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The Police as Gatekeepers of Restorative Justice – Perspectives of Professionals, Perspectives on Professionals

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Abstract

This article concerns the screening processes of the police-based National Danish Victim Offender Mediation (VOM) programme. Depending on police district and individual police officers, my data point to large variations in practice in the programme's routines of informing potential parties about VOM. The article's analytical points of departure are research on police discretion – in Scandinavian police research known as the police gaze – as well as the Goffmanian framework of roleplay and stigma. On this basis, I look into how the police gaze interacts with ideals of impartial mediation in the screening of cases for the programme. My data indicate that both conscious and unconscious casting practices influence which potential VOM parties are informed about the possibility of VOM. In this regard, the police perception of and access to data on an offender can be decisive. The Norwegian Mediation Service is included as a source of comparison with more impartial inclinations.

Keywords

Victim-offender mediation, VOM, Konfliktråd, police discretion, police gaze, restorative justice

Researcher: Have you experienced that some police colleagues actively tried to counter particular parties being informed about VOM?

VOM coordinator: Let's put it this way: I did experience that some colleagues did not see the potential in the same cases I saw potential in. The attitude the police officers have towards VOM is paramount to whether people participate in VOM or not.

Introduction

In some forms, restorative justice initiatives have a documented positive effect on desistance for offenders as well as recovery for victims (Sherman & Strang, 2007; Lauwaert & Aertsen, 2015).¹

However, the path to participating in a restorative justice initiative can vary immensely depending on the framework of the responsible organisation (Rasmussen, 2020a, 2020b).

1. While the definitions of restorative justice are many, they tend to overlap. However, as an overall guideline, the European Forum for Restorative Justice offers the following definition: 'Restorative Justice is an approach of addressing harm or the risk of harm through engaging all those affected in coming to a common understanding and agreement on how the harm or wrongdoing can be repaired and justice achieved' (euforumrj.org). Restorative justice is often presented as an antidote to the traditional, retributive penal system, which focuses on punishing the offender rather than repairing the harm. Yet the reality of this dichotomy is questioned in critical research (Daly, 2003). For a more elaborate discussion of the term, see Rasmussen, 2018.

As an example of this, the police-based Danish Victim Offender Mediation programme is characterised by large variations when it comes to informing parties about the possibility of VOM participation.² These variations depend on police district as well as individual police officers. My data suggests that the main reasons for such variations are the strained organisational conditions of the police as well as lack of political prioritization.

In this article, based on theories of police discretion I will explore screening processes leading to possible *information about* as well as possible *participation in* a restorative process. These screening processes can be conscious or unconscious and they can be carried out by individuals or in collaborations.

My investigation focuses primarily on the Danish VOM programme which is examined against the backdrop of the Norwegian Mediation Service. The two services are both called *Konfliktråd* in the respective national languages and the establishing of the Danish programme was heavily inspired by the Norwegian service. This makes the Norwegian Service an obvious case for comparison. In both organisations it is trained laymen who facilitate the restorative meetings.³ Yet, the two organisations differ a great deal in terms of organisational framework and service portfolio. Among other differences, the Norwegian Mediation Service is a separate organisation under the Ministry of Justice whereas the Danish VOM programme is organised by the police. Also, according to the legislative framework, participating in a restorative meeting in the Danish VOM programme cannot substitute a criminal litigation, nor can it lead to a lowered sentence (Betænkning om konfliktråd nr. 1501 (BOK 1501)). In Norway, minor penal offences can be referred to the Norwegian Mediation Service by the police or prosecution, if the parties agree (Konfliktrådsloven).

Despite similar population sizes and large socio-economic and cultural similarities – the Norwegian Service completes around 12 times as many mediations per year as the Danish VOM programme. Furthermore, in recent years the number of mediations completed by the Danish programme has been declining, arguably due to large pressure on the Danish police to prioritise other tasks (Rasmussen, 2020a, 2020b). In the case of the Norwegian Mediation Service, my focus includes the referral processes of the two types of restorative youth sanctions implemented nationwide since July 2014.⁴ In the case of these sanctions, the restorative process and additional contents of the sanctions can substitute a traditional penal process for offenders under 18 in more serious offences as well.

Notably, in my material, I focus only on the access processes of the two organisations and I have not investigated the contents of the mediations provided by them. Hence, I make no attempts to evaluate to which extent the mediations provided by the two organisations are in accordance with various ideals of restorative practice. Also, as discussed in Rasmussen (2018), restorative justice ideals and practice vary considerably internally.

While of the two organisations it is only the Danish VOM-service which is based in the police, in the case of the Norwegian Mediation Service police officers are part of the admission process in the new Norwegian sanctions. Since the 1960s, one of the main foci of international police research has been how police discretion is operationalised and how this can result in police bias. The tendency started among Anglo-Saxon researchers like Skolnick (1966), Bittner (1967, 1970), and Muir (1977) and spread internationally. Similarly, Lipsky

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2. Victim Offender Mediation (VOM) is considered part of the restorative justice field and is generally understood as a face-to-face meeting between a victim and an offender under the facilitation of a trained mediator.
 3. The organisational implications of the Danish VOM programme and the Norwegian mediation service are described in the two articles, Rasmussen, 2020a+b, which are part of the same overall PhD-project as the article at hand.
 4. These sanctions are managed by the Norwegian Mediation Service. The content and potential of the two types of sanctions is described and discussed in Rasmussen, 2018.

(1980) describes how various groups of public servant professions – including police – perform discretions, in which the individual case-worker's impression of a citizen can influence subsequent decision-making in favour or disfavour of this citizen. From the 1990s, this Anglo-Saxon tendency was followed by a series of studies focusing on Scandinavian police forces. In this article, my focus will be on Scandinavian police research as the Scandinavian welfare states provide a somewhat distinct framework: they promote a certain level of equality while toning down hierarchical differences among citizens as well as in citizen-state aspects. This, Høigård argues, also influences their police forces (Høigård, 2011).

