbalance
Offering a learning opportunity	Help the victim in explaining the impact Active reflection of offenders Discuss problem-solving skills
Proper preparation	Awareness of the aims of VOM Knowledge of the process Expectation management

The active participation of offenders should be encouraged by ensuring that they participate on the basis of complete informed consent. Offenders should be aware that they have a voluntary choice to participate (Walgrave, 2013a). The question is to what extent offenders have a voluntary choice. When VOM is part of the criminal justice process, offenders might feel obliged to participate to some extent. After all, when offenders do not participate, a judge or public prosecutor will solve their case, and when they do participate, there is a chance that they get a lower or no sanction at all. Furthermore, according to restorative justice, it is the offender’s duty to make things right. So perhaps a bit of coercion is needed to make offenders live up to that duty. Even if offenders might not always perceive having a voluntary choice, there should always be complete informed consent: offenders should be aware of the consequences of their (non-)participation, the aims of VOM, and the process to ensure they can make a delib-

erate decision to participate (Claessen & Roelofs, 2020). Offenders who participate with a bit of reluctance might be positively surprised about the impact of the conversation with the victim – this is what our findings in Chapter 5 seem to suggest.

This dissertation has shown in many ways that VOM and therefore restorative justice can be a good addition to the criminal justice system. VOM might even be used as an alternative pathway in which further sanctioning is not necessary to righten the wrong. Actively involving the victim and the offender by means of a conversation seems to have more psychological impact compared to the traditional criminal justice system in which the offender (most often) passively undergoes the sanction and sanctioning process. However, VOM is not possible in every case, for example, when one of the parties declines the option. Also, VOM happens behind closed doors, and with that, it surpasses the public dimension of a crime. The criminal justice system is a form of public law. For this reason, public prosecutors and judges might not want to refer a case to mediation but instead handle a case in court. In these cases, alternative interventions could be sought that achieve the same psychological impact as VOM. In the Netherlands, VOM outside of criminal cases is an option. Restorative justice interventions can also be offered during incarceration (Armour et al., 2005; Claessen et al., 2021). How offenders are approached in the criminal justice process without VOM can also be reflected upon. The chance of reintegrative shaming could be increased and stigmatising minimised if judges and public prosecutors refrain from labelling the offenders as a criminal and instead focus on the act of wrongdoing while highlighting the opportunities to reintegrate. The offenders should be invited to reflect on the wrongdoing and be taken seriously by actively involving them in the process. It is in this regard also interesting to examine the impact of victim impact statements on offenders. These victim impact statements can hold negative characteristics of the offender (Myers et al., 2004), which might come across as stigmatizing. This might result in contra productive psychological outcomes. If so, the question is how the stigmatization could be counterbalanced in a criminal justice process in such a way that it benefits the psychological impact to the offender.

These interventions might not need to be very extensive. Even a VOM programme like that examined in this dissertation that might cost participants half a day can have a significant impact on offenders. It is perhaps comparable to the personal experience I described in the opening paragraph of this dissertation: it was a very short moment, but 22 two years later, I still vividly remember how I felt apologising to that classmate.

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The background of the page is a dark gray color. It features several thin, white, curved lines that sweep across the right side of the image, creating a sense of motion and depth. These lines are concentric and curved, resembling the lines on a topographic map or the ripples in water. The lines are more densely packed on the right side and become more sparse towards the left.

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SUMMARY

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The application of restorative justice within the criminal justice system has increased over the last years (D'Souza & L'Hoiry, 2019). At this moment it seems almost impossible to picture a society without any form of restorative justice. More often the crime is handed back to the originate parties: the victim, the offender and the community (Christie, 2017). Instead of directly punishing the offender, restorative justice aims to restore the damage done, taking into account the needs of the victim, while holding the offender directly accountable. In restorative justice evil is not responded to in an evil way by intentionally inflicting harm, but instead it aims to restore relations by actively involving the victim, the offender and the community (Claessen, 2023). Victim-offender mediation (VOM) is one prevalent example of a restorative justice program around the world (McCold & Wachtel, 2003). In VOM victim and offender together try to come to an agreement, by means of a conversation. This process is led by a trained mediator (Hansen & Umbreit, 2018). In this process parties have the opportunity to ask and answer questions, explain the impact of the crime, show their emotions, and make amends.

Previous research has already shown that offenders' participation in VOM can be predictive of a lower risk of reoffending, compared to offenders whose case was dealt within the contemporary justice system (Claessen et al., 2015a). However, often research suffers from a self-selection bias. That is, in most empirical studies on this topic a comparison is made between offenders who participated in VOM and offenders who did not. Due to the voluntary nature of VOM, pre-existing differences might exist between these groups, that could account for the effect. As a consequence, it was still unclear what brings about the relationship between participation in VOM and lower reoffending: is it a (self-)selection bias and/or is it the process of establishing and having mediated contact itself in VOM? The central research question that lies at the root of this dissertation was therefore: *Does participation in VOM reduce offenders' risk of reoffending and, if so, how?* The focus in this dissertation was on two different VOM programs in the Netherlands.

By means of five different studies I aimed to answer the research question. First it was examined if participation in a mediation program in the south of the Netherlands was related to a lower risk of reoffending and to what extent this was explained by the VOM process or to a self-selection bias (Ch. 2). Following up on the data gathered in research from Claessen et al. (2015), three different groups of offenders were compared: offenders who participated in VOM, offenders who were willing to participate, but whose counterpart declined, and offenders unwilling to participate (total $N = 1275$). Results showed that offenders who participated in VOM indeed had a lower risk of reoffending compared to offenders who were unwilling to participate. Offenders who were willing, but unable to participate did not significantly differ from the other two

groups. Their risk of reoffending fell in between the risks of the other two groups. It was therefore cautiously concluded that the lowered risk of reoffending is explained by both the VOM process and a self-selection bias.

