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Do these words give rise to doubts?

**Unraveling the effects of delivering a Victim Impact
Statement**

Kim Lens

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Do these words give rise to doubts?

Unraveling the effects of delivering a Victim Impact Statement

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General introduction

Chapter 1

INTRODUCTION

The role of the victim in the sentencing process continues to generate controversy among both scholars and practitioners (e.g., Ashworth, 2000; Erez, 1999; Groenhuijsen, 1999; Roberts & Erez, 2004; Sarat, 1997). The same applies in particular to the desirability (and effectiveness) of different victim-oriented measures (e.g., Chalmers, Duff, & Leverick, 2007; Roberts & Erez, 2010; Roberts, 2009; Sanders, Hoyle, Morgan, & Cape, 2001; Sherman & Strang, 2007), like the Victim Impact Statement (VIS). The right to submit impact evidence is often labeled as (one of) “the most controversial of procedural victims’ rights” (e.g., Dubber, 2002, p. 336; see also Groenhuijsen, 2014; Roberts, 2009). Although the precise form of a VIS can vary from a written statement that primarily serves a function in awarding compensation to an oral statement that may influence the sentence given to the offender (also referred to as a Victim Statement of Opinion), all have in common that they allow victims the right to express the harm they have experienced as a part of the court proceedings (Erez, 2004).

Empirical debates and the lack of systematic evidence

Ever since the introduction of the VIS, the allowance of this ‘victim instrument’ has been highly debated. Apart from the normative question whether the victim should be given a ‘voice’ during the criminal proceedings, two main empirical questions were raised¹ (see also Roberts, 2009). First, does delivering a VIS facilitate (emotional) recovery for the victim (or on the contrary lead to secondary victimization)? And second, does delivering a VIS influence the outcome of the trial for the offender? In other words, does it lead to inequality in sentencing (i.e., a violation of the proportionality principle)? As Roberts (2009) summarizes it perfectly: “At the heart of the debate lie the principle questions of whether victims actually benefit from submitting impact statements and whether allowing victim input constitutes a threat to due process and the adversarial model of justice” (p. 351).

At the start of this dissertation both empirical debates were seriously hampered by a lack of systematic evidence (Pemberton & Reynaers, 2011; Roberts, 2009; Roberts & Manikis, 2013; Walklate, 2002). Regarding the first debate, previous research had defined the effectiveness of delivering a VIS in terms of ‘victim satisfaction’ and similar constructs. However, neither satisfaction nor dissatisfaction can be directly translated into therapeutic or anti-therapeutic effects (see also Pemberton & Reynaers, 2011). Moreover, when examining the effects of delivering a VIS on the victim, individual differences in victim’s personal characteristics or specific characteristics of the crime that may influence these effects have been neglected. Regarding the latter debate, the research methods that have been employed to examine possible influences of delivering a VIS on sentencing outcomes were methodologically ‘flawed’ as well. Whereas some used “time-series” experiments to unravel national sentencing patterns, others compared sentencing outcomes in cases in which VISs were present or absent. Drawing (causal) conclusions is problematic for both research methods.

1 This dissertation does not look at (possible) effects from delivering a VIS on the judicial system in terms of processing time.

However, despite this lack of systematic empirical evidence, proponents and opponents have not been particularly reticent with giving arguments 'for' and 'against' when discussing this class of victim 'instruments' in terms of its therapeutic effects and effects on the outcome of the trial. First of all, the effectiveness of VISs to facilitate recovery is widely debated (Pemberton & Reynaers, 2011; Roberts, 2009). Whereas some argue that VISs are effective in helping victims to recover from the crime, others suggest that delivering a VIS may even be counter-productive, in a sense that it may lead to secondary victimization (also known as post-crime victimization). This duality is exemplified in contradictory statements such as "VIS, don't work, can't work" (Sanders, Hoyle, Morgan, & Cape, 2001), and "VIS can work, do work (for those who bother to make them)" (Chalmers, Duff, & Leverick, 2007): Whereas Sanders et al. (2001, p. 447) argue that VISs "fail in practice", Chalmers et al. (2007, p. 366) claim that their therapeutic benefits "do have some value".

Second, as a general rule the academic community is highly skeptical, if not outright opposed, to the influence of VIS on the offender's sentence (Ashworth, 1993; Bandes, 1996; Roberts, 2009; Sarat, 1997). The main argument against this practice is that it is seen as an attempt to introduce an irrelevant issue into the sentencing of the offender. Beyond the harm the offender could have foreseen through his actions, it is unclear what bearing the idiosyncratic experience of victims of crime and his or her opinion on the offender's wrongdoing should have on the sentence (Pemberton, 2014). Any weight given to these matters in the determination of punishment would then lead to disproportionate sentences, co-varying with factors irrelevant to the wrongfulness of his actions. (Academic) proponents of the VIS (e.g., Roberts & Erez, 2004; Pemberton & Reynaers, 2011) do not dispute this. Instead they argue that there is as yet no evidence that VISs lead to disproportionate and/or more severe sentences (Erez & Rogers, 1999; Roberts, 2009).

Aim of the present dissertation

Taking the above together emphasizes the need to answer two major empirical questions. First, does delivering a VIS facilitate (emotional) recovery (or on the contrary might lead to secondary victimization)? And second, does delivering a VIS influence the outcome of the trial for the offender? In other words, does delivering a VIS lead to a violation of the proportionality principle? This dissertation is the first to systematically examine both these questions, by elaborating upon different (social-psychological) theories and perspectives.

Research questions and characteristics of the studies

This dissertation presents the results of a series of empirical studies on the delivery of a Victim Impact Statement that relate to the abovementioned questions. Whereas Part I addresses the victim's perspective on the delivery of a VIS, Part II addresses the perspective of the 'observer'. In these studies, both quantitative and qualitative research methods have been employed to address the following research questions:

Part I: Delivering a VIS: A Victim's Perspective

1. What are victims' perspectives on the purposes and functions of the VIS?
2. Which variables contribute to the likelihood of a VIS being delivered?
3. Does delivering a VIS contribute to the emotional recovery of the victim (or on the contrary lead to secondary victimization)?

Part II: Delivering a VIS: The Observer's Perspective

4. What are the effects of delivering different forms of VISs on people's perceptions and judgments of the criminal case in general, and the victim and defendant in particular?
5. What are the cognitive consequences of being confronted with the delivery of a VIS?

To answer these research questions, four empirical studies were conducted. Table 1.1 presents an overview of these studies.

Table 1.1
Characteristics of the studies, research questions and corresponding chapters

| | Study 1 | Study 2 | Study 3 | Study 4 |
|-----------------------------|--|---|---|---|
| Sample | Representative sample of victims, eligible to submit a VIS | Student sample, AVANS University of Applied Sciences, aged 16 to 59 years | Student sample, Tilburg University, aged 18 to 46 years | Student sample, Tilburg University, aged 21 to 27 years |
| Design | Longitudinal, pre-test/post-test | Experiment, 2 conditions | Experiment, 2x2 factorial design | Experiment, 2 conditions |
| Method(s) | Paper and pencil questionnaires, qualitative interviews | Paper and pencil questionnaire | Paper and pencil questionnaire | Paper and pencil questionnaire |
| Research question(s) | 1, 2, 3 | 4 | 4 | 5 |
| Chapter(s) | 2, 3 | 4 | 5 | 6 |

Outline of the dissertation

Part I

Chapter 2 addresses both (1) the victim's perspectives on the purposes and functions of the VIS (*research question 1*) and (2) which variables contribute to the likelihood of a VIS being delivered (*research question 2*).

Chapter 3 presents the results of research on the effects of delivering a VIS on the emotional recovery of the victim (*research question 3*).

Part II

Chapter 4 presents the results of research on the effects of delivering a VIS on people's perceptions and judgments of the criminal case in general, and the victim and defendant in particular (*research question 4*).

Chapter 5 presents the results of research on the effects of the crime's wrongfulness and harmfulness on people's perceptions and judgments of the criminal case in general, and the victim and defendant in particular (*research question 4*).

Chapter 6 presents a preliminary study on the cognitive consequences of being confronted with the delivery of a VIS (*research question 5*).

Chapter 7 presents a summary of the main findings, a general discussion and conclusions.

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**Delivering a VIS:
A Victim's Perspective**

Part I

Chapter 2

**Heterogeneity in Victim Participation:
A New Perspective on Delivering
a Victim Impact Statement**

Lens, Pemberton, & Bogaerts

(European Journal of Criminology, 10, 479-495)

ABSTRACT

A central question in the debate about victim participation in criminal justice procedures is which instrument available to victims 'works'. The purpose of the present study was to examine which factors contribute to the likelihood of victims delivering a Victim Impact Statement (VIS). We extend previous research in two important regards. First, we examined victims' perspectives on the purposes and function of the VIS. Consistent with previous research (e.g., Roberts & Erez, 2004), we reveal a distinction between impact-related and expression-related use of VISs. However, this study adds a third component to the existing literature: the anticipation of negative consequences. Second, we examined which factors influence the likelihood of delivering a VIS and found three variables to be positively associated: posttraumatic stress symptoms, the type of crime, and the time of victimization. Against expectations, victims' perspectives did not make a unique contribution to the model. Based on these findings, we argue that what is called for is a more heterogeneous approach to the study of procedural instruments available to victims.

INTRODUCTION

Since the 1970s, the position of victims in the criminal justice system has been strengthened in many countries (Groenhuijsen & Letschert, 2008; Hall, 2010). While thirty years ago it was correct to assert that the victim was the forgotten party of the criminal justice process, today such an assertion would be at odds with reality. The upsurge of the victim of crime has spurred a considerable amount of literature on both the advantages and disadvantages of granting victims participatory rights (e.g., Ashworth, 2000; Erez, 1999; Groenhuijsen, 1999; Sarat, 1997) and the effectiveness of different victim-oriented measures (e.g., Chalmers, Duff, & Leverick, 2007; Roberts & Erez, 2010; Roberts, 2009; Sanders, Hoyle, Morgan, & Cape, 2001; Sherman & Strang, 2007).

Research evaluating the contribution of victims' rights to victims' well-being tends to view victims of crime as a homogenous group (Green, 2007; Pemberton, Winkel, & Groenhuijsen, 2007). Where distinctions are made within the victim population, they primarily concern crime characteristics (e.g., distinguishing victims of violent crime from victims of property offences) or demographic variables (e.g., gender and age of the victim) (Pemberton & Reynaers, 2011). Often, references are made to 'what victims want' (e.g., Strang, 2002; Braithwaite, 2002) and to whether measures 'work' or 'don't work' for participating victims (compare Sanders et al., 2001 with Chalmers et al., 2007).

In contrast, the psychological and therapeutic literature widely acknowledges that individual differences in psychological characteristics, personality traits and victimization context have a large influence on victimization experience (e.g., Bonanno, Westphal, & Mancini, 2011), to the extent that two demographically matched victims of identical crimes may display different reactions and as a consequence may have different needs (Ozer, Best, Lipsey, & Weiss, 2003; Brewin, Andrews, & Valentine, 2000). In other words, in therapeutic approaches it makes obvious sense to match treatment to the individual circumstances of the victim. This article argues that this 'matching' is also relevant to the intersection between criminal justice and victims of crime. Rather than investigating whether an instrument 'works' for victims in general, it is often more fruitful to investigate for *which* victims or under *which conditions* an instrument works. The instrument of interest in the present article is the class of measures referred to as the Victim Impact Statement (VIS).

The Victim Impact Statement: Purposes and Function

Victim participation in criminal justice proceedings can take different forms. One of the instruments that enables victims to participate in the criminal justice procedure is the right to deliver a Victim Impact Statement. Although the precise form of VISs can vary, from a written statement that primarily serves a function in awarding compensation to an oral statement that may influence the sentence given to the offender (also referred to as a Victim Statement of Opinion), all have in common that they allow victims the right to express the harm they have experienced as a part of the court proceedings (Erez, 2004). In the Netherlands, the right to deliver an oral VIS was afforded to victims in 2005. The implementation of this right was accompanied by the possibility for victims to submit a written VIS which is added to the file of the criminal case. In the Netherlands, the content of the VIS is restricted in the sense that victims

can only speak about the consequences of the crime, and are not allowed to speak about the facts of the crime or a desired punishment.

The Dutch Explanatory Memorandum of the Oral Victim Impact Statement Act mentions four goals: First, a VIS may contribute to the information provision to the trial judge: The VIS may help judges in imposing a 'just' sentence (Roberts & Erez, 2004). Some even argue that a sentencing decision that does not take into account victim harm is incomplete and unfair (Edwards, 2004). The second and third goal refer to its preventative purposes, which can be, on the one hand, general (i.e., establishing societal norms) and on the other hand, specific (i.e., decrease the relapse risk of the suspected offender). The fourth goal of the Act concerns the contribution of the VIS to the victim's emotional recovery. In particular, it is assumed that the delivery of a VIS may facilitate recovery from the emotional harm that has been caused by the crime. However, the effectiveness of VISs to facilitate recovery is widely debated at a theoretical level (Pemberton & Reynaers, 2011). Whereas some argue that VISs are effective in helping victims to recover from the crime, others suggest that the VIS may even be counter-productive, in a sense that it may lead to secondary victimization. This is exemplified in contradictory statements such as "VIS can work, do work (for those who bother to make them)" (Chalmers et al., 2007)", and "VIS, don't work, can't work" (Sanders et al., 2001).

Victims' Perspectives on Criminal Justice

The relationship between victims of crime and criminal justice instruments (like the VIS) is complicated. This becomes evident when comparing the legal purposes and functions of a certain instrument available to victims to victims' *perceptions* of that instrument. For example, victims may expect that their VIS will actually affect the outcome of the process when this may not be so (Edwards, 2001; Lens et al., 2010). In a study from Lens et al. (2010), around fifty percent of the victims who delivered an oral VIS in court declared that one of their motivations was to influence the sentence. However, influencing the sentence given to the offender is not mentioned as one of the goals in the Explanatory Memorandum of the Oral Victim Impact Statement Act. Moreover, victims may differ in their views on the meaning and purposes of criminal justice procedures, which makes "matching" an instrument to the victim's needs complicated: VISs may function as a means to award compensation, to reduce secondary victimization, to facilitate communication with the offender and/or allow the court to consider more closely the human costs of the crime at sentencing (Erez, 2004; Roberts, 2009; Roberts & Erez, 2010). Previous research has repeatedly shown that the impact of crime, often defined in terms of posttraumatic stress, anger, and/or anxiety (e.g., Orth & Maercker, 2009) may influence victims' perspectives on criminal justice procedures and outcomes. For example, increased levels of posttraumatic stress and anxiety will reduce the capability of victims to directly engage with the offender in face-to-face mediation (Cheon & Regehr, 2006; Winkel, 2007). Moreover, the psychological impact of crime is associated with increased feelings of hostility (Orth & Wieland, 2006), revenge and retaliation (Cardozo, Kaiser, Gotway, & Agani, 2003; Orth, Montada, & Maercker, 2006), and punitiveness (Canetti-Nisim, Halperin, Sharvit, & Hobfoll, 2009; Litvak, Lerner, Tiedens, & Shonk, 2010; Pham, Weinstein, & Longman 2004), which suggests that the experienced

severity of crime heightens the importance of retributive justice and consequently of the appropriateness/severity of the punishment meted out to the offender (see also Gromet & Darley, 2009; Tripp, Bies, & Aquino, 2007; Wenzel, Okimoto, Feather, & Platow, 2008). Conversely, improved adjustment and coping is associated with forgiveness (Orth, Berking, Walker, Meijer, & Znoj, 2008), which in turn is related to a more conciliatory stance toward the offender (Armour & Umbreit, 2005) and an increased emphasis on value-restorative outcomes (Wenzel et al., 2008).

In sum, the heterogeneity of victims' crime experiences expresses itself both in the victims' psychological characteristics and in their perception of instruments available to them in criminal justice procedures. In turn, both of these factors may determine whether or not a victim chooses to use the participatory rights offered to them in the criminal justice system. Both factors are explored in this article. Using a sample of victims of violent crime ($N=170$) eligible to submit a VIS, this article examines the impact of the background characteristics of the victim and the crime and the impact of victims' perspectives on the purpose and function of VISs to the likelihood of their submitting a VIS. Two hypotheses are formulated: First, we hypothesize that background characteristics of the victim and the crime influence the likelihood of delivering a VIS. More specifically, and in line with previous research (Leverick, Chalmers, & Duff, 2007; Roberts, 2009; Lens et al., 2010), we predict that the impact of the crime on the victim would increase the likelihood of delivering a VIS (Hypothesis 1). Second, we expect that victims' perceptions of the VIS make an additional contribution to the likelihood of delivering a VIS, above and beyond the influences of the crime's impact on the victim (Hypothesis 2). More specifically, we predict that anticipated negative consequences of delivering a VIS would negatively influence the likelihood of delivering one, whereas anticipated positive consequences of delivering a VIS would increase the likelihood of delivering one.

METHOD

Participants

In a period of twelve months, 319 victims eligible to submit a VIS were invited to participate in the study. Eventually, 170 victims (53.3%) filled out the questionnaire. As no background information of the nonparticipants was available, possible non-response bias could not be estimated.

Procedure

Participants were recruited through all 19 district court offices of the Dutch Public Prosecution Service. To participate in the study, victims had to be eligible to submit a VIS and sufficiently master the Dutch language. Furthermore, they had to face an upcoming trial. Potential participants received a letter with information about the survey from the Prosecution Service and the possibility that they would be further contacted by the investigators. A form was included through which they could opt out of receiving further information. If this form had not been returned within two weeks, victims were contacted by telephone and invited to participate. All participating respondents filled out a letter of informed

consent. Participants were assured that there were no 'right' or 'wrong' answers and that the results of the study would be treated confidentially.

Design

The current study was part of a larger study into the effects of delivering a VIS on the emotional recovery of the victim. The original, longitudinal survey used a quasi-experimental, pre-test/post-test design. This design allowed for a comparison of the victim's situation before and after the trial and between the two subgroups: (1) delivery of VIS: those who submitted an oral and/or written VIS; and (2) no delivery of VIS: those who declined to make a VIS, either oral or written. Respondents were asked to fill out two structured questionnaires: The first one two weeks before the trial in their case (pre-test), and the second one two weeks after (post-test). This article reports the results of the pre-test.

Measures

The questionnaire contained the following constructs: demographics, crime features, psychological characteristics of the victim, and victims' perceptions of the VIS.

Demographics and crime features

Respondents were asked for the following demographics: gender, age, marital status, education level (lower/intermediate/higher education), employment (yes/no), and ethnic background (determined by the participant's own and their parents' birthplace). Furthermore, respondents had to indicate certain features of the crime that had been committed: the type of crime, the time that had elapsed since the commission of the crime (in months), relationship (if any) to the offender, earlier victimization (if any), and victim vs. co-victim (of homicide). With the latter distinction (victim vs. co-victim), respondents were classified as either "directly" or "indirectly" harmed by the crime. According to the Declaration of the UN Commission on Human Rights, indirect victims are the family members of a direct victim. In the current study, this same classification was adopted.

Psychological characteristics

Following previous research (e.g., Orth & Maercker, 2009), the psychological impact of the crime on the victim was measured by feelings of posttraumatic stress, anger, and anxiety.

Posttraumatic Stress. Using a forward and backward translation method, the Trauma Screening Questionnaire (TSQ; Brewin, Rose, & Andrews, 2002) was translated into Dutch and used to measure indications of posttraumatic stress. This validated, self-report screening tool has been adapted from the PTSD Symptom Scale-Self Report (Foa, Riggs, Dancu, & Rothbaum, 1993). The TSQ consists of ten items that require straightforward 'yes' or 'no' responses. Five items concern re-experiencing of traumatic events, such as 'Upsetting thoughts or memories about the event that have come into your mind against your will'. The remaining five items concern symptoms of arousal, such as 'Heightened awareness of potential dangers to yourself and others'. A sum score of the TSQ is computed by adding the scores

of the responses (*yes* = 1, *no* = 0), creating a continuous variable. The cut-off point of the TSQ is five, with six or more 'yes' responses indicating possible posttraumatic stress disorder (Brewin et al., 2002). Cronbach's alpha for the TSQ was found to be 0.88, indicating good reliability (Murphy & Davidshofer, 1998; Nunnally, 1978).

Anger. A Dutch translation of the 7-item Dimensions of Anger Reactions Scale (DAR; Novaco, 1975) was used to measure feelings of anger. This validated, self-report scale consists of seven items that are answered on a 9-point Likert scale, ranging from 0 (*not at all*) to 8 (*exactly so*). Sample items include 'When I get angry I stay angry' and 'My anger has had a bad effect on my health'. Test-retest reliability of the Dutch translation of the DAR was examined by Nederlof, Hovens, Muris, and Novaco (2009): They found a correlation coefficient of .84, supporting the reliability of the scale. The DAR provides an indicator of key aspects of anger dysregulation, including frequency, intensity, duration, violent expression, and problematic consequences for psychosocial functioning and well-being (Forbes et al., 2004). The instruction preceding the DAR was altered to ensure that respondents would report anger *post* victimization, rather than anger *per se*. The author of the DAR approved the appropriateness of this adaptation (e.g., Kunst, Winkel, & Bogaerts, 2011). Respondents were asked to indicate whether or not they had experienced feelings of anger in the past two weeks. A sum score of the DAR is computed by adding up the scores of all responses. Cronbach's alpha was found to be 0.89, indicating good reliability (Murphy & Davidshofer, 1998).

Anxiety. Feelings of anxiety were measured with the anxiety subscale of the Hospital Anxiety and Depression Scale-Dutch version (HADS-NL; Pouwer, Snoek, & Van der Ploeg, 1983). The HADS-NL was translated from English (Zigmond & Snaith, 1983) into Dutch and validated with Dutch respondents. Test-retest reliability of the total HADS-scale and both subscales were found to be good in different groups of Dutch subjects (Spinhoven et al., 1997). The anxiety subscale consists of seven self-report items that are answered on a 4-point Likert scale. A sample item is 'I can sit at ease and feel relaxed'. Scores range from 0 to 3, with a total score of 9 or more indicating a psychiatric state of anxiety. Cronbach's alpha for the subscale anxiety was found to be 0.91, indicating good reliability (Murphy & Davidshofer, 1998).

Victims' perceptions of the VIS

Respondents were asked to score sixteen perceptions regarding the purpose or the consequences of submitting an oral or written VIS, on a 5-point Likert-scale, ranging from 1 (*totally disagree*) to 5 (*totally agree*). The items were partially derived from the distinction Roberts and Erez (2004) made between impact-related and communicative/expression-related use of VIS. In their first model, the instrumental model, the key issue is the effect of the statement on the sentenced imposed on the offender. In the second model, VISs are viewed as vehicles of expression, and the central issue is the victims' communication with other participants in the criminal justice process, whether that is the judge, the prosecutor or the defendant (Roberts & Erez, 2004). Sample items of impact-related use of VIS included: 'I expect the VIS to influence the sentence given to the offender', 'I expect the VIS to receive a lot of attention during the process', 'I expect the VIS to help me get more understanding from the judge(s)/public prosecu-

tor', and 'I expect the VIS to positively influence my entitlement to compensation'. Expression-related use of VIS was measured with items related to both emotional recovery and (positive influences of) creating understanding. These items included: 'I expect the VIS to positively influence my emotional recovery'; 'I expect the VIS to help me get more understanding from the offender'; 'I expect the VIS to be an emotional burden' (reversed in analyses), 'I expect the VIS to prevent recidivism'; 'I expect the VIS to have a positive influence over the expressed emotions/sorrow of the offender'; 'I expect the VIS to help me get more understanding from "others" present in the courtroom (e.g., family members, press)'; and 'I expect the VIS to have no influence over my emotional recovery' (reversed in analyses). Additionally, to measure anticipated negative consequences of participating in the criminal justice procedure (e.g., Herman, 2003), several items were added to the distinction made by Roberts and Erez (2004): 'I expect the offender to get angry at me (after delivering a VIS)'; 'I expect negative reactions from third parties (after delivering a VIS)'; 'I expect the offender to take revenge (after my delivery of a VIS)'; 'I expect the VIS to negatively influence the process'; and 'I expect the VIS to misrepresent the case'.

Statistical Analyses

As a first step in our analyses, characteristics from the victim and the crime were examined. Means and standard deviations (*SD*) were computed for continuous variables, while percentages were presented for categorical variables. Second, a principal component analysis (PCA) with orthogonal rotation was conducted on victims' perceptions of the VIS. Third, a binary logistic regression analysis was conducted to analyze the relative contribution of each variable towards the likelihood of delivering a VIS. Odds ratios were calculated from the logistic regression coefficients to provide an estimate of the likelihood of submitting a VIS. In preparation for the logistic regression analysis, and to simplify and clarify the interpretation of the coefficients in this analysis, the continuous independent variable 'type of crime' was recoded into six categories: threat, stalking, sexual offenses, homicide (surviving relative), violent crimes (e.g., attempted murder, robbery, grievous bodily harm, hostage taking), and traffic offenses (being guilty of a severe and/or fatal accident). Furthermore, extreme outliers in the variable 'time elapsed since the commission of the crime' were removed for reasons of clarification. Removal of these outliers did not have a significant effect on the model. Before conducting the multivariate logistic regression analysis, Pearson's product-moment correlation coefficients between the selected variables and the delivery of VIS were calculated. Variables with significant univariate correlations with the target dependent variable (delivery of VIS; $p < .05$) were retained for logistic regression analysis and entered into the equation simultaneously.

