

## Summary

Other than abroad, the victim-offender interviews in the Netherlands were originally intended as a facility for victims. The needs of the victim had to be the key element. It was not going to become a facility within criminal law, as that would make it possible to use it to influence criminal proceedings. Since 2004, Victim Support Netherlands [*Slachtofferhulp Nederland*] has been giving victims the opportunity to have an interview with the offender. In 2006, the target group was expanded to include juvenile offenders, on the basis of positive experiences with restorative mediation projects for juveniles held in judicial young offenders institutions. It was then decided to implement the option of victim-offender interviews nationwide for both victims and juvenile offenders, and to transfer this to *Slachtoffer in Beeld*. *Slachtoffer in Beeld* was set up as a project during which training orders were being developed and implemented, aimed at juvenile offenders. The name 'slachtoffer in beeld' was taken from the then training order of the same name. In addition to victim-offender interviews, *Slachtoffer in Beeld* also organises training courses. Training is available for juvenile offenders, adult offenders and professionals. Since 2009, there has also been an active recruitment process of offenders of age<sup>1</sup>. *Slachtoffer in Beeld* defines a victim-offender interview as every mediation process outside a judicial framework between victim and offender and their social network, if any, with the most ideal result being the interview. As such, the options include more than just an interview. If things do not lead to an interview, contact is also possible in the form of correspondence, shuttle mediation or an *Echt Recht* conference.

The Ministry of Safety and Justice [*WODC*] has instructed Van Montfoort/Collegio to conduct a study into the national implementation of victim-offender interviews.

The research questions relate to the following themes:

1. National implementation.
2. The achieved scope of the victim-offender interviews on offer.
3. The primary work process and uniformity in execution.
4. The relationship with the criminal proceedings.
5. The preparation of any effects study.

All research questions were answered on the basis of different research sources (see table).

National implementation	Desk research; interviews <i>SiB</i> <sup>2</sup> ; focus groups middle management.
Achieved scope	Analysis <i>SiB</i> registration; interviews <i>SiB</i> ; Internet survey referrers and non-referrers.
Uniform execution	Desk research; interviews <i>SiB</i> ; case studies.
Relationship criminal law	Desk research; interviews external key persons; interviews <i>SiB</i> ; analysis of registration
Preparation effects study	Literature study, expert panel, desk research, interviews <i>SiB</i> ; case studies

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<sup>1</sup> Including adult offenders falls outside the scope of the study.

<sup>2</sup> *Slachtoffer in Beeld*.

### *National implementation*

*Slachtoffer in Beeld* has worked hard on the internal implementation of the victim-offender interviews. This is demonstrated by both the products made (manual, protocols, directives) and the interviews with the mediators.

*Slachtoffer in Beeld* has organised the execution of the victim-offender interviews on a regional basis. Each of the seven regions have one mediator who is permanently employed and whose duty it is to coordinate. Then there are an average of 5 mediators in each region working on a freelance basis. Communication between the central office and the regions is good. The central office in Utrecht listens well to what is happening in the field. The basic principle is that products continue to be developed in cooperation with the mediators.

The interviews also highlight a number of bottlenecks/points for attention. They include:

- The opportunity to gain sufficient work experience. This is an issue with the new freelancers in particular.
- The extent of the fee for freelancers in general and, specifically, the existing composition of the hourly wage which includes a bonus for professional development.
- The need for more customisation during the induction procedure (without affecting the basic principles).
- A proper national implementation of peer supervision. This has not been realised in all regions yet.
- Facilities for the freelancers: the facilities are too few, which makes the work vulnerable, it does not look professional and contributes to the isolated position of the freelancers.
- The lack of guidelines for creating dossiers. As a result, the existing dossiers provide not enough insight into (the quality of) the execution of the work carried out by a mediator and not enough opportunities (whenever the need arises) for an internal transfer of duties.
- The organisation of locations for the mediation interviews; perhaps it is better to organise this centrally.
- The positioning of the permanent mediator as a link between the central office and the freelancers (within the framework of quality control) requires more elaboration.