After it was established that participation in a VOM process in the Netherlands was related to a lower risk of reoffending, the follow up question that arose was how and which elements of the VOM process could explain this lower risk of reoffending. What is the psychological impact of VOM and which elements of VOM explain this impact? In chapter 3 a realist synthesis review offered a deeper introduction into the VOM literature, explained what is currently known about how VOM works, but also showed where important gaps lie and what thus still needs to be examined (N articles = 53). The synthesis review indicated that, although a possible self-selection bias could (partly) account for the effect on recidivism, there are multiple key working elements in the VOM process itself that can help explain a psychological change within the offender. These elements can be subdivided into fundamental conditions which should always be present in VOM (voluntary participation, proper preparation, neutral and non-judgmental mediator) and working mechanisms, which may vary in every encounter (e.g., balance of power, humanizing impact, offering a learning opportunity, mutual understanding, finding common ground).

With the studies in Chapter 4 and 5 I tried to open the black box of VOM, by examining the Dutch mediation practice 'Mediation in Strafzaken' (Mediation in Criminal Cases, MiS). These studies aimed to unravel what psychological outcomes VOM bring about and which elements of VOM are related to these psychological outcomes. For both studies one data-collection procedure was used. Offenders whose case was referred to mediation, were informed about and asked to participate in the study. To participate they had to fill out two questionnaires. One at the start of the VOM-process, before the encounter, and one 6-8 weeks after the VOM-encounter took place. Offenders who eventually did not participate in VOM were also asked to fill out a second questionnaire, 6-8 weeks after I was informed that the encounter would not take place.

Chapter 4 examined the psychological impact of VOM on offenders. To this end, the psychological outcomes of offenders who participated in VOM were compared to the outcomes of offenders who did not participate in VOM (total $N = 86$). The findings suggest that offenders who participated in VOM take more responsibility, have more victim empathy, feel more guilt and shame, and experience higher moral failure than offenders who did not participate in VOM do. Offenders also reported feeling significantly less awkward about meeting the victim again after VOM. Interestingly, psychological factors such as empathy, guilt and shame have been related to more prosocial behavior and less offending behavior (Gausel et al., 2016; Hosser et al., 2008; Tangney et al., 2014). Guilt

and shame are shown to be able to motivate people to obey social moral rules (Hosser et al., 2008). Tangney et al. (2014) indicate that people with higher empathic concern are prone to feel more guilty and subsequently commit fewer crimes. This means that this dissertation unraveled psychological outcomes in offenders as a consequence of their participation in VOM which might explain a lower risk of reoffending. To my knowledge this indirect explanation of a lower risk of reoffending has not been empirically shown in previous research.

Building on Chapter 4, Chapter 5 aimed to examine which elements of the VOM process were related to the psychological outcomes. Based on the synthesis review a distinction was made between fundamental (pre)-conditions of VOM (perceived voluntary participation, preparation, and professional competencies of mediators) and three working mechanisms of the VOM process itself (learning opportunity, humanizing impact, Positive atmosphere and interaction with a cooperative victim). It was hypothesized that adhering to these fundamental conditions and working mechanisms was related to the psychological outcomes. For this study only those offenders who participated in VOM were examined ($N = 55$). In addition to the questionnaire filled out by the offenders, observation forms filled out by the mediators were used. Therefore, this chapter builds on both quantitative and qualitative data. The results showed that the proposed working mechanism are related to multiple psychological outcomes. In addition, the study suggests that adherence to the fundamental conditions of the VOM process is associated with the occurrence of the working mechanisms of the VOM encounter itself. That is, offenders who reported that they felt well-prepared, experienced the mediator to be neutral and to take them seriously, also reported a higher occurrence of multiple working mechanisms: e.g., increases in satisfaction with the VOM process, experiencing even possibilities to speak, perceiving the apology to be sincerely accepted, and the degree of reintegrative shame felt. The fundamental condition voluntary participation seemed to work as a moderator, since it altered the relation between working mechanisms and psychological outcome variables.

Altogether, based on Chapter 3 and Chapter 5, this dissertation showed that three working mechanisms of VOM could be related empirically to offenders' psychological outcomes afterwards: 1) a by the offender perceived open and constructive attitude of the victim, 2) a humanizing experience during the process, and 3) experiencing VOM as a learning process, in a way that helps offenders realize the true impact of their crime. This dissertation also suggests the importance of adhering to three fundamental conditions for these working mechanisms to occur: 1) the offenders experiencing the mediators to be neutral and to take them seriously, 2) the offenders feeling to be properly prepared, and 3) offenders experiencing to (not be) voluntarily participating.

For MiS it was not yet examined if participation was related to a lower risk of reoffending. In addition, in previous research on VOM and reoffending the impact of sanctioning on this relationship has not been examined. Since the outcome of mediation can impact further sanctioning (Claessen et al., 2015a) and sanctioning could also impact reoffending (Braithwaite et al., 2018), sanctioning might offer an alternative explanation for a lower risk of reoffending. Therefore, in Chapter 6 it was examined if participation in MiS was related to a lower risk of reoffending and what the role of sanctioning was. Four offender groups were compared: offenders who participated in VOM, offenders unwilling to participate in VOM, offenders unable to participate because the victim declined the option, and offenders who were not referred to VOM. This last group was formed using propensity score matching, to mimic a true experiment. It was expected that the relation between participation in VOM and a lower risk of reoffending is explained by the VOM process as well as a (self-)selection bias and that additional sanctioning weakened this relation. Results replicated the finding that participation in mediation predicts a lower risk of reoffending, and suggested that the role of the self-selection bias was smaller than initially thought. In addition, I found that the chance of receiving a sanction is lower after VOM. However, this in itself seems unrelated to the reduced risk of reoffending.

All in all the studies in this dissertation have opened multiple cracks in the door of the black box of VOM. It gave more insight into what the psychological impact is of VOM and identified mechanisms that could be related to the psychological impact. Furthermore, the studies offered more robust outcomes on the relation between participation in mediation and a lower risk in reoffending, while taking into account the role of sanctioning. From an academic point of view the outcomes of this dissertation offer starting points for new research as well as suggestions for research designs that can be adopted to further open the black box of VOM. From a practical perspective this dissertation offers concrete implications that can be taken into account in VOM processes, to further optimize the (psychological) outcomes for offenders.