RESULTS

Demographics

The total sample consisted of 170 victims of serious crimes (73 men and 97 women), who were eligible for delivering a VIS. The respondents' age varied from 14 to 91, with a mean age of 37.1 years ($SD = 14.2$). Minors who wanted to participate in the study were asked to fill out the questionnaire with the help

of one or both of their parents. Forty-four percent of the respondents reported not having a partner, while 24.1% were married. Of the remaining 31.8%, 15.3% reported living together with a partner, 14.1% reported being divorced, and 2.4% reported being a widow/widower. About half (58.2%) of the participants completed intermediate education, 20.6% completed lower education and 21.2% completed higher education. A majority of the participants held a paid job (66.5%), while the other 33.5% of the respondents did not. Seventeen percent of the respondents were of non-Dutch origin (e.g., Moroccan, Chinese, and Polish).

Crime Features

Our total sample ($N=170$) consisted of 159 victims, four co-victims of homicide, and three family members of a victim who was killed in a car accident. In the remaining four cases, an underage victim was represented during the trial by one of his parents. Crime types were distinguished in six categories: threat ($n=36$, 21.2%), stalking ($n=29$, 17.1%), severe violent crimes ($n=72$, 42.4%) (grievous bodily harm, robbery, hostage taking, attempted murder, and a combination of crime types: e.g., threat and assault), sexual offenses ($n=20$, 11.8%), traffic offenses ($n=9$, 5.3%), and homicide ($n=4$, 2.4%). If a victim indicated that he/she experienced more than one crime (e.g., threat and sexual offense), he/she was assigned to the most severe category. On average, the crime took place 12.2 months ($SD=24.7$) before completion of the pre-test. After removing eight extreme outliers, ranging from 40 to 192 months, the mean time elapsed since victimization was 7.5 months ($SD=6.8$). A majority (60.6%) of the respondents knew the perpetrator before the crime was committed; most of them were acquaintances, friends or family members. Furthermore, 57 victims (33.5%) had previous victimization experiences, either with the same type of crime ($n=34$, 20.0%) or a different type of crime ($n=39$, 22.9%).

Psychological Characteristics

The mean score on the Trauma Screening Questionnaire (TSQ) was 5.3 ($SD=3.4$) and the mean score on the Hospital Anxiety and Depression Scale (HADS) was 9.3 ($SD=4.9$). Following the psychometric characteristics of both scales, about half of the respondents (51.2%) showed posttraumatic stress symptoms and 54.7% showed signs of severe, clinically relevant anxiety. Furthermore, participants displayed moderately high levels of anger concerning their victimization: The mean score on the Dimensions of Anger Reactions Scale (DAR) was 20.0 ($SD=14.4$). For comparison, Kunst et al. (2011) recently found mean posttraumatic anger scores for victims of violent crimes without probable PTSD of 17.5 ($SD=12.3$) and for victims with probable PTSD of 30.6 ($SD=14.3$).

Victims' Perceptions of the VIS

A principal component analysis (PCA) with Varimax rotation was conducted on victims' perceptions of the VIS. Prior to performing the PCA, the suitability of data for factor analysis was assessed. First, the sample size was examined. Although there is little agreement among authors concerning how large a sample should be (Pallant, 2001), our sample size of 170 was suitable to meet the standard of a 10 to

1 ratio, that is 10 cases for each item to be analyzed (e.g., Nunnally, 1978). Second, the strength of the relationship among the items was examined. Inspection of the correlation matrix revealed the presence of many coefficients of .3 and above, which indicates medium to large correlation effects (Cohen, 1988). Furthermore, the Kaiser-Meyer-Olkin value was 0.76. This exceeds the recommended value of .5, which means the sample is sufficiently large to conduct a PCA (Kaiser, 1974). Finally, Bartlett's Test of Sphericity (Bartlett, 1950) reached statistical significance, supporting the factorability of the correlation matrix. The PCA initially revealed the presence of five components with eigenvalues exceeding 1, explaining 28.5%, 16.8%, 8.6%, 7.7%, and 6.8% of the variance respectively. Using Cattell's (1966) scree test, it was decided to retain three components for further investigation. To aid in the interpretation of these components, Varimax rotation was performed. The rotated solution (presented in Table 2.1) revealed the presence of simple structure (Thurstone, 1947), with all components showing a number of strong loadings, and all variables loading substantially on only one component.

The three-factor solution explained a total of 53.8% of the variance, with component 1 contributing 28.5%, component 2 contributing 16.8%, and component 3 contributing 8.6%. Inspection of the three components revealed coherent underlying dimensions. In line with the distinction made by Roberts and Erez (2004) between expressive and impact-related VIS functions, component 1 consists of items relating to the former function, while component 3 concerns items connected to the desire to influence the outcome of the criminal trial. In addition to these components, our analysis adds a dimension

Table 2.1
Factor Loadings for Factor Analysis With Varimax Rotation

| | Expression | Anticipation of negative consequences | Impact |
|---|--------------|---------------------------------------|-------------|
| Emotional recovery | .772 | .105 | .045 |
| Understanding offender | .753 | -.041 | .211 |
| Emotional burden (rev. scored) | .701 | .253 | -.005 |
| Prevent recidivism | .697 | .004 | .232 |
| Emotions/sorrow offender | .678 | .200 | .276 |
| Understanding others | .583 | -.047 | .270 |
| No emotional recovery (rev. scored) | -.460 | .334 | .100 |
| Misrepresenting case | -.032 | .837 | -.011 |
| Neg. influence process | -.040 | .753 | .009 |
| Revenge perpetrator | .082 | .746 | .162 |
| Angry perpetrator | .168 | .710 | .247 |
| Neg. reactions third parties | .068 | .544 | .097 |
| Influence sentence | .022 | .031 | .837 |
| Attention during process | .206 | .073 | .704 |
| Understanding judges/ public prosecutor | .368 | .167 | .624 |
| Compensation | .139 | .322 | .541 |

Note. Factor loadings greater than .40 are shown in boldface.

which could be described as the *anticipation of negative consequences*: Component 2 contains items that concern a negative influence of participation on the course or objectivity of the trial, retaliatory responses by the perpetrator, or negative reactions from the victims' social surroundings.

Binary logistic regression analysis

As a first step in the preparation for the logistic regression analysis, bivariate associations between the independent variables and the dependent variable (delivery of VIS) were calculated. Table 2.2 shows eight factors that had significant bivariate associations with the delivery of a VIS.

Table 2.2
Bivariate associations with the delivery of VIS

| | Delivery of VIS OR (95% CI), N = 170 |
|-----------------------------------|--------------------------------------|
| Background characteristics | |
| Gender (women) | 3.61 (1.75-7.47)*** |
| Age | 1.02 (1.00-1.05) |
| Level of education | |
| Lower (reference) | 1.00 |
| Intermediate | .49 (.18-1.36) |
| Higher | .91 (.27-3.08) |
| Marital status | |
| Single (reference) | 1.00 |
| Living together | 1.37 (.48-3.92) |
| Married | 1.59 (.68-3.75) |
| Divorced | 4.66 (1.24-17.48)* |
| Widow/widower | 2.21 (.22-22.48) |
| Employment (no) | 1.23 (.58-2.62) |
| Ethnic background | |
| Native (reference) | 1.00 |
| First-generation | 2.33 (.48-11.29) |
| Second-generation | .65 (.17-2.54) |
| Crime characteristics | |
| Type of crime | |
| Threat (reference) | 1.00 |
| Stalking | 6.33 (1.97-20.33)** |
| Violent crimes | 6.53 (2.46-17.38)*** |
| Sexual offenses | 8.17 (2.10-31.76)** |
| Traffic offenses | 16.33 (1.75-152.82)* |
| Homicide | - |
| Time elapsed (in months) | 1.09 (1.02-1.18)* |

Table 2.2 (continued)

| | Delivery of VIS OR (95% CI), N= 170 |
|--|--|
| Victim (vs. co-victim) | - |
| Relationship with offender (yes) | 1.08 (.52-2.21) |
| Earlier victimization (yes) | .93 (.45-1.92) |
| Psychological characteristics | |
| Posttraumatic stress | 1.45 (1.27-1.66)*** |
| Anger | 1.03 (1.01-1.06)* |
| Anxiety | 1.22 (1.11-1.33)*** |
| Victims' perceptions of the VIS | |
| Expression | 1.13 (1.04-1.23)** |
| Fear negative consequences | .96 (.88-1.04) |
| Impact | 1.11 (.99-1.24) |

Note. OR=odds ratio; CI=confidence interval.

* $p < 0.05$. ** $p < 0.01$. *** $p < 0.001$.

The following background characteristics increased the likelihood of delivering a VIS: gender (woman) and marital status (divorced). Furthermore, the type of crime (stalking, violent crimes, sexual offenses, and traffic offenses) was bivariately associated with the likelihood of delivering a VIS, even as the time elapsed since victimization, and symptoms of posttraumatic stress, anger, and anxiety. From victims' perceptions regarding the VIS, only the 'expression' component had a significant bivariate association with the delivery of a VIS. As the total sample contained only four co-victims of homicide, the assumption of the minimum expected cell frequency was violated. Therefore, bivariate associations with the delivery of a VIS could not be computed for this group.

As a second step in the preparation for the logistic regression analysis, Pearson's product-moment correlation coefficients were calculated for the remaining eight variables. Whereas correlations ranged from small ($r = .025$) to large ($r = .783$), correlations between the psychological characteristics were very high: Very strong (see Cohen, 1988) positive mutual correlations were found between indications of posttraumatic stress symptoms, anger and anxiety, ranging from $r = .619$ to $r = .783$, with significance values less than 0.01. The magnitude and sign of the associations of these variables are similar to those previously reported (Orth & Wieland, 2006). As the bivariate correlation between posttraumatic stress symptoms and anxiety exceeded the recommended maximum of .7 ($r = .783$, $p < 0.01$: see Tabachnick & Fidell, 2007), the latter was omitted from the logistic regression analysis. Posttraumatic stress and anxiety have a correlation of .783 and so the value of R^2 will be $(.783)^2 = 0.61$: Posttraumatic stress symptoms share 61% of the variability in anxiety scores.

A logistic regression analysis was performed to assess the impact of a number of factors on the likelihood of delivering a VIS. The remaining seven independent variables with bivariate correlations with the delivery of VIS were included in the model: gender, marital status, type of crime, time elapsed since victimization, indications of posttraumatic stress, anger, and expression. The full model containing all

predictors was statistically significant, $\chi^2 (14, N = 134) = 69.91, p < .001$, indicating that the model was able to distinguish between respondents who delivered a VIS and those who did not. The model as a whole explained between 40.6% (Cox & Schnell) and 56.2% (Nagelkerke R squared) of the variance in delivery of VIS, and correctly classified 80.6% of cases. As shown in Table 2.3, only three variables made a statistically significant unique contribution to the model: type of crime, time elapsed since victimization, and symptoms of posttraumatic stress. These three variables increased the likelihood of a VIS being delivered, controlling for all other factors in the model. The Hosmer-Lemeshow goodness-of-fit statistic (Hosmer & Lemeshow, 1989) revealed the model to adequately fit the data (4.23, $p = .836$).

Table 2.3
Logistic regression predicting the delivery of VIS

| | Delivery of VIS OR (95% CI), N = 170 |
|--|--------------------------------------|
| Background characteristic | |
| Gender (women) | 2.86 (.89-9.22) |
| Marital status | |
| Single (reference) | 1.00 |
| Living together | 2.72 (.59-12.62) |
| Married | 1.23 (.34-4.53) |
| Divorced | 4.36 (.66-28.83) |
| Widow/widower | 3.21 (.05-200.36) |
| Crime characteristics | |
| Type of crime | |
| Threat (reference) | 1.00 |
| Stalking | 1.45 (.28-7.48) |
| Violent crimes | 7.22 (1.78-29.25)** |
| Sexual offenses | .67 (.07-6.39) |
| Traffic offenses | 6.99 (.44-110.31) |
| Homicide | - |
| Time elapsed (in months) | 1.15 (1.02-1.29)* |
| Psychological characteristics | |
| Posttraumatic stress | 1.58 (1.22-2.05)*** |
| Anger | .98 (.93-1.03) |
| Victims' perceptions of the VIS | |
| Expression | .98 (.85-1.14) |

Note. OR = odds ratio; CI = confidence interval.

* $p < 0.05$. ** $p < 0.01$. *** $p < 0.001$.

CONCLUSION AND DISCUSSION

In the past decades, the attention afforded to victims of crime has increased considerably (e.g., Groenhuijsen & Pemberton, 2009). This upsurge of the victim of crime has spurred a considerable amount of literature on both the advantages and disadvantages of procedural instruments available to victims, like the VIS. However, instead of taking into account differences in victims' characteristics and needs, references are made to 'what victims want' (e.g., Strang, 2002; Braithwaite, 2002) and to whether measures 'work' or 'don't work' for victims (compare for example Sanders et al., 2001 with Chalmers et al., 2007). In other words, individual characteristics and perspectives which may determine whether a victim decides to participate in the criminal justice procedure are neglected. The present study was designed to fill this theoretical and empirical gap by examining which factors contribute to the delivery of a VIS.

The purpose of this study was twofold. First, victims' perspectives on the purposes and function of the VIS were explored. Factor analysis showed that people's perceptions of the VIS could be divided into three different components, with clear underlying topics: expression, impact, and anticipation of negative consequences. This finding was partially consistent with previous research on motives to deliver a VIS: Earlier research revealed a distinction between impact-related and expression-related use of VISs (Roberts & Erez, 2004; Sanders et al., 2001). Our study, however, was the first to reveal a third component: the anticipation of negative consequences. Second, we examined which variables contribute to the likelihood of a VIS being delivered. More specifically, we considered the impact of both background characteristics of the victim and the crime and of the victims' perspectives on the purposes and function of VISs to the likelihood of delivering one. A binary logistic regression analysis revealed three variables to be positively associated with the likelihood of delivering a VIS, when controlling for all other variables in the equation: posttraumatic stress symptoms, the type of crime committed, and the time elapsed since victimization. More specifically, and in line with Hypothesis 1, this study showed that the impact of the crime on the victim is positively correlated with the likelihood of delivering a VIS: In particular victims displaying signs of poorer psychological functioning as a consequence of their victimization (high levels of posttraumatic stress symptoms, anger, and anxiety) are likely to opt for the delivery of a VIS. This also applies to victims of severe violent crimes (e.g., grievous bodily harm, robbery, hostage taking, and attempted murder). Moreover, time since victimization is positively correlated with the likelihood of delivering a VIS. This means that victims of more complex, and often more serious cases are more likely to opt for delivering a VIS. These findings are in line with earlier research, which stated that the seriousness of the crime may influence the likelihood of delivering a VIS (Leverick et al., 2007; Pemberton, 2010; Roberts, 2009; Lens et al., 2010).

Although victims' perceptions regarding the VIS were bivariate correlated with the delivery of a VIS, they did not make unique contributions to the model when controlling for the background variables of the victim and the committed crime (as suggested in Hypothesis 2). In sum, although one might presume that victims' perceptions regarding the purpose and function of victim instruments determine whether or not a victim chooses to use these participatory rights on offer, this study showed that in fact victims' choices are strongly influenced by the impact of the crime on the victim. More specifically,

this study showed that the higher the impact of the crime on the victim, the more likely the victim is to deliver a VIS.

Practical Implications

Based on these results, we argue that a more heterogeneous approach to the study of procedural instruments available to victims is needed: Instead of looking at *what victims want*, we should focus on which instrument works *for whom* and under *which conditions*? The results of this research suggest that one must consider the reality that participants may differ on relevant characteristics from non-participants and that accounting for heterogeneity is an important element of incorporating the victim's perspective in criminal justice. Weighing the advantages and disadvantages of modes of victims' participation should not neglect the heterogeneity in victim experiences, perspectives and needs we investigated. This study has some important implications. First, and at the most abstract level, incorporation of psychological constructs and concepts in the study of victims in the criminal justice system allows victimological research to do justice to individual differences between victims (see also Pemberton, 2009). We argue that the first steps in matching victim instruments in the criminal justice procedure with victims' needs are to examine *which* victims feel the need to use the participatory rights on offer and *why* they do so. In the Netherlands, for example, only victims of severe violent crimes are allowed to deliver a VIS in court. This 'restriction' of the circle of rights-bearers of the VIS has long been debated: Both professionals and lay-people were asking themselves whether victims of less severe crimes would have the same need to participate in the criminal justice procedure. This study is the first to show that victims who opt for the delivery of a VIS differ in their perspectives regarding the VIS from victims who decline their use of a VIS. However, this study revealed that it's not victim perspectives of the VIS but the impact of the crime on the victim that determines its use. Second, we argue that this important predictor of delivering a VIS (i.e., crime severity) should be taken into account when determining the legal content of the VIS. Besides the circle of rights-bearers, another important debate in the Netherlands circles around the content of the VIS. In the Netherlands, victims are only allowed to speak about the consequences of the crime and are not allowed to speak about the facts of the crime or a desired punishment. We argue that victims who are severely affected by the crime probably feel the strongest need to 'stretch' this legal content of the VIS. Research has repeatedly shown that the psychological impact of crime is associated with increased feelings of hostility (Orth & Wieland, 2006), revenge and retaliation (Cardozo, Kaiser, Gotway, & Agani, 2003; Orth, Montada, & Maercker, 2006), and punitiveness (Canetti-Nisim, Halperin, Sharvit, & Hobfoll, 2009; Litvak, Lerner, Tiedens, & Shonk, 2010; Pham, Weinstein, & Longman 2004). Therefore, we argue that victims of severe violent crimes (e.g., rape) are more inclined to give way to these feelings by heaping abuse upon the defendant or utter a wish for a severe punishment. When debating above-mentioned limitations of the VIS it is important to take into account these characteristics of both the victim and the crime.

Although this study has important practical implications, some limitations need to be addressed. First, this article represents cross-sectional data, which prevents us from determining causality or the exact

nature of the relationships between our variables. Second, the psychological state of the victim was measured with the help of self-report questionnaires. Therefore, these results must be interpreted with care. For example, the Trauma Screening Questionnaire (TSQ) is developed to measure *indications* of *possible* posttraumatic stress disorder: We cannot conclude that respondents who scored above the cut-off point of five really suffer from a posttraumatic stress disorder. Moreover, the authors of the TSQ recommend that screening be conducted three to four weeks post-trauma to allow for normal recovery processes to take place (Brewin et al., 2002). Given the specific nature of this research, we were not able to meet this criterion. However, speaking against this argument, participants were never asked to fill in a questionnaire *before* this period of three to four weeks post-trauma. Third, although victims' perceptions of the VIS reveal consistent trends with earlier research (Roberts & Erez, 2004; Sanders et al., 2001), they are generally solicited after victims have been given information by victim services. It can therefore not be ruled out that their views in part reflect official views.

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Chapter 3

**Delivering a Victim Impact Statement:
Emotionally Effective or Counter-
Productive?**

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ABSTRACT

Although the delivery of a Victim Impact Statement (VIS) in court is assumed to contribute to the healing and recovery process of victims of violent crimes, its effectiveness to facilitate emotional recovery is widely debated. The current longitudinal study is the first to empirically examine the psychological effects of delivering a VIS in terms of the two most important emotional reactions after crime: anger and anxiety. It extends previous findings by showing that the debate concerning the effectiveness of delivering a VIS is not a “black and white” matter. In this article, we argue that the question should not be whether delivering a VIS “works” or “doesn’t work” for the victim, but for whom, and under which conditions. We show that delivering a VIS does not give rise to direct “therapeutic” effects. However, we found that feelings of anger and anxiety decrease for victims who experience more control over their recovery process and higher levels of procedural justice.

INTRODUCTION

Crime victims play an increasingly important role in criminal justice procedures (e.g., Groenhuijsen & Pemberton, 2009; Roberts, 2009). One of the instruments that allow victims to participate in criminal justice procedures is the Victim Impact Statement (VIS). VISs are written or oral statements made by the victim, in which they express the (financial, social, psychological, and physical) harm they have experienced as a part of the court proceedings (Erez, 1990; 2004). In the Netherlands, the right to deliver an oral VIS was afforded to victims of severe violent crimes in 2005. The implementation of this right was accompanied by the possibility to submit a written VIS which is added to the file of the criminal case. In the Netherlands, the content of the VIS is restricted in the sense that victims can only speak about the consequences of the crime, and are not allowed to speak about the facts of the crime or a desired punishment. The Dutch objectives of the VIS are captured in multiple goals.² The key victimological goal concerns the contribution of the VIS to the victim's emotional recovery. This issue is also the main consideration in research and theory concerning VIS in other jurisdictions and comprises the main research question of the present article. In particular, it is presumed that the delivery of a VIS may facilitate recovery from the emotional harm that has been caused by the crime (see also Edwards, 2001; Roberts & Erez, 2004). Hence, the delivery of a VIS is supposed to have therapeutic benefits and to contribute to the emotional healing and recovery process of victims (Explanatory Memorandum of the Oral Victim Impact Statement Act, 2005; 2012).

Therapeutic Benefits?

However, the effectiveness of VISs to facilitate recovery is widely debated (Pemberton & Reynaers, 2011; Roberts, 2009). Whereas some argue that VISs are effective in helping victims to recover from the crime, others suggest that delivering a VIS may even be counter-productive, in a sense that it may lead to secondary victimization (also known as post-crime victimization). This duality is exemplified in contradictory statements such as "VIS, don't work, can't work" (Sanders, Hoyle, Morgan, & Cape, 2001), and "VIS can work, do work (for those who bother to make them)" (Chalmers, Duff, & Leverick, 2007): Whereas Sanders et al. (2001, p. 447) argue that VISs "fail in practice", Chalmers et al. (2007, p. 366) claim that their therapeutic benefits "do have some value".

According to Pemberton and Reynaers (2011), the debate about the effectiveness of the VIS is seriously hampered by a lack of empirical evidence concerning its therapeutic effects. Until now, few studies have empirically examined whether and if so, how, the delivery of an oral VIS is related to emotional recovery (Erez, 2004; Roberts & Erez, 2004). Moreover, the empirical studies that did so are characterized by a number of important limitations (see also Roberts, 2009; Walklate, 2002). First, previous studies typically

2 The Dutch Explanatory Memorandum of the Oral Victim Impact Statement Act mentions four goals of the VIS: First, the delivery of a VIS may contribute to the information provision to the trial judge. The second and third goal refer to its preventative purpose, which can be, on the one hand, general (i.e., establishing societal norms) and, on the other hand, specific (i.e., decrease the relapse risk of the suspected offender). Fourth, the delivery of a VIS may contribute to the victim's emotional recovery. See also: Roberts and Erez (2004) for purposes of the VIS.

used victim 'satisfaction' (or a similar construct) as an outcome measure (see also Edwards, 2001; Erez, 2004; Roberts & Erez, 2004). This is troublesome, as neither satisfaction nor dissatisfaction can be directly translated into therapeutic and anti-therapeutic effects (McNally, Bryant, & Ehlers, 2003; Zech & Rime, 2005). Moreover, advocates and critics of VIS regimes tend to hold very different views of the effects of VIS on satisfaction levels of participating victims (Roberts, 2009): Whereas some argue that submitting a VIS will increase victim satisfaction (e.g., Alexander & Lord, 1994), others claim that victims are unlikely to 'benefit' from submitting a VIS (e.g., Davis & Smith, 1994). Second, both proponents and opponents of the VIS have been inclined to extrapolate from (dis)satisfaction to other consequences. This is especially true for the extrapolation from dissatisfaction to secondary victimization. For example, that failing to meet victims' expectations may lead to dissatisfaction may well be true (Ashworth, 2000; Edwards, 2001; Sanders et al., 2001), however, it is not synonymous with secondary victimization in the sense that it leads to negative effects on the victim's well-being.

In sum, although a central goal of the VIS is to contribute to the victim's emotional recovery (e.g., Edwards, 2001; Roberts & Erez, 2004), empirical evidence about its therapeutic benefits in terms of emotional recovery is lacking (see also Edwards, 2001; Herman, 2003; Parsons & Bergin, 2010; Roberts, 2009; Roberts & Manikis, 2013). In a review paper, Herman (2003, p. 162) summarizes the lack of empirical knowledge about the effects of victim participation in the criminal justice procedure by arguing that "A systematic study of the mental health impact of crime victims' participation, or nonparticipation, in the criminal justice system has yet to be conducted". The goal of the present study is to fill this empirical gap with regard to examining the effects of delivering a VIS. In particular, we conducted a longitudinal study among victims of severe violent crimes to examine the impact of delivering a VIS on their emotional recovery.

Theoretical Notions

Several theoretical notions are essential in understanding the complexity surrounding the determination (or measurement) of 'emotional recovery' after delivering a VIS. First, we elaborate upon 'general notions' of emotional recovery after crime. Second, we discuss specific theoretical assumptions regarding the effects of delivering a VIS.

