

**A victim oriented model of  
mediation in the criminal justice  
procedure**

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## Paradigm shift?

- **P1: Dutch CJ system and national government very reluctant to incorporate Restorative Justice interventions in het CJ procedure**
  - **Punitivism**
  - **Hesitation of judiciary to acknowledge position of the victim**
  - **Aversion to ‘missionary ideology’ of RJ organisations**
  - **Adverse effect on victims because of opportunist motives and insincerity of offender**

# Paradigm shift?

- **P2: Department of Safety and Justice, prosecution office and judiciary embrace mediation in CJ procedure**
  - **EU victim directive**
  - **Lobby of RJ organisations**
  - **Efficiency motives**
  - **Benefits for victims**
  - **Strengthened position of victim in CJ procedure**

## Before October 2013

- **Victim Offender Meetings**
- **Parallel to the criminal proceedings**
- **Focus on dialogue, emotional space, mental and emotional 'reorientation' of victim on the crime and the offender**
- **Perceived benefits: decreased feelings of fear and anger, answers to pressing questions, apologies/making amends, prevention of recidivism**

## After October 2014

- **Mediation (pilot in six judicial districts)**
- **Integrated in criminal procedure**
- **Focus on agreement on reparation**
- **Perceived benefits: to allow for victims (and offenders) to have control over conflict resolution, to provide space for issues/emotions that cannot be addressed in the courtroom, empowerment**
- **Benefits for system: saving time and money (?), CJ is ultimum remedium, more satisfaction for victims (*and offenders*)**

## Pilot mediation

- **Prosecution office/judge assesses case**
- **Victim Support takes inventory of victim's needs & wishes**
- **Probation office/lawyer inquires after offenders 'wishes'**
- **If both parties consent, the case is referred to a mediator**
- **The outcome of the mediation process is reported back to the prosecutor/judge**
- **The agreement is part of the sentence**

## Basic principles

- **Informed decision of both parties**
- **Voluntariness (of both victim and offender)**
- **Every victim and every offender qualifies for mediation**

## Preliminary outcomes

- **Goal is 400 mediations in October 2013 – July 2014.**  
**Currently: mediated cases**
- **Simultaneous research project:**
  - **Do procedures function as they should?**
  - **Experiences of victims and offenders: positive/negative.**
  - **Need for selection criteria?**
  - **Is mediation effective in unburdening the CJ system?**

## Fundamental questions

- Should *all* victims and offenders be offered the possibility for mediation?
- Are the needs and interests of the victim compatible with the need for efficiency of the RJ system?
- Should voluntariness on part of the offender be a basic condition?
- Is the fact that offenders can benefit from partaking in mediation a risk for the quality of the mediation process and the experience of victims?

## Statements for discussion

- **Victim support and the prosecution office should decide which victims are eligible for mediation.**
- **There is no conflict between the needs and interests of the victim and the need for efficiency and cutting expenses of the CJ system**
- **The offender should be obliged to cooperate if the victim wishes mediation**
- **A mediation with an insincere offender or an offender suffering from certain psychopathology is in every case harmful for the victim**