SAMENVATTING

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De toepassing van herstelrecht binnen het strafrechtelijk systeem is de afgelopen jaren toegenomen (D'Souza & L'Hoiry, 2019). Op dit moment lijkt het bijna onmogelijk om een samenleving voor te stellen zonder enige vorm van herstelrecht. Steeds vaker wordt het strafbare feit teruggegeven aan de oorspronkelijke partijen: het slachtoffer, de verdachte en de gemeenschap (Christie, 2017). In plaats van de verdachte direct te straffen, streeft herstelrecht ernaar de aangerichte schade te herstellen. Hierin wordt rekening gehouden met de behoeften van het slachtoffer, terwijl de dader direct verantwoordelijk wordt gehouden. In herstelrecht wordt kwaad niet vergolden met kwaad door opzettelijk schade toe te brengen, maar streeft het ernaar schade te herstellen door actieve betrokkenheid van het slachtoffer, de dader en de gemeenschap (Claessen, 2023). Slachtoffer-dader mediation (victim-offender mediation, VOM) is een vaak toegepast herstelrechtprogramma over de hele wereld (McCold & Wachtel, 2003). In VOM proberen slachtoffer en dader samen tot een overeenkomst te komen door middel van een gesprek. Dit proces wordt begeleid door een getrainde mediator (Hansen & Umbreit, 2018). In dit proces hebben de partijen de mogelijkheid om vragen te stellen en te beantwoorden, de impact van het delict uit te leggen, hun emoties te tonen en zich te verzoenen.

Eerdere onderzoeken hebben al aangetoond dat de deelname van verdachten aan VOM in verband staat met een lager risico op recidive, in vergelijking met verdachten van wie de zaak werd afgehandeld binnen het reguliere strafrechtstelsel (Claessen et al., 2015a). Echter lijdt onderzoek vaak aan een zelfselectiebias. Dat wil zeggen, in de meeste empirische studies over dit onderwerp wordt een vergelijking gemaakt tussen verdachten die deelnamen aan VOM en verdachten die dat niet deden. Vanwege de vrijwillige aard van VOM kunnen er vooraf bestaande verschillen aanwezig zijn tussen deze groepen, die het effect zouden kunnen verklaren. Als gevolg daarvan was het nog steeds onduidelijk wat de relatie tussen deelname aan VOM en een lager risico op recidive veroorzaakt: is het een (zelf-)selectiebias en/of het mediation proces?

De centrale onderzoeksvraag die aan de basis van dit proefschrift ligt, was daarom: *Vermindert deelname aan VOM het risico op recidive voor verdachten, en zo ja, hoe?* De focus in dit proefschrift lag op twee verschillende VOM-programma's in Nederland.

Met behulp van vijf verschillende studies heb ik geprobeerd de onderzoeksvraag te beantwoorden. Allereerst werd onderzocht of deelname aan een bemiddelingsprogramma in het zuiden van Nederland verband hield met een lager risico op recidive en in hoeverre dit werd verklaard door het VOM-proces of door een zelfselectiebias (Hfst. 2). Op basis van de gegevens die zijn verzameld in het onderzoek van Claessen et al. (2015) werden drie verschillende groepen verdachten vergeleken: verdachten die deelnamen aan VOM, verdachten die bereid waren deel te nemen, maar van wie het slachtoffer weigerde, en verdachten die niet bereid waren deel te nemen

(totaal $N = 1275$). De resultaten toonden aan dat verdachten die deelnamen aan VOM inderdaad een lager risico op recidive hadden in vergelijking met verdachten die niet bereid waren deel te nemen. Verdachten die bereid waren, maar niet konden deelnemen, verschilden niet significant van de andere twee groepen. Hun risico op recidive viel tussen de risico's van de andere twee groepen. Daarom werd met voorzichtigheid geconcludeerd dat het verminderde risico op recidive wordt verklaard door zowel het mediation proces als een zelfselectiebias.

Nadat was vastgesteld dat deelname aan een mediation in Nederland verband hield met een lager risico op recidive, rees de vervolgvraag op: Hoe en welke elementen van het mediation proces kunnen het verlaagde recidiverisico verklaren? Met andere woorden, wat is de psychologische impact van VOM en welke elementen van VOM verklaren deze impact? In hoofdstuk 3 bood een *realist synthesis*-review een grondigere introductie in literatuur omtrent VOM, werd uiteengezet wat er op dit moment bekend is over hoe VOM werkt, maar liet ook zien waar belangrijke hiaten liggen en wat dus nog moet worden onderzocht (N artikelen = 53). De review liet zien dat, hoewel een mogelijke zelfselectiebias het effect op recidive (deels) zou kunnen verklaren, er meerdere essentiële werkende elementen zijn in het mediation proces zelf die een psychologische verandering bij de verdachte kunnen verklaren. Deze elementen kunnen worden onderverdeeld in fundamentele voorwaarden, die altijd aanwezig moeten zijn in mediation (vrijwillige deelname, goede voorbereiding, neutrale en niet veroordelende bemiddelaar) en werkende mechanismen, die kunnen variëren in elk mediation gesprek (bijv. machtsverhoudingen, humaniserend effect, bieden van een leermogelijkheid, wederzijds begrip, gemeenschappelijke grond vinden).