Researchers as Holmberg (1999), Finstad (2000), Sollund (2007), Petterson (2012), and Görtz (2015) all find that the discretion of Scandinavian policing manifests in a manner, which can be interpreted as a biased attention or non-attention directed towards citizens, depending on characteristics as gender, age, ethnicity, choice of clothes/cars et cetera. Based on various stereotypes, patrolling police decides whom to stop and search or otherwise confront and among other depending on the reactions of those who are stopped, police officers decide which measures/repercussions to apply. In Scandinavian police research, this mechanism is often referred to as the police gaze.⁵ Special and/or frequent police attention directed towards certain individuals or groups can easily lead to confrontations leaving both police and the object(s) of attention with reinforced negative perceptions and eventually stereotypes of the other (Ansel-Henry & Jespersen, 2003; Görtz, 2015; Holmberg, 1999; Sollund, 2007). Furthermore, international, and Scandinavian police research support the existence of strong police-offender and victim-offender dichotomies within the police. I am interested in whether the police gaze might affect access to restorative processes such as (primarily) the police-based Danish VOM programme and (secondarily) the new Norwegian youth sanctions.

My reviews of existing literature suggest that in a Scandinavian context, the access to restorative justice initiatives has hitherto not been examined from a police discretion angle. Several Anglo-Saxon studies (Daly, 2003; Marder, 2018) highlight a possible clash between police practice and organisation culture on the one hand and restorative justice initiatives on the other and conclude that in such clash the ideals of restorative justice are likely to be compromised. Yet, as opposed to in the Danish VOM programme and the Norwegian Mediation Service, in these studies the more or less formalised restorative justice initiatives (for example so-called 'street RJ') are facilitated by police officers.

In a Scandinavian context, the characteristics of the police gaze stand in contrast to the ideal, which is shared by both Danish and Norwegian Konfliktråd of mediation as an impartially facilitated meeting where attempts are made to focus on the deed and harms caused by this rather than the doer. Christie (1977, 2013, 2015) and Vindeløv (2012), among others describe this ideal of an impartial mediator, who respects the autonomy of the parties. Notably, neither the Danish VOM programme nor the Norwegian Mediation Service allow police officers to facilitate the mediations. As described, in both organisations, the mediators are laymen who have been trained as mediators. Yet, the police administer the access to the Danish VOM programme. In Norway, the police is involved in the screening for the two restorative youth sanctions administered by the Norwegian Mediation Service.

On this basis, I am interested in how the police gaze interacts with ideals of impartial mediation in the screening of cases in the Danish VOM programme.

I will investigate if and how the police gaze affects the screening of potential cases for restorative meetings in the Danish VOM programme. I include the Norwegian Mediation Service as a source of comparison.

5. The term was coined by Finstad, 2000.

Methodology

I look into different areas, which could help shine light on the access to restorative processes in Denmark and Norway.⁶ I combine qualitative and quantitative data in an eclectic approach to answer the abovementioned research questions. The data collection for this article evidently does not reflect the entirety of either the Danish VOM programme or the Norwegian Mediation Service. Furthermore, there will often be considerable differences between what informants think they do or say they do and what can be observed by researchers. This includes the interviewing and observation of police officers.⁷ Hence, caution is to be exercised when basing conclusions on interviews and observations.

I have attempted to avoid misrepresentation by triangulating data as well as presenting contrasting findings or points of views when present.⁸

The data from Denmark are focused on professionals affiliated with the police-based national VOM-programme (Konfliktråd); either as employees of the police or as employees in municipalities having cooperated with the police on VOM cases. In the Norwegian data, my focus is on professionals involved in the screening for and execution of the two restorative reactions to youth crime. The Norwegian professionals are employed either in the Norwegian Mediation Service (Konfliktråd), which is responsible for the two restorative reactions or in cooperating institutions involved in the screening and execution.

The collected data are:

Qualitative data from Denmark:

- 11 semi-structured, qualitative interviews with 13 informants in total:
 - 6 former or current VOM coordinators in police districts (VOMC)
 - The national secretary for the VOM programme (NSVOM)
 - 2 (1 former, 1 current) police managers with the responsibility of the VOM programme in their respective districts (MVOM)
 - 1 police detective with experience in VOM case referral (PD)
 - 1 mediator, mediation trainer and researcher/research coordinator (one individual)
 - 2 senior researchers from the University of Copenhagen currently focusing on victim experiences and – among other things – police questioning
 - 2 former municipal employees, part of a youth offender project using VOM
- Observation of the work routines of 2 VOM coordinators (2 days each)

Qualitative data Norway:

- 8 semi-structured, qualitative interviews with a total of 6 informants:
 - The (now retired) national coordinator for the Norwegian Mediation Service
 - The leader of the Norwegian Mediation Service, Oslo Akershus department
 - Senior advisor in the Oslo Akershus department of the Norwegian Mediation Service
 - 3 youth coordinators, Norwegian Mediation Service, Oslo Akershus department, working with young offenders
- Observation of 6 coordination group meetings (referring youth cases to restorative reactions)

6. This article is part of a PhD-project exploring a possible bias in the access to restorative processes. The other articles in this PhD-project are based on the same data set. For this reason, similar methodology sections appear in these articles. See Rasmussen, 2018 and Rasmussen, 2020a+b.

7. See research on police questioning practices by Kristina Kepinska Jakobsen. E.g. Jakobsen, Stridbeck, and Langballe, 2018.

8. See Rasmussen, 2020a for more on data delimitations. Also, the overall PhD-project of which this article is part has been handed in for assessment with an elaborate methodology section to be made publicly accessible.

Quantitative data:

- Case data from the Danish VOM programme, provided by the Danish National Police.
- Internal VOM case records on completed and non-completed VOM cases from three police districts, each covering a 12–21-month period
- Case data from the Norwegian Mediation Service, provided by the Norwegian Mediation Service

Other data on both services:

- Background information provided by the services and other sources
- Various evaluations
- PR material
- Legal framework

Data collection and access

The qualitative data collection took place from September 2015 to the end of 2018. All interviews and observations were conducted in Danish or Norwegian. Direct interview quotations appearing in this article were translated into English by the author. For clarification purposes some quotations have been edited.

Data access was obtained partly through the national secretariats for the Danish VOM programme and the Norwegian Mediation Service, and partly by direct responses by VOM coordinators (Denmark) and youth coordinators (Norway). The informants were to some extent selected as a result of non-random snowball sampling in that the first informants I contacted would sometimes suggest that I contact others, which I would then do. This could – among other – mean that possibly on average my informants are somehow ‘cherry picked’ and as such maybe more engaged than the average of employees in their position. Also, in both Denmark and Norway some of my requests remained unanswered, entailing a certain element of self-selection in the sample as well as a limitation in the geographical representation. Overall, in the case of the Danish VOM programme, my informants represent current or former employees from 5 out of 12 Danish police districts. The Norwegian informants are all from the Oslo region.