Trajectories of Recovery after Crime

Numerous studies have shown the devastating effects that crime can have on victims for months and even years following the traumatic event. Nonetheless, there also is great variability in how individuals are affected by criminal acts (e.g., Frazier, Steward, & Mortensen, 2004). Recent theoretical models have argued for distinct trajectories of mental health outcomes following traumatic events (Bonanno, 2004; Layne, Warren, Watson, & Shalev, 2007; Steenkamp, Dickstein, Salters-Pedneault, Hofmann, & Litz, 2012). Bonanno (2004) described four main trajectories after experiencing a traumatic event: A *resilience trajectory*, which is characterized as an initial period of mild symptoms and disruption in functional abilities, followed by a return to adaptive functioning. A *recovery trajectory*, which is characterized by an initial period of moderate to severe symptoms that dissipate in the weeks and months following trauma. A

chronic impairment trajectory involves persistently high levels of distress and dysfunction, and a *delayed distress trajectory*, in which individuals experience an increase in symptoms over time after little or no initial reaction (Bonanno, 2004). Furthermore, Layne et al. (2007) argued for an additional *resistance trajectory*, which involves enduring homeostasis (i.e., the development of no or few symptoms).

Recent research (Lens, Pemberton, & Groenhuijsen, 2010; Lens, Pemberton, & Bogaerts, 2013) has connected the distinct trajectories of recovery for victims to the choice to deliver or to decline the opportunity to deliver a VIS, by showing that victims who choose to deliver a VIS display a significantly higher degree of psychological complaints after the crime, compared to those who decline their opportunity to do so (Lens et al., 2013). Whereas victims who opt for the delivery of a VIS show signs of severe mental health problems, presenting high levels of anger, anxiety, and posttraumatic stress two weeks before trial, victims who decline the opportunity to deliver a VIS are relatively free of emotional complaints. Moreover, Lens et al. (2013) found the time since victimization to be positively correlated with the likelihood of delivering a VIS. Hence, the high levels of psychological complaints for victims who opt to deliver a VIS cannot be explained by the fact that their crime has taken place a shorter time ago, if anything their crime took place significantly longer ago. Following the distinction of Bonanno (2004), one could argue the victims who opted for delivery of a VIS were more readily interpreted as following a so-called 'chronic impairment trajectory', with clear signs of persistent and high levels of distress. This recovery process differs from the emotional state of victims who decline their opportunity to deliver a VIS. In effect the latter group appeared to follow the 'recovery trajectory'.

Recovery after Delivering a VIS?

Different lines of research would suggest that certain high levels of emotional complaints for victims who opt for the delivery of a VIS would not diminish by (single-shot) expressions of feelings or emotions, like the delivery of a VIS. For example, single-shot therapeutic approaches involving expression of emotions have not proved effective in reducing symptoms of posttraumatic stress (e.g., Van Emmerik, Kamphuis, Hulsbosch, & Emmelkamp, 2002), with research even suggesting counterproductive consequences (e.g., Sijbrandij, Olff, Reitsma, Carlier, & Gersons, 2006). Moreover, the ongoing research into social sharing of emotions reveals that the mere expression of emotions has no direct "healing" effects in the sense that it leads to a decrease in feelings of anger or anxiety (Kennedy-Moore & Watson, 1999; Rime, 2009; Rime, Kanyangara, Yzerbyt, & Paez, 2011). More generally this research all but refutes the assumption that once an emotion is shared, it vanishes (Rime et al., 2011). Instead the effects of social sharing have often been classified in terms of 'perceived benefits': Participants who talk about their emotions and feelings often rate their sharing experience in terms of 'cognitively helpful', 'interpersonally beneficial', or 'emotionally alleviating' (Zech & Rime, 2005).

Elaborating upon these research findings, we hypothesize that the effects of delivering a VIS cannot be explained by the direct 'therapeutic' or 'cathartic' effects of expression (see also Edwards, 2001), but by more indirect paths: Delivering a statement in court leads to an increased perception of procedural justice and control over the recovery process, which in turn contributes to the victims' well-being.

Procedural Justice Theory

The theory of *Procedural Justice* examines decision-making processes in exchange relationships in which one party has decision making authority over issues that concern the other party (Lind & Tyler, 1988). Whereas initial theories about procedural justice were concerned with the instrumental functions of participating in a certain procedure (i.e., through participation people would be able to influence the outcome of the procedure) (Lind & Tyler, 1988; Thibaut & Walker, 1975), more recent research emphasizes that people's motives to participate in such a procedure are more often defined in terms of *participation an sich*: Expressing one's arguments and point of view has its own important function (Tyler, 1990, 2006). This general finding also applies to the particular context of crime victims participating in the legal system. Perceived benefits of participating in criminal justice procedures may be defined in terms of participating in the procedure, rather than decision control over the sentence (e.g., Shapland, Willmore, & Duff, 1985; Wemmers, 1996; Wemmers & Cyr, 2004). In this regard, Erez (1990) argued that studies of victims' opinions concerning the importance of the VIS have confirmed the conclusion that this right to deliver a VIS is viewed as important, regardless of its effect on the sentence outcome. Different studies have shown that many victims cited communication to the offender as a reason for submitting impact statements (Erez & Tontodonato, 1992; Erez, 1994; Lens et al., 2013; Meredith & Paquette, 2001). Consequently, it has been argued that the value of delivering a VIS must be defined in terms of "*victim voice*" (Erez, 2004; Roberts, 2009; Roberts & Erez, 2004): Delivering a VIS in court enables the victim to express his feelings about the crime and communicate with the other participants in the process, in particular the judge and the defendant: "Beyond the symbolic recognition of victims in the criminal justice process, the expressive function of the VIS can help promote the welfare of crime victims" (Roberts & Erez, 2004, p. 227). Moreover, experiencing a choice whether or not to participate in the criminal proceedings is vital to an individual's sense of *locus of control* which in turn may contribute to emotional well-being (Winick, 1997). Winick (2008) argues that increasing feelings of procedural justice can help victims to ameliorate their psychological stress and restore their emotional equilibrium. Giving victims a choice whether or not to participate in the criminal proceedings is not simply a message of sympathy, but recognition that they have been wronged (e.g., Roberts & Erez, 2004). As an illustration, Frazier (2003) showed that victims who concentrate on what they can do to feel better and experience feelings of control over their recovery process, have a decreased chance of developing mental health problems.

The Present Study

The present longitudinal study was conducted to examine whether, and if so how, delivering a written or oral VIS contributes to the victims' emotional recovery. We formulated four hypotheses (see Figure 3.1):

Hypothesis 1. Selection effects (see Figure 3.1, H1). The choice of whether or not to deliver a (written or oral) VIS is likely to be influenced by feelings of anger and anxiety and perceptions of control over the recovery process. We expected that victims who deliver a VIS display higher feelings of anger and anxiety and perceive less control over their recovery process than victims who do not deliver a VIS (Hypothesis 1).

Hypothesis 2. No direct “therapeutic effects” of VIS (see Figure 3.1, H2). Second, we expected that individual differences in anger and anxiety will remain relatively stable over time. That is, we expected that victims who feel relatively angry/anxious compared to other victims before the trial will remain relatively angry/anxious after the trial (Hypothesis 2). Hence, after the trial, having delivered a VIS is not expected to ‘resolve’ the differences due to the selection effects between the modality groups. That is, delivering a VIS has no direct “therapeutic” effects.

Hypothesis 3. Delivering a VIS and Perceived Control as an indirect process.

- a. Victims who have delivered a VIS are expected to experience an increase in feelings of control over their recovery process (see Figure 3.1, H3a).
- b. Victims who perceive more control over their recovery process are expected to experience less feelings of anger and anxiety (see Figure 3.1, H3b).
- c. Delivering a VIS is expected to have an indirect negative effect on feelings of anger and anxiety by an increase in feelings of control over the recovery process.

Hypothesis 4. Procedural Justice.

- a. Victims who experience more feelings of procedural justice are expected to experience less feelings of anger and anxiety.
- b. Victims who experience more feelings of procedural justice are expected to feel more in control over their recovery process (see Figure 3.1, H4b).
- c. If H3b also holds, then procedural justice leads indirectly to a decrease in feelings of anxiety and anger.

METHOD

Participants

Participants were recruited through all 19 district court offices of the Dutch Public Prosecution Service. To participate in the study, victims had to meet the following criteria: they had to (1) be eligible to submit a VIS (i.e., victim of a severe violent crime or surviving relative/co-victim of, for example, murder, traffic offense), (2) face an upcoming trial, and (3) sufficiently master the Dutch language. Eligible participants received information from the Prosecution Service about the study and the possibility that they would be further contacted by the investigators. Furthermore, a form was included through which they could opt out of receiving further information. If this form had not been returned within two weeks, victims were contacted by telephone and invited to participate in the study. Accordingly, in a period of twelve months, 319 victims who met these criteria were contacted by telephone.

Finally, 170 victims agreed to participate in the study and filled out an informed consent form. As no background information on the nonparticipants was available, possible non-response bias could not be estimated. From the 170 participants who filled out the pre-trial questionnaire (i.e., two weeks before trial: Time 1), 27 did not complete the post-trial questionnaire (i.e., two weeks after trial: Time 2), mostly due to lack of time or the fact that follow-up contact attempts failed. These victims were excluded from

the study. As a result, the final sample consists of 143 participants, 60 men and 83 women, with a mean age of 38.20 ($SD = 14.29$).

Procedure and Design

This article reports the results of a multi-method study. First, participants were asked to fill out two structured questionnaires at two time points: The first questionnaire was completed two weeks before the victim's trial was scheduled (pre-trial) and the second one two weeks after their trial had taken place (post-trial). Furthermore, participants were interviewed four weeks after trial. This semi-structured interview was conducted to further examine participants' feelings and thoughts about the criminal justice proceedings and the modality they had chosen (i.e., written, (and) oral, or no VIS).

The set-up of the study is quasi-experimental, as victims chose themselves whether or not they want to deliver a VIS. Three conditions were distinguished, depending on whether or not the victim chooses to deliver a (written or oral) VIS. As a result, three groups emerge with the first group including victims who declined to make a VIS ($n = 48$), the second group including victims who delivered a written VIS ($n = 55$), and the third group including victims who delivered an oral VIS (or a combination of both a written and an oral VIS) ($n = 40$).

Dependent Measures³

Anger

A Dutch translation of the 7-item Dimensions of Anger Reactions Scale (DAR; Kunst, Winkel, & Bogaerts, 2011; Novaco, 1975) was used to measure feelings of anger. This validated, self-report scale consists of seven items that are answered on a 9-point Likert scale, ranging from 0 (*not at all*) to 8 (*exactly so*). Sample items include 'When I get angry I stay angry' and 'My anger has had a bad effect on my health'. Test-retest reliability of the Dutch translation of the DAR was examined by Nederlof, Hovens, Muris, and Novaco (2009): a correlation coefficient of .84 was found, supporting the reliability of the scale. The DAR provides an indicator of key aspects of anger dysregulation, including frequency, intensity, duration, violent expression, and problematic consequences for psychosocial functioning and well-being (Forbes et al., 2004). The instruction preceding the DAR was altered to ensure that respondents would report anger *post* victimization, rather than anger *per se*. In particular, respondents were asked to indicate whether or not they had experienced feelings of anger *in the past two weeks*. The author of the DAR approved the appropriateness of this adaption (Kunst et al., 2011). A sum score of the DAR is computed by adding up the scores of all responses. Cronbach's α was .89 at Time 1 and .91 at Time 2, indicating good reliability (Murphy & Davidshofer, 2001).

3 The data reported here is part of a larger study on the implementation of the VIS procedure in the Dutch criminal justice system. As a result, the questionnaires that were completed at the two occasions included more scales than will be reported here. In the present research, we focus on the parts of the questionnaire that investigated emotional recovery effects.

Anxiety

Feelings of anxiety were measured with the anxiety subscale of the Hospital Anxiety and Depression Scale-Dutch version (HADS-NL). Originally developed by Zigmond and Snaith (1983), this scale has been translated into Dutch and validated with Dutch respondents (Pouwer, Snoek, & Van der Ploeg, 1997). The anxiety subscale consists of seven items that are answered on a 4-point Likert scale. A sample item is 'I can sit at ease and feel relaxed'. A sum score was computed by adding up the scores of the seven items, with a score of 9 or more indicating a psychiatric state of anxiety. Cronbach's α was at .90 Time 1 and .90 at Time 2, indicating good reliability (Murphy & Davidshofer, 2001).

Control over the recovery process

Feelings of control over the recovery process were measured with the Present Control subscale of the Rape Attribution Questionnaire (Frazier, 2003). This questionnaire has been validated before among victims of severe crimes, a group which is comparable to the victims that participated in the present study. A sample item of the Present Control subscale reads 'I don't feel there is much I can do to help myself feel better' (reverse scored). The subscale consists of five items that are rated on a 5-point Likert scale, ranging from 1 (*strongly disagree*) to 5 (*strongly agree*). After reverse scoring one item, a total score was obtained by summing the scores on the five items. Cronbach's α was .68 at Time 1 and .66 at Time 2, indicating acceptable reliabilities (Murphy & Davidshofer, 2001).

Procedural justice

Feelings of procedural justice were examined by asking participants questions about their feelings towards the criminal justice proceedings in general and their use of a VIS more specifically.⁴

Procedural justice in general. The semi-structured interviews were used to examine participants' general feelings of procedural justice, by analysing questions regarding "victim voice" and "recognition". More specifically, participants were asked whether they (1) felt that the consequences of the crime on their lives received enough attention during the trial (i.e., "voice") and (2) felt they received the recognition they deserved during the trial (i.e., "recognition"). Two of the authors analysed the interviews, scoring a '0' when participants disagreed with the statement and a '1' when participants agreed. When participants partially disagreed, they were given the score '0'.

Procedural justice use VIS. Feelings of procedural justice as a specific result of delivering a (written or oral) VIS were measured by summing the scores of seven items regarding participants' feelings of "voice" (e.g., 'By using a VIS I feel that the authorities have/defendant has a better knowledge of how I have experienced the crime'), recognition (e.g., 'By using a VIS I feel more acknowledged in the criminal proceedings'), and subjective feelings of controlling the outcome of the criminal proceeding (e.g., 'By using a VIS I feel that I have an influence on the outcome of the criminal proceeding') on the post-test. Items were rated on a 5-point Likert scale, ranging from 1 (*strongly disagree*) to 5 (*strongly agree*).

4 As the latter questions are directly related to participants' use of either an oral or a written VIS (or a combination of both), they could not be measured in the 'no-VIS' group.

Cronbach's α was .88 for the written VIS and .84 for the oral VIS group, indicating good reliability (Murphy & Davidshofer, 2001).

Data Analyses

Data analyses were conducted in the open-source statistical software 'R' (R core team, 2013) and followed the conceptual model as displayed in Figure 3.1.

To investigate potential self-selection effects in the choice whether or not to deliver a VIS and test Hypothesis 1, differences in background (i.e., gender, age, time since victimization, familiarity with the perpetrator, and previous victimization) and pre-trial outcome variables (i.e., anger, anxiety, and feelings of control over the recovery process) between the three modality groups were tested by means of analysis of variance (ANOVA) for continuous variables and by means of logistic regression for categorical variables. To test Hypothesis 2 and 3, a structural equation model (SEM) consisting of a set of auto-regression equations to model the change from pre-trial to post-trial in feelings of control, anger, and anxiety was carried out. Post-trial and pre-trial outcomes are centered around the pre-trial mean and post-trial outcomes are regressed on pre-trial outcomes. This allows to (1) test for change from pre-trial to post-trial controlling for potential baseline differences, and (2) assess the stability of individual differences in perceived control, anger, and anxiety. The models were fitted using full information maximum likelihood using all available data under the missing at random assumption (MAR). The mediation propositions in Hypotheses 3 and 4 will be verified following Baron and Kenny (1986), and when there is support for indirect effects, these will be formally tested using the currently recommended bootstrap approach (see e.g., MacKinnon et al., 2004; Shrout and Bolger, 2002).

RESULTS

Participants and Crime Features

Our total sample consisted of 143 victims of severe violent crimes.⁵ More specifically, the sample consisted of 134 'direct' victims, three co-victims of homicide, and three family members of a victim who was killed in a car accident. In the remaining three cases, an underage victim was represented during the trial by one of his parents. Crime types were distinguished in six categories: threat ($n=30$, 21.0%), stalking ($n=26$, 18.2%), homicide ($n=4$, 2.8%), sexual offenses ($n=18$, 12.6%), traffic offenses ($n=8$, 5.6%), and other severe violent crimes ($n=57$, 39.9%) (i.e., grievous bodily harm, robbery, hostage taking, attempted murder, and a combination of crime types: e.g., threat and assault). If a victim indicated that he/she experienced more than one crime (e.g., threat and sexual offense), he/she was assigned to the most severe category. On average, the crime took place 12.2 months ($range=1 - 191$) before completion of

5 In the Netherlands, the VIS is restricted in the sense that only victims of crimes that can be labelled as "severe" are eligible to submit a statement.

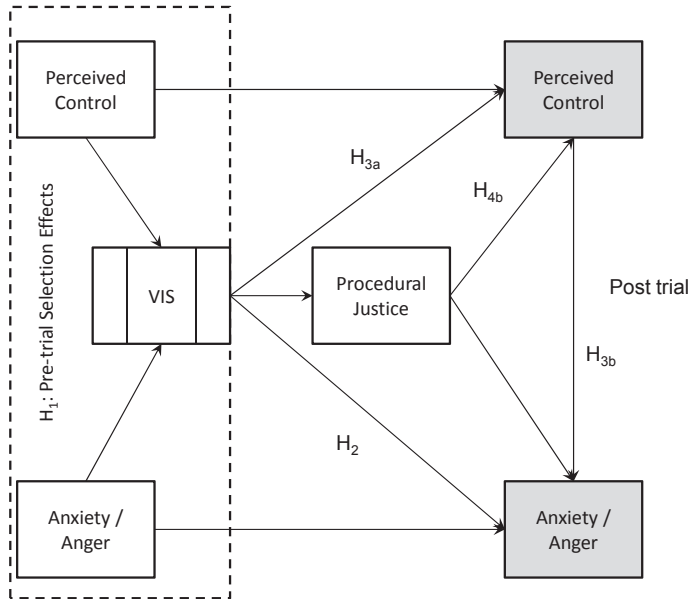


Figure 3.1. A conceptual model on pre-trial selection effects influencing the choice for a Victim Impact Statement (VIS) and the base-line-adjusted effects on post-trial outcomes with a potential crucial role for procedural justice and perceived control.

the pre-test. 63.6% ($n=91$) of the respondents knew the perpetrator before the crime was committed; most of them were acquaintances, friends or family members. Furthermore, 49 victims (34.3%) had previous victimization experiences, either with the same type of crime ($n=31$, 21.7%) and/or a different type of crime ($n=33$, 23.1%). Of these 49 victims, ten (20.4%) had previously delivered a written ($n=7$, 14.3%) or an oral VIS ($n=3$, 6.1%).

Selection Effects: Who Chooses to Deliver a VIS?

To examine possible differences between victims who deliver a VIS and victims who decline their opportunity to deliver a VIS, we computed descriptive statistics based upon the measurements taken before the actual trial, and hence before the VIS was delivered. Differences between the modality groups were tested by means of analysis of variance (ANOVA) for continuous variables and by means of logistic regression for categorical variables. The results are summarized in Table 3.1.

Table 3.1
Pre-trial descriptive statistics for the three VIS modality groups

| | no VIS | written VIS | oral VIS | | |
|---------------------------|-------------------|-------------------|-------------------|------------------------|------------|
| N | 48 | 55 | 40 | | |
| % Female | 37.5 ^a | 61.8 ^b | 77.5 ^b | $\chi^2(df=2) = 15.22$ | $p = .001$ |
| % Familiarity perpetrator | 62.5 | 67.3 | 60.0 | $\chi^2(df=2) = 0.57$ | $p = .751$ |
| % Previous victimization | 35.4 | 38.2 | 27.5 | $\chi^2(df=2) = 1.24$ | $p = .538$ |
| Age | 35.4 | 39.9 | 39.3 | $F(2,140) = 1.45$ | $p = .235$ |
| Time | 4.2 ^a | 5.5 ^a | 9.5 ^b | $F(2,140) = 6.99$ | $p = .001$ |
| Control | 18.9 ^a | 17.3 ^b | 16.2 ^b | $F(2,140) = 6.54$ | $p = .002$ |
| Anger | 16.4 ^a | 25.1 ^b | 18.7 ^a | $F(2,140) = 5.30$ | $p = .006$ |
| Anxiety | 6.9 ^a | 10.7 ^b | 11.2 ^b | $F(2,140) = 12.31$ | $p < .001$ |

Note. For variables that showed significant modality group differences, the superscripts a,b indicate which groups differ. Groups with same superscript are equal; groups with different superscript are significantly different.

Both written and oral VIS groups consist of significantly more women than the no VIS group. Moreover, the crime for those who deliver an oral VIS took place significantly longer ago than for those who decline their opportunity to deliver a VIS and for those who make a written statement. No age differences were found between groups. Also, no group differences were found for familiarity with the perpetrator and previous victimization experiences. Furthermore, it appears that victims who deliver a VIS are also those that are most psychologically affected by the crime: Victims in both the oral and written VIS groups experienced significantly lower levels of control over their recovery process and felt significantly more anxious than victims in the no VIS group. Furthermore, victims in the written VIS group felt significantly more angry than victims in the no VIS and the oral VIS group. These group differences accounted for about 7% of the individual differences (i.e., variance) in anger, 15% in anxiety, and 9% in control.

The presence of these significant modality group differences indicates that the decision whether or not to deliver a VIS results in self-selection. Overall, it appears that victims who feel more heavily affected by the crime opt for the delivery of a VIS. This provides support for Hypothesis 1, and also implies that in any further analyses of the impact of delivering a VIS, these baseline differences need to be taken into account.

Therapeutic Effects of Delivering a VIS?

All three modality groups showed a tendency to decrease in anxiety post-trial when compared to pre-trial, with a significant average decrease for the no-VIS and written-VIS group ($\Delta M_0 = -2.10$, $Z = -5.02$, $p < .001$; $\Delta M_1 = -0.89$, $Z = -2.43$, $p = .015$; $\Delta M_2 = -0.57$, $Z = -1.26$, $p = .207$). However, even after accounting for the pre-trial selection effects, the two VIS-groups were shown to have higher levels of anxiety post-trial ($\beta_1 = .13$, $Z = 2.20$, $p = .028$; $\beta_2 = .15$, $Z = 2.41$, $p = .016$) (Table 3.2).⁶

6 Note that the full unstandardized regression results are summarized in Table 3.2, but the corresponding standardized regression coefficients are reported in the text for ease of interpretation.

Table 3.2
Auto-regressive model for the psychological outcomes measured after trial

| Block | | RAQ1 | | | DAR1 | | | HADS1 | | |
|-------|----------------------------|----------------|-----|-------|----------------|------|-------|----------------|------|-------|
| | | B | se | p | B | Se | p | B | se | p |
| 0 | Stability | .55 | .07 | <.001 | .52 | .07 | <.001 | .70 | .05 | <.001 |
| 1 | Time | .25 | .23 | .280 | .07 | 1.01 | .944 | -.08 | .22 | .717 |
| 1 | Age | -.01 | .02 | .681 | .05 | .07 | .500 | -.01 | .02 | .819 |
| 1 | Gender | .06 | .25 | .810 | .81 | 1.12 | .468 | .37 | .25 | .140 |
| 1 | Familiarity Perpetrator | -.10 | .24 | .680 | 1.07 | 1.08 | .325 | .17 | .23 | .462 |
| 1 | Previous victimization | -.00 | .24 | .999 | -.39 | 1.09 | .718 | .20 | .24 | .407 |
| 2 | Constant | -.01 | .43 | .976 | -4.33 | 1.90 | .022 | -2.10 | 0.42 | <.001 |
| 2 | Written VIS | .45 | .57 | .431 | 4.03 | 2.53 | .112 | 1.21 | 0.55 | .028 |
| 2 | Oral VIS | -.12 | .67 | .854 | 5.77 | 2.87 | .044 | 1.53 | 0.64 | .016 |
| | Full model | R ² | .34 | <.001 | R ² | .34 | <.001 | R ² | .70 | <.001 |
| | Only Block 0 | R ² | .35 | <.001 | R ² | .30 | <.001 | R ² | .67 | <.001 |

Note. Continuous covariates are mean-centered and categorical covariates are effect coded. Stability represents the outcome variable measured pre-trial. Outcomes are centered using the pre-trial means. Modality group is dummy coded, with the No-VIS group as reference category.

Furthermore, individual differences in anxiety were shown to be very stable over time, with 67% of shared variance between measures before and after trial. A rather similar pattern of results also applies to anger. After accounting for the pre-trial selection effects, the two VIS-groups were shown to have higher levels of anger post-trial ($\beta_1 = .13$, $Z = 1.59$, $p = .112$; $\beta_2 = .18$, $Z = 2.01$, $p = .044$). Furthermore, individual differences in anger were shown to be very stable over time, with 30% of shared variance between measures before and after trial. Only the no-VIS group showed a significant average decrease in anger when compared to pre-trial measures ($\Delta M_0 = -4.33$, $Z = -2.28$, $p = .022$ vs $\Delta M_1 = -0.30$, $Z = -0.17$, $p = .862$ & $\Delta M_2 = -1.44$, $Z = 0.69$, $p = .491$).

Thus, these results are in line with Hypothesis 2: Delivering a VIS does not appear to resolve the differences due to the selection effects between the modality groups, and therefore has no direct “therapeutic” effects.