Met de studies in hoofdstuk 4 en 5 probeerde ik de *black box* van VOM te openen door de Nederlandse mediationpraktijk 'Mediation in Strafzaken' (MiS) te onderzoeken. Deze studies hadden als doel de psychologische impact van VOM te onderzoeken en welke elementen van VOM mogelijk verband houden met deze psychologische uitkomsten. De data voor beide studies is afkomstig van eenzelfde procedure. Verdachten van wie de zaak naar mediation werd verwezen, werden geïnformeerd en gevraagd deel te nemen aan het onderzoek. Om deel te nemen, moesten ze twee vragenlijsten invullen. Een aan de start van het mediation proces, vóór het gezamenlijke gesprek, en één 6-8 weken nadat het gesprek had plaatsgevonden. Verdachten die uiteindelijk niet deelnamen aan mediation werd ook gevraagd om een tweede vragenlijst in te vullen, 6-8 weken nadat ik op de hoogte was gesteld dat het gesprek niet zou plaatsvinden.

Hoofdstuk 4 onderzocht de psychologische impact van mediation op verdachten. Hiervoor werden de psychologische uitkomsten van verdachten die deelnamen aan mediation vergeleken met de uitkomsten van verdachten die niet deelnamen aan mediation

(totale N = 86). De bevindingen suggereren dat verdachten die deelnamen aan mediation meer verantwoordelijkheid nemen, meer empathie voor het slachtoffer tonen, meer schuld en schaamte voelen, en een hoger moreel falen ervaren dan verdachten die niet deelnamen aan mediation. Verdachten meldde ook dat ze zich aanzienlijk minder ongemakkelijk voelden bij het opnieuw ontmoeten van het slachtoffer na mediation. Interessant is dat psychologische factoren zoals empathie, schuld en schaamte in verband zijn gebracht met meer pro-sociaal gedrag en minder crimineel gedrag (Gausel et al., 2016; Hosser et al., 2008; Tangney et al., 2014). Schuld en schaamte blijken mensen te kunnen motiveren om sociale en morele regels te volgen (Hosser et al., 2008). Tangney et al. (2014) geven aan dat mensen met een hoger empathische vermogen meer schuldgevoelens kunnen ervaren en vervolgens minder misdaden begaan. Dit betekent dat dit proefschrift psychologische uitkomsten bij verdachten heeft laten zien, als gevolg van hun deelname aan mediation, welke een lager risico op recidive zouden kunnen verklaren. Naar mijn weten is deze indirecte verklaring van een lager risico op recidive nog niet eerder aangetoond door middel van empirisch onderzoek.

Als vervolg op Hoofdstuk 4 richtte Hoofdstuk 5 zich op welke elementen van het mediation proces verband hielden met de psychologische uitkomsten. Op basis van de review werd onderscheid gemaakt tussen fundamentele (voorwaarden voor) voor mediation (waargenomen vrijwillige deelname, voorbereiding en professionele competenties van mediators) en drie werkende mechanismen van het mediation proces zelf (leermogelijkheid, humaniserend effect, positieve sfeer en interactie met een coöperatief slachtoffer). Verwacht werd dat het naleven van deze fundamentele voorwaarden en werkende mechanismen verband hield met de psychologische uitkomsten. Voor deze studie werden alleen de verdachten onderzocht die deelnamen aan mediation (N = 55). Naast de vragenlijst ingevuld door de verdachten, werden observatieformulieren ingevuld door de mediators. Met andere woorden, dit hoofdstuk gebruikt zowel kwantitatieve als kwalitatieve data. De resultaten toonden aan dat de werkende mechanismen verband hielden met meerdere psychologische uitkomsten. Bovendien suggereerde de studie dat het naleven van de fundamentele voorwaarden van het mediation proces verband hield met het optreden van de werkende mechanismen van het mediation gesprek zelf. Dat wil zeggen, verdachten die aangaven dat ze goed waren voorbereid, de mediator als neutraal en serieus ervaarden, ook in hogere mate meerdere werkende mechanismen ervaarden, zoals tevredenheid met het mediation proces, het ervaren van gelijke mogelijkheden om te spreken, het oprecht aanvaarden van de verontschuldiging door het slachtoffer en de mate van re-integrerende schaamte.

De fundamentele voorwaarde van vrijwillige deelname leek te fungeren als een moderator, omdat het de relatie tussen werkende mechanismen en psychologische uitkomstvariabelen veranderde.

Al met al, gebaseerd op Hoofdstuk 3 en Hoofdstuk 5, liet dit proefschrift zien dat drie werkende mechanismen van mediation empirisch gerelateerd konden worden aan de psychologische uitkomsten bij verdachten: 1) een door de dader waargenomen open en constructieve houding van het slachtoffer, 2) een humaniserende ervaring tijdens het proces, en 3) het ervaren van mediation als een leerproces, op een manier die verdachten helpt de ware impact van hun misdaad te realiseren. Dit proefschrift suggereert ook het belang van het naleven van drie fundamentele voorwaarden voor het optreden van deze werkende mechanismen: 1) de verdachten ervaren de mediators als neutraal en hen serieus nemend, 2) de verdachten voelen zich goed voorbereid, en 3) de verdachten ervaren (al dan niet) vrijwillig deel te nemen.

Voor MiS was tevens nog niet onderzocht of deelname verband hield met een lager risico op recidive. Bovendien is in eerder onderzoek naar de relatie tussen mediation en recidive de invloed van sanctionering niet onderzocht. Aangezien de uitkomst van mediation van invloed kan zijn op verdere sanctionering (Claessen et al., 2015a) en sanctionering ook van invloed kan zijn op recidive (Braithwaite et al., 2018), kan sanctionering een alternatieve verklaring bieden voor een lager risico op recidive. Daarom werd in Hoofdstuk 6 onderzocht of deelname aan MiS verband hield met een lager risico op recidive en wat de rol van sanctionering was. Vier groepen verdachten werden vergeleken: verdachten die deelnamen aan mediation, verdachten die niet bereid waren om deel te nemen aan mediation, verdachten die niet konden deelnemen omdat het slachtoffer de optie weigerde, en verdachten die niet naar mediation werden verwezen. Deze laatste groep werd samengesteld met behulp van *propensity score matching*, om zo een experiment na te bootsen. Er werd verwacht dat de relatie tussen deelname aan mediation en een lager risico op recidive werd verklaard door een combinatie van het mediation proces en een (zelf-)selectiebias en dat aanvullende sanctionering deze relatie verzwakte. De resultaten bevestigden de bevinding dat deelname aan mediation een lager risico op recidive voorspelde en suggereren dat de rol van de zelfselectiebias kleiner was dan aanvankelijk gedacht. Bovendien werd gevonden dat de kans op het krijgen van een sanctie lager was na deelname aan mediation. Dit op zichzelf lijkt echter niet de verklarende factor voor het verminderde risico op recidive.