The implementation of victim-offender interviews at the three active referrers does not run as smoothly as the internal implementation. *Slachtoffer in Beeld* is also dependent on the permanent external referrers (Victim Support Netherlands [*Slachtofferhulp Nederland*], the Child Care and Protection Board [*Raad voor de Kinderbescherming*] and the Youth Care Agency/Juvenile Probation Service [*Bureau Jeugdzorg/Jeugdreclassering*]). These parties have been actively involved in the implementation via the implementation group. This has led to a type of agreement being signed, which lays down agreements on registration and referral procedures. However, the actual implementation of the agreements leaves much to be desired.

The project leader of *Slachtoffer in Beeld*, the mediators and/or middle management of the permanent referrers have identified a number of bottlenecks. They relate to:

- the exchange of data between *Slachtoffer in Beeld* and a number of district court public prosecutor's offices;
- the quality of the registration information;
- the quality of the registrations from the Child Care and Protection Board;
- the gravity of the cases reported;
- the extent to which a number of organisations are aware of the services provided by *Slachtoffer in Beeld*;
- the fact that a referral is hard to fit in with the procedures at Victim Support Netherlands and that members of staff of that organisation resist the possibility of discussing a victim-offender interview;
- the inadequate feedback given by *Slachtoffer in Beeld*.

#### *The achieved scope*

Between 2007 and 2009, the number of registrations rose from 467 to nearly 1,100. The percentage of registrations from offender-focused organisations rose from 66% (2007) to 88% (2009).

The rise in the number of cases can therefore mainly be attributed to the Child Care and Protection Board (a tenfold rise of the number of registrations) and to a lesser extent to the Juvenile Probation Service (a fourfold rise of the number of registrations). The number of registrations by Victim Support Netherlands remained fairly constant, at approximately 130 per year in the 3 successive years.

As the services of *Slachtoffer in Beeld* are aimed at juvenile offenders, it is no surprise that three-quarters of the registered offenders were younger than 18 and only 15% were older than 24. On the other hand however, more than half of the victims registered were older than 18 and a quarter was aged between 40 and 65.

Slightly less than half of the registrations (45%) ultimately led to contact: slightly less than a quarter (23%) actually led to a victim-offender interview, 14% concerned contact by letter and the other 8% of mediations resulted in an *Echt Recht* conference, shuttle mediation or other type of contact.

Relatively speaking, victims are the ones who ultimately stop contact being established more often than offenders, both when *they* took the initiative and when the offender did. The gravity of the crime does not appear to be a factor in whether or not contact is established between the victim and the offender. There are minor differences between the three largest referring organisations in terms of the percentage of registrations that lead to victim-offender contact. Victim Support Netherlands is the most successful in that respect: half of their registrations result in one form of contact or the other, for the Juvenile Probation Service that figure is 47% and for the Child Care and Protection Board it is 40%.

The victim-offender processes relate to violent offences more than property crime, and hardly ever to sexual offences. During the years under research, the number of lighter offences rose from 15% to 41%. Referrers from the Child Care and Protection Board feel that a victim-offender interview is particularly useful for light offences. Most staff at the Juvenile Probation Service and Victim Support Netherlands on the other hand feel that the victim-offender interview is most useful for serious offences. This is reflected in the registration figures. The reports relating to the relatively lighter offences proportionally often come from the Child Care and Protection Board.

*Slachtoffer in Beeld* is well-known among both Victim Support Netherlands and both other organisations. A survey among employees of the three permanent referring organisations also shows that employees of Victim Support Netherlands refer their clients to the option of a victim-offender interview and recognised the benefit of such an interview as often as employees of the Child Care and Protection Board and the Juvenile Probation Service. Nearly all respondents of the three permanent referring organisations are of the opinion that they have sufficient knowledge and are sufficiently expert to make their clients adequately aware of the services provided by *Slachtoffer in Beeld*.

The obstructions mentioned by the mediators and the middle management of the referring organisations in respect of referrals from Victim Support Netherlands are as such not reflected in the results of the survey. What does emerge is that members of staff of Victim Support Netherlands do not discuss the option of a victim-offender interview with a victim too deeply. They often leave it at a brief explanation, as they do not wish to burden the victim unnecessarily or pressurise them in any way.