The balancing of interview data and observations in my samples from Denmark and Norway respectively is highly related to the organisational frameworks and screening approaches of the two organisations. As elaborated later in the article, the screening of potential cases in the Danish VOM programme is largely one which takes place within the mind of individual police officers and VOM coordinators, and it is thus a process, which is difficult to observe. Also, when it comes to the conscious or unconscious initial screening of VOM cases carried out by police officers during interrogations of parties, the large variations in practice suggested in my data set would call for a very large set of observations as well as a wide access within the Danish police, which can be difficult to get.⁹ In the Norwegian service, it is possible to observe groups of professionals as they discuss the screening of cases for two restorative youth sanctions.¹⁰

Informant protection

For anonymity purposes informants are not referred to by their names but only their generic titles. Specific comments are not attributed to specific anonymised informants.

9. This point is discussed further in Rasmussen, 2020b. See also Scharling, 2018.

10. See more in the section Screening in the Norwegian Mediation Service.

Exceptions are the national secretary from Denmark, the leader of the Norwegian Mediation Service, Oslo Akershus department, and the national coordinator for the Norwegian Mediation Service (now retired). There is only one person in each of these positions, making anonymization impossible. Even if their names are not mentioned in the article, for this reason none of these informants were promised any anonymization.

A dramatic framework – Goffman galore

The terminology of Goffman – role play, face work, front- and backstage, the managing and spoiling of identity et cetera – as presented in the key works *The Presentation of Self in Everyday Life* (1959) and *Stigma* (1963) almost seems like an open invitation to link his theories to the indeed structured – or staged – settings of restorative meetings. Accordingly, several researchers have found it fruitful to do so in the past, as exemplified below:

In their publication following the seminar of the Nordic Council for Criminology in 2008, Pia Antoni-Noreby and Sven Andersson apply a Goffmanian role play angle when presenting their experiences with using mediation in youth cases in Kalmar, Sweden.

In 2011, Meredith Rossner used Goffman's metaphors of dramaturgy and game playing in her analysis of emotions and interaction rituals in a recorded restorative conference.

In her 2014 PhD thesis, Ida Helene Asmussen used the theories of Goffman (among others) to analyse her observations of 12 Danish VOM meetings and 5 Norwegian Mediation Service mediations. Her experiences in this regard led to the 2017 article 'Old Goffman as a New Research Strategy in Restorative Justice'.

Hence, the pairing of Goffman and restorative meetings is not new. In the article at hand, I will extend this well-tested link to include the analysis of processes of granting parties access to restorative meetings. An access, which if granted – in Goffmanian terms – could be seen as an opportunity to manage the *Stigma* or *Spoiled Identity* (1963) possibly resulting from the process of symbolic interactionism in the wake of committing, or even being victim of an offence. In this way, the access or non-access to participation in mediation can possibly lead to a dividing line among offenders between those who are granted the opportunity to re-humanise themselves by managing the spoiled identity and those who are not granted this opportunity.

The theories of Goffmanian roleplay focus on how the individual can manage his or her own face as well as that of others in different interactions. However, in order to be able to perform a roleplay on the stage of a restorative meeting the parties need to pass a screening process, which can differ according to the guidelines and practices of the responsible institution. To fit the terminology of Goffman's roleplay and stage metaphor, I will refer to this process as casting. Also, the visibility of the service of offering restorative meetings itself – the casting call if you will – differs depending on the institutional framework. In this way, I add another layer to Goffman's dramaturgical framework.

Hence, the key topic of this article is to explore what happens when police officers are responsible for or involved in casting potential parties, if the police gaze rather than the ideals of impartial mediation becomes the casting guideline. In this regard, my data indicate that the access to potentially stigmatising information on parties – especially offenders – can be decisive in who passes the casting as suitable for participating in mediation.

Overall, according to my data (Rasmussen, 2020a, 2020b) the access to VOM in the Danish police is characterised by considerable level of arbitrariness depending on the level of awareness of the police personnel with whom potential VOM parties come into contact as well as the level of ambition regarding the VOM programme in the relevant police dis-

trict. On this basis, it is important to note that at least in the case of the Danish VOM programme both caster and potential castees often seem to find themselves in the peculiar situation that none of them are aware that a casting could be taking place. In comparison, the organisational framework Norwegian Mediation Service seems to support a higher level of both awareness of and access to restorative meetings (Rasmussen, 2020a, 2020b).

VOM for whom?

The point of departure for the Danish VOM programme has been to strengthen the position of victims, primarily victims of crimes against the person (BOK 1501; Rasmussen, 2020a). In line with this, the recommendation behind the legislative framework of the Danish VOM programme contains several considerations regarding the characteristics of suitable/non-suitable offences, parties, and – particularly – offenders. The recommendation highlights the following reasons for placing the VOM programme in the police: The police is often the first institution to become aware of a potential VOM case. In addition, police officers have easy and ongoing access to the case files. However, the beforehand police knowledge on potential parties in a VOM case is also emphasized as an argument for this placement. This includes the police officers carrying out the initial screening of whom to inform about VOM as well as the VOM coordinators, who in each of their police districts are responsible for approving and organising the potential VOM cases and passing them on to the mediators.

As such, regarding the initial screening the recommendation states:

It will be possible at this initial stage to discard cases where the assigned police case worker in question estimates that the case parties are not fit for VOM, based on his/her knowledge on them. For instance, due to serious substance abuse (BOK, 1501, 2009: 80. Translated by author).

The recommendation committee stresses that the screening of cases should happen at two levels. Level 1, in which cases immediately deemed unfit for VOM are discarded. This screening is to be carried out by the individual police officer handling the case. Level 2 is proposed as a more 'fine-meshed' screening to be carried out by a central entity screening cases for the entire police district (BOK, 1501, 2009: 80), later to be known as the VOM coordinators.