Delivering a VIS and Perceived Control

We theorized that delivering a VIS would lead to an increase in victims’ feelings of perceived control over their recovery process (H3a). When taking into account the pre-trial selection effects, no significant modality group differences in perceived control were found ($\beta_1 = 0.06$, $Z = 0.79$, $p = .431$; $\beta_2 = -0.02$, $Z = -0.18$, $p = .854$) (see Table 3.2) and there was no evidence for any significant absolute increase or decrease in perceived control in comparison to the pre-trial baseline ($\Delta M_0 = -0.13$, $Z = -0.03$, $p = .976$; $\Delta M_1 = 0.43$, $Z = 1.13$, $p = .260$; $\Delta M_2 = -0.14$, $Z = -0.29$, $p = .776$). Individual differences in perceived control were shown to be quite stable over time with 34% of shared variance between measures before and

after trial. These results indicate that Hypothesis 3a is not supported by the data, and as a consequence Hypothesis 3c, which expected a mediation effect of delivering a VIS through perceived control, is also not supported. The only link from the theoretical mediation chain that did receive support, is the beneficial effect of perceived control on anxiety and anger ($\beta_{\text{Anxiety}} = -0.24$, $Z = -4.47$, $p < .001$; $\beta_{\text{Anger}} = -0.24$, $Z = -2.94$, $p = .003$), which corresponds to Hypothesis 3b.

Procedural Justice

Feelings of procedural justice were examined by asking participants questions about their feelings towards the criminal justice proceedings in general and their use of a VIS more specifically.

Procedural justice in general. Victims who delivered an oral VIS were more likely to experience feelings of procedural justice than victims in both the written VIS and the no-VIS modality groups. Although the differences for the variable “voice” did not reach statistical significance ($\chi^2(df=1) = 1.85$, $p = .174$), a significant effect was found for “recognition” ($\chi^2(df=1) = 4.60$, $p = .032$). Also, we theorized that victims who experience more feelings of procedural justice would feel more in control over their recovery process, and that, if Hypothesis 3b would hold, procedural justice would indirectly lead to a decrease in feelings of anger and anxiety. However, the addition of the two procedural justice variables to the autoregressive models used for Hypothesis 2 and 3 only resulted in evidence for a significant contribution in case of anxiety ($\Delta R^2 = .02$, $\chi^2 = 6.46$, $df = 2$, $p = .040$), - in which “recognition” decreased anxiety post trial ($\beta = -.29$, $Z = -2.46$, $p = .014$), but not anger ($\Delta R^2 = .03$, $\chi^2 = 3.07$, $df = 2$, $p = .216$) nor perceived control ($\Delta R^2 = .01$, $\chi^2 = 0.853$, $df = 2$, $p = .653$). This last observation is inconsistent with Hypothesis 4b as the link between general procedural justice and perceived control is not supported.⁷

Procedural justice use VIS. The two VIS modality groups ($n = 95$) were also asked to assess the degree of procedural justice they experienced when delivering a VIS. This allows us to verify whether positive personal experiences with the VIS can help to reduce feelings of anger and anxiety. Consistent with Hypothesis 4b, feelings of procedural justice as a result of delivering a VIS had a significant positive effect on perceived control ($\beta = .16$, $Z = 2.06$, $p = .040$). Given that the link between perceived control and anxiety/anger was also supported (H3b), we conducted a more thorough mediation analysis. The total effect of procedural justice on anxiety was significant and negative ($\beta = -.14$, $Z = -2.14$, $p = .040$), indicating that experiencing more procedural justice is related to a reduction in anxiety. About 24% (indirect/total) of the total effect of procedural justice on anger can be explained by perceived control, yet the indirect effect is not significant ($\beta = -.03$, $Z = -1.70$, $p = .089$). A similar trend applies to anger (total: $\beta = -.12$, $Z = 1.29$, $p = .198$ / indirect: $\beta = -.03$, $Z = -1.46$, $p = .143$). Hence, Hypothesis 4c is again not clearly supported. Because the direct effect of procedural justice is also no longer significant for both anxiety and anger (direct: $\beta = -.11$, $Z = -1.64$, $p = .102$ and $\beta = -.09$, $Z = -0.92$, $p = .357$), this might imply that perceived control is a more comprehensive construct than procedural justice in this context.

⁷ Note that in these models a variable which showed whether victims attended the trial or not was added as additional covariate to account for the structural missingness of victims that did not attend the trial.

DISCUSSION AND CONCLUSION

A central question in the debate about the VIS is whether its delivery helps victims to recover from a crime, or to the contrary might lead to secondary victimization. Whereas some argue that “VIS can work, do work (for those who bother to make them)” (Chalmers et al., 2007), others argue the exact opposite, namely that “VIS, don’t work, can’t work” (Sanders et al., 2001). Therefore, empirical studies on the impact of victims’ participation or nonparticipation in the criminal justice system on their emotional well-being are highly needed (see also: Herman, 2003; Pemberton & Reynaers, 2011). This longitudinal study was conducted to fill this gap with regard to examining the effects of delivering a VIS in court. More specifically, the purpose of this study was to examine whether, and if so how, delivering a VIS contributes to the emotional recovery of the victim. Understanding factors that affect emotional recovery among victims of severe violent crimes is particularly important given the high levels of symptoms experienced by this group (e.g., Lens et al., 2013).

In support of our first hypothesis, the results of this study show that the decision to deliver a VIS results in a highly selective group of participants. It appears that the victims’ psychological state plays an important role in this choice: Victims who decide to deliver a written or oral VIS display significantly higher levels of anxiety than victims who do not, while experiencing significantly lower levels of control over their own recovery process. Moreover, victims who make a written statement display a significantly higher level of anger compared to victims in both the no-VIS and the oral VIS group. In other words, it appears that both groups indeed experience distinct trajectories of mental health outcomes following potentially traumatic events (Bonanno, 2004). These results are in line with social sharing research which revealed people who have not yet recovered from an event to feel a continued need to share their emotions related to the event (Curci & Rimé, 2012). Furthermore, these findings are consistent with previous research on VIS delivery which showed that the impact of a crime is positively correlated with the delivery of a VIS: Victims who choose to deliver a VIS display a significantly higher degree of psychological complaints after the crime, compared to those who decline their opportunity to do so (Lens et al., 2012).

Second, and in support of our second hypothesis, results of this study show that delivering a VIS has no *direct* “therapeutic” effects in the sense that this leads to significant decreases in feelings of anger or anxiety. Overall, feelings of anger and anxiety are significantly stable: Victims who feel relatively angry or anxious before trial will remain relatively angry or anxious after trial, whether or not they deliver a VIS. This finding is in line with the ongoing research into social sharing of emotions, which reveals that the mere expression of emotions has no direct “healing” effects (Rime, 2009; Rime et al., 2011) and research on PTSD which challenges the assumption that a single-shot expression of emotions contributes to a diminishing of trauma complaints (Van Emmerik et al., 2002).

Regarding Hypothesis 3, results show that victims who experience higher feelings of control over their recovery process experience a relatively stronger reduction in feelings of anger and anxiety. This finding is in line with previous research which argued that victims who concentrate on what they can do to feel better and experience feelings of control over their recovery process, have a decreased chance of

developing mental health problems (e.g., Frazier, 2003). However, we found no evidence that delivering a VIS results in significant higher feelings of control over the recovery process *an sich*.

Regarding Hypothesis 4, results revealed that the total effects of feelings of procedural justice on anger and anxiety were significant and negative, indicating that experiencing more procedural justice is correlated with a reduction in feelings of anger and anxiety.

The current longitudinal study is the first to empirically examine the psychological effects of delivering a VIS in terms of the two most important emotional reactions after experiencing a crime: anger and anxiety. It extends previous findings in two important regards. First, this study showed that victims who opt for the delivery of a VIS show high levels of psychological problems both before and after trial. Following the different recovery trajectories from Bonanno (2004), these results imply that, especially within a limited time frame, their course of psychological complaints is characterized by a great degree of stability. Moreover, compared to victims who experience a relatively limited degree of psychological complaints, these victims are assumed to be 'resistant' to therapeutic approaches. Therefore, we argue in this article that the high levels of psychological complaint for victims who opt to deliver a VIS point to the importance of continued research aimed at helping crime victims overcome the trauma they have experienced and examine possible positive effects of participating in criminal justice procedures. Second, this study showed that, although delivering a VIS does not give rise to direct "therapeutic" effects, feelings of anxiety decrease for victims who experience higher feelings of procedural justice. Moreover, this study revealed that increasing feelings of control over the recovery process could lead to a decrease in feelings of anger and anxiety as well. Based on these results, which showed different patterns for different indicators, we argue that the effectiveness of delivering a VIS should not be viewed as "black or white" issue. The choice to participate sets victims apart from those who decline to do so, and subsequent effects are subtle, differentiated and indirect. As a result ham-fisted and sweeping statements concerning the effectiveness of VISs are unwarranted. Discussion concerning the question whether or not VISs 'work' should be replaced by a conditional and differentiated approach.

Although the relevance of this study is apparent, some limitations are worth mentioning. First, the set-up of this study is a non-equivalent control group design, which may give rise to differences in pre-test scores which in turn may influence the estimation of the treatment effect (i.e., the delivery of a VIS). By conducting an experimental study, and randomly assigning victims to groups, one would have the opportunity to draw causal conclusions about the cause (i.e., delivering a VIS) and its effects (i.e., the psychological health of the victims). However, for our underlying research question conducting an experimental study was (simply) not feasible as making the choice whether or not to deliver a VIS for someone else would be considered 'unethical'. Second, although a major strength of this study is its longitudinal design, it only comprised two measurement points: a pre-test (around two weeks before trial) and a post-test (around two weeks after trial). As a consequence, this study only allows to investigate relatively short-term consequences of delivering a VIS. Future studies including more measurements over time (e.g., a third measurement a half year after trial), could give more insight into the long-term effects of delivering a VIS.

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**Delivering a VIS:
The Observer's Perspective**

Part II

Chapter 4

You Shouldn't Feel That Way! Extending the Emotional Victim Effect through the Mediating Role of Expectancy Violation

Lens, Van Doorn, Pemberton, & Bogaerts

(Psychology, Crime and Law, 20, 326-388)

ABSTRACT

Recent research has shown that the 'Emotional Victim Effect' (an emotional victim is more readily believed than a nonemotional victim) is mediated by *expectancy violation*: People base their judgments about a victim's credibility on their expectations of the victim's suffering. Victims whose behavior is inconsistent with these expectations suffer a loss of credibility. In this article, we further examine the role of expectancy violation and explore possible *negative effects* of a victim's highly emotional post-crime reaction. Using several mediations, we demonstrate three important contributions to the existing literature. First, we demonstrate that, in the same way as expectancy violation mediates the effect from nonverbal emotional expression on perceived credibility, this mediating effect would also hold for the *verbal* expression of emotions. Second, we demonstrate that expectancy violation mediates the effect from a victim's verbal emotional expression on the observer's attitude towards the victim. More specifically, we demonstrate that a highly emotional written Victim Impact Statement (VIS) could lead to secondary victimization, dependent on the observer's expectations regarding the effects of the crime. Third, this article is the first to demonstrate that expectancy violation leads to a negative effect on people's acceptance of the VIS in the criminal justice procedure.

INTRODUCTION

People hold different expectations about how victims are affected by, and respond to, different crime types. Such expectations in turn influence people's judgements of victims. For example, previous research has consistently shown that the emotionality of a victim's demeanor affects his/her perceived credibility (Ask, 2009; Ask & Landström, 2010; Baldry & Winkel, 1998; Baldry, Winkel, & Enthoven, 1997; Bollingmo, Wessel, Sandvold, Eilertsen, & Magnussen, 2008; Kaufmann, Drevland, Wessel, Overskeid, & Magnussen, 2003; Mulder & Winkel, 1996; Winkel & Koppelaar, 1991). More specifically, research suggests that a nonemotional style of self-presentation, as compared to an emotional one, is more likely to result in secondary victimization by the victim's environment (Ask & Landström, 2010; Baldry, 1996; Baldry et al., 1997; Nadler & Rose, 2003; Winkel & Koppelaar, 1991), that is, nonemotional victims run a higher risk of further victimization by their environment; encountering disbelief, little sympathy, and insufficient support. Although the mechanisms behind this Emotional Victim Effect (EVE) are relatively unexplored, Ask and Landström (2010) have recently found empirical evidence for a mediating role of *expectancy violation*: If observers' expectations of a rape victim's post-crime reaction are inconsistent with the latter's display of emotions, the victim's credibility decreases.

In the research presented here, we further examine the mediating role of expectancy violation and explore possible *negative effects* of a victim's highly emotional post-crime reaction. More specifically, whereas most EVE studies have dealt with the nonverbal expression of emotions and showed that victims who react in an emotional manner (e.g., crying, sobbing) are perceived as more truthful than victims who react in a controlled, calm, numb or unemotional manner (e.g., Ask & Landström, 2010; Baldry & Winkel, 1998; Bollingmo et al., 2008; Hackett, Day, & Mohr, 2008; Winkel & Koppelaar, 1991), we examine credibility penalties to *highly emotional, written VISs* for different crime types. That is, we measured the influence of crime severity on observers' judgments, by holding constant the emotionality of the VIS. Examining the effects of the verbal expression of emotions is especially important given the fact that, for example in a small country as the Netherlands, the written VIS is used about 3000 times per year (Lens, Pemberton, & Groenhuijsen, 2010).

We offer three novel propositions. First, we argue that, in the same way as expectancy violation mediates the effect from nonverbal emotional expression on perceived credibility (Ask & Landström, 2010), this mediating effect would also hold for the *verbal* expression of emotions. Second, and in line with the first proposition, we argue that expectancy violation mediates the effect from a victim's verbal emotional expression on the observer's attitude towards the victim. More specifically, we argue that a highly emotional written VIS could lead to secondary victimization, dependent on the observer's expectations regarding the effects of the crime. And third, we argue that a discrepancy between the victim's emotional reaction to a certain crime and the observer's expectations can have practical implications in the criminal justice procedure. More specifically, we argue that expectancy violation would lead to negative effects on the extent to which observers think that the described consequences of the crime for the victim should be taken into account when determining the punishment of the offender.

Expectancy Violation

Using Bond et al.'s (1992) Expectancy Violation Model, Ask and Landström (2010) have recently shown that people base their judgments about a victim's credibility on their *expectations* of the victim's suffering: If a victim then behaves in a way that is inconsistent with these expectations, loss of credibility ensues. This Expectancy Violation Model thus carries two important implications: (1) people hold expectations about the consequences of a certain crime; and (2) people make judgments about the truthfulness of the victim's suffering based on these expectations. These findings are in line with research by Hackett et al. (2008, p. 333) who argue that it is "expectancy violation rather than emotional expressiveness per se that biases observers' perceptions of rape victim credibility", and Klippenstine and Schuller (2012) who showed that the perceived typicality of a rape victim's emotional response influences observers' perceptions.

It goes without saying that this relationship between the observers' expectations and a victim's emotional demeanor can especially have far-reaching consequences in the legal realm, where the perceived credibility of a victim is often of crucial importance. Since the 1980s, it has become routine for the criminal justice system to involve crime victims in the sentencing process. The United Nations Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power (1985) gives victims of crime the right to be heard at appropriate stages of the criminal proceedings. This involvement sometimes entitles victims to make an *oral or written* statement about the consequences (emotional and otherwise) of their victimization: the Victim Impact Statement. Making such a statement often includes the expression of intense emotions.

In this article, we argue that making a written VIS can have negative consequences, depending on the observers' *expectations* about the crime and its emotional effects. If a victim makes a VIS in a way that is inconsistent with the observers' expectations, this incongruity might lead to a negative veracity judgment. This would be an addition to previous research that examined the effects of both nonverbal and verbal emotional expression on credibility judgments. For example, Rose, Nadler, and Clark (2006) manipulated both nonverbal and verbal reactions of the victim and found support for the proportionality rule: victims are expected by observers to react in a way that is proportional to the seriousness of the offense. An overly intense emotional display following a minor offense is seen as an unusual reaction and in turn affects perceptions of a victim negatively, in the same way as does a victim's failure to display strong emotions in relation to a serious crime. Also, as Silver, Wortman, and Crofton (1990) have found, victims who display either too little or too much distress in the eyes of the observers are likely to elicit negative reactions. Moreover, previous research (e.g., Winkel & Koppelaar, 1991) leads us to expect that a discrepancy between the observers' expectations and the victim's verbal emotional expression not only influences the observers' veracity judgment, but also generates a negative attitude towards the victim. In line with previous work by Klippenstine and Schuller (2012) that showed that the emotionality of the victim influences participants' guilt assessments, we argue that a discrepancy between the observers' expectations and the victim's emotional demeanor can also have negative implications in the criminal justice procedure. More specifically, we offer the novel proposition that a discrepancy would lead to

negative effects on the extent to which observers think that the described consequences of the crime for the victim should be taken into account when determining the punishment of the offender. We formulated five hypotheses. First, we predict that a highly emotional *written* VIS would be regarded as more credible from a victim of a severe crime than from a victim of a less severe crime (Hypothesis 1). Second, we predict that observers would be more likely to expect a highly emotional written VIS from a victim of a severe crime than from a victim of a less severe crime (Hypothesis 2). Third, we predict that expectancy violation would mediate the effect of crime severity on the participants' veracity judgment (Hypothesis 3). Fourth, we predict that a 'mismatch' between the observers' expectations and a victim's emotional demeanor would negatively influence the observers' general impression of and sympathy for the victim and would increase victim blaming (Hypothesis 4). Finally, we predict that a mismatch would negatively influence the extent to which the participant would think that the described consequences of the crime for the victim should be taken into account when determining the punishment of the offender (Hypothesis 5).

METHOD

Participants and Design

Seventy-seven students and two lecturers (10 men and 69 women) at AVANS University of Applied Sciences in Breda, a city in the south of the Netherlands, with ages ranging from 16 to 59 years ($M = 19.08$, $SD = 4.91$), voluntarily participated in the study⁸. Participants were randomly assigned to either a high or a low crime severity condition.

Materials and Procedure

The participants were seated at separate tables in a lecture hall. They were told to work on the experimental task quietly and individually. The participants were given written instructions informing them that they were about to read a scenario and that they subsequently had to answer a number of questions. They were assured that there were no 'right' or 'wrong' answers and that the results of the experiment would be treated confidentially. A brief background section stated that a crime had taken place, that a suspect had been arrested, that the criminal trial would take place today, and that the victim would have the opportunity to make a VIS on the consequences of the crime. The first paragraph of the VIS was the same in both scenarios: the victim stated that she had been cycling home after a night out with friends when she saw someone (the suspect) standing at the side of the road. She stated that she recognized this person from the club she and her friends had been to, and believing that he was having trouble with his bicycle, she had stopped to help him.

8 As this study only contains 10 men we were not able to examine gender effects.

Crime severity

In the high crime severity condition, the victim continued her statement by declaring that the suspect immediately started to touch her inappropriately. After making it clear to him that she did not want this, the suspect became violent and eventually raped her. In the low crime severity condition, the victim continued her statement by declaring that the suspect immediately started to swear at her and threatened to hurt her. In this scenario, the participants were told that no physical violence had been inflicted. To reduce possible confounds, in neither of the two scenarios was any additional information about the victim, the suspect or the trial given to the participants.

Victim Impact Statement

The scenario of the VIS was based on a recent study of victim's emotional reactions to violent crimes (Lens et al., 2010):

“This crime has turned my whole life upside down. I don't sleep anymore, I barely eat and I constantly feel anxious. Anxious that this will happen to me again or that I will meet the offender again. I don't dare to be out on the street on my own. I constantly feel tense, restless and sad. I am not who I once was, I am no longer the enjoyable friend or the fun, spontaneous daughter...Why did this have to happen to me? What did I do to deserve this? I am disgusted by the offender! What possessed him? I did not even know him. I am so mad. Very often at the wrong people. Then I have to take it out on the person standing closest to me. It is just so unfair, I have become a completely different person.”

Participants read about a victim displaying high levels of both avoidance (fear, sadness, anxiety) and hostile (anger, disgust) emotions. For both conditions (high and low crime severity) the emotionality of the VIS was held constant, allowing for testing the influence of crime severity. Having read the scenario, the participants were asked to digest the scenario for a while and subsequently turn the page to answer a number of questions.

Dependent Measures

Veracity judgments

In line with previous work by Ask and Landström (2010), the participants were asked to make a dichotomous veracity judgment, indicating whether or not they believed that the victim had suffered the consequences as indicated in the VIS, and to assign a confidence rating to the certainty of the expressed consequences (1 = *absolutely unsure*, 7 = *absolutely sure*).

Expectancy violation

As a measure of expectancy violation, and in line with previous work by Ask and Landström (2010), the participants were asked to assess to what extent the consequences, as described in the VIS, matched the consequences that they would expect from a rape/threat victim (1 = *did not match at all*, 7 = *matched completely*).

Attitude towards the victim

Three items regarding the observers' attitude towards the victim were adapted from a study by Aguiar, Vala, Correia, and Pereira (2008). As a measure of victim derogation, the participants were asked to indicate their general impression of the victim on a 7-point scale, ranging from 1 (*extremely negative*) to 7 (*extremely positive*) (with the lower range of scores indicating victim derogation). Furthermore, they were asked to indicate their feelings of sympathy for the victim on a 7-point scale, ranging from 1 (*no sympathy at all*) to 7 (*very strong sympathy*). As a measure of victim blaming, the participants were asked to rate the extent to which they found the victim was to blame (1 = *no blame at all*, 7 = *full blame*).

Influence VIS

Finally, the participants were asked to indicate whether or not they believed that the described consequences of the crime for the victim should be taken into account when determining the punishment of the offender (*yes* or *no*).

RESULTS

Veracity Judgments

The participants were asked to make a dichotomous veracity judgment, indicating whether or not they believed that the victim had suffered the consequences as indicated in the VIS, and to assign a confidence rating to the certainty of the expressed consequences. In support of Hypothesis 1, a logistic regression analysis showed that the participants in the high crime severity condition significantly more often believed that the victim had suffered the consequences as indicated in the VIS ($n = 38, 95.0\%$) than the participants in the low crime severity condition ($n = 21, 53.8\%$): $\text{Exp}(B) = .061, p < .001$. Moreover, the difference in confidence ratings for the high crime severity condition ($M = 3.78, SD = .70$) and the low crime severity condition ($M = 2.95, SD = .99; t(76) = 4.26, p < .001$) was statistically significant, indicating that the participants in the high crime severity group were significantly more certain that the victim had suffered the expressed consequences than the participants in the low crime severity group. The magnitude of the differences in the means was high (Cohen's $d = .97$).

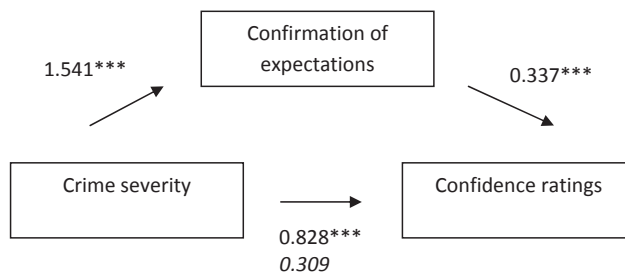


Figure 4.1. The mediating effect of expectancy violation on confidence ratings. This figure shows unstandardized linear regression coefficients. The italicized coefficient (0.309) is the effect after controlling for the mediator variable.

*** $p < .001$.

To test the hypothesis that the participants in the high crime severity condition were more certain about the credibility of the expressed emotions because they *expected* more severe consequences of severe crimes (Hypothesis 3), we conducted mediated regression analyses. Using simple mediation (1,000 bootstrap resamples) provided by Preacher and Hayes (2004, 2008), we estimated a regression-based causal model for the effect of Crime Severity on confidence ratings through the mediating effect of expectancy violation. As Figure 4.1 shows, the total and direct effects of Crime Severity on confidence ratings are 0.828, $p < .001$, and 0.309, *ns*, respectively. The difference between the total and direct effects is the total indirect effect through expectancy violation, with a point estimate of .5180 and a 95% BCa bootstrap CI of 0.2391 to 0.8538.

These results confirmed Hypothesis 3: Participants in the high crime severity condition were more certain about the credibility of the expressed emotions because they *expected* more severe consequences of severe crimes. Furthermore, the direction of the *a* path is consistent with our hypothesis that the participants in the low crime severity condition would experience higher levels of expectancy violation than the participants in the high crime severity condition: Participants were more likely to expect a rape victim to experience the consequences as described in the VIS ($M = 5.23$, $SD = 1.17$) than they would a threat victim ($M = 3.67$, $SD = 1.31$). This confirmed Hypothesis 2.

Attitude towards the Victim

The participants' attitude towards the victim was measured with three variables: victim derogation, feelings of sympathy for the victim, and victim blaming.

Victim derogation

As a measure of victim derogation, the participants were asked to indicate their general impression of the victim, ranging from 1 (*extremely negative*) to 7 (*extremely positive*). Differences between the high crime severity condition ($M = 3.63$, $SD = 1.03$), and the low crime severity condition ($M = 2.79$, $SD = 1.01$; $t(77) = 3.63$, $p = .001$) were statistically significant, indicating that the participants in the high crime severity condition had a more positive impression of the victim than the participants in the low crime severity condition. The magnitude of the differences in the means was high (Cohen's $d = .82$).