Al met al hebben de studies in dit proefschrift gezorgd voor meerdere barsten in de deur van de black box van mediation. Het geeft meer inzicht in wat de psychologische impact is van mediation en identificeerde mechanismen die verband kunnen houden met de psychologische impact. Bovendien boden de studies robuustere uitkomsten over de relatie tussen deelname aan mediation en een lager risico op recidive, waarbij rekening werd gehouden met de rol van sanctionering. Vanuit academisch oogpunt bieden de uitkomsten van dit proefschrift aanknopingspunten voor nieuw onderzoek,

evenals suggesties voor onderzoeksdesigns die kunnen worden gebruikt om de black box van mediation verder te openen. Vanuit praktisch oogpunt biedt dit proefschrift concrete implicaties die in overweging kunnen worden genomen in mediation processen om de (psychologische) uitkomsten voor daders verder te optimaliseren.

IMPACT PARAGRAPH

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This dissertation aimed to open the black box of Victim-Offender-Mediation (VOM) in terms of its association with a lower risk of reoffending. By means of various types of studies and research designs, a systematic attempt was made to provide as complete a picture as possible of how the VOM process works to change offenders' behaviour. The impact of these outcomes can be divided into theoretical implications, methodological implications, practical implications and societal implications.

THEORETICAL IMPLICATIONS

Due to improved and innovative study designs, this dissertation offers more theoretical insight into the relation between participation in mediation and a lower risk of reoffending. Even though previous research already indicated that such a relationship existed, it was unclear whether it was due to a self-selection bias, the mediation process itself or a combination of the two. The studies underlying this dissertation all provide evidence that a combination is the most probable explanation.

Subsequently, the question was addressed which psychological impact mediation has on offenders, that might explain this lower risk of reoffending. The study in Chapter 4 concludes that offenders who participated in VOM feel more responsible, guilty and ashamed. They also show more empathy for the victim and feel less awkward to meet the victim in the future. Lastly, VOM makes offenders more aware of how morally wrong their behaviour was. Responsibility taking, guilt and empathy all have been previously linked to prosocial behaviour and less reoffending.

This dissertation also aimed to unravel which elements of the VOM process might be related to the psychological impact. A new contribution to theory is that a distinction was made between fundamental conditions and working mechanisms, based on existing literature. Fundamental conditions are based on the core principles of restorative justice and can be considered an essential requirement that should be present in every VOM process: voluntary participation, a proper preparation by the mediator and a neutral and non-judgmental mediator. Working mechanisms preferably are present, but their prevalence might differ in each VOM process. One mechanism is a constructive dialogue with the victim, in which the victim takes the offender's perspective and shows empathy and the offender is being taken seriously by the victim. A second mechanism is maximizing reintegrative shaming and minimizing stigmatizing. The last identified mechanism is using VOM as a learning process. The empirical study in Chapter 5 shows that adhering to fundamental conditions might explain the presence of working mechanisms in a VOM meeting or positively influence the relationship between working mechanisms and the psychological outcomes.

METHODOLOGICAL IMPLICATIONS

To measure the impact on reoffending, I have adopted a research design that has not been used before in research into mediation: propensity score matching. Propensity score matching enables to mimic a true experiment in which people are randomly assigned to either the experimental condition (in this case mediation) or the control condition (in this case not mediation). Due to the voluntary nature of mediation, it is difficult to use a true experiment and as a consequence other factors than the VOM process might offer an explanation for the lower risk of reoffending. In Chapter 6 multiple offender groups were compared, using propensity score matching to have more robust outcomes on the impact on reoffending. Future research might adopt such a study design as well when random allocation is not possible to the voluntary nature of restorative justice, taking into account the limitations of such a design.

I also used a pre- and posttest design, to see if a change occurred on the psychological mechanisms and to compare offenders who did and did not participate in mediation. Most often in previous research offenders were asked for the experiences with mediation (weeks) after mediation, by means of an interview. The design used in this dissertation made it able to compare the scores for different groups of offenders to examine if differences existed.

PRACTICAL IMPLICATIONS

Based on the outcomes multiple concrete suggestions are made for practitioners that could possibly increase the psychological impact of mediation on offenders. To come to a constructive dialogue in which a learning opportunity is provided for the offenders, mediators should invest in properly preparing the parties to ensure that both are actively involved. Informed consent is therefore crucial. Mediators can facilitate this by ensuring that both the victim and offender are aware of the aims of VOM, what the process looks like, and what is expected from them. Mediators should also examine if victims would be able to respond openly and cooperatively towards a genuine offender to heighten the chance of perspective-taking. If victims are unable to immediately be open to a genuine offender, then it could be helpful if they explain their reaction. Acknowledging this misbalance might help the offender to experience being taken seriously. Mediators might also want to help the victim, during the intake meeting, in formulating how to explain the impact of the crime to the offender. When the victim is able to explain the impact in a good manner, this might make offenders more aware of what the consequences of their actions were, increasing the learning impact. A suggestion to heighten the chance of offenders realising the impact of their crimes is to ask them to reflect during the conversation on what they have learned from the vic-

tim's story. Let the offenders explain in their own words what VOM taught them about why their behaviour was wrong. Since VOM also gives the opportunity to learn new problem-solving skills it is suggested that mediators make this a part of the VOM encounter: discuss what the offenders, but maybe also the victim, could do in a comparable situation in the future. This new learned behaviour could become part of the outcome agreement to reinforce this future behaviour.