Concerning the 'fine-meshed' screening of cases to be carried out by the VOM coordinators, the recommendation stresses the desired and non-desired (but perhaps tolerable) characteristics of the offender (BOK 1501, 2009: 80f). The recommendation particularly refers to the offender's degree of acknowledgment of the offence as well as to the 'psychological habitus' of the offender (p. 96f).¹¹ The recommendation committee stresses the importance of a 'continued possibility to discard offenders who are not found psychologically fit to participate in VOM' (p. 96f).¹² This could be offenders found unfit for punishment, who according to the recommendation generally should not be referred to VOM unless consideration to the victim suggests otherwise. In such case, the victim should be thoroughly prepared for the psychological state of the offender. The necessity of able consent – including parental consent for offending minors – is also stressed.

I find that the recommendation's focus on the offenders' characteristics rather than those of the parties underlines the point of departure for the Danish VOM programme: helping victims. Hence, even if the mediator is to be impartial the overall legislative focus is on the victims rather than the parties. This could be viewed as a logical reflection of the distribu-

11. Translated by author.

12. Translated by author.

tion of professional backgrounds in the committee: Out of 12 members 5 have a connection to the criminal justice system, 2 represent the political level through ministries, and 2 represent victim's interest groups. The remaining minority of 3 represent criminology/crime prevention (2), and mediators (1).

The victim orientation of the recommendation corresponds with the perception of the national secretary for the VOM programme:

NSVOM: Well, the programme we are running in Denmark is to help the victim. It is a side effect – as we have experienced – that some offenders benefit from participating in VOM. [...] In Denmark, the point of departure is to focus on the victim (Rasmussen, 2020a).

The dichotomy of victim and offender is indeed present throughout the recommendation and perhaps consequently, according to my data in the practice of the Danish VOM programme too.

However, the coordinators I interviewed were generally very attentive towards nuancing or even countering this dichotomy for instance by often speaking of 'parties' instead of 'victims' or 'offenders', as the following table demonstrates:

Table 1 Interviewed VOM coordinators' use of words 'victim', 'offender' and 'parties'.¹³

	VOMC int #1	VOMC int #2	VOMC int #3	VOMC int #4	VOMC int #5	Total
Victim(s)	1	10	7	17	8	43
Offender(s)	5	9	11	10	12	47
Party(ies)	9	7	14	20	8	58

Obviously, this way of calculating can only provide a very rough pointer. Among other sources of errors, the role of the interviewer in framing the individual courses of these semi-structured interviews is not taken into consideration. Yet, the calculation supports my general perception of the interviewed VOM coordinators – who are overall responsible for the district screening of VOM cases – as being attentive to the impartial aspect of the VOM programme.

As prescribed by the Recommendation Committee, it is not just the coordinators who contribute to the VOM screening. Yet, ever since the national Danish VOM programme was launched in 2010, it has proven to be a continuously difficult task for the VOM coordinators to get their colleagues to be aware of informing potential parties about the possibility of mediation. Interestingly, this is in contrast to the expectations of the Committee (BOK, 1501, 2009), which argued that the placement of the VOM programme in the police was likely to raise awareness of the programme among police officers to the extent that ensuring the case flow would not be a concern (Rasmussen, 2020a). In order to address the continuously low case flow and increase internal awareness of the VOM programme, the police has made an internal VOM-promotion video. The video focuses on victims, police officers and mediators. Offenders are not represented. The VOM coordinator who showed me the video argued that this approach was chosen because it is easier for police officers to identify with helping victims than offenders. The role of the police officer in the video is foremost to tell his colleagues how easy it is to refer a case to the VOM programme.

13. This table only includes interviews with VOM coordinators. Interviews including coordinators and other informants are not part of this table. Some of the VOM coordinator interviews figuring in the table included more than one coordinator. For anonymity purposes, I do not distinguish between interviews with one or more informants in this table.

Accordingly, in the following interview fragment, a VOM coordinator shares how police colleagues reacted to the introduction of the VOM programme:

VOMC: I would put it like this: Generally, people were divided into two groups. One could not see the purpose of VOM at all. Or did not think it was a task to be handled by the police. Which I can relate to. Because the police is not used to seeing the *person* behind it all. They are used to seeing victims and offenders. But they are not used to separating the offender and the offence. That was at least how it was for those, who were not too crazy about the idea of VOM. They did not think that the offender [...] should have the right to sit across from the victim. [...] I think there are multiple reasons for this. They probably thought of resources too. Or that the offender should not be allowed to feel better about the offence. I do not know exactly what caused the opposition, but I experienced it several times. [...] They did not see how anything positive could come out of [VOM] for any of the parties.

In line with this, in his observation studies from a Danish police district, Holmberg states that:

The officers wish for a certain level of information. Enough to go through with an effective typologisation and a moral estimation of who is right. But they do *not* wish to receive information which breaks down the boundaries between the parties (Holmberg, 1999:116).¹⁴

The VOM coordinators' abovementioned perception of some colleagues plays well into Holmberg's observation and stresses why the aforementioned internal promotion video might focus on victims and police case flow rather than offenders/parties. VOM participation can potentially contribute to a more nuanced interpretation of the offence as well as the parties. Such development might challenge the hitherto typologisation and moral estimation performed in relation to the case in question as well as future cases: Firstly, once the typologisation and moral estimate have been carried out it may be difficult to imagine that the parties might have anything but further offending/victimisation to gain from interacting again. Secondly, excessive experiences of the nuancing of initial typologisation brought about by the VOM programme might make it increasingly difficult for police officers to uphold their typologisation practices when doing real police work. Holmberg (1999), Finstad (2000), Sollund (2007), Petterson (2012), and Görtz (2015) agree that the observed typologisation practices of Scandinavian police have potentially negative consequences in that they plausibly lead to the discovery of relatively more crime among those who are more likely to be caught by the police gaze. Further to this, according to the labelling theory, once crime is discovered the informal and formal responses by offenders' networks and the criminal justice system respectively are likely to affect offenders' life trajectories in the direction of further offending (Becker, 1963; Braithwaite, 1989). In this way, the typologisation practices of the police can ultimately contribute to generating more crime among those who are more likely to be caught in the police gaze. Yet, the aforementioned Scandinavian police researchers also acknowledge that a certain level of typologisation and estimate is to some extent a reasonable prerequisite for patrolling police to operate efficiently (Finstad, 2000; Görtz, 2015; Holmberg, 1999; Petterson, 2012; Sollund, 2007).