Feelings of sympathy

The differences in feelings of sympathy for the victim in the high crime severity condition ($M = 5.43$, $SD = 1.20$) and the low crime severity condition ($M = 3.97$, $SD = 1.25$; $t(77) = 5.28$, $p < .001$) were also statistically significant, indicating that the participants in the high crime severity condition displayed higher levels of sympathy for the victim than the participants in the low crime severity condition. The magnitude of the differences in the means was very high (Cohen's $d = 1.19$).

Victim blaming

No significant differences between the two groups of participants were found for victim blaming, with the low ratings indicating that victim blaming was equally unlikely for the high crime severity condition ($M = 2.40$, $SD = 1.28$) and the low crime severity condition ($M = 2.49$, $SD = 1.45$; $t(77) = .28$, *ns*).

With regard to Hypothesis 4, we conducted three separate mediated regression analyses to test the mediating effects of expectancy violation on the relationship between Crime Severity and victim derogation, the participants' feelings of sympathy for the victim, and victim blaming. First, we conducted a mediated regression analysis for victim derogation. As Figure 4.2 shows, the total and direct effects of Crime Severity on victim derogation are 0.830, $p < .001$, and 0.490, *ns*, respectively. The difference between the total and direct effects is the total indirect effect through expectancy violation, with a point estimate of .341 and a 95% BCa bootstrap CI of 0.0959 to 0.6903.

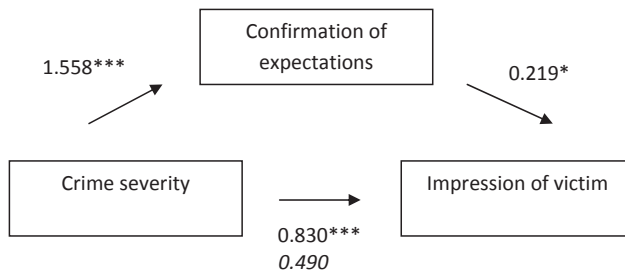


Figure 4.2. The mediating effect of expectancy violation on victim derogation. This figure shows unstandardized linear regression coefficients. The italicized coefficient (0.490) is the effect after controlling for the mediator variable.

* $p < .05$.

*** $p \leq .001$.

The results of this mediated regression analysis indicate that expectancy violation significantly mediates the effect of Crime Severity on victim derogation: Delivering a highly emotional VIS in the low crime severity condition leads to higher levels of expectancy violation, which in turn leads to higher levels of victim derogation.

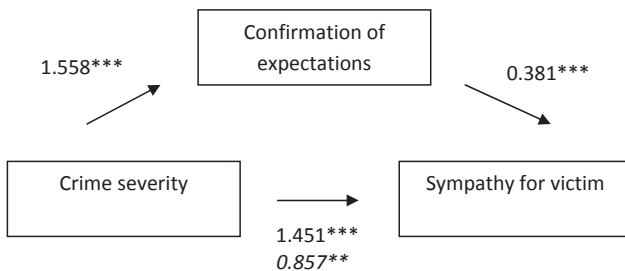


Figure 4.3. The mediating effect of expectancy violation on the participants' sympathy for the victim. This figure shows unstandardized linear regression coefficients. The italicized coefficient (0.857) is the effect after controlling for the mediator variable.

** $p < .01$.

*** $p < .001$.

Second, we conducted a mediated regression analysis for the participants' feelings of sympathy for the victim. As Figure 4.3 shows, the total and direct effects of Crime Severity on the participants' feelings of sympathy for the victim are 1.451, $p < .001$, and 0.857, $p < .01$, respectively. The difference between the total and direct effects is the total indirect effect through expectancy violation, with a point estimate of .594 and a 95% BCa bootstrap CI of 0.1813 to 1.1225.

The results indicate that expectancy violation significantly mediates the effect of Crime Severity on the participants' feelings of sympathy for the victim: Delivering a highly emotional VIS in the low crime severity condition leads to higher levels of expectancy violation, which in turn leads to less sympathy for the victim.

Third, we conducted a mediated regression analysis for victim blaming. The total and direct effects of Crime Severity on victim blaming are -0.087 , *ns*, and -0.309 , *ns*, respectively, indicating no total or direct effect of Crime Severity on victim blaming. Furthermore, the results of the *b* path show that there was no significant effect of expectancy violation on victim blaming. A mediation effect could therefore not be established.

In sum, regarding Hypothesis 4, mediating effects were found for victim derogation and the participants' feelings of sympathy for the victim. No mediating effects were found for victim blaming.

Influence VIS

With regard to Hypothesis 5, the participants were asked to indicate whether or not they believed that the described consequences of the crime for the victim should be taken into account when determining the punishment of the offender (dichotomous: *yes* or *no*). A logistic regression analysis showed that the participants in the high crime severity condition were as likely to accept an influence of the VIS ($n = 34$, 85.0%) as were the participants in the low crime severity condition ($n = 30$, 78.9%): $\text{Exp}(B) = .662$, *ns*.

As Figure 4.4 shows, the total and direct effects of Crime Severity on the participants' acceptance of an influence of the VIS are 0.413, *ns*, and -0.576 , *ns*, respectively.

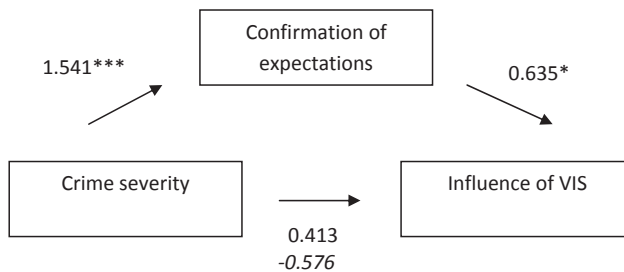


Figure 4.4. The indirect effect of expectancy violation on an influence of the VIS on the punishment of the offender. This figure shows unstandardized linear regression coefficients. The italicized coefficient (-0.576) is the effect after controlling for the mediator variable.

* $p < .05$.
 *** $p < .001$.

However, Crime Severity can still exert an indirect effect on an influence of the VIS through expectancy violation in the absence of an association between Crime Severity and an influence of the VIS (Hayes, 2009, Preacher & Hayes, 2004, 2008). The difference between the total and direct effects is the total indirect effect through expectancy violation, with a point estimate of .978 and a 95% BCa bootstrap CI of 0.1467 to 2.0172. These results show that Crime Severity exerts an indirect effect on an influence of the VIS through expectancy violation: Delivering a highly emotional VIS in the low crime severity condition leads to higher levels of expectancy violation, which in turn leads to lower levels of acceptance of an influence of the VIS on the punishment of the offender.

DISCUSSION

The current study found additional support for the claim that the emotional demeanor victims display affects their perceived credibility (e.g., Ask, 2009; Ask & Landström, 2010; Bollingmo et al., 2008; Kaufmann et al., 2003; Nadler & Rose, 2003). However, unlike previous studies that focused on the positive effects of nonverbal expression on perceived credibility, we addressed the potentially *negative* effects of delivering a highly emotional *written* VIS for different crime types. In line with our hypotheses, we showed that a highly emotional written victim impact statement is regarded as more credible from a victim of a severe crime than from a victim of a less severe crime. In addition, we found mediating effects of expectancy violation: Observers more readily *expect* a highly emotional written VIS from a victim of a severe crime than from a victim of a less severe crime and, in turn, base their credibility judgments on these expectations. Moreover, a 'mismatch' between the observers' expectations and a victim's emotional demeanor negatively influences the observers' attitude towards the victim. More specifically, a mismatch leads to victim derogation and less sympathy for the victim. No significant effects were found for victim blaming: In both the high crime severity condition and the low crime severity condition, participants were equally unlikely to blame the victim for the crime. Furthermore, a mediated regression analysis of the participants' acceptance of an influence of the VIS on the punishment of the offender showed that a 'mismatch' between the observers' expectations and a victim's emotional demeanor negatively influences the extent to which observers think that the described consequences of the crime for the victim should be taken into account when determining the punishment of the offender.

The findings of this study complement previous research in a number of important ways. First, most EVE studies have dealt with the *nonverbal* expression of emotions and they have consistently shown that victims who deliver their VIS crying and sobbing and struggling to maintain control are perceived as more truthful than victims who deliver their VIS in an emotionally 'neutral' manner (e.g., Ask & Landström, 2010; Baldry & Winkel, 1998; Bollingmo et al., 2008; Hackett, Day, & Mohr, 2008; Kaufmann et al., 2003; Winkel & Koppelaar, 1991). For example, Rose et al. (2003) conclude that in the 'typical' experimental VIS study researchers present participants with a crime and with a victim of that crime whose VIS is either very emotional or mild. Instead of manipulating emotionality, we focussed on observer's judgements of highly emotional victims of *different crime types*, and addressed the *verbal* expression of emotions

by asking participants to read a written VIS. Making this distinction is highly important given the fact that victim involvement in the criminal justice process may include either the delivery of an oral or a written statement. Furthermore, in a relatively small country such as the Netherlands, the written Victim Impact Statement is used about 3000 times per year (Lens et al., 2010). Second, although recent EVE research suggests that the credibility of the victim may benefit from an emotional statement (e.g., Ask & Landström, 2010), we showed that victims making a highly emotional VIS actually run a risk of secondary victimization by their environment: In comparison to victims of severe crimes, victims of less severe crimes who make a highly emotional VIS run the risk to be derogated and to be treated with less sympathy. Third, this article is the first to empirically show that expectancy violation leads to a negative effect on people's acceptance of the VIS in the criminal justice procedure.

A number of limitations of this study should be noted. First, our sample of participants (i.e. students at a University of Applied Sciences) lacked personal experience with an evaluation of VISs, which may limit generalization of the present findings. It could be that professionals involved in the criminal justice procedure (e.g., police, judges) develop more fine-grained schemas for victims' reactions to crime and thus rely less on stereotypical expectancies than the students in our study (see also Ask & Landström, 2010). Wessel et al. (2006) have shown that credibility ratings of court judges, unlike those of lay people, were not influenced by the emotions displayed by the witness. Then again, other studies have shown that even experienced professionals are susceptible to victims' emotions. Frohmann (1991), for example, suggested that a rape victim's demeanor has a substantial influence on the victim's perceived credibility in the eyes of prosecutors. Furthermore, much research in the fields of law and psychology has successfully employed student samples in studies concerning legal issues (e.g., Ask & Landström, 2010; Klippenstine & Schuller, 2012; Mulder & Winkel, 1996; Winkel & Koppelaar, 1991). Second, another issue related to our sample of participants is that the low number of men in this study restrained us from examining gender effects. As previous research found some gender effects (e.g., Klippenstine & Schuller, 2012), future research could take into account possible differences. Third, the participants' credibility ratings and attitude towards the victim could only be based on the content of the VIS, as no further information about the victim or the situation was given. This may also limit generalization of the findings presented here, as the effects may be dependent on other variables as well (e.g., gender, status, and criminal background of the victim). For example, in their review article Spellman and Tenney (2010) assessed which factors determine whether a testimony in and out of court is perceived as credible. They conclude that inferences regarding credibility may be multiply determined by characteristics of the informant, the listener, and of the specific situation. Fourth, we did not differentiate between different kinds of emotional expectations that might be violated. Observers may have expectations concerning *whether* or not a victim displays emotions, *what* kind of emotions are suitable for a victim to experience in the given situation, and the *degree* of emotional display by the victim. For example, research by Vrij and Fischer (1997) suggested that the type of emotion that is displayed plays a role in expectancy violation: Angry victims are seen as less credible than sad victims. However, as the victim in our scenario was judged to be both angry and sad, we cannot draw any conclusion about this distinction. Differentiating

between different types of emotions would have gained more insight into the influences of emotional expression on observers' judgments. Fifth, as this study was conducted to explore whether crime severity would influence observers' reactions to emotional VISs, we only manipulated crime severity and not victim emotionality. However, we realize that by adding a condition in which the victim showed less emotion we could have drawn more elaborate conclusions about the expectancy violation theory.

Implications

The relevance of this study is apparent. By delivering a VIS, victims have the opportunity to actively participate in the legal system and express the psychological impact of their victimization. In the Netherlands only, the written VIS is used about 3000 times per year and victims state that they find this very helpful (Lens, Pemberton, & Groenhuijsen, 2010). However, although victims state the VIS to be helpful, is delivering an emotional VIS always beneficial for a crime victim? As our study has shown, the answer to this question is no. Whether a victim is evaluated as credible depends on the observer's expectations. A 'mismatch' between the observers' expectations and a victim's emotional demeanor negatively influences both the perceived credibility of the victim and the observer's attitude towards the victim (i.e., victim derogation and less sympathy for the victim). Moreover, a mismatch leads to a negative effect on people's judgment about the extent to which the VIS should be taken into account when determining the punishment of the offender. These findings not only suggest that professionals in the criminal justice system should be made sensible to these possible 'judgment flaws', but also that victims realize that the content of their statement and their emotional demeanor could influence criminal justice outcomes.

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Chapter 5

One Rule for the Goose, One for the Gander? Wrongfulness and Harmfulness in Determining Reactions to Offenders and Victims of Crime

Lens, Van Doorn, Pemberton, Lahlah, & Bogaerts

(Law & Human Behavior: under review)

ABSTRACT

People's reactions to offenders and victims of crime follow different rationales. Whereas the punishment of the offender is primarily determined by the severity of the crime (which includes its foreseeable harmful consequences), the actual harm that is being experienced by the victim drives the need for his or her support and assistance. With the introduction of the Victim Impact Statement, in which victims are allowed to express the (harmful) consequences of the crime on their lives, the question is raised whether the allowance of such victim input during the criminal proceedings would influence the offender's sentence. The main goal of the current research is to disentangle how a crime's wrongfulness and harmfulness influence people's reactions to offenders and victims. We show that whereas people's perceptions regarding the offender (and the outcome of the trial) are influenced by the severity of the crime, people's judgments related to the victim are more likely to be influenced by an interaction between the severity of the crime and the experienced harm of the crime. That is, in this study no support is found for the argument that the delivery of a VIS would lead to a violation of the proportionality principle.

INTRODUCTION

Previous research has shown that decisions about punishment of an offender are based upon the *severity* of the crime, rather than the extent of the *harm* that is being experienced by the victim. However, ever since the introduction of the Victim Impact Statement (VIS), in which victims are allowed to express the harmful consequences of the crime as a part of the court proceedings, people debate whether this victim ‘instrument’ introduces an irrelevant issue into the sentencing of the offender. Opponents argue that any weight given to the experience of the victim in terms of ‘harm’ would lead to disproportionate sentences and thus to a violation of the proportionality principle. In this article we examine this issue by disentangling which factors determine people’s reactions to offenders and victims of crime. We predict that whereas judgements relating to the offender (and his or her punishment) co-vary with the severity of the crime, people’s judgments related to the victim co-vary with both the severity of the crime and the experienced harm.

Punishment of Offenders: Empirical Desert and the Severity of Crime

Theories concerning the punishment of perpetrators of crime have been widely debated for centuries. Although they come in many shapes and sizes (for an overview: Tonry, 2011), the key distinction is between the family of deontological theories, most often associated with Immanuel Kant (1798) and G.F. Hegel (1991) and the utilitarian theories, the heritage of which can be traced to Jeremy Bentham (1789). While the latter consider the consequences of punishment to be its key motivation, the former views punishment as a necessity, an imperative in the light of the wrongdoing that preceded it. The utilitarian wonders whether punishment will deter the offender himself from committing crime in the future, or whether the existence of punishment prevents others from doing the same. For the deontologist these consequences are irrelevant, and in particular in the latter case immoral, as they entail using the offender as a means to the end of crime prevention. What matters is the wrongfulness of the deed (i.e., the *actus reus*) and the motive and mind-state of the wrongdoer (i.e., the *mens rea*). These different rationales also translate into different dimensions upon which the question of the magnitude of punishment is to be decided. For utilitarians this is proportional to punishments’ forward-looking, deterrent and preventative effects. For deontologists it is proportional to the wrongfulness of the crime.

For a long time the debate has been the sole province of ethics and moral philosophy. More recently investigators have become interested in providing empirical input: How do people actually make decisions about punishment? In particular the work of Robinson and Darley, and their colleagues, has sought to provide answers to this question. An increasing body of evidence suggests that even though respondents might explicitly allude to utilitarian theories (Carlsmith, Darley, & Robinson, 2002), their actual decisions and theories in use are guided by deontological notions of desert (Darley, 2009; Robinson & Darley, 1997, 2007). Importantly, this “empirical desert” (Robinson & Darley, 1997) has shown to be based upon the *severity* of the crime in question, *its wrongfulness*, rather than the extent of the *harm* the behavior causes (Alter, Kernochan, & Darley, 2007). Sorting out the wrongfulness and harmfulness of crime can be a tricky matter, given that much of the reason why crime is wrong (“*mala in se*”) lies in the fact that it is

harmful: Either in a manifest manner (the damage to property or personal harm) and/or in the symbolic threat it poses to core values of our society (Duff, 2001). The crime of rape is wrong, to a large degree because of (the presumption of) the harm it causes, while the extent to which a given crime is more severe (i.e., has a higher degree of wrongfulness) is correlated with the harm it is supposed to cause. Nevertheless, wrongfulness and harmfulness can be disentangled. An illustration is the intuition that a higher level of punishment is warranted for attempted murder (high level of wrongfulness, lower level of harmfulness) than for negligent homicide (lower level of wrongfulness, higher level of harmfulness), which is indeed also the rule in criminal codes in most, if not all, jurisdictions (e.g., Alter et al., 2007).

The Importance of Experienced Harm to Victims of Crime

Where people's reactions to offenders follow the logic of empirical desert and are guided by the severity of the crime committed, assistance and support to help victims recover from the crime's impact is guided by the harm that actually emerges. Pemberton (2014) concludes that where the offender's actions and the proportionate reaction to these actions should be measured along the dimension of wrongfulness ('the yardstick of *wrong*'), the reaction to the victim's predicament should take the experienced harmfulness as the point of departure ('the yardstick of *harm*').

Where crime's wrongfulness is in part determined by the harmfulness it usually and/or foreseeably causes, research in victimology reveals that the experienced consequences of similarly severe crimes displays large variation from one case to the next (e.g., Winkel, 2007). Although there is a clear correlation between the harm victims experience and the severity of the offence, pre-existing, co-occurring and aftermath factors all influence the experience of victims of crime (Ozer, Best, Lipsey, & Weiss, 2003). These idiosyncratic experiences of victims of crime should as a matter of course be mirrored in the way they are treated, with emerging consequences determining the necessity of psychological and/or medical treatment (NICE, 2005). A key task of psychological professionals in the aftermath of mass victimization events is to match support and treatment to the extent of harm experienced by the victim.

This is not to say that third party support and assistance will necessarily track victims' experience of harm. The research surrounding the justice motive (Hafer & Bègue, 2005; Lerner, 1980) has repeatedly demonstrated that victims' suffering can give rise to negative derogating and blaming reactions, where paradoxically the extent of enduring suffering can lead to a lack of support and an increase of negative reactions (Aguila, Vala, Correia, & Pereira, 2008; Correia & Vala, 2003). In addition, recent research has revealed the importance of people's pre-existing expectations of victims' reactions: A 'mismatch' between the observers' expectations of the victim's suffering and a victim's emotional demeanor negatively influences the observers' attitude towards the victim (Lens, Van Doorn, Pemberton, & Bogaerts 2014). Where as a rule the (nonverbal) expression of emotions has positive effects on people's perceptions of the victims' credibility (also called the "Emotional Victim Effect" (EVE); Ask & Landström, 2010; Winkel & Koppelaar, 1991), this is constrained by the extent to which the emotional reaction is viewed as a proportional response to the severity of the experienced crime. Lens et al. (2014) showed that, in comparison

to victims of severe crimes, victims of less severe crimes who deliver a highly emotional Victim Impact Statement run the risk to be derogated and to be treated with less sympathy.

Mixing Rationales? Victim Impact Statements

The reactions to offenders and victims in the aftermath of crime follow different rationales. Where the severity of the crime (which includes its foreseeable harmful consequences) determines the punishment of the offender, the actual harm that results drives the need for support and assistance of the victim. The latter is correlated to, but not determined by the severity of the crime, while moreover in practice people's reactions are contingent on their expectations of a reasonable response to a crime of a given severity.

Where the responses to offenders and victims are delivered separately, by different agencies and procedures, this difference in rationales can hardly be viewed as problematic. However, this becomes a different matter when the actual experience of harm (i.e., victim-oriented rationale) is used to determine the sentence of the offender, beyond what the consequences the offender should have foreseen.

This issue has become more acute following the introduction of so-called Victim Impact Statements (VIS) in various jurisdictions. Although the precise form of a VIS can vary, from a written statement that primarily serves a function in awarding compensation to an oral statement that may influence the sentence given to the offender (also referred to as a Victim Statement of Opinion), all have in common that they allow victims the right to express the harm they have experienced as a part of the court proceedings (Erez, 2004).

As a general rule the academic community is highly skeptical, if not outright opposed, to the influence of VIS on the offender's sentence (Ashworth, 1993; Bandes, 1996; Roberts, 2009; Sarat, 1997). The main argument against this practice is that it is seen as an attempt to introduce an irrelevant issue into the sentencing of the offender. Beyond the harm the offender could have foreseen through his actions, it is unclear what bearing the idiosyncratic experience of victims of crime and his or her opinion on the offender's wrongdoing should have on the sentence (Pemberton, 2014). Any weight given to these matters in the determination of punishment would then lead to disproportionate sentences, co-varying with factors irrelevant to the wrongfulness of his actions.

(Academic) proponents of the VIS (e.g., Roberts & Erez, 2004; Pemberton & Reynaers, 2011) do not dispute this. Instead they argue first that there is as yet no evidence that VISs lead to disproportionate and/or more severe sentences (Erez & Rogers, 1999; Roberts, 2009); and second that the benefits for victims lie elsewhere. Rather than the influence upon the sentence (Lens, Pemberton, & Groenhuijsen, 2010; Lens et al., forthcoming; Roberts & Erez, 2004), improvements in their experienced treatment, perception of voice and/or control are key (Lens et al., in press).

The Present Research

In sum, where those opposed to VISs argue that their use will lead to the use of the victims' idiosyncratic experience of harm to a subject to which this is, or should be, irrelevant (the sentence of the offender),

proponents suggest that VISs will guide treatment and experience of the victim, but not impact the offender's sentence.

The current research intends to shed light upon this matter. The main hypothesis driving the research is that judgements relating to the offender (and his or her punishment) co-vary with the severity of the crime (operationalized here as the type of crime: rape versus threat), while people's judgments related to the victim co-vary with the experienced harm (operationalized here as the victim's emotional response in her VIS), *even when* they are tasked to make these judgements at the same time, as part of one procedure. One rule for the goose, and one for the gander? Given that the reactions to victims are also influenced by expectations based upon the severity of the crime, we furthermore expect an interaction effect of the severity of crime and the experienced harm on respondents' reactions to victims of crime. The following two hypotheses are examined in this research:

H1: The reaction to the offender co-varies with the severity of the crime, but not by the victim's experienced harm (Hypothesis 1).

H2: The reaction to the victim co-varies with the interaction between the severity of crime and the victim's experienced harm (Hypothesis 2).

METHOD⁹

Participants and Design

Two hundred and fourteen students (68 men and 141 women, 5 missing) at Tilburg University, with ages ranging from 18 to 46 years ($M=21.62$, $SD=3.06$), voluntarily participated in the study, and were randomly assigned to one of four conditions defined by a 2 (crime severity: high vs. low) x 2 (experienced harm: high vs. low) factorial design.

Materials and Procedure

The participants were seated at separate tables in a lecture hall. They were told to work on the experimental task quietly and individually. The participants were given written instructions informing them that they were about to read a scenario and that they subsequently had to answer a number of questions. They were assured that there were no 'right' or 'wrong' answers and that the results of the experiment would be treated confidentially. A brief background section stated that a crime had taken place, that a suspect had been arrested, that the criminal trial would take place today, and that the victim would have the opportunity to make a VIS on the consequences of the crime. The first paragraph of the VIS was the same in all scenarios: the victim stated that she had been cycling home after a night out with friends when she saw someone (the suspect) standing at the side of the road. She stated that she

9 This study is based on a previous study from Lens and colleagues (2014). In a second part of this study, we also measured people's ability to remember the experienced consequence as expressed in the VIS. Data available upon request.

recognized this person from the club she and her friends had been to, and believing that he was having trouble with his bicycle, she had stopped to help him.

Crime severity

In the high crime severity condition (i.e., rape), the victim continued her statement by declaring that the suspect immediately started to touch her inappropriately. After making it clear to him that she did not want this, the suspect became violent and eventually raped her. In the low crime severity condition (i.e., threat), the victim continued her statement by declaring that the suspect immediately started to swear at her and threatened to hurt her. In this scenario, the participants were told that no physical violence had been inflicted. To reduce possible confounds, in neither of the two scenarios was any additional information about the victim, the suspect or the trial given to the participants.