The findings of this dissertation might also be applied in other contexts. VOM is not possible in every case, for example, when one of the parties declines the option. Also, VOM happens behind closed doors, and with that, it surpasses the public dimension of a crime. The criminal justice system is a form of public law. For this reason, public prosecutors and judges might not want to refer a case to mediation but instead handle a case in court. In these cases, alternative interventions could be sought that achieve the same psychological impact as VOM. How offenders are approached in the criminal justice process without VOM can also be reflected upon. The chance of reintegrative shaming could be increased and stigmatising minimised if judges and public prosecutors refrain from labelling the offenders as a criminal and instead focus on the act of wrongdoing while highlighting the opportunities to reintegrate. The offenders should be invited to reflect on the wrongdoing and be taken seriously by actively involving them in the process. It is in this regard also interesting to examine the impact of victim impact statements on offenders. These victim impact statements can hold negative characteristics of the offender, which might come across as stigmatizing. This might result in contra productive psychological outcomes. If so, the question is how the stigmatization could be counter-balanced in a criminal justice process in such a way that it benefits the psychological impact to the offender.

SOCIETAL IMPLICATIONS

I expect that the outcomes of this dissertation can have an important impact on future policy making. The outcomes of this dissertation offer strong conclusions about the impact of mediation on offenders. For justice systems it is important that the programs used can possibly reduce the risk of reoffending. The outcomes of this dissertation can be used to support the continuous application of restorative justice and mediation within the criminal justice system in The Netherlands. Actively involving the victim and the offender by means of a conversation seems to have more psychological impact for the offender compared to the traditional criminal justice system in which the offender (most often) passively undergoes the sanction and sanctioning process.

ACKNOWLEDGEMENTS

The background of the page is a solid teal color. Overlaid on this are several thin, white, curved lines that sweep across the page from the bottom left towards the top right, creating a sense of movement and depth. The lines vary in curvature and spacing, some being more pronounced than others.

Het is altijd bijzonder hoe het leven kan verlopen. Ik ben nooit iemand geweest die al van kinds af aan wist wat ze ging worden. Op het moment van mijn studiekeuze heb ik bedacht dat ik in het leven ga doen waar ik enthousiast van wordt, waar mijn interesse ligt en waar mijn hart sneller van gaat kloppen. Op dat moment was dat psychologie. Wist ik toen al dat ik het pad ging bewandelen tot wetenschappelijk onderzoeker? Gezien ik er nog nooit van had gehoord, was het antwoord zeker nee. Tijdens mijn derde jaar werd mij zelfs gevraagd of ik een twee-jaar durende onderzoeksmaster wilde doen. Mijn reactie? Zeker niet, ik ga toch geen onderzoek doen! Dat leek me vooral saai. En kijk waar ik nu sta. Doordat ik de juiste mensen op mijn pad ben tegengekomen, heb ik mogen ontdekken waar mijn passie en talent liggen. En dit is het moment dat ik mijn waardering voor jullie allen wil uitspreken.

Allereerst de drie heren die al voor de start van het traject het volste vertrouwen hebben gehad in mijn capaciteiten: Sven, Jacques en Hans. Sven, ik kan wel zeggen dat ik mijn passie voor onderzoek grotendeels door jou heb ontdekt. Al tijdens het afstuderen in mijn master heb ik ervaren hoe leuk het is (en niet saai) om onderzoek te doen, toen we samen enthousiast de analyses deden. Het was ook jij die met het voorstel voor een promotietraject kwam. Jouw aanbod gaf mij alle vertrouwen in mijn onderzoekscapaciteiten. Tijdens mijn promotietraject werd deze passie alleen maar groter. Ik heb enorm genoten van al onze korte brainstormsessies en heb het altijd gewaardeerd dat jouw kantoor op ieder moment voor me open stond voor de vragen die ik had.

Jacques, jouw sterke motivatie en overtuigingskracht voor de toepassing van herstelrecht in het rechtssysteem heb ik altijd bewonderingswaardig gevonden. Het werkt ook aanstekelijk, want ik heb het mezelf als doel gemaakt om herstelrecht breder op de kaart te zetten in Nederland (of daar in ieder geval een bijdrage aan te leveren) door middel van onderzoek. Ik hoop en verwacht dat we elkaar nog regelmatig zullen zien en constructief mogen samen werken.

Hans, ik waardeerde het altijd enorm dat jij tijdens onze overleggen de helicopterview wist te houden. Je wist me uit de details te trekken en met jouw commentaar kon ik weer even afstand nemen van de materie, om vervolgens stukken, zonder tegenzin, te herschrijven. Dank ook, dat je zelfs tijdens je welverdiende sabbatical enorm betrokken bleef bij het project.

Ik wil jullie alle drie bedanken voor de vrijheid die ik kreeg om het promotieonderzoek mijn eigen onderzoek te maken. Mij het vertrouwen te geven dat het allemaal goed zou komen, wanneer ik me afvroeg of ik ooit een proefschrift zou kunnen afronden. Voor alle zinvolle, maar bovenal gezellige ontmoetingen. Ondanks dat ik enorm blij ben dat ik het promotietraject heb mogen afronden, vind ik het tegelijkertijd jammer dat

dit ook het einde is van onze innige samenwerking. Ik kijk er met enorm veel plezier op terug en hoop dat we in de toekomst nog eens samen een mooi project mogen doen.