Both the interviews and the survey show that the moment of registration, shortly after the offence, is regarded as an unfavourable moment for the victim. At that time, victims are often not ready to think about any contact with the offender or offenders. Also, if the victim does not want victim support, the contact with Victim Support Netherlands is at the most a one-off.

For 40 and 50% of the clients they register, the Juvenile Probation Service and Victim Support Netherlands respectively report positive effects from the victim-offender interviews for their clients. However, compared to the other referrers, the respondents of Victim Support Netherlands relatively often report negative effects on their clients. The members of staff of the Child Care and Protection Board often do not know what the effects have been on a juvenile. Almost half of the respondents of the Child Care and Protection Board also do not know if contact is established between the victim and offender after registration, compared to 6% and 7% of the other organisations respectively. Furthermore, respondents of the Child Care and Protection Board receive feedback about the result of their registrations much less often. Few members of staff of this organisation see any benefit of the victim-offender interviews in their own contact with the client. Not surprising, as it often concerns one-off contacts. At the Juvenile Probation Service on the other hand, 72% experiences benefits

from victim-offender contacts under their own support, and at Victim Support Netherlands that figure is 43%.

Their ignorance about the results of their registrations and the limited benefits apparently do not stop the members of staff of the Child Care and Protection Board from continuing to refer.

In some regions, the number of referrals by Victim Support Netherlands is relatively higher, while in other regions that applies to the Child Care and Protection Board or the Juvenile Probation Service. There are no major regional differences in the total number of registrations with *Slachtoffer in Beeld*. There are a number of relative peaks however. In a positive sense, they are the north and north-east regions in particular.

#### *Uniformity in execution*

*Slachtoffer in Beeld* has written a manual which details the working method and describes a number of substantive themes. Procedures (steps to be taken, order of participants to be approached, structure of the interviews to be held) and checklists to complete a phase are also described. The target group is clearly defined, the indications and contra-indications are recorded and a description is given of how to go about with screening and selection. Regulations which the different modalities must comply with, such as who can be present during an interview between victim and offender and what should be discussed during an interview/in a letter, have been laid down. More general conditions have been formulated too, such as the maximum term of mediation. The substantive methodology of the victim-offender interviews has been elaborated only sketchily. All that is given is a brief description of the three basic principles, namely voluntariness, confidentiality and multilateral bias/neutrality of the mediator. The manual does not say why these three basic principles are vital to realising the objective of victim-offender interviews. Further details could have been given particularly for the methodical basic principle 'multilateral bias/neutrality', as two terms with opposite meanings are brought together here. In practice, this will lead to confusion and questions among mediators about how to act in relevant situations.

*Slachtoffer in Beeld* pays a lot of attention to uniformity in execution. First, by means of the detailed manual, but also by means of the internal policy that was developed during the last two years with regard to quality control (peer supervision, induction protocol, compulsory training). The atmosphere is open, encouraging people to discuss the practical issues and bottlenecks raised by the manual. With a view to these favourable conditions, we can assume that there is a reasonable degree of uniformity among, particularly, the permanent mediators and the freelancers who were appointed during the last two years. This mainly concerns the procedures to be carried out during the victim-offender interview. As for the substantive methodical side, it is less clear to what level uniformity extends, as the methodical basic principles have hardly been elaborated and they are not entirely unambiguous. The mediators do not share a general opinion that the manual contains mandatory provisions that can be deviated from in a controlled manner only.

The survey has highlighted various aspects which mediators deviate from (also without permission from the central office in Utrecht or peer consultations). They include 'the aftercare', 'the approach

of parties', 'the elements of a letter of apology', but also the prescribed procedures for screening and the position of parents in a victim-offender interview.