In relation to the potential effect of the police gaze on VOM programme screening, it is important to note that in the recommendation (BOK, 1501, 2009) it was originally suggested that the VOM coordinators be, e.g. social workers or mediators – not police officers, even if they were to be employed in the police districts.¹⁵ Hence, for the final part of the screening the recommendation committee had not imagined the police professionalism coming into

14. Translated by author.

15. See also Rasmussen, 2020a.

play. Yet, according to the national secretariat, from the beginning of the programme in 2010, all police districts but one chose to appoint police officers as VOM coordinators. In that one district, the non-police VOM coordinator was later substituted with a police officer.

Hence, contrary to the recommendation intentions, the internal recruitment of the Danish VOM coordinators has resulted in the two-step VOM screening procedures being subject to a double police gaze instead of the intended representation of both a police gaze and the 'gaze' of another profession – for instance a social worker and preferably someone with insight into mediation.¹⁶ Furthermore, according to my informants, most of the police officers who have been appointed as VOM coordinators did not have any previous skill in or knowledge on VOM. This goes for those who were initially appointed as well as those who have later taken over for some else. Rather, supporting the double police gaze argument, according to the following coordinator – who in this interview fragment is talking about telephone contact with potential parties – those who have been selected as VOM coordinators have generally been experienced police officers:

VOMC: There are feelings in this. And when we call people, we have less than five seconds to figure out who is at the other end of the line. If we do not figure that out within five seconds, we risk that our conversation goes south.

Researcher: Okay. So that requires some training too?

VOMC: Yes, it really does. And this is why we usually employ quite experienced [officers as VOM coordinators]. But then again there are those who just have that talent. Young colleagues too.

Moreover, my data point to the focus of the Danish VOM programme having been continuously amended in order to make sense to the colleagues in the busy, resource-scarce everyday reality of the Danish police force. This observation is in line with Marder's recent findings on restorative justice (RJ) initiatives in two British police districts being amended to police reality (Marder, 2018; Rasmussen, 2020a, 2020b). In this regard, it is interesting to note that the informants in the districts in Marder's studies (2018) also tend to emphasise that they perceive RJ initiatives as something they do and which should be done primarily (and according to some informants only) for the victims.

While the structure and practice of the Danish VOM programme is seemingly to a large extent is influenced by the police and by its orientation towards victims, the Norwegian Mediation Service has a different framework. It does not legislatively emphasise one party over another and instead of being based in the police the Norwegian Mediation Service is a separate organisation under the Ministry of Justice (Konfliktrådsloven [The VOM programme legislation]). As such, police structure and practice does not influence the general screening processes of this Service. However as mentioned in the introduction, different professions including police take part in the screening for the two restorative youth sanctions, which since 2014 have been based in the Norwegian Mediation Service. I will elaborate this point in the section 'Screening in the Norwegian Mediation Service'.

In the following, I will examine the possible interrelation of police typologisation and VOM screening.

16. Obviously, the police gaze is an un-nuanced stereotypical umbrella term trying to encompass observations on police practice, and the works of the aforementioned Scandinavian police researchers also include plenty of examples on how police officers are not a uniform mass. The professional discretions of for instance pedagogues and teachers has been examined in social science research – also in a Scandinavian context. See for instance Laura Gilliam, 2007 and 2012.

Casting the good, the bad, and the ugly

In this section, I will investigate the double screening structure of the Danish VOM programme, which is made up by pre-screening and coordinator screening.

By pre-screening, I refer to the screening that happens within the police system before a colleague refers a potential VOM case to the VOM coordinator. This screening can be conscious or unconscious. Ideally, cases are to be referred to the district coordinator by police colleagues. This would entail a conscious screening. However, my material suggests that in most potential VOM cases parties are not informed about the possibility of VOM due to lack of awareness (Rasmussen, 2020a). Thus, rather than reflecting a conscious screening process by a police officer who actively decides not to inform about VOM, this reflects a kind of unconscious screening. In the section on 'Pre-screening by police colleagues' below, I focus on conscious screening.

By coordinator screening, I refer to the screening that takes place after a VOM coordinator gets a case from a colleague. However, in many police districts it has so far not been possible for the coordinators to get their police colleagues to refer a satisfactory amount of potential cases. Instead, the coordinators seek out a – smaller or larger – part of the cases themselves by going through the district IT case files (Rasmussen, 2020a). In these cases, there has likely been no conscious pre-screening by (non-coordinator) officers. Also, some cases are referred directly to the VOM coordinators by either the parties themselves or for instance by a school or a municipality. In these cases, there are also no pre-screenings by police colleagues. Furthermore, according to several of my informants, the police lawyers' standards for appropriate VOM cases differ from district to district. This can limit the coordinators' options in some potential VOM cases.

In both the case of pre-screening and of VOM screening the police has access to potentially stigma-related information on the parties. According to my data, acting as – in Lipsky terms – 'Street level bureaucrats' in both of the screening levels the performing police officers can use their discretion in estimating if and how such information should influence the informing of potential parties about VOM.

Pre-screening by police colleagues

Judging from my data, the majority of cases where parties are not informed about the possibility of VOM participation can most likely be ascribed to lack of awareness caused by the general pressure on police resources, the overall framework of the police, and the relatively low prioritized position of the VOM programme within this framework (Rasmussen, 2020a, 2020b). However, most of my informants in the Danish VOM programme vocalise a concern that at times some colleagues do tend to actively pre-screen cases based on what the VOM coordinators would describe as inappropriate criteria.

A VOM coordinator illustrates the potential dilemma of inappropriate pre-screening as follows:

VOMC: I find the colleagues in our district to be predominantly positive towards VOM. [...] Yet, there are times when a colleague tells me about a case. And then I go 'oh yes, and this is when you remembered to inform about VOM, right?'. And then he says 'you know what? I actually thought about it because VOM is a good thing' – and this is not a lie, what he is saying. [...] But police officers – we are these autonomous people who are used to that there are constantly things, which are for us to decide. We drive around in the streets and to some extent we decide who gets a ticket today. Because we cannot give them all a ticket. So, you have to select someone who extraordinarily earned it. And you could say that there are different parameters for selecting. So, we are used to having our own attitude towards things. And therefore, he says 'VOM is a good thing. But in this specific case the offender is such a jerk. I don't think it will make any

sense at all. It would just be wasting their time or even make things worse for the victim'. Or they can have all sorts of ideas about it. I try to challenge them and say 'well, this is YOUR view. You do not know enough about this [to make that estimate]'. They do not realise that sometimes this is all it takes [for VOM to be a success]. That the victim just needs to SEE that the offender is a jerk – to stay in that terminology.