Dan wil ik graag mijn grote dank uitbrengen naar alle mensen uit de praktijk van mediation in Nederland die ik de afgelopen 5 jaar heb mogen ontmoeten. Zonder de intensieve samenwerking had ik nooit de unieke data kunnen verzamelen om dit onderzoek te voltooien. Ondanks het vele verlengen van de duur van de dataverzameling, bleven jullie onverminderd meewerken. Dank aan alle mediationfunctionarissen en mediators die op welke manier dan ook een bijdrage hebben geleverd. Het kan zijn door het verwijzen van verdachten naar het onderzoek, het invullen van een observatie-formulier of mij een kijkje laten nemen in jullie keuken. Een aantal mensen wil ik hier bij naam noemen. Jolien Boeding en Judith Uitermark, bedankt voor jullie bereidheid om mee te denken in hoe we de data konden verzamelen. Mede door jullie enthousiasme werd de dataverzameling uiteindelijk succesvol. En uiteraard mijn grote dank aan Wiel Erens. Wiel, je hebt me zoveel prachtige verhalen verteld over al die verschillende bemiddelingen. Maar ook dank dat ik zo vaak met jou op stap mocht om die bemiddelingen van dichtbij mee te maken (ook al kon ik zie niet altijd volledig volgen door het mooie Maastrichtse accent). Ik hoop nog steeds dat jij ooit een bundel uitbrengt met al die prachtige, grappige en ontroerende bemiddelingen die jij hebt meegemaakt. Bianca Rooding, mijn grote dank voor het begeleiden van mijn stagiaires.

Ook mijn dank aan die stagiaires, die ik heb mogen begeleiden. Zonder jullie hulp had ik überhaupt geen data kunnen verzamelen. Jullie werk is daarmee uitzonderlijk belangrijk geweest Josje, Noor, Floor en Leonie.

De afgelopen jaren heb ik, op de coronaperiode na, voornamelijk vertoefd in de Cubicus en mocht ik onderdeel zijn van een fantastische vakgroep. Ik wil mijn collega's van PCRS dan ook bedanken voor de warme gesprekken, alle gezellige lunchwandelingen en vele leuke uitjes. Ik ben blij dat ik ook na mijn promotieonderzoek onderdeel mag blijven van deze vakgroep, waarin collega's voor elkaar klaarstaan en bereid zijn om elkaar te helpen. In het bijzonder wil ik een aantal van mijn kamergenootjes bedanken. 5 jaar lang heb ik in C236 gezeten en heb ik verschillende mensen zien komen en gaan. Wendy, aan de start van mijn promotietraject heb jij mij tijdens alle theemomenten voorbereid op dat wat komen zou. Anouk, wat was het altijd gezellig. Bij jou kon ik niet alleen mijn sores over mijn promotietraject kwijt, maar al snel groeiden we naar elkaar toe en konden we alles bespreken wat op ons hart lag en nog steeds ligt. Ik ben blij dat hieruit onze vriendschap is ontstaan en deze koester ik enorm. Iris, ik ben blij dat ik een collega heb als jij, die op vele manieren hetzelfde denkt en mij helderheid te verschaffen wanneer ik dat nodig heb. Alhoewel er nu een muur tussen onze kantoren zit, is het nog steeds net zo makkelijk om even bij je binnen te lopen en om advies te vragen. Dank daarvoor.

Door corona was ruimte C236 voor lange tijd nauwelijks gevuld en had ik vaak een heel groot kantoor. Maar in de laatste periode van mijn promotietraject heb ik hem nog even mogen delen met een paar hele leuke kamergenootjes. Esther, Michalis and Jedidjah, thanks for making these final and most stressful months of my PhD bearable. Although I will no longer be working in C236, I am always in for a cup of tea and listen to all the ups and downs of PhD-life. I've been there.

Ik had het geluk dat ik tijdens mijn promotietraject niet verbonden was aan één, maar twee prachtige vakgroepen. Alhoewel het 3,5 uur reizen was, ging ik altijd met veel plezier naar het prachtige Maastricht. Ondanks dat ik er niet vaak was, heb ik me altijd welkom gevoeld. En door alle gezellige lunches en uitjes kan ik wel zeggen dat bourgondisch Maastricht zijn naam eer aan doet. Aan al mijn collega's van de capgroep Strafrecht en Criminologie dank voor alles!

Ontspanning tijdens een promotieonderzoek is van essentieel belang. Wat mag ik van geluk spreken met een onwijs grote en hechte vriendinnengroep. Het blijft bijzonder dat we elkaar al vanaf de eerste klas kennen. Dit betekent dat we elkaar hebben zien opgroeien van brugpiepers, naar volwassen vrouwen met elk hun eigen talent en passie. Misschien is mijn zaadje voor onderzoek toch al geplant tijdens onderzoek & ontwerpen op de middelbare school. Onderzoek doen was toen in ieder geval wel heel leuk en gezellig. Ondanks dat we na de middelbare school allemaal onze eigen weg in zijn geslagen en naast elkaar ook nog andere levens en relaties hebben opgebouwd, ben ik dankbaar dat we elkaar toch nog met regelmaat zien. Er is onderzoek dat zegt dat na 7 jaar vriendschap je altijd aan elkaar verbonden blijft. Ik ben een blij mens als dat betekent dat ik jullie voor altijd in mijn leven heb Anneloes, Astrid, Claudia, Kelly, Linda, Lisa, Lisette, Nathalie en Rosalie!

Onderhand ben jij ook onderdeel van deze vriendinnengroep Melissa, maar ik wil jou toch apart benoemen. We kennen elkaar vanaf de opleiding psychologie en vanaf het introductiekamp vonden we elkaar constant weer terug in opdrachten. Vanuit daar is onze hechte vriendschap ontstaan. Dank dat ik altijd bij je terecht kon wanneer nodig! En wat is het fantastisch dat we naast onze innige vriendschap ook samen met onze mannen zo'n mooie band hebben opgebouwd. Die ontelbare spelletjesavonden, met nog meer pizza's en de nachtjes die jullie langskwamen tijdens onze vakanties, waardoor wij ook af en toe onze handen vrij hadden en een paar extra ogen hadden om op te passen zijn zo waardevol en nodig! Maarten en Melissa, dank voor jullie enorme interesse en betrokkenheid in mijn onderzoek.