The question whether the *essential points* are acted on uniformly cannot be answered. After all, we do not know what the essential points *are*. There is no theoretic framework (with a model of change and a description of aspects which research has shown to be vital for a victim-offender interview). As this framework is lacking, it is impossible to gauge what an acceptable bandwidth in variation of execution would be. There *is* a need for such a framework. It can direct the discussion whether or not deviations from the manual clash with the essential characteristics of the victim-offender interview, and whether or not they are permitted. A theoretic framework is also a condition in order to be able to answer the question whether there is sufficient uniformity on essential points (model loyalty) in order to carry out a study into the effects.

#### *The relationship with the criminal proceedings*

In his letters to the House of Representatives, the Minister indicated that the victim-offender interviews are based on three basic principles:

- participation based on voluntariness;
- positioning only in addition to criminal law;
- the public prosecutor can be notified by means of a report.

The second basic principle is partly inspired by the fact that the victim-offender interview should primarily be a facility for victims. The third basic principle is slightly at odds with the other principles, particularly the decision to position victim-offender interviews and criminal law separately.

It was assumed that the EC Council Framework Decision on the status of the victim during criminal proceedings has played a role in the decision to notify the prosecutor. However, when we asked about the findings which at the time led to taking up the link with the criminal proceedings, it appeared that pragmatic reasons had been leading. The main findings were: (1) to properly manage the information, which would reach the judge and public prosecutor anyway, (2) the fact that it goes without saying to make the link, as a judge always takes all kinds of circumstances into account before reaching a conclusion.

The fact that the basic principles do not entirely agree can also be seen in practice.

- The vision document by *Slachtoffer in Beeld* shows the dual nature of the positioning of the victim-offender interviews. On the one hand it is stated that participation in a victim-offender interview should not lead to an additional bonus or penalty for the offender, but on the other hand it is acknowledged that the prosecutor can indeed take participation into account in his judgement.
- Only some of the mediators and policy staff of *Slachtoffer in Beeld* fully agree with the existing link.
- A number of mediators solve the issue given, by assuming that notification to the public prosecutor is only a formal matter that is otherwise ignored by the prosecutor. The study

shows that this does no justice to reality, and that the victim receives incorrect information in such cases.

- The mediators often opt to tell victims only casually about the fact that the public prosecutor will be notified. No matter what, they want to prevent the victim from pulling out prematurely just because he or she does not want the offender to receive a reduced sentence. Staff know from experience that victims are no longer bothered about the offender receiving a reduced sentence once the interview with the offender has taken place.

*Slachtoffer in Beeld* has structured the basic principle that the prosecutor can be notified as followed:

- The prosecutor always receives factual information about the status of a registration of a victim-offender interview (when the criminal session has yet to take place).
- Following an victim-offender process, a substantive report can be submitted. Both parties must agree to this. The mediator may follow his own instincts whether or not it is suitable to discuss this at the end of the interview between victim and offender.

In practice, *factual* information is sent to the prosecutor on a reasonably regular basis. Two-thirds of all registrations are made before the hearing. In 2009, an estimated 700 cases were involved. For the majority of these cases, a factual notification was sent to the public prosecutor.

However, a subsequent *substantive* report is sent only occasionally. Two-thirds of all cases that end with an interview or other form of dialogue are concluded before the date of the hearing. This concerns an estimated 280 cases. In only 10% of these cases, a substantive notification is sent to the prosecutor.

A limited telephone survey among nine public prosecutors gives an impression of the way in which they deal with the information sent to them.

- There are indications that the messages sent do not always reach the prosecutor in question.
- The respondents are only vaguely aware of *Slachtoffer in Beeld* and the victim-offender interviews of *Slachtoffer in Beeld*. More generally, they are positive about an interview between victim and offender.
- Most prosecutors do not know the difference between factual notification and substantive notification.
- Notifications from *Slachtoffer in Beeld* about victim-offender interviews are appreciated. They would like to receive more substantive information, also about current cases or cases where no contact was established.
- Usually, most prosecutors positively take the information from *Slachtoffer in Beeld* into consideration when sentencing. Some regard registration of the offender with *Slachtoffer in Beeld* as a positive action on its own, while others do nothing with a notification for as long as a case is being tried. Sometimes they retrieve further information from the Child Care and Protection Board themselves.