I just feel like the colleagues sometimes make an individual assessment. [...] And I think that sometimes they are not aware of their own criteria in this regard. [...] And then there are lots of prejudices too. 'Will he do it again? – Goddammit, he will do it again, that one! He is not going to stop this shit just because he enters a meeting with someone.' That prejudice likely exits out there, right? [...] 'And is it fair then, to put the victim in the same room as someone who maybe just SAYS that he will not do it again? Because I know he will do it again. Because I can see in his records that he has done it so many times before.' And then we are back to 'well that decision is not for you to make'.

[...] This is a big challenge in the police. And how to put that nicely in writing – I don't know. Haha.

I find that the above quotation provides an interesting illustration of a casting situation: how the combination of the police typologisation – including the previously described moral estimate of who is right – and the feeling of responsibility towards the victims, might lead to inappropriate pre-screening. It can result in a de facto limitation of VOM access for some types of offenders who are unappealing to the police. As offenders are ideally to be asked about VOM participation before victims, such pre-screening is also likely to limit VOM access for their victims.

One could note that this might be interpreted as primarily related to lack of training of the police officers in how to appropriately screen cases for VOM. My data indicate that inadequate VOM knowledge and training of police personnel is indeed a factor, and that the options of systematically addressing this are limited in a police organisation under pressure (Rasmussen, 2020a, 2020b). But as noted in Rasmussen 2020a, it appears to not just be an issue of lack of training or lack of time to train but also an issue of the clashing of perceptions of what is to be viewed as real police work or core police tasks. In this regard, in the case of the Danish police, my data indicate that the VOM programme is not seen as belonging to this category, either by police officers in general, police managements, or the political decision-makers. As described, this influences the options of training police officers in how to engage with the VOM programme screening as well as the options of enforcing accountability on this point (Rasmussen, 2020a, 2020b).

In the following, I will explore how mechanisms of typologisation might play into VOM pre-screening.

The primary typologies observed by Holmberg (1999) were customers (people with a criminal record), clientele (people who – based on their socio-economic appearance are considered potential offenders), and (good) citizens (Mr. and Mrs. Denmark) (the rest). The classification of a good citizen might change for the worse if their actions challenge the category. According to Holmberg's typology, such turn of event can lead to placing citizens in the category of assholes. Assholes can be surprising or expected, with especially women and children falling into the first category. The emerging of a surprising asshole can be an event, which takes some time for police officers to process (Holmberg, 1999).

Notably, according to Görtz (2015), Holmberg (1999), and Sollund (2007), ethnic minorities serve as a special category because – disregarding their remaining socio-economic appearance – they are more likely than the ethnic majority population to be perceived as clientele than other citizens are.

In Goffman's understanding, the interactions involving offenders and police will direct both parties towards certain roles. The presence of the police role is more likely to set the scene for a dramatic interaction than for instance a comical one. In this way, police presence

invites certain other roles to enter the play while rendering other roles unlikely: Just as police officers at work will not likely come across as jazz enthusiasts, family men/women, or passionate knitters, large parts of the characters of the citizens they meet will probably also not be evident in interactions with police.

The coordinator's above description of the patrolling police's autonomous working routines and excision of estimates fit very well with Holmberg's observations of the same arena. The interview fragment especially relates to offenders known by the police, hence belonging to the customers' category. Several part-takings in police-offender scenes will likely have pre-enhanced the characteristics relevant to this particular setting of both parties in the eyes of the other. Goffman distinguishes between communication in or out of character. In order to avoid inappropriate VOM pre-screening, it is relevant to examine and possibly challenge and develop police officers' ability to imagine offenders communicating out of what they perceive as the character.

Various research has indicated that compared to patrol policing, local policing can be a way of widening the character scope for both police and those in the limelight of police attention, whether clientele or customers.¹⁷ In their 2003 study of police and youth interaction in a somewhat troubled Danish residential area, Ansel-Henry and Jespersen demonstrate how the relations between youth and local police are significantly more nuanced than the often very tense relations between youth and police patrols, especially canine patrols.

The more nuanced relations between local police and youth contribute to the de-escalation of conflict situations on the part of both police and youth, whereas without the presence of local police, conflicts between youth and patrolling police tend to escalate from both sides (Ansel-Henry and Jespersen, 2003). Similarly, Petterson's study (2012) on Stockholm local police interactions with youth describes how conversations between local police and youth including joking and sharing of personal stories might lead to positive interrelations. Drawing upon these relations, in situations of escalating conflict the local police can choose to give young people more space and deescalate the conflict or to mark their authority in a more traditional police manner, for instance by arresting the young person.

Put in Goffmanian roleplay terms, local policing provides the option for the participants in detached scenes to evolve into recurring characters in a full movie or maybe even a multi season series in the eyes of each other. The insight into the many facets of the characters can grow accordingly. Think of the initial villains, Jamie Lannister of Game of Thrones-type characters, whom we occasionally over time can grow to sympathise with or even cheer for. Not due to their harsh, dehumanising actions, but due to the scenes where they get to show their humanity and be heroes in a part of their own story. In this way, police officers with local policing tasks might arguably be better equipped to avoid exercising inappropriate pre-screening than those of their colleagues primarily engaged in patrolling activities – at least when it comes to VOM parties they know.

Coordinator screening

As described, according to the legislative framework of the Danish VOM programme the screening that takes place at VOM coordinator level is supposed to provide a 'fine-meshed' estimation of whether a case is suitable for VOM. This estimate is generally based on case files, telephone conversations with parties, and possibly background checks.

17. In Denmark, local police in this context refers to police officers, who have part of their working hours assigned to designated municipalities/local areas. Following a series of reforms, they are no longer based at local police stations, but at larger district police stations, where they are part of teams with similar tasks in other municipalities/local areas, all of them handling other police tasks as well.

Generally, the VOM coordinators in my data set fell into one of two categories when it came to screening criteria. Around half of the coordinators did not vocalise any specific screening criteria for parties. This group generally tended to only point to other reasons than their own screening (for instance a decision by police lawyers) as factors, which could lead to a potential VOM case not making it to an actual mediation. I experienced the approach of this informant group as being similar to that of the informants I interviewed and observed in the Norwegian Mediation Service. I will get back to this point later in the article.