Experienced harm

Experienced harm was manipulated by assigning participants to either a scenario in which the victim experiences serious or no consequences of the crime, as expressed in the VIS. The content of the VIS was based on a previous study of victim's emotional reactions to violent crimes (Lens et al., 2010; Lens, Pemberton, & Bogaerts, 2013). In the high experienced harm condition, participants read the following:

"This crime has turned my whole life upside down. I can't sleep anymore, I barely eat and I constantly feel anxious. Anxious that this will happen to me again or that I will meet the offender again. I don't dare to be out on the street on my own. I constantly feel tense, restless and sad. I am not who I once was, I am no longer the enjoyable friend or the fun, spontaneous daughter....Why did this have to happen to me? What did I do to deserve this? I am disgusted by the offender! What possessed him? I did not even know him. I am so mad. Very often at the wrong people. Then I have to take it out on the person standing closest to me. It is just so unfair, I have become a completely different person."

In the low experienced harm condition, participants read the same text, yet with the victim stating that she didn't experience any consequences at all (beginning the VIS with "This crime didn't change my life at all"). Having read the scenario, the participants were asked to digest the scenario for a while and subsequently turn the page to answer a number of questions.

Dependent Measures

Perceptions and judgments victim

Expectancy violation. In line with previous work (Ask and Landström, 2010; Lens et al., 2014), the participants were asked to assess to what extent the consequences matched the consequences that they would expect from a rape/threat victim (1 = *did not match at all*, 7 = *matched completely*).

Veracity judgments. In line with previous work (Ask and Landström, 2010; Lens et al., 2014), the participants were asked to make a dichotomous veracity judgment, indicating whether or not they believed

that the victim had suffered the consequences as indicated in the VIS, and to assign a confidence rating to the certainty of the expressed consequences (1 = *absolutely unsure*, 7 = *absolutely sure*).

Attitude towards victim. Two items regarding the observers' attitude towards the victim were adapted from a study by Aguiar and colleagues (2008). As a measure of victim derogation, the participants were asked to indicate their general impression of the victim on a 7-point scale, ranging from 1 (*extremely negative*) to 7 (*extremely positive*) (with the lower range of scores indicating victim derogation). Furthermore, they were asked to indicate their feelings of sympathy for the victim on a 7-point scale, ranging from 1 (*no sympathy at all*) to 7 (*very strong sympathy*).

Blameworthiness victim. As a measure of victim blaming, the participants were asked to rate the extent to which they found the victim was to blame (1 = *no blame at all*, 7 = *full blame*). Furthermore, participants had to indicate the extent to which they think that the victim could have prevented the crime to occur (1 = *absolutely not*, 9 = *absolutely*).

Victim Impact Statement. Participants were asked to make two dichotomous judgments, indicating (1) whether or not they believed that the described consequences of the crime (i.e., experienced harm) should be taken into account when determining the punishment of the offender (*yes* or *no*), and (2) whether or not they believed that the described consequences, as stated by the victim in the VIS, (i.e., experienced harm) should have an influence in the criminal justice proceedings (*yes* or *no*). For both judgments, participants were also asked to give ratings on 9-point scales, ranging from 1 (*absolutely not*) to 9 (*absolutely*). Finally, participants were asked to rate the extent to which they think the VIS is a good instrument to 'measure' to consequences of the crime on the victim (1 = *absolutely not*, 9 = *absolutely*).

Perceptions and judgments offender

Blameworthiness offender. Participants were asked to rate the extent to which they found the offender was to blame on a 7-point scale (1 = *no blame at all*, 7 = *full blame*).

Punishment offender. Participants were asked to rate the extent to which they thought the punishment of the offender should be severe (1 = *not severe at all*, 7 = *extremely severe*).

RESULTS

Manipulation Checks¹⁰

As a check on the effectiveness of the 'experienced harm' manipulation, participants were asked to rate the extent to which the victim indicated in her VIS that the consequences of the crime were either negative or positive, ranging from 1 (*completely negative*) to 7 (*completely positive*). An independent-samples t-test showed significant differences between groups ($t(211) = -21.81, p < .001$). As expected, whereas participants in the high experienced harm condition indicated that the consequences of the crime for

10 When there was an inequality of variances, corrected degrees of freedom are reported for t-tests throughout the article.

the victim were (completely) negative ($M=1.46$, $SD=1.04$), participants in the low experienced harm condition scored exactly in the centre middle of the scale ($M=4.09$, $SD=0.70$), indicating that the victim suffered no consequences at all. Hence, the 'experienced harm' manipulation was successful.

As a check on the effectiveness of the 'crime severity' manipulation, participants were asked to rate the extent to which they found that the specific type of crime (i.e., rape/threat) should be punished *in general*, ranging from 1 (*no punishment at all*) to 7 (*extremely hard punishment*). An independent-samples t-test showed significant differences between the high crime severity condition ($M=6.24$, $SD=0.84$) and the low crime severity condition ($M=4.51$, $SD=1.17$; $t(210)=-12.19$, $p<.001$). As expected, whereas participants judge rape to be a very severe crime, threat was judged to be mildly severe. Hence, the manipulation of 'crime severity' was successful.

Perceptions and Judgments Victim Expectancy violation

An ANOVA on expectancy violation (reverse scored) revealed a Crime Severity \times Experienced Harm interaction, $F(1, 208)=66.31$, $p<.001$, $\eta_p^2=.24$, a main effect of Experienced Harm, $F(1, 208)=90.44$, $p<.001$, $\eta_p^2=.30$, and a main effect of Crime Severity $F(1, 208)=5.92$, $p=.016$, $\eta_p^2=.03$. Mean scores for all groups differed significantly, all $t_s > 4.13$, all $p_s < .001$, with the exception for the mean scores of the low crime severity – low experienced harm ($M=3.50$, $SD=1.23$) and the low crime severity – high experienced harm ($M=3.73$, $SD=1.40$) conditions, $t(109)=0.94$, $p=.348$. Participants in the high crime severity – high experienced harm condition were least likely to experience expectancy violation ($M=5.55$, $SD=1.02$), whereas participants in the high crime severity – low experienced harm condition were most likely to experience expectancy violation ($M=2.52$, $SD=1.31$). The mean scores in both low crime severity conditions were more subtle, indicating that participants in these conditions have less strong expectations about a victim's reaction after experiencing threat.

Veracity judgments

A Pearson Chi-square test showed significant differences in veracity judgments of the suffered consequences, as indicated in the VIS, $\chi^2(3, N=197)=72.15$, $p<.001$. Participants in the high crime severity – high experienced harm condition (96%) scored highest on this measure, followed by the low crime severity – high experienced harm condition (64%), the low crime severity – low experienced harm condition (24%), and the high crime severity – low experienced harm condition (22%). Furthermore, results from an ANOVA on confidence ratings revealed similar effects, as the Crime Severity \times Experienced Harm interaction, $F(1, 209)=9.71$, $p=.002$, $\eta_p^2=.04$, and the main effect of Experienced Harm, $F(1, 209)=48.02$, $p<.001$, $\eta_p^2=.19$, were significant, but the main effect of Crime Severity was non-significant, $F(1, 209)=2.92$, $p=.089$. Participants in the high crime severity – high experienced harm ($M=3.55$, $SD=0.80$) scored highest on confidence ratings in veracity judgments, followed by the low crime severity – high experienced harm condition ($M=3.00$, $SD=0.81$), $t(97)=-3.43$, $p=.001$, which was followed by the low crime severity – low experienced harm condition ($M=2.56$, $SD=0.84$), $t(110)=2.77$, $p=.007$,

which did not differ from the high crime severity – low experienced harm condition ($M=2.40$, $SD=0.87$), $t(111)=1.00$, $p=.319$. In short, the experienced harm as expressed by the victim is an important determinant in participants' veracity judgments.

Attitude towards victim

An ANOVA on victim derogation revealed a main effect of Experienced Harm, $F(1, 209)=90.14$, $p<.001$, $\eta_p^2=.30$, a main effect of Crime Severity, $F(1, 209)=13.37$, $p<.001$, $\eta_p^2=.06$, and no Crime Severity \times Experienced Harm interaction, $F(1, 209)=.004$, $p=.947$. Mean scores for all groups differed significantly, all $t_s > 2.58$, all $p_s < .05$. Whereas participants in both the high crime severity – high experienced harm ($M=3.63$, $SD=1.25$) and the low crime severity – high experienced harm ($M=3.04$, $SD=.97$) conditions had a moderately negative general impression of the victim, participants in the high crime severity – low experienced harm ($M=5.21$, $SD=1.30$) and the low crime severity – low experienced harm ($M=4.60$, $SD=1.23$) conditions had a positive general impression of the victim.

Furthermore, an ANOVA on feelings of sympathy for the victim revealed a Crime Severity \times Experienced Harm interaction, $F(1, 209)=5.68$, $p=.018$, $\eta_p^2=.02$, a main effect of Crime Severity, $F(1, 209)=46.04$, $p<.001$, $\eta_p^2=.18$, and no main effect of Experienced Harm, $F(1, 209)=1.32$, $p=.251$. Participants in both the high crime severity – low experienced harm ($M=4.79$, $SD=1.30$) and the high crime severity – high experienced harm ($M=5.41$, $SD=1.17$) conditions displayed higher levels of sympathy for the victim than the participants in both the low crime severity – low experienced harm ($M=4.02$, $SD=1.29$) and the low crime severity – high experienced harm ($M=3.80$, $SD=1.33$) conditions, all $t_s > 3.17$, all $p_s < .05$. The difference between the high crime severity – low experienced harm and the high crime severity – high experienced harm condition was also significant, $t(99)=2.51$, $p=.014$.

Blameworthiness victim

An ANOVA on victim blaming revealed a Crime Severity \times Experienced Harm interaction, $F(1, 209)=5.16$, $p=.024$, $\eta_p^2=.02$, no main effect of Crime Severity, $F(1, 209)=0.10$, $p=.758$, and a main effect of Experienced Harm, $F(1, 209)=4.68$, $p=.032$, $\eta_p^2=.02$. There was only a significant difference in victim blaming between the high crime severity – high experienced harm condition ($M=1.50$, $SD=0.90$) and the high crime severity – low experienced harm condition ($M=2.27$, $SD=1.54$), $t(76.30)=3.03$, $p=.003$. The low crime severity – low experienced harm condition ($M=1.84$, $SD=1.30$) and in the low crime severity – high experienced harm condition ($M=1.82$, $SD=1.21$) did not differ from each other and from the high crime severity conditions, all $t_s < 1.64$, all $p_s > .103$. These low ratings indicate that victim blaming was quite unlikely for all groups of participants. Furthermore, an ANOVA on victim prevention revealed no Crime Severity \times Experienced Harm interaction, $F(1, 209)=.70$, $p=.405$, no main effect of Crime Severity, $F(1, 209)=2.46$, $p=.118$, and no main effect of Experienced Harm, $F(1, 209)=2.48$, $p=.117$. Overall, participants were equally unlikely to think that the victim could have prevented the crime to occur.

Victim Impact Statement

Participants in the high crime severity – low experienced harm condition (48%), the high crime severity – high experienced harm condition (56%), the low crime severity – low experienced harm condition (59%), the low crime severity – high experienced harm condition (60%), were equally hesitant in indicating that the VIS should have an influence on the criminal justice proceedings, $\chi^2(3, N=206)=1.83$, $p=.608$. Furthermore, results from an ANOVA on the scale measure of this item revealed similar effects, as the Crime Severity \times Experienced Harm interaction, $F(1, 206)=0.67$, $p=.412$, the main effect of Crime Severity, $F(1, 206)=0.00$, $p=.968$, and the main effect of Experienced Harm, $F(1, 206)=1.73$, $p=.190$, were all non-significant.

A Pearson Chi-square test showed significant differences in whether participants thought that the VIS should be taken into account when determining the punishment of the offender, $\chi^2(3, N=208)=19.94$, $p<.001$. Participants in the low crime severity – high experienced harm condition (82%) scored highest on this measure, followed by the high crime severity – high experienced harm condition (75%), the low crime severity – low experienced harm condition (64%), and the high crime severity – low experienced harm condition (42%). Furthermore, results from an ANOVA on the scale item of this measure revealed similar effects, as the Crime Severity \times Experienced Harm interaction, $F(1, 206)=0.81$, $p=.370$, and the main effect of Crime Severity, $F(1, 206)=0.01$, $p=.911$, were non-significant, but the main effect of Experienced Harm, $F(1, 206)=25.34$, $p<.001$, was significant. Participants in the high crime severity – high experienced harm ($M=5.61$, $SD=2.28$) and the low crime severity – high experienced harm ($M=5.40$, $SD=1.71$) conditions scored higher on taking into account the VIS when determining the punishment of the offender than participants in the high crime severity – low experienced harm ($M=3.98$, $SD=2.08$) and the low crime severity – low experienced harm ($M=4.26$, $SD=1.84$) conditions, all $ts > 3.32$, all $ps < .01$.

An ANOVA on whether or not the VIS is a good instrument to 'measure' a victim's consequences of the crime (i.e., experienced harm) revealed a Crime Severity \times Experienced Harm interaction, $F(1, 208)=10.99$, $p=.001$, $\eta_p^2=.05$, and a main effect of Experienced Harm, $F(1, 208)=11.75$, $p=.001$, $\eta_p^2=.05$, but not a main effect of Crime Severity, $F(1, 208)=0.10$, $p=.756$. Participants in the high crime severity – high experienced harm condition ($M=5.59$, $SD=1.98$) scored highest on judging the VIS as a good measure, as compared to the high crime severity – low experienced harm condition ($M=3.88$, $SD=1.91$), the low crime severity – high experienced harm condition ($M=4.67$, $SD=1.76$), and the low crime severity – low experienced harm condition ($M=4.65$, $SD=1.71$), all $ts > 2.43$, all $ps < .05$. Participants in the high crime severity – low experienced harm condition judged the VIS least as a good measure, all $ts > 2.16$, all $ps < .05$.

Perceptions and Judgments Offender Blameworthiness offender

An ANOVA on offender blaming did not reveal a Crime Severity \times Experienced Harm interaction, $F(1, 209)=0.66$, $p=.418$, but did reveal a main effect of Crime Severity, $F(1, 209)=16.11$, $p<.001$, $\eta_p^2=.12$, and a main effect of Experienced Harm, $F(1, 209)=27.27$, $p<.001$, $\eta_p^2=.07$. Participants in the high crime severity – low experienced harm condition ($M=6.37$, $SD=1.12$) scored highest on blaming the offender

as compared to the high crime severity – high experienced harm condition ($M=5.55, SD=1.73$), the low crime severity – high experienced harm condition ($M=4.66, SD=1.41$), and the low crime severity – low experienced harm condition ($M=5.77, SD=1.08$), all $t_s > 2.79$, all $p_s < .01$. Participants in the low crime severity – high experienced harm condition blamed the offender the least, all $t_s > 2.80$, all $p_s < .01$.

Punishment offender

An ANOVA on punishment of the offender did not reveal a Crime Severity \times Experienced Harm interaction, $F(1, 209)=0.87, p=.351$, and a main effect of Experienced Harm, $F(1, 209)=0.91, p=.341$, but did reveal a main effect of Crime Severity, $F(1, 209)=191.61, p<.001, \eta_p^2=.48$. Participants in both the high crime severity – low experienced harm ($M=5.62, SD=.89$) and the high crime severity – high experienced harm ($M=5.61, SD=1.04$) conditions found that the punishment of the offender should be more severe than the participants in both the low crime severity – low experienced harm ($M=3.61, SD=1.32$) and the low crime severity – high experienced harm ($M=3.32, SD=1.17$) conditions, all $t_s > 8.68$, all $p_s < .001$.

DISCUSSION

Overall, we found support for our hypothesis that people's judgments related to the victim are likely to be influenced by both the severity of the crime and the experienced harm. First, people who read about a victim experiencing serious consequences from a severe crime were least likely to experience expectancy violation, whereas participants who read about a victim experiencing no consequences from a severe crime were most likely to experience expectancy violation. Thus, participants who read about a severe crime have stronger expectations about the emotional of the victim than participants who read about a mildly severe crime. In addition, people tend to have more sympathy for victims in the high crime severity conditions than for victims in the low crime severity conditions, and most sympathy was experienced in the case a victim experiences serious consequences in a severe crime. This same pattern was found for how confident participants are about the suffering of the victim. Finally, and in line with previous research (e.g., Lens et al., 2014), participants were quite unlikely to blame the victim for the crime and also didn't think that the victim could have prevented the crime.

The items concerning the VIS revealed that participants who read about a victim experiencing serious consequences are more likely to think that the VIS should be taken into account when determining the punishment of the offender than when a victim does not experience serious consequences. However, although it seems to be that 'experienced harm' is an important determinant in participants' judgments on whether the VIS should be taken into account when determining the punishment of the offender, on the more general question whether people think that the VIS should have an influence on the criminal justice proceedings we found no differences. Furthermore, people who read about a victim experiencing serious consequences from a severe crime scored highest on judging the VIS to be a good instrument to 'measure' a victim's consequences, whereas participants who read about a victim experiencing no consequences from a severe crime were least likely to judge the VIS to be a good instrument.

Finally, we also found support for our hypothesis that people's perceptions regarding the offender (and the outcome of the trial) are more likely to be influenced by the severity of the crime than by the experienced harm of the crime. Only the severity of the crime had an influence on the punishment of the offender: Participants who read about a highly severe crime think that the offender should be punished more severely, than participants who read about a crime that is less severe. However, the blameworthiness of the offender was influenced by both the severity of the crime and the experienced harm of the crime: People who read about a victim experiencing no consequences from a highly severe crime scored highest on blaming the offender, whereas participants who read about a victim experiencing serious consequences from a less severe crime were least likely to blame the offender. We examined the correlations between blameworthiness and punishment of the offender per condition and found that there was a significantly positive correlation in all conditions, with the exception of the high crime severity – low experienced harm condition (which was $r = .006$, $p = .966$). We do not have a clear explanation for this finding. However, if we would have to make a conjecture, we would speculate that people might judge a victim that does not display (emotional) consequences from a severe crime to be in need of suppressing the consequences of the crime in order to cope with the situation and therefore may be even harmed worse than victims that do express the consequences. More research is necessary to examine what people take into account when making judgments about blameworthiness and punishment of the offender.

Scientific and Practical Implications

The current study extends previous research in an important regard. Previous studies that examined people's judgments of a criminal case mainly focussed on *either* the effects of crime severity on people's perceptions of the offender and the decisions of punishment (e.g., Carlsmith et al., 2002; Darley et al., 2000) *or* on the effects of a victim's (non-verbal) emotional expression on people's credibility judgments and perceptions of the victim (e.g., Ask & Landström, 2010; Bollingmo, Wessel, Sandvold, Eilertsen, & Magnussen, 2009; Hackett, Day, & Mohr, 2008; Kaufmann, Drevland, Wessel, Overskeid, & Magnussen, 2003; Klippenstine & Schuller, 2012; Mulder & Winkel, 1996; Wessel, Drevland, Eilertsen, & Magnussen, 2006; Wessel, Bollingmo, Sonstebj, Nielsen, Eilertsen, & Magnussen, 2012; Winkel & Koppelaar, 1991). The only study that examined possible interaction effects of crime severity and the experienced harm of the crime on people's perceptions of different participants in the criminal trial only included a question about the appropriate punishment of the offender and not about blameworthiness (Rose, Nadler, & Clark, 2006). Our results suggest that these two constructs are not judged in the same manner. Furthermore, this study did not include questions about people's perceptions regarding the VIS. This is especially important because of the ongoing debate around the acceptance (and desirability) of victim input during the trial. The desirability to enable victims to deliver a VIS is highly debated on conceptual as well as practical grounds (e.g., Buruma, 2004; Erez, 1994; Hill, 2005; Myers & Greene, 2004; Roberts & Erez, 2004). Whereas proponents argue that the delivery of a VIS may promote accurate or effective sentencing outcomes by enabling victims to speak about the experienced consequences of the crime

on their lives (e.g., Erez & Rogers, 1999; Roberts & Erez, 2004), opponents argue that its delivery may lead to a violation of the proportionality principle, as differences in post-crime reactions of the victim may lead to differences in the outcome of the trial (e.g., Ashworth, 2002; Buruma, 2004; Luginbuhl & Burkhead, 1995; Myers & Arbuthnot, 1999). This study shows that the punishment of the offender is influenced by the severity of the crime and not by the expression of the consequences by the victim (i.e., experienced harm). That is, this study found no support for the argument that enabling a VIS during trial might lead to a violation of the proportionality principle.

Limitations

Some limitations of this study should be noted. First, our sample of participants (i.e., students at Tilburg University) lacked personal experience with criminal cases, which may limit generalization of the present findings. It could be that professionals involved in the criminal justice procedure (e.g., prosecutors, judges) develop more fine-grained schemas for evaluating the severity and the experienced harm of the crime and thus rely less on stereotypical expectancies (see also Ask & Landström, 2010; Lens et al., 2014). For example, Wessel et al. (2006) have shown that credibility ratings of court judges, unlike those of lay people, were not influenced by the emotions displayed by the witness. However, other studies have shown that even experienced professionals are susceptible to a victims' post-crime reaction. Frohmann (1991), for example, suggested that a rape victim's demeanor has a substantial influence on the victim's perceived credibility in the eyes of prosecutors. As it remains an empirical question as to whether a more 'representative' sample would yield similar findings, we suggest that following research should focus on other groups of participants (e.g., judges, prosecutors). Second, only a written depiction of the experienced harm was provided, which allowed us to exclude possible effects from a victim's non-verbal emotional expression. However, given that previous research repeatedly has shown effects from a victim's non-verbal emotional expression on people's judgments of the victim (e.g., Ask & Landström, 2010; Nadler & Rose, 2003; Rose et al., 2006; Wessel et al., 2006; Wessel et al., 2012; Winkel & Koppelaar, 1991), it is likely that similar, if not stronger, effects would emerge when participants are presented with a video presentation of the victim.

CONCLUSION

In conclusion, the present research has shown that whereas perceptions regarding the offender (and the outcome of the trial) are more likely to be influenced by the severity of the crime (Hypothesis 1), people's judgments related to the victim are more likely to be influenced by an interaction between the severity of the crime and the experienced harm of the crime (Hypothesis 2). Hence, we argue that the debate about whether or not to allow victims to deliver a VIS during the criminal proceedings is not as black and white as previously argued. The results of this study give a more nuanced view on which factors are more or less likely to be influenced by the delivery of a VIS.

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Chapter 9

**People's Reactions to Victim Impact
Statements: A Preliminary Study into the
Affective and Cognitive Responses**

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(International Review of Victimology: under review)

ABSTRACT

Previous research has shown that expectancy violations can have both affective and cognitive consequences (e.g., Bartholow, Fabiani, Gratton, & Bettencourt, 2001). In particular, recent victimological research argues that people's perceptions and judgments of victims are negatively influenced when their *expectations* of the victim's emotional behavior are *violated* (Lens, Van Doorn, Pemberton, & Bogaerts, 2014). That is, expectancy violation may lead to secondary victimization: Victims might be judged to be less credible, suffer higher levels of victim derogation, and receive less sympathy as a result of expectancy violation. In this study, we elaborated upon these *affective consequences* and examined possible *cognitive consequences* of expectancy violation in victimological research. We found preliminary evidence for secondary victimization in both affective and cognitive domains: Victims of 'mildly' severe crimes who deliver an emotional Victim Impact Statement (VIS) not only run the risk to be evaluated as less credible than victims of more severe crimes who deliver the exact same VIS, but their VIS is also remembered less accurately.

INTRODUCTION

Previous research has consistently shown that people have certain stereotypical expectancies about a crime's effect on a victim's emotionality (e.g., Ask & Landström, 2010; Bollingmo, Wessel, Sandvold, Eilertsen, & Magnussen, 2009; Burgess & Holmstrom, 1974; Kaufmann, Drevland, Wessel, Overskeid, & Magnussen, 2003). When such expectancies are violated, people's perceptions and judgments of victims are negatively influenced, and victims may even be secondarily victimized (e.g., Ask & Landström, 2010; Lens, Van Doorn, Pemberton, & Bogaerts, 2014). For example, Lens et al. (2014) investigated the influence of crime severity on people's affective responses after reading an emotional Victim Impact Statement (VIS). Results showed that, in comparison to victims of severe crimes, victims of less severe crimes who deliver a highly emotional VIS run the risk to be judged as less credible, suffer higher levels of victim derogation, and receive less sympathy as a result of expectancy violation.

Besides a further examination of these affective responses, in this article we explored the influence of delivering an emotional VIS for different crime types on people's cognitive responses. Previous research has shown that expectancy violations not only negatively influence affective responses to, but also the cognitive processing of one's behavior (e.g., Bartholow, Fabiani, Gratton, & Bettencourt, 2001; Kernahan, Bartholow & Bettencourt, 2000; Bettencourt, Dill, Greathouse, Charlton, & Mulholland, 1997; Olson, Roese, & Zanna, 1996). More specifically, different studies suggest that stereotypical expectancies influence memory (e.g., Hastie & Kumar, 1979; Rothbart, Evans, & Fulero, 1979). These studies center around the question whether expectancy-congruent or expectancy-incongruent information is better remembered: Whereas some studies have shown that expectancy-disconfirming information is particularly likely to be encoded and remembered (e.g., Hastie & Kumar, 1979), other studies have shown the exact opposite (Rothbart et al., 1979; see also for a review on the relationship between expectancy violation and memory: Stangor & McMillan, 1992). Thus, collective consensus on this topic remains absent. In this article, we further explore the relationship between expectancy-violation and memory. We argue that, if expectancy-disconfirming information is more likely to be remembered, an emotional VIS is better remembered when delivered by a victim of a mildly severe crime (i.e., where observer's expectations are violated: see also Lens et al., 2014) than by a victim of a more severe crime. On the contrary, if expectancy-confirming information is more likely to be remembered, this would mean that an emotional VIS is better remembered when delivered by a victim of a severe crime than by a victim of a mildly severe crime. If the latter is true, this would provide further evidence that victims of mildly severe crimes who deliver a highly emotional VIS in court run the risk to be secondary victimized (see also Lens et al., 2014).