Dan mijn fantastische broers, Jan, Tom Koen en Mark. Ik ben er trots op dat ik jullie kleine zusje ben. Mensen zeggen vaak dat ik niet op mijn mondje gevallen ben en dat ik goed voor mezelf kan opkomen. Iets wat enorm goed van pas kwam in de afgelopen jaren.

Volgens mij moet ik vooral jullie hier dankbaar voor zijn. Waar ik jullie ook enorm dankbaar voor ben zijn mijn vier lieve schoonzussen, Miriam, Karien, Judith en Lisa. En alsof dit nog niet genoeg is, mag ik mij gelukkig prijzen met nog zo'n prachtige schoonfamilie. Joke en Jurrie, Arjan en Janine, Stefan en Jolanda, Eline en Johan en Carsten. Vanaf het begin voelt het als eigen en dit is ook nooit anders geweest.

Ik wil jullie allemaal bedanken voor al die momenten van interesse in wat ik doe. Voor sommigen betekende dit uitleggen wat promoveren überhaupt betekent, maar ook naar de inhoud werd met regelmaat gevraagd. Daarnaast was er altijd wel iemand die zin had in een kop thee (of wat sterkers indien nodig). Ontspanning die soms hard nodig was. En uiteraard dank voor alle keren oppassen wanneer er toch even een meeting of deadline was waar ik niet onderuit kon. Ik ben dankbaar voor het vangnet dat jullie bieden!

Dan mijn ouders. Mama, dankjewel dat je mij zo'n 13 jaar geleden aan tafel zette bij de psycholoog, tijdens een studie oriëntatie avond. Daar werd mijn interesse gewekt en heb ik uiteindelijk de juiste studie gekozen. Het blijkt maar weer hoe ontzettend goed je me kent. Als jouw enige dochter hebben wij een hele bijzondere band. Je bent niet alleen mijn moeder, maar één van mijn allerbeste vriendinnen. Je staat altijd voor me (en de kinderen) klaar. En papa. Zoals ze zeggen, de appel valt niet ver van de boom. Hoe ouder ik word, hoe meer ik op je ga lijken en hoe beter ik jou en alle keuzes die je hebt gemaakt begrijp. Jij bent mijn voorbeeld als het gaat om doorzetten, discipline en niet opgeven. Papa, ik ben je dankbaar voor de enorme interesse die je altijd toont in mijn onderzoeken en de waarde die je hecht aan mijn talenten. Een bijzonder moment blijft voor mij het congres in België. Je bent drie dagen meegegaan, om mijn allereerste congrespresentie bij te wonen. Het doet mij veel hoe jullie altijd trots aan de zijlijn staan om mij toe te juichen en wanneer nodig mijn handje toch nog even vast te houden. Ook enorme dank dat jullie mij de kans hebben gegeven om te studeren en mijn eigen pad te kiezen. Zonder jullie had ik het nooit zover kunnen schoppen. Woorden kunnen niet omschrijven hoe dankbaar ik jullie ben. Ik hou van jullie.

En mijn rots in de branding, mijn beste vriend en de liefde van mijn leven, Jonathan. Op moment van schrijven sta je al 12,5 jaar aan mijn zijde. Ik kan mij dus ook geen leven zonder jou voorstellen. En daar waar ik soms in te kort schiet, vul jij mij aan. Jouw geduld en rationaliteit hebben mij op momenten door het proces van studeren en promoveren heen geholpen. Waar ik soms van een mug een olifant weet te maken, lukt het jouw om niet alleen die olifant, maar ook de mug te verjagen. Ik waardeer alles wat je voor me doet, hoe je altijd voor me klaar staat, maar mij ook ruimte geeft om een carrière op te zetten. Ik kijk uit naar de toekomst, met onze prachtige kinderen aan onze zijde. Ik boe jou :)

En dan mijn grootste bronnen van motivatie, Mees en Melle. Door jullie komst tijdens mijn promoveren, heb ik altijd een fijne afleiding gehad. Jullie open blik op de wereld leert mij al het kleine in de wereld te waarderen. Het werken aan een promotieonderzoek, vooral tijdens een pandemie, is soms werken als op eiland: je bent veel alleen aan het werk. Wat ben ik blij en dankbaar dat jullie ook op mijn eiland wonen. Mijn eiland had daardoor een enorme bron van geluk. Alhoewel jullie nog veel te jong zijn om dit te begrijpen, hoop ik dat jullie dit op een dag lezen en begrijpen hoe belangrijk jullie zijn geweest tijdens mijn promotietraject. En ik wil jullie meegeven om je dromen na te jagen, de ruimte te nemen om je eigen talenten en passies te ontwikkelen. Weet dat wij (jullie vader en ik) altijd aan de zijlijn zullen staan om jullie aan te moedigen en jullie hand vast te houden wanneer het nodig is. Ik vind het fantastisch om jullie groot te zien worden, maar blijf ook nog maar een beetje klein.

En tot slot, dank aan Hem die alles toekomt.

Jiska

CURRICULUM VITAE

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CURRICULUM VITAE

Jiska Jonas-van Dijk (1993) has obtained both her bachelor's degree in psychology and Master degree in social psychology (cum laude) at the University of Twente. During her master her interests in victim-offender mediation grew. After writing a thesis in digital forms of communication in VOM and the impact on the victim, she started her PhD-research in the same field. She did her PhD under the supervision of prof. dr. mr. Hans Nelen, prof. mr. Jacques Claessen, and prof. dr. Sven Zebel, at the University of Twente and Maastricht University. Currently, she continues her work on mediation and restorative justice as an assistant professor at the University of Twente, at the department of Conflict Risk and Safety.

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MANUSCRIPTS IN REVIEW OR IN REVISION

Jonas-van Dijk, J., Zebel, S., Claessen, J., & Nelen, H. (Revise and resubmit). Participation in victim-offender mediation predicts less reoffending: A propensity score matched case-control study.

Jonas, J., Zebel, S., Claessen, J., & Nelen, H. (Revise and resubmit). The working mechanisms of the victim offender mediation process: How might participation explain psychological outcomes in offenders.