The other half of the interviewed VOM coordinators also primarily pointed to external reasons for a potential case not resulting in a mediation. However, this group did further mention criteria, which could lead to their dismissing a case themselves with the purpose of ensuring a safe and sound meeting environment. As an example, one coordinator explains how background checks are a part of the normal coordinator routine and further uses the access to background information as an argument for the police affiliation to the VOM programme:

VOMC: We can look it up in the systems. We usually do a background check on the parties we contact. [...] The police can find this [information]. Other institutions can't do that. Then they would need access to the police reports.

Two recurrent criteria mentioned by this group of informants were mental illness and insincere motives among offenders. A repeated reason for being aware of these criteria was to avoid disappointing or perhaps even re-traumatising victims. This is in accordance with the aforementioned statement of the recommendation for the screening process to – among other – eliminate offenders not found psychologically fit to participate in VOM. In relation to offender insincerity, several coordinators mentioned stalking cases as possible examples, and one coordinator highlighted, how the Danish Stalking Centre advises against mediation in stalking cases.

I had access to internal VOM case files from three police districts. For two of the districts (A+B) the files also included VOM cases, which had not resulted in a mediation. Most of these were not due to dismissal by the coordinator, but for instance due to one or both parties declining to participate. Yet, as the following table demonstrates, coordinator dismissal due to unfit offenders had happened in both districts, and the dismissals tended to fall into the two aforementioned categories: mental illness or offender insincerity. I will get back to the last district (C) later in this section.

In *District A*, I reviewed case files from a period of 12 months. In this period, 192 cases were registered by the coordinator. Of these 192 cases, 41 cases resulted in VOM and 151 cases did not result in VOM. Out of the 151 non-VOM cases, 7 cases were dismissed by the VOM coordinator due to unfit offender. Hereof 4 were due to offenders' mental illness and 3 due to offender insincerity.

In *District B*, I reviewed case files from a period of 21 months. In this period, 519 cases were registered by the coordinator. Of these 519 cases, 117 cases resulted in VOM and 402 cases did not result in VOM. Out of the 402 non-VOM cases, 8 cases were dismissed by the VOM coordinator due to unfit offender. Hereof 5 were due to offenders' mental illness, 1 due to offender insincerity, and 2 for unspecified reasons.

The review of case files in District A and B illustrate several differences between them as well as exemplify the diversities at district level in the Danish VOM practice at large.¹⁸ There is a large difference in the number of registered cases in the two districts, even when

18. See Rasmussen, 2020a+b for more about regional diversities in the Danish VOM programme.

considering that the files from District A cover 1 year and those from District B 1.6 years. Yet almost the same proportion of registered cases result in VOM (District A 21%, District B 23%). In total numbers, the coordinator has dismissed almost the same number of cases due to unfit offender. However, the proportion of cases dismissed by the coordinator due to unfit offender differs considerably with 3.6% of cases dismissed for this reason in District A and 1.5 % in District B. However, even if the relative share of cases dismissed due to unfit offender differs in the two districts included in this review, the numbers do illustrate that dismissal of cases on this background does occur in both districts.

In line with this, in the following interview fragment the national secretary of the VOM programme talks about possible criteria excluding from mediation:

NSVOM: If it is someone who is mentally ill, we tend to say no, we cannot do this. Or if the offender's motive for participating is somewhat questionable. If the first question is 'will I get off with a lesser sentence?' it is debatable whether it is reasonable to put an offender in the same room as a victim again. Because we do not want to re-traumatise the victim and say 'oh, then you got "smacked" by the offender in VOM too'. So, this is what we look at.

The following interview fragments with three different coordinators are along the same lines. The first two focus on mental illness:

VOMC: This is why we have discussed how it makes a lot of sense to have some police officers, who can screen the parties. Regarding the safety at the meetings and such. There can be different things at stake, especially regarding – how do you put it – mental illness and such. It is simply reassuring to have some sort of feeling about which sorts of characters we are putting together for a meeting. Then we can work with matching the expectations regarding the parties' intentions for agreeing to the meeting, so we don't risk for one party to become more offended by meeting the other. This is why it makes a lot of sense to place the VOM programme in the police. We have a fairly good insight into the different cases, and we know when it can be really relevant and very useful for the parties to meet.

And:

Researcher (R): And those in the 'no'-pile – are there any explanations as to why a mediation did not happen?

VOMC: Yes, we usually write that.

R: So, it could say something like 'the offender said no', or?

VOMC: Or that the offender is schizophrenic. We are not allowed to have mediations with mentally ill persons.

Mental illness and especially ex-mental patients are recurrent examples in Goffman's *Stigma*. Goffman uses ex-mental patients as go-to examples of how information controlled by others can lead to an otherwise invisible stigma – like that of former mental illness – becoming visible and an access-limiting factor in the lives of the affected. In the case of the Danish VOM programme, it is the police who become controllers of this information. They have access to personal records potentially including information about former mental illness and they can decide whether the presence of such information disqualifies for VOM or not. In other words, in the era of an otherwise increasingly *recovery*¹⁹ oriented mental health sector, police officers who have no professional prerequisites for estimating the current relevance of a former mental diagnosis potentially get to decide whether to evoke the *Stigma* or not. This – I believe – can be viewed as an anachronistic and problematic state of affairs. Yet, this *is* in line with the recommendation behind the legislative framework of the VOM programme.

The third interview fragment focuses on offender sincerity:

R: Do you often discard potential parties after a background check?

VOMC: Yes, it happens occasionally. [...] It could be something like – let's say the offender wants to be in a mediation. He wants to apologise. But you know that his motive for doing this is perhaps not that he really wants to apologise. He just wants [the justice system] to treat him less harshly. So if his intentions for wanting to meet the offended party are not all sincere, you need to be careful to make sure that the offended party is aware that this might be why he has agreed to meet. That maybe he is not really sorry.

R: How can you tell this in a background check?

VOMC: [...] Well I would say, you cannot tell from a background check how this person would act and what his intentions are for entering this meeting. [...] But it can give you an idea of what he has done before and how he has behaved in the past – when the police have had a hold of him at least.