Moreover, the question of *how* expectancy-confirming or disconfirming information would influence memory remains unanswered as well. Research suggests that the perceived credibility of a certain message determines one's ability to accurately recognize it later on (e.g., Gibbons, Lukowki, & Walker, 2005). However, the exact relationship between these variables (i.e., credibility and recognition) needs some further elaboration, as the evidence of a clear direction of this relationship is lacking as well (see also Landström, Granhag, & Hartwig, 2005). There is some research that hints at credibility leading to better

memory. For example, a study by Landström et al. (2005) has shown that observers who had watched truthful witness statements reported significantly more correct information than did those who had watched deceptive statements. On the contrary, Henkel and Mattson (2011) argue that people's ability to recognize certain items is unaffected by the reliability of the source.

In sum, inconsistent results restrain us from drawing conclusions about possible causes of secondary victimization. The purpose of this research is twofold: First, and in line with previous research (Lens et al., 2014), we examined the mediating role of expectancy violation on the relationship between crime severity and participants' credibility judgment of the VIS. We expect that participants in a high crime severity condition are more certain about the credibility of the VIS because they experience less expectancy violation than participants in a low crime severity condition. Second, we extended previous research by exploring the influence of crime severity on memory. We used a SEM model with indirect paths from crime severity to recognition of the VIS through expectancy violation and through participants' credibility judgment of the VIS. Thus, next to examining the influence of delivering an emotional VIS for different crime types on people's affective responses, we also measured cognitive responses via recognition of the VIS.

METHOD¹¹

Participants

Sixty-four students (17 men and 47 women) at Tilburg University, with ages ranging from 18 to 35 years ($M=23.25$, $SD=2.53$), voluntarily participated in the study.

Procedure and design

Participants were randomly assigned to either a high or a low crime severity condition. They were given written instructions informing them that they were about to read a scenario and that they subsequently had to answer a number of questions. They were assured that there were no 'right' or 'wrong' answers and that the results of the experiment would be treated confidentially. A brief background section stated that a crime had taken place, that a suspect had been arrested, that the criminal trial would take place today, and that the victim would have the opportunity to deliver a VIS on the consequences of the crime. The first paragraph of the VIS was the same in both scenarios: the victim stated that she had been cycling home after a night out with friends when she saw someone (the suspect) standing at the side of the road. She stated that she recognized this person from the club she and her friends had been to, and believing that he was having trouble with his bicycle, she had stopped to help him.

11 This study is based on a previous study from Lens and colleagues (2014).

Crime severity

In the high crime severity condition (i.e., rape), the victim continued her statement by declaring that the suspect immediately started to touch her inappropriately. After making it clear to him that she did not want this, the suspect became violent and eventually raped her. In the low crime severity condition (i.e., threat), the victim continued her statement by declaring that the suspect immediately started to swear at her and threatened to hurt her. In this scenario, the participants were told that no physical violence had been inflicted. To reduce possible confounds, in neither of the two scenarios was any additional information about the victim, the suspect or the trial given to the participants.

Emotionality VIS

Previous studies have identified different styles of responses to crime. For example, Winkel and Koppeelaar (1991) have shown that victims can either respond in a highly emotional manner or in a controlled or numbed manner. For this study we created a highly emotional scenario, in which participants read about a victim displaying high levels of both avoidance (fear, sadness, anxiety) and hostile (anger, disgust) emotions. This scenario was based on a recent study of victim's emotional reactions to violent crimes (Lens et al., 2010):

"This crime has turned my whole life upside down. I don't sleep anymore, I barely eat and I constantly feel anxious. Anxious that this will happen to me again or that I will meet the offender again. I don't dare to be out on the street on my own. I constantly feel tense, restless and sad. I am not who I once was, I am no longer the enjoyable friend or the fun, spontaneous daughter... Why did this have to happen to me? What did I do to deserve this? I am disgusted by the offender! What possessed him? I did not even know him. I am so mad. Very often at the wrong people. Then I have to take it out on the person standing closest to me. It is just so unfair, I have become a completely different person."

In both conditions, participants were asked to first read the scenario carefully, before turning to the questions on the next page.

Dependent Measures¹² Expectancy violation

Participants were asked to assess to what extent the consequences, as described in the VIS, matched the consequences that they would expect from a rape/threat victim (1 = *did not match at all*, 7 = *matched completely*).

12 The current study contained a broader range of dependent measures than reported in this article. We first replicated our previous findings by testing for the influence of crime severity and expectancy violation on credibility ratings, attitudes towards and sympathy for the victim, and the acceptance of a VIS in the criminal justice procedure (see also Lens et al., 2014). Furthermore, we measured participants' feelings of Belief in a Just World. Results were perfectly in line with our previous research (data available upon request). However, as the aim of this study was to broaden our results by examining the impact of stereotypical expectancies and credibility ratings on memory recognition tasks, we do not describe the replication results here.

Credibility

To assess people's perceptions about the victim's credibility, participants were asked to make a dichotomous veracity judgment, indicating whether or not they believed that the victim had suffered the consequences as indicated in the VIS, and to assign a confidence rating to the certainty of the consequences expressed by the victim (1 = *absolutely unsure*, 7 = *absolutely sure*).

Recognition Consequences VIS

After completion, the questionnaires were collected by the experimenters. Without prior knowledge of the content of the second part of the experiment, a memory recognition task was provided after a lecture of 45 minutes, of which the content was unrelated to the content of the experiment. This recognition task contained 20 consequences the victim could possibly have experienced as a result of the crime. Ten of these items were the actual consequences as stated in the VIS (i.e., "hits"), the other ten items were bogus consequences (i.e., "false positives"). The bogus items were added to check whether reading about a severe crime would inevitably lead participants to mark more consequences in general, as compared to reading about a less severe crime. For each item, participants rated whether or not the item appeared as one of the consequences in the VIS (*yes vs. no*).

RESULTS

Expectancy Violation

Conform expectations, participants in the high crime severity condition were significantly more likely to expect the victim to experience the consequences as described in the VIS ($M=5.42$, $SD=1.06$) than participants in the low crime severity condition ($M=3.03$, $SD=1.25$), $t(62)=-8.26$, $p<.001$, Cohen's $d=2.06$. In other words, participants in the low crime severity condition experienced significantly more expectancy violation after reading the scenario than participants in the high crime severity condition.

Credibility

A Pearson Chi-square test showed significant differences in veracity judgments of the suffered consequences, as indicated in the VIS, $\chi^2(1, N=62)=8.77$, $p=.003$. Participants in the high crime severity condition (64%) indicated more often that the victim had suffered the consequences than participants in the low crime severity condition (36%). Furthermore, there was a significant difference in confidence ratings between the high crime severity condition ($M=3.55$, $SD=0.75$) and the low crime severity condition ($M=2.74$, $SD=1.06$), $t(62)=-3.50$, $p<.001$, $d=0.88$, indicating that participants in the low crime severity group were significantly more uncertain that the victim had suffered the expressed consequences than participants in the high crime severity group.

Recognition Consequences VIS¹³

Differences in the recognition of the consequences as expressed in the VIS were statistically significant, indicating that participants in the high crime severity condition marked more "hits" ($M=7.96$, $SD=1.52$) than participants in the low crime severity condition ($M=6.67$, $SD=1.72$), $t(39)=-2.55$, $p=.015$, $d=0.80$. In contrast, no differences were found for the bogus items: Participants in the high crime severity condition were equally unlikely to mark "false positives" ($M=3.91$, $SD=3.22$) than participants in the low crime severity condition ($M=3.17$, $SD=1.38$), $t(38)=-0.91$, $p=.368$. This latter finding is especially important as it indicates that participants in the high crime severity condition were not more likely to mark more consequences in general.

Mediational Analyses

To test whether participants in the low crime severity condition were more uncertain that the victim had suffered the expressed consequences than participants in the high crime severity group because they *expected* more severe consequences of severe crimes, we conducted a mediated regression analysis. Using simple mediation (5,000 bootstrap resamples) provided by Preacher and Hayes (2004, 2008) we estimated a regression-based causal model for the effect of crime severity on credibility confidence ratings through the mediating effect of expectancy violation (Figure 6.1).

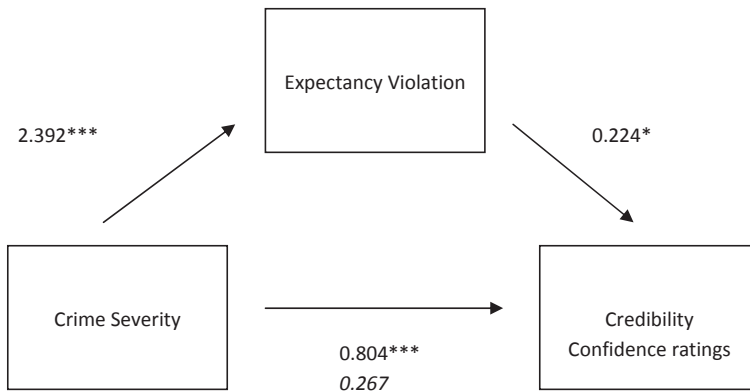


Figure 6.1. The mediating effect of expectancy violation on credibility confidence ratings. This figure shows unstandardized linear regression coefficients. The italicized coefficient (0.267) is the effect after controlling for the mediator variable.

* $p < .05$.

*** $p \leq .001$.

The total and direct effects of crime severity on credibility confidence ratings are 0.8035, $p < .001$, and 0.2670, $p = .409$, respectively. The difference between the total and direct effects is the total indirect effect through expectancy violation, with a point estimate of 0.5365 and a 95% BCa bootstrap CI of 0.0556 to 1.0660. Participants in the low crime severity condition were more uncertain about the credibility

13 21 participants did not complete the recognition task.

of the expressed consequences because they *expected* less severe consequences of severe crimes, as previously shown by Lens et al. (2014).

To test which mediator predicts recognition of the consequences as expressed in the VIS, we conducted a mediated regression analysis with two mediators. Using simple mediation (5,000 bootstrap resamples) provided by Preacher and Hayes (2004, 2008) we estimated a regression-based causal model for the effect of crime severity on recognition of the VIS through the mediating effect of expectancy violation and credibility confidence ratings (Figure 6.2).

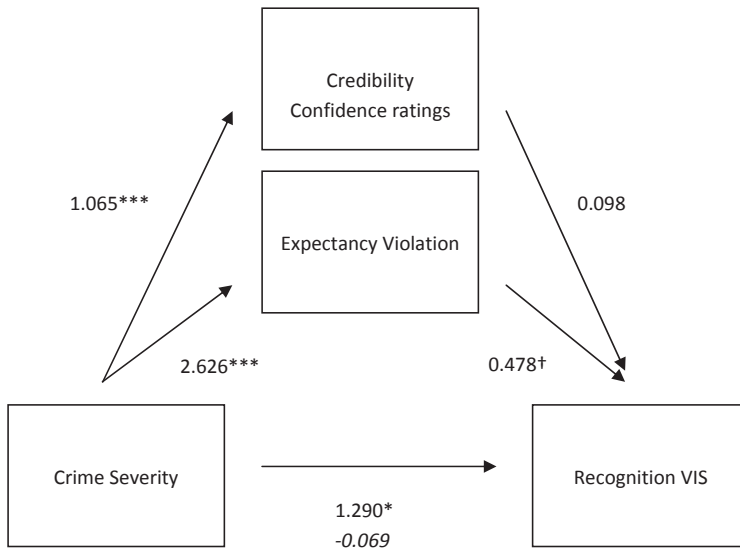


Figure 6.2. The mediating effects of credibility confidence ratings and expectancy violation on recognition of the VIS. This figure shows unstandardized linear regression coefficients. The italicized coefficient (-0.069) is the effect after controlling for the mediator variables. * $p < .05$. *** $p \leq .001$.

The total and direct effects of crime severity on recognition of the VIS are 1.2899, $p = .015$, and -0.0685 , $p = .931$, respectively. The difference between the total and direct effects is the total indirect effect through expectancy violation, with a point estimate of 1.2539 and a 95% BCa bootstrap CI of 0.2012 to 2.8142, and not through credibility confidence ratings, with a point estimate of 0.1044 and a 95% BCa bootstrap CI of -0.5520 to 0.9314. The direct effect of expectancy violation on recognition of the VIS is marginally significant; 0.4776, $p = .066$, and there is no direct effect of credibility confidence ratings on recognition of the VIS; 0.0980, $p = .777$.

DISCUSSION

The main purpose of this study was to explore the influence of crime severity on people's affective and cognitive responses to an emotional VIS. We found preliminary evidence that expectancy violation influences both affective and cognitive responses of an observer being confronted with an emotional VIS. First, credibility judgments of the VIS are dependent upon the experienced expectancy-violation of the observer: Participants in a high crime severity condition (i.e., rape) were less uncertain about the credibility of the VIS because they experienced less expectancy violation than participants in a low crime severity condition (i.e., threat). Second, and in line with Rothbart et al. (1979) and Stangor and McMillan (1992), participants in a high crime severity condition recognized more consequences from the VIS because they experienced less expectancy violation. We found no support for the claim that the perceived credibility of a certain message determines one's ability to accurately recognize it later on (e.g., Gibbons et al., 2005). That is, in this study we found no support for the claim that credibility leads to a better memory (e.g., Landström et al., 2005).

Implications

One of the reasons victims deliver Victim Impact Statements in court is to inform others (i.e., the judges and defendant) about the consequences of the crime (Roberts & Erez, 2004). However, research has very little to offer when it comes to the affective and cognitive effects of this form of victim participation in the criminal justice procedure. This study is one of the first to examine the effects of delivering a VIS on participants' responses in criminal justice proceedings. It extends previous findings by showing that victims of 'mildly' severe crimes who deliver a highly emotional Victim Impact Statement (VIS) in court are not only evaluated as less credible than victims of more severe crimes who deliver the exact same VIS, but their VIS is also remembered less accurately.

Although the relevance of this study is apparent, a number of limitations should be noted. First, it is important to note that this is an explorative and preliminary study testing the influence of expectancy violation on both affective and cognitive responses. As the sample size of this study is limited, replicating our results in a study with a larger sample size is an important next step. Second, as the aim of this study was to explore the indirect effects from crime severity to recognition of the VIS through expectancy violation and through participants' credibility judgment of the VIS, we only manipulated crime severity and not victim emotionality. Adding a condition in which the victim showed less emotion could strengthen the results. Third, our sample of participants lacked personal experience with an evaluation of VISs, which may limit generalization of the present findings. It could be that professionals involved in the criminal justice procedure (e.g., police, judges) develop more fine-grained schemas for victims' reactions to crime and thus rely less on stereotypical expectancies than the students in our study (see also Ask & Landström, 2010). However, speaking against this argument, much research in the fields of law and psychology has successfully employed student samples in studies concerning legal issues (e.g., Ask & Landström, 2010; Klippenstine & Schuller, 2012; Mulder & Winkel, 1996; Winkel & Koppelaar, 1991).

In sum, the results of the present study support the important role of expectancy violation in predicting the affective and cognitive responses of observers being confronted with an emotional VIS: Victims of 'mildly' severe crimes might not only suffer from secondary victimization in the sense that their VIS is evaluated as less credible than the same VIS from victims of more severe crimes, but their VIS is also remembered less accurately. Hence, information that is judged to be important by the victim might not be fully taken into account by the observer.

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Summary, discussion and conclusion

Chapter 7

INTRODUCTION

Ever since the introduction of the Victim Impact Statement (VIS), the allowance of this 'victim instrument' has been highly debated. Apart from the normative question whether the victim should be given a 'voice' during criminal proceedings, two main empirical questions were raised¹⁴ (see also Roberts, 2009). First, does delivering a VIS facilitate (emotional) recovery for the victim (or on the contrary lead to secondary victimization)? And second, does delivering a VIS influence the outcome of the trial for the offender? In other words, does it lead to inequality in sentencing (i.e., a violation of the proportionality principle)? Although at the start of this dissertation both debates were seriously hampered by a lack of systematic empirical evidence (see also Roberts, 2009; Roberts & Manikis, 2013), proponents and opponents were not particularly reticent with giving arguments 'for' and 'against' when discussing this class of victim 'instruments' in terms of its 'effectiveness'¹⁵.

This dissertation presents the results of a series of studies on the use of a Victim Impact Statement in criminal law proceedings, hereby addressing both empirical questions. In these studies, different research methods have been employed, including a longitudinal questionnaire study and experiments. By elaborating upon different (social-psychological) theories and perspectives, the effects of delivering a VIS on both the victim and the 'observer' have been examined. Whereas Part I of the present dissertation addresses the victim's perspective on the use of a VIS, Part II addresses the perspective of the 'observer'. Aims of the present studies were:

Part I

1. To examine victims' perspectives on the purposes and functions of the VIS (chapter 2);
2. To examine which variables contribute to the likelihood of a VIS being delivered. In other words, to study for whom and under which conditions delivering a VIS could be beneficial (chapter 2);
3. To study the effects of delivering a VIS on the (emotional) recovery of the victim (chapter 3).

Part II

4. To examine the effects of delivering different forms of VISs on people's perceptions and judgments of the criminal case in general, and the victim and defendant in particular (chapter 4 and 5);
5. To study (possible) cognitive consequences of being confronted with the delivery of a VIS (chapter 6).

14 This dissertation does not look at (possible) effects from delivering a VIS on the judicial system in terms of processing time.

15 See also Groenhuijsen & Letschert (2011), who argue that the objections that were put forward against the introduction of the VIS in the Netherlands were "of a highly speculative manner".

Part I

Heterogeneity in Victim Participation: A New Perspective on Delivering a Victim Impact Statement (chapter 2)

In a considerable amount of articles, scholars have discussed the effectiveness of different victim-oriented measures. However, instead of taking into account differences in victims' characteristics and needs, often references have been made to 'what victims want' (e.g., Strang, 2002; Braithwaite, 2002) and to whether measures 'work' or 'don't work' for victims (e.g., Chalmers et al., 2007; Sanders et al., 2001). The same goes for the effectiveness of delivering a Victim Impact Statement (VIS). In other words, individual characteristics and perspectives which may determine whether a victim decides to deliver a VIS have often been neglected. As a starting point of this dissertation, it was decided to fill this theoretical and empirical gap by examining the influence of both (1) victims' perspectives on the purposes and functions of the VIS, and (2) background characteristics of the victim and the crime on the likelihood of delivering a VIS in criminal cases.

Data from a longitudinal study among 170 victims of severe violent crimes eligible to deliver a VIS showed that people's perceptions regarding the function and purpose of the VIS could be divided into three different components. Consistent with previous research (e.g., Roberts & Erez, 2004), a distinction between impact-related and expression-related use of the VIS was revealed. However, this study adds a third component to the existing literature: the anticipation of negative consequences: Victims may anticipate a negative influence of delivering a VIS on the course or objectivity of the trial, retaliatory responses by the perpetrator, or negative reactions from the victims' social surroundings. Taking into account these perceptions and other background characteristics of the victim and the crime, the study furthermore showed that the likelihood of a victim delivering a VIS is positively associated with three variables: symptoms of posttraumatic stress, the type of crime that has been committed, and the time of victimization. In sum, this study showed that the perceived impact of the crime on the victim is positively correlated with the likelihood of delivering a VIS. Although one might presume that victims' perceptions regarding the purpose and function of the VIS determine whether or not the victim chooses to use this right, they did not make contributions to the model when controlling for the background characteristics of the victim and the crime.

Based on these results, it is argued in this dissertation that a more heterogeneous approach to the study of procedural instruments available to victims is needed: Instead of looking at what victims want, we should focus on which instrument works for whom and under which conditions. Weighing the advantages and disadvantages of modes of victims' participation should not neglect the heterogeneity in victim experiences, perspectives and needs we investigated.

Delivering a Victim Impact Statement: Emotionally Effective or Counter-Productive? (chapter 3)

Although the delivery of a VIS in court is assumed to contribute to the healing and recovery process of the victim, a central question in the debate about the VIS is whether its delivery really helps victims to recover from a crime, or to the contrary might lead to secondary victimization. Whereas some argue that “VIS can work, do work (for those who bother to make them)” (Chalmers et al., 2007), others argue the exact opposite, namely that “VIS, don’t work, can’t work” (Sanders et al., 2001). At the start of this dissertation, empirical evidence about its therapeutic benefits in terms of emotional recovery was lacking (see also Edwards, 2001; Herman, 2003; Parsons & Bergin, 2010; Roberts, 2009). Therefore, it was decided to conduct the first research into the effects of delivering a VIS on the victim’s emotional recovery.

A longitudinal study was conducted to examine the effects of delivering a VIS on two important emotional reactions after crime: anger and anxiety. The results of this study extended previous findings in two important regards. First, this study showed that victims who opt for the delivery of a VIS show high levels of psychological problems both before *and* after trial. That is, they differ significantly from victims who decline their opportunity to deliver a VIS. Second, it showed that, although delivering a VIS does not give rise to direct “therapeutic” effects, feelings of anger and anxiety decrease for victims who experience higher feelings of procedural justice. Moreover, this study revealed that increasing feelings of control over the recovery process could lead to a decrease in feelings of anger and anxiety as well. That is, the effects of delivering a VIS cannot be explained by direct “therapeutic” or “cathartic” effects, but more by indirect paths through feelings of procedural justice and control over the recovery process.

Based on these results, which showed different patterns for different indicators, we argue that the effectiveness of delivering a VIS should not be viewed as “black or white” issue. The choice to participate sets victims apart from those who decline to do so, and subsequent effects are subtle, differentiated and indirect. As a result ham-fisted and sweeping statements concerning the effectiveness of VISs are unwarranted. Discussion concerning the question whether or not VISs ‘work’ should be replaced by a conditional and differentiated approach.

Part II

You Shouldn’t Feel That Way! Extending the Emotional Victim Effect through the Mediating Role of Expectancy Violation (chapter 4)

Previous research has consistently shown that a victim’s emotional demeanor affects his/her perceived credibility (e.g., Ask, 2009; Ask & Landström, 2010; Bollingmo et al., 2008; Kaufmann et al., 2003; Nadler & Rose, 2003; Winkel & Koppelaar, 1991). More specifically, studies on the “Emotional Victim Effect” suggest that a nonemotional style of self-presentation, as compared to an emotional one, is more likely to result in secondary victimization by the victim’s environment. That is, nonemotional victims run a higher risk of further victimization by their environment; encountering disbelief, little sympathy, and insufficient support (e.g., Ask & Landström, 2010; Baldry, 1996; Baldry, Winkel, & Enthoven, 1997; Nadler & Rose,

2003; Winkel & Koppelaar, 1991). Unlike these previous studies that focused on the positive effects of nonverbal expression of emotions on the victim's perceived credibility, we addressed other potentially *negative* effects of delivering a highly emotional VIS for different crime types.

An experimental study was conducted in which participants were randomly assigned to either a high or a low crime severity condition and read about a victim delivering a highly emotional VIS. Conform expectations, results showed that a highly emotional VIS is regarded as more credible from a victim of a highly severe crime than from a victim of a less severe crime. In addition, mediating effects were found of expectancy violation: Observers more readily expect a highly emotional written VIS from a victim of a severe crime than from a victim of a less severe crime and, in turn, base their credibility judgments on these expectations. Moreover, a 'mismatch' between the observers' expectations and a victim's emotional demeanor negatively influences the observers' attitude towards the victim. That is, a mismatch leads to victim derogation and less sympathy for the victim. Furthermore, a 'mismatch' between the observers' expectations and a victim's emotional demeanor negatively influences the extent to which observers think that the VIS should be taken into account when determining the punishment of the offender.

Based on these results, it is argued that, although previous research suggests that victims may always benefit from displaying their emotions, delivering a highly emotional VIS might also lead to negative consequences, dependent on the observer's expectations regarding the victim's emotional suffering.

One Rule for the Goose, One for the Gander: Wrongfulness and Harmfulness in Determining Reactions to Offenders and Victims of Crime (chapter 5)

Different lines of research have shown that people's reactions to offenders and victims of crime follow different rationales. Where the severity of the crime (i.e., its *wrongfulness*) determines the punishment of the offender (e.g., Alter, Kernochan, & Darley, 2007), the actual *harm* that results drives the need for support and assistance of the victim (NICE, 2005). Where the responses to offenders and victims are delivered separately, by different agencies and procedures, this difference in rationales can hardly be viewed as problematic. However, the introduction of the VIS led to the question whether the allowance of victims to express the actual harm of the crime during the criminal proceedings would influence the offender's sentence. Opponents argue that any weight given to the experience of the victim in terms of 'harm' would lead to disproportionate sentences and thus to a violation of the proportionality principle. The current study disentangles how a crime's wrongfulness and harmfulness influence people's reactions to respectively the offender and the victim.