### *Preparation for potential effects study*

The question into the possibilities of an effects study into victim-offender interviews was mainly answered on the basis of an international literature study. As such, a broader perspective of restorative-judicial interventions was studied than just the Dutch practice of victim-offender interviews.

Literature research and expert panel have highlighted a large number of possible effects of victim-offender interviews and similar processes. They were classified in several ways. First, according to different levels (the victim, the offender, the immediate environment of the victim and offender and society). Second, according to domain (the cognitive and emotional domains, the moral domain and the domain of the self-image). Finally, a distinction was made between results at different times of the process, i.e. *interim* (registration, selection, preparation and the interview itself) and shortly and longer after the process had ended: *immediate, intermediate and long-term*.

Apart from all relevant variables, the operating mechanisms that may lead to changes in the victim and offender are also described. The relationships between independent and dependent variables and operating mechanisms have been placed in a model of change. This is a temporary model and must be tested during a study.

When measuring the effects, a choice must be made from the different modalities of a victim-offender interview. Preferably, the focus lies on the interview between victim and offender, as this is expected to produce the best result.

So as to ensure that effects identified can indeed be attributed to the victim-offender interviews, a setup with a study group and control group is required. Any ethical problems this may yield must be charted in detail.

The study has yielded a number of options for the structure of an effects study, also paying attention to programme integrity. These options are based on the fact that, apart from a satisfaction survey, hardly any research has been carried out in the Netherlands into the effects of victim-offender interviews.

- The first option is a *precision study*. This opts for a clearly demarcated and specific study group (e.g.: youth, violent offences, victim did not know offender before, offender is a first offender). This group must be followed for quite a long time, so that results can be measured after, say, six months and after one year.
- The second option is to set up a small-scale study into the short-term effects of a victim-offender interview, both on victim and offender. Some sort of satisfaction survey with open questions about expectations, experiences and perceptions of the persons involved is preferred. The experiences of the persons involved can be measured on the basis of criteria for restorative mediation, known from literature. This does not merely concern criteria for the interview itself, but also for the initial process. That phase already stirs up the emotions of participants as it is, and mediators therefore have to create basic conditions for participants (interim outcomes).

### *Main conclusions*

- In light of the fact that the victim-offender interview was initially intended for the victim, it is remarkable that three years after its implementation, most of the registrations (84%) come from the offender. It has proved more difficult to set up this facility for victims than initially anticipated. The study did for that matter not indicate that there are large groups of victims who *do* have a need for a victim-offender interview but who are currently not reached by *Slachtoffer in Beeld*. We do not know if other approaches (e.g. via a public campaign, the police, the Public Prosecution Service, the Criminal Injuries Compensation Fund [*Schadefonds Geweldsmisdrijven*], social workers) would lead to a larger number of registrations of victims. This has never been researched in the Netherlands. One may consider developing a tool to measure such needs. This would arise if the government finds it useful to increase the scope of the victim-offender interviews among victims.
- The possibilities of increasing the scope of victims via Victim Support Netherlands seem limited. Perhaps information provided by *Slachtoffer in Beeld* can be improved. However, the volunteers of Victim Support Netherlands are highly familiar with *Slachtoffer in Beeld*. The question is whether a less cautious attitude of the volunteers of Victim Support Netherlands would lead to more referrals. For victims, any contact with the offender, particularly shortly after the offence, is a sensitive subject. The best possibilities for increasing the number of registrations from Victim Support Netherlands probably lie in raising the subject at a different, later time. However, the group that can then be reached (directly) is small.
- Notifying the prosecutor is at odds with the basic principle that the victim-offender interview only serves as an addition to criminal law. In practice, this leads to various dilemmas. The biggest dilemma is that communication about this subject from mediator to victim is not transparent and at times incorrect. The outlined problem requires a more detailed study and solutions, the more so since the unclear communication from mediator to victim is at odds with the guiding principle of restorative justice that victim and offender must be notified about the process and its potential consequences timely and in full. This subject therefore requires further attention to policy and practice.