An experimental study was conducted in which participants were randomly assigned to one of four conditions defined by a 2 (crime severity: high vs. low) x 2 (experienced harm: high vs. low) factorial design. Conform expectations, results showed that whereas people's perceptions regarding the offender (and the outcome of the trial) are influenced by the severity of the crime, and not the actual harm as being experienced by the victim, people's judgments related to the victim are more likely to be influenced by an interaction between the severity of the crime and the experienced harm of the crime. That is, in this study no support was found for the argument that the delivery of a VIS would lead to a violation of the proportionality principle.

People's Reactions to Victim Impact Statements: A Preliminary Study into the Affective and Cognitive Responses (chapter 6)

As also has been discussed in chapter 4 and 5 of this dissertation, previous research has shown that people's perceptions and judgments of victims are negatively influenced when their *expectations* of the victim's emotional behavior are violated (e.g., Ask & Landström, 2010). That is, expectancy violation may lead to secondary victimization: Victims are judged as less credible, suffer higher levels of victim derogation, and receive less sympathy as a result of expectancy violation. Moreover, other lines of research have shown that expectancy violations may not only negatively influence affective responses to, but also the cognitive processing of one's behavior (e.g., Bartholow, Fabiani, Gratton, & Bettencourt, 2001; Kernahan, Bartholow & Bettencourt, 2000; Bettencourt, Dill, Greathouse, Charlton, & Mulholland, 1997; Olson, Roese, & Zanna, 1996). In the current study, both affective and cognitive consequences of expectancy violation have been explored.

A preliminary experimental study was conducted to explore possible influences of delivering an emotional VIS for different crime types on both people's credibility judgment of the VIS and recognition of the actual consequences as being expressed in the VIS.

Based on these results, it is argued that expectancy violation may influence both affective and cognitive responses of an observer being confronted with a VIS: Victims of 'mildly' severe crimes who deliver an emotional VIS in court are not only evaluated as less credible than victims of more severe crimes who deliver the same VIS, but their VIS is also remembered less accurately.

Table 7.1 presents an overview of the main findings and corresponding chapters of the present dissertation.

Table 7.1
Overview of the main findings of the present dissertation

| Main findings | Chapter |
|---|---------|
| People's perceptions regarding the functions and purposes of the VIS can be divided into three different components: impact-related use, expression-related use, anticipation of negative consequences | 2 |
| The perceived impact of the crime on the victim is positively correlated with the likelihood of delivering a VIS | 2 |
| Victims who opt for the delivery of a VIS show high levels of psychological problems both before and after trial | 3 |
| The effects of delivering a VIS cannot be explained by direct "therapeutic" or "cathartic" effects, but more by indirect paths via feelings of procedural justice and control over the recovery process | 3 |
| Dependent upon the observer's expectancies of the victim's emotional behavior, delivering a highly emotional VIS might lead to negative consequences for the victim | 4 |
| Whereas the delivery of a VIS can influence one's judgments related to the victim, it has no influence on the outcome of the trial. That is, no support was found for the claim that delivering a VIS would lead to a violation of the proportionality principle. | 5 |
| Expectancy violation might influence both affective and cognitive responses of an observer being confronted with an emotional VIS | 6 |

GENERAL DISCUSSION AND CONCLUSION

Limitations of the studies

This dissertation presents the results of a series of studies on the use of a VIS. These studies were the first in the Netherlands, and also internationally the number of studies empirically addressing the effects of delivering a VIS is rather limited. Although the studies presented in this dissertation provide some valuable insights, a few general limitations need to be addressed¹⁶. These limitations predominantly refer to methodological aspects of the studies. When interpreting the results of this dissertation, these limitations should be kept in mind.

The first limitation to be discussed here relates to the question of causality. The victim's perspectives on the use of a VIS have been examined with a large dataset of Dutch victims of severe violent crimes (see Part I of this dissertation). Even though a longitudinal design served as a basis for the underlying analyses, respondents were not (and could not) be randomly assigned to either a VIS or a no-VIS condition: Victims choose themselves whether they wanted to deliver a VIS or not. As a selection bias cannot be ruled out for such study designs, no definite answer regarding causality can be given. Moreover, unlike the other chapters in this dissertation, chapter 2 presents cross-sectional data analyses on underlying factors that might increase the likelihood of delivering a VIS. Although a cross-sectional design is often used to compare groups (as has been done in chapter 2), this also restrained us from establishing causal effects as its data is confined to one specific point in time.

Second, the effects from delivering different forms of VISs on the perceptions and judgments of the 'observer' have been addressed in experimental studies (see Part II of this dissertation). Unfortunately, one of the limitations of these studies is their 'artificiality'. That is, these studies are not 'typical' for a real life event, which restricts generalisability (i.e., external validity) of its findings. However, speaking against this limitation, experimental studies are the only means by which causal effects can be established: It involves the deliberate manipulation of one variable, keeping the other variables constant. That is, the internal validity of such studies is relatively high, compared to other sorts of studies (e.g., field studies). Due to this specific character experiments can be replicated, which allows a more thoroughly testing of the validity of the underlying theories and perspectives.

Third, the quantitative data presented in this dissertation consists of self-report instruments which may lead to validity problems. Previous research has argued that inaccurate self-reporting can be caused by recall bias, social desirability bias and errors in self-observation. Moreover, the wording of questions can either facilitate or be detrimental to gaining accurate responses. Therefore, we need to be cautious when interpreting the results from these studies. For example, we cannot conclude that participants who scored above the cut-off point of five on the (self-report) Trauma Screening Questionnaire really suffer from a posttraumatic stress syndrome (see also chapter 2). However, the main strength of self-

16 See for a more thorough discussion of the studies' limitations the different chapters in this dissertation.

report methods is that they allow participants to describe their own feelings and thoughts, rather than inferring this from observing participants.

Finally, this dissertation presents the results of several empirical studies in which Dutch citizens participated. When determining the benefits of delivering a VIS for the victim, it should be taken into account that victim input regimes vary widely in terms of their scope and manner of implementation (Roberts, 2009). That is, the possibility that victims in different VIS regimes experience different effects from delivering a VIS cannot be ruled out. For example, previous research has shown that the experienced effects of delivering a VIS for the victim depend upon the victims' expectations of the purpose served by these statements: Victims who expect their statement to have a direct influence on the outcome of the trial in terms of sentencing feel disappointed and angry once it turns out that their sentencing "submission" will not be followed (e.g., Erez & Tontodonato, 1992; Hinton, 1995; Roberts, 2009).

Despite these limitations, the studies presented in this dissertation were the first to include such a large sample of victims of severe violent crimes (Part I of this dissertation), and use experimental designs (Part II of this dissertation) to unravel the effects from delivering a VIS on both (the emotional recovery of) the victim and the 'observer'.

Theoretical and practical implications

The current dissertation sheds a new light on the effects of delivering a VIS on both the victim and the 'observer', leading to interesting theoretical and practical implications.

First, as has been noted, at the start of this dissertation systematic empirical evidence about the effects of delivering a VIS on the victim's emotional recovery was lacking. Both scholars and practitioners were on clear opposite sites when discussing this class of victim 'instruments' in terms of 'therapeutic' effects. Whereas some argued that "VIS, don't work, can't work" (Sanders et al., 2001), others claimed the exact opposite, namely that the "VIS can work, do work (for those who bother to make them)" (Chalmers et al., 2007). Some scholars even argued that delivering a VIS could lead to secondary victimization. By using different theories and perspectives that are relevant in examining the effects from victim participation in criminal justice proceedings, this dissertation is the first to show that the effectiveness of delivering a VIS is not such a "black and white" matter as has previously been argued. That is, based on the results of this dissertation, a more heterogeneous approach to the study of the VIS is argued for: The choice to deliver a VIS sets victims apart from those who decline to do so, and subsequent effects are subtle, differentiated and indirect.

Second, in this dissertation it is argued that weighing the advantages and disadvantages of modes of victims' participation in criminal justice proceedings should not neglect the heterogeneity in victim experiences, perspectives, and needs (chapter 2 and 3): Incorporation of these constructs allows victimological research to do justice to individual differences between victims (see also Pemberton, 2010). But also, and at the most concrete level, taking into account these differences could allow for a better

adjustment of victim instruments to the victim's needs. What victims need or want might not always be compatible with the aims and possibilities of the justice system. However, a more thorough understanding of the victim's experiences, perspectives, and needs can lead us to debate their proper role in the justice process intelligently (see also: Davis & Smith, 1994).

The third point that has to be discussed here relates to previous arguments regarding the effects from delivering a VIS on people's punishment decisions (see chapters 4, 5 and 6). Also here, proponents and opponents have been taking strong stands without basing their arguments on systematic empirical evidence (see also Roberts, 2009). Whereas proponents argued that the delivery of a VIS may promote accurate or effective sentencing outcomes by enabling victims to speak about the actual consequences of the crime on their lives (e.g., Erez & Rogers, 1999; Groenhuijsen & Letschert, 2011; Roberts, 2009; Roberts & Erez, 2004), opponents argued that its delivery may lead to a violation of the proportionality principle, as differences in post-crime reactions of the victim may lead to differences in the outcome of the trial (e.g., Ashworth, 2002; Luginbuhl & Burkhead, 1995; Myers & Arbuthnot, 1999).

This dissertation is the first to examine how both the severity of the crime and the experienced harm of the victim interact to determine people's perceptions and judgments of the offender and the victim. In sum, support was found for the hypothesis that people's perceptions regarding the offender (and the outcome of the trial) are more likely to be influenced by the severity of the crime than by the experienced harm of the victim. Only the severity of the crime had an influence on the punishment of the offender. That is, in the current studies no evidence was found for the claim that delivering a VIS would lead to a violation of the proportionality principle. That is, no proof was found for the argument that delivering a VIS would have an influence on people's punishment decisions.

This latter finding is especially important in light of a recent proposal to amend the Dutch Victim Impact Statement Act by allowing victims the right to also speak about the desired sentence (also called: "Adviesrecht"). During the writing of this dissertation, Dutch victims were only allowed to speak about the (financial, social, psychological, and physical) consequences of the crime. That is, a so-called Victim Statement of Opinion (VSO), in which victims address the question of the sentence, was inadmissible. In the experiments presented in this dissertation, no evidence was found for the claim that delivering a VIS in its current form would lead to a violation of the proportionality principle. Future research should examine the question whether allowing victims the right to address the question of the sentence would lead to a different outcome.

Finally, preliminary evidence was found for the claim that victims who deliver a VIS that is inconsistent with the observer's expectations of that victim's suffering, run the risk to experience negative effects, or even be secondary victimized (see chapters 4, 5, and 6). That is, the empirical evidence in this dissertation shows that delivering a VIS is not always, or in all its aspects, beneficial to the victim, but using this class of victim 'instruments' could have potentially negative effects as well. It is beyond the scope of this dissertation to discuss strategies to prevent the occurrence of secondary victimization. Nevertheless, it can be concluded from this dissertation that many of the claims of both proponents and opponents of the VIS may be reviewed in light of the presented empirical evidence. A more evidence-based approach

is argued for, as many of the previous claims were passionately argued (see also Roberts, 2009). In sum, this dissertation may add to the recognition that viewing the VIS through different (socio-psychological) 'lenses' is necessary to examine all its potential effects.

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SUMMARY IN DUTCH
(samenvatting)

Appendices

INTRODUCTIE

Het Spreekrecht voor slachtoffers tijdens een strafproces wordt al tijdenlang sterk bediscussieerd. Afgezien van de normatieve vraag of het *wenselijk* is dat slachtoffers een dergelijke 'stem' krijgen, worden er twee empirische vragen gesteld (Roberts, 2009). Ten eerste, leidt gebruikmaking van het Spreekrecht tot (emotioneel) herstel van het slachtoffer, of wellicht tot secundaire victimisatie? Ten tweede, beïnvloedt gebruikmaking van het Spreekrecht de uitkomst van het strafproces? Met andere woorden, leidt gebruikmaking tot een schending van het proportionaliteitsbeginsel? Hoewel beide vragen aanzienlijk belemmerd werden door een gebrek aan empirisch bewijs (e.g., Roberts, 2009; Roberts & Manikis, 2013), waren voor- en tegenstanders niet bepaald terughoudend in het geven van 'voors' en 'tegens' wanneer zij dit slachtofferinstrument bespraken in termen van effectiviteit (e.g., Groenhuijsen & Letschert, 2008). In deze dissertatie is ingegaan op beide empirische vragen. Verschillende methoden van onderzoek zijn gehanteerd: een longitudinale vragenlijst en experimenten. Door verschillende (sociaal-)psychologische theorieën en perspectieven te gebruiken is getracht de effecten van gebruikmaking van het Spreekrecht op zowel het slachtoffer als de toehoorder te achterhalen. Waar deel I van deze dissertatie ingaat op de perspectieven van het slachtoffer, behandelt deel II de perspectieven van de toehoorder. Onderzoeksvragen van de onderhavige studies zijn:

Deel I

1. Wat zijn slachtofferpercepties betreffende de doelen en functies van het Spreekrecht? (Hoofdstuk 2);
2. Welke variabelen beïnvloeden de keuze om deel te nemen aan het Spreekrecht? (Hoofdstuk 2);
3. Wat is het effect van deelname aan het Spreekrecht op het (emotioneel) herstel van het slachtoffer? (Hoofdstuk 3);

Deel II

4. Wat zijn de effecten van deelname aan het Spreekrecht op de percepties en oordelen van de toehoorder, betreffende het strafproces in het algemeen en het slachtoffer en de verdachte in het bijzonder? (Hoofdstuk 4 en 5);
5. Wat zijn (mogelijke) cognitieve consequenties van het in aanraking komen met een Spreekrechtverklaring? (Hoofdstuk 6).

Deel I

In *hoofdstuk 2* wordt onderzocht welke variabelen de keuze om deel te nemen aan het Spreekrecht beïnvloeden. In de overgrote meerderheid van de reeds bestaande artikelen over de effectiviteit van verschillende slachtofferinstrumenten wordt de nadruk gelegd op wat *het* slachtoffer wil (e.g., Strang, 2002; Braithwaite, 2002) en op wat werkt (of niet werkt) voor *het* slachtoffer (e.g., Chalmers et al., 2007; Sanders et al., 2001). Hetzelfde geldt voor artikelen met betrekking tot de effectiviteit van deelname aan het Spreekrecht. Individuele achtergrondfactoren en perspectieven welke zouden kunnen bepalen of het slachtoffer deel wenst te nemen aan het Spreekrecht worden hierbij buiten beschouwing gelaten.

Als startpunt voor deze dissertatie is ervoor gekozen deze theoretische en empirische leemte op te vullen.

170 slachtoffers en nabestaanden vulden op twee momenten een vragenlijst in: de eerste vragenlijst is ingevuld twee weken voor de terechtzitting, de tweede vragenlijst twee weken na de terechtzitting. Uit deze studie blijkt dat slachtofferpercepties betreffende de doelen en functies van het Spreekrecht kunnen worden onderverdeeld in drie verschillende componenten. In overeenstemming met eerder onderzoek (Roberts & Erez, 2004), is een onderscheid gemaakt in *impact-related* en *expression-related* gebruik van het Spreekrecht. Echter, deze dissertatie voegt een derde component toe aan de reeds bestaande literatuur: de anticipatie van negatieve consequenties. Slachtoffers kunnen negatieve consequenties anticiperen met betrekking tot het verloop of de objectiviteit van de terechtzitting, vergeldingsacties door de dader, of negatieve reacties uit de sociale omgeving. Bovendien toont deze studie aan dat gebruikmaking van het Spreekrecht positief is gecorreleerd met symptomen van posttraumatische stress, het type delict dat is gepleegd en de tijd die is verstreken sinds het misdrijf heeft plaatsgevonden. Kort samengevat toont deze studie aan dat de (ervaren) impact van het delict op het slachtoffer positief is gecorreleerd met de keuze om gebruik te maken van het Spreekrecht. Hoewel men zou kunnen verwachten dat slachtofferpercepties betreffende de doelen en functies van het Spreekrecht hierop ook van invloed zouden kunnen zijn, dragen deze variabelen niet significant bij aan het gebruikte model wanneer gecontroleerd wordt voor de achtergrondvariabelen van het slachtoffer en het delict. Op basis van deze resultaten wordt in deze dissertatie beargumenteerd dat een meer heterogene benadering van slachtofferinstrumenten nodig is: In plaats van te bekijken wat *het* slachtoffer wil of wat werkt voor *het* slachtoffer, dient de focus te liggen op welk instrument werkt voor wie (en onder welke condities). In *hoofdstuk 3* wordt onderzocht wat het effect is van deelname aan het Spreekrecht op het (emotioneel) herstel van het slachtoffer. Zoals in de inleiding reeds vermeld, is deze vraag sterk bediscussieerd. Waar sommigen beargumenteren dat het Spreekrecht niet werkt (en niet kan werken) (Sanders et al., 2001), beargumenteren voorstanders exact het tegenovergestelde: Namelijk dat het Spreekrecht wel werkt (voor degenen die de 'moeite nemen' hiervan gebruik te maken) (Chalmers et al., 2007). Bij de start van deze dissertatie ontbrak empirisch onderzoek naar de (therapeutische) effecten van deelname aan het Spreekrecht (Edwards, 2001; Herman, 2003; Parsons & Bergin, 2010; Roberts, 2009).

Een longitudinale studie is daarom uitgevoerd om de effecten van deelname aan het Spreekrecht op gevoelens van angst en woede te onderzoeken. Deze studie draagt op twee manieren bij aan de reeds bestaande bevindingen. Ten eerste, slachtoffers die kiezen voor gebruikmaking van het Spreekrecht ervaren zowel voor als na de terechtzitting in hoge mate psychische problemen. Dat wil zeggen, zij ervaren significant meer psychische problemen dan slachtoffers die afzien van gebruikmaking van het Spreekrecht. Ten tweede, hoewel gebruikmaking van het Spreekrecht niet direct leidt tot therapeutische effecten, verminderen gevoelens van angst en woede voor slachtoffers die een significant hogere mate van procedurele rechtvaardigheid ervaren. Bovendien laat deze studie zien dat een hogere mate van gevoelens van controle over het herstelproces mogelijk kan leiden tot een afname in gevoelens van angst en woede. Op basis van deze resultaten wordt in deze dissertatie beargumenteerd dat het

ontrafelen van de effecten van deelname aan het Spreekrecht geen 'zwart-wit' kwestie is. Slachtoffers die deelnemen aan het Spreekrecht wijken op diverse variabelen significant af van degenen die hiervan afzien. De daaropvolgende effecten zijn daarom subtiel, gedifferentieerd en indirect te noemen.

Deel II

In *hoofdstuk 4* wordt onderzocht wat de effecten van deelname aan het Spreekrecht zijn op de percepties en oordelen van de 'toehoorder'. Eerder onderzoek toont aan dat de (emotionele) gedragingen van een slachtoffer van invloed zijn op zijn/haar geloofwaardigheid (e.g., Ask, 2009; Ask & Landström, 2010; Bollingmo et al., 2008; Kaufmann et al., 2003; Nadler & Rose, 2003; Winkel & Koppelaar, 1991). Studies naar het "Emotional Victim Effect" suggereren dat slachtoffers die geen emoties tonen een groter risico lopen op secundaire victimisatie dan slachtoffers die wel emoties tonen: Zij krijgen sneller te maken met wantrouwen, worden met minder sympathie benaderd en krijgen minder steun (e.g., Ask & Landström, 2010; Baldry, 1996; Baldry, Winkel & Enthoven, 1997; Nadler & Rose, 2003; Winkel & Koppelaar, 1991). In deze studie is onderzocht welke effecten het afleggen van een emotionele slachtofferverklaring kan hebben voor verschillende typen delict.

Een experimentele studie bevestigt de hypothese dat een emotionele slachtofferverklaring significant geloofwaardiger wordt geacht van een slachtoffer van een ernstig delict dan van een slachtoffer van een minder ernstig delict. Bovendien wordt een mediatie effect gevonden van 'expectancy violation': Men verwacht eerder een emotionele verklaring van een slachtoffer van een ernstig delict dan van een slachtoffer van een minder ernstig delict en baseert hier vervolgens zijn/haar oordeel op. Een discrepantie tussen de verwachtingen van de toehoorder en de emotionele gedragingen van het slachtoffer hebben een negatieve invloed op de houding van de toehoorder richting het slachtoffer. Tot slot laat deze studie zien dat een dergelijke discrepantie een negatieve invloed heeft op de mate waarin de toehoorder denkt dat de slachtofferverklaring van invloed moet zijn op de strafmaat. Op basis van deze resultaten wordt in deze dissertatie beargumenteerd dat het tonen van emoties niet alleen maar positieve effecten heeft, maar ook negatieve effecten kan hebben voor het slachtoffer.

In *hoofdstuk 5* wordt voornamelijk onderzocht of gebruikmaking van het Spreekrecht invloed heeft op de strafmaat. Door tegenstanders wordt beargumenteerd dat gebruikmaking van het Spreekrecht kan leiden tot disproportionele straffen en dus tot een schending van het proportionaliteitsbeginsel. In deze studie wordt bekeken in hoeverre de 'wrongfulness' en 'harmfulness' van het delict van invloed zijn op de reacties van de toehoorder betreffende het slachtoffer en de verdachte.

Een experimentele studie bevestigt de hypothese dat reacties van de toehoorder betreffende de verdachte (en de uitkomst van de rechtszaak) worden beïnvloed door de ernst van het delict (en niet door de ervaren schade door het slachtoffer). De reacties betreffende het slachtoffer, daarentegen, worden beïnvloed door een interactie tussen de ernst van het delict en de ervaren schade. Kort samengevat wordt in deze studie geen bevestiging gevonden voor de aanname dat gebruikmaking van het Spreekrecht zou leiden tot een schending van het proportionaliteitsbeginsel.

In *hoofdstuk 6* wordt onderzocht wat (mogelijke) cognitieve consequenties zijn van het in aanraking komen met een Spreekrechtverklaring. Eerder onderzoek heeft aangetoond dat een schending van verwachtingen cognitieve consequenties kan hebben (e.g., Bartholow, Fabiani, Gratton, & Bettencourt, 2001; Kernahan, Bartholow, & Bettencourt, 2000; Bettencourt, Dill, Greathouse, Charlton, & Mulholland, 1997; Olson, Roese, & Zanna, 1996). In deze studie worden zowel affectieve als cognitieve consequenties onderzocht.

Een verkennende, experimentele studie suggereert dat een schending van verwachtingen zowel invloed kan hebben op affectieve als op cognitieve reacties. Slachtoffers van minder ernstige delicten die een emotionele verklaring afleggen lopen niet alleen het risico om minder geloofwaardig gevonden te worden, maar hun slachtofferverklaring wordt ook minder goed onthouden dan van slachtoffers van ernstige delicten.

ALGEMENE DISCUSSIE EN CONCLUSIE

In deze dissertatie wordt een aantal empirische studies gepresenteerd naar de effecten van gebruikmaking van het Spreekrecht. Deze studies bieden een aantal waardevolle praktische en wetenschappelijke inzichten. Kort samengevat, kunnen deze worden opgesomd in drie hoofdpunten. Ten eerste ontbrak bij de start van deze promotie systematische empirisch bewijs betreffende de effecten van gebruikmaking van het Spreekrecht op het (emotioneel) herstel van het slachtoffer. Door middel van gebruikmaking van diverse theorieën en perspectieven laat deze dissertatie zien dat het evalueren van de effecten van gebruikmaking van het Spreekrecht, in tegenstelling tot wat kan worden afgeleid uit eerdere discussies tussen voor- en tegenstanders, geen 'zwart-wit' kwestie is. Ten tweede wordt in deze dissertatie beargumenteerd dat, in de discussie rondom de voor- en nadelen van gebruikmaking van het Spreekrecht, de heterogeniteit in slachtofferervaringen, -perspectieven en -behoeften in ogenschouw genomen dient te worden. Rekening houden met dergelijke verschillen leidt tot een betere afstemming van dergelijke slachtofferinstrumenten op de behoeften van deze doelgroep. Ten derde zijn in deze dissertatie geen aanwijzingen gevonden dat gebruikmaking van het Spreekrecht zou leiden tot een schending van het proportionaliteitsbeginsel. Deze laatste bevinding is bijzonder relevant in de huidige discussie rondom een uitbreiding van het Spreekrecht voor slachtoffers en nabestaanden in Nederland.

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Appendices

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Kim Lens

Tilburg, 13 augustus 2014

CURRICULUM VITAE

Appendices

CURRICULUM VITAE

Kim Maria Elisabeth Lens was born on January 2, 1982, in Breda, the Netherlands. She studied Social Psychology at Tilburg University, where she obtained her Master's degree in 2009. During the last two years of her study she worked as a research assistant at the Addiction Research Institute Rotterdam (IVO) and at the International Victimology Institute Tilburg (INTERVICT). In 2009, she started to work as a junior researcher on a WODC-project from the Dutch Ministry of Safety and Justice on the effects of delivering a VIS, which forms the basis of the present dissertation. Currently, she is working as Assistant Professor at INTERVICT, Tilburg University. Moreover, she is program coordinator of the Master Victimology and Criminal Justice.

LIST OF PUBLICATIONS

Appendices

LIST OF PUBLICATIONS

Under review

- Law and Human Behavior (chapter 5)
- International Review of Victimology (chapter 6)

Journal articles

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