I believe this interview fragment highlights the screening dilemma of the Danish VOM programme: casting for the role as an appropriate and sincere offender based on the offender's previously recorded interactions with the police. Many offenders will likely not have the same attitude – or what Goffman (1959) calls *facework* – in situations where they meet the police, as in situations where they meet offended parties in VOM. In this way, the police might end up taking misguided considerations to the victims in the sense that they want to spare the victim of the interaction with what they see as an inappropriate offender, who perhaps would not come across as 'inappropriate' at all in a mediation setting.

So, in this regard too, the double role of the police can be viewed as problematic. As mentioned in the introduction, the Danish legislators have decided that VOM cannot substitute for a trial. Hence, in the case of criminal offences – regardless of whether the offender decides to participate in VOM or not – he or she still has to *perform* in the legal system. This can lead to the offender and the police being positioned in what Goffman (1959) calls *discrepant roles*. Both offenders and police have different roles to play in relation to a trial than in relation to a mediation. These different stages for performance can call for different *strategic secrets* as well as different *facework* that does not mix well. With the police acting as a go-between in Danish VOM there is a risk that offender face work, which might be fully appropriate in relation to different levels of the trial roleplay could be interpreted as a disqualifying trait of insincerity in relation to VOM participation.

In this way, an offender's ability to apply confidence-inspiring facework in his or her interactions with the police and justice system can be decisive in future VOM castings. Notably, castings which neither the potentially recording police officer nor the offender are necessarily even aware exist.

However, a coordinator explains how neither an offender's mental illness nor a notion that the offender might have 'insincere' motives for participating in VOM necessarily means that the case will be rejected:

VOMC: Then we will have a long talk with them. These initial conversations allow for us to find out what their intentions are. We try to work with matching the expectations of the parties and see 'why do you want to meet? What do you hope to gain from it? And we have held mediations where the one party is per-

19. *Recovery* is about the possibility of recovering fully or partly from also severe mental illness. See for instance Le Boutillier et al., 2011. Interestingly, schizophrenia, which is mentioned by several of my informants, is a key example in the recovery discourse. Schizophrenia was formerly believed to be a chronic diagnosis leading to a severely disabled life. However, later studies have shown that around half of schizophrenia patients have good long-term outcomes. <https://www.cambridge.org/core/journals/psychological-medicine/article/systematic-review-of-longitudinal-outcome-studies-of-first-episode-psychosis/05404802E436A5C0E7E0858ED310E3D0>

haps a little mentally ill. Then we have just prepared the other party that ‘you should know, this meeting could become a little – this and this – because he has a mental illness, which makes it difficult for him to... etc.’ [...] And if they say that they want to meet anyway we will take the circumstances into consideration. You just need to set the scene, so people know what they are entering into. And so, they do not risk sitting in the meeting and becoming more offended, if the offender for instance is cold and cynical and does not care about them. Then it would be putting them through something, which is not very pleasant. Unless they want it themselves and still want the opportunity to say some things to him. But, by matching the expectations we can have some really good meetings anyway. So, this is why in order to match the expectations we have these thorough conversations to find out what kind of characters they are.

Thus, according to this coordinator with the right preparation the parties might still benefit from a mediation, even if the offender did not necessarily pass the initial casting with flying colours.

My review of case files in District C provides examples of this. In this district, I only reviewed files from cases where a mediation had taken place. While I cannot tell how many cases might have been rejected due to unfit offenders in this district, out of 177 completed mediations, 4 were stalking-related and 1 had an offender described as mentally ill.

The options of the discarded

So, what about those parties who due to conscious or unconscious screening processes are not offered the option of participating in VOM? The National VOM secretary acknowledges the significant organisational challenges of the Danish VOM programme in relation to ensuring that all potential parties are actually informed about the option of VOM. Yet, the secretary also claims that the public awareness of the VOM programme is increasing to the extent that interested parties would ask for VOM themselves, even if they had not been directly informed about VOM by the police. Or – put in Goffmanian terms – had not received the *casting call*.

NSVOM: [...] and then we were so lucky as to have Danmarks Radio [Danish Broadcasting Cooperation²⁰] make three programmes. [...] Documentary. Really good. Very decent and nice, right? And station 2 has also been at it a few times with flashing police lights and all that. That was more... well okay. So, we have done a lot to make the public aware. We have created a separate homepage. It is not hidden under the main police webpage. [...] Our coordinators in the districts they put themselves out there, telling about the VOM programme at length at any place – fairs and such. [...] We are part of Folkemødet [The People’s Political Festival²¹] in Bornholm with a stall telling about VOM. And by the way, it is my experience from last time we were there that people knew what [the VOM programme] was. They had heard about it. They had seen those programmes. And they knew someone who perhaps had been in contact with it. [...] So, I would say that we have managed to make this offer [the VOM programme] known to the public. And that helps me sleep at night. Because I can say that if the citizen wants to be in a VOM meeting this citizen will know that he or she merely has to contact the police and ask if it is possible.

In the following interview fragment, the national secretary similarly reverses the responsibility regarding potential VOM parties, which might – most likely unknowingly – initially have been screened unsuited for VOM:

NSVOM: But it is not just the policeman who decides [whether a mediation should be held]. Because it is voluntary for the parties. [...] And as a party you can come to the police and say ‘I have had this case. Can I be part of a mediation?’ And then the police should check if the other party wants a mediation. And if both parties want it a mediation will take place.

20. On DR, see: <https://www.dr.dk/om-dr/about-dr>

21. On Folkemødet, see: <https://folkemoedet.dk/en/>

I believe this to be a problematic stance regarding a service offered by an institution, which is to adhere to the key standards for public administration, predictability and uniformity. Yet rather than emerging from an ideological position, I also believe this stance to be born from the position of powerlessness, in which the Danish VOM programme is left regarding legislative, organisational and resource-oriented challenges.

In the following section, I focus on the screening practices of the Norwegian Mediation Service as these differ noticeably from those of the Danish VOM programme.

Screening in the Norwegian Mediation Service

According to my findings, the overall approach of the Norwegian Mediation Service seems to be significantly more incorporating than that of the Danish VOM programme. Not only does the Norwegian Service complete around 12 times as many mediations per year, it also does not have a victim-oriented point of departure. Rather, the focus – also legislatively – is on the needs of the affected parties alike. This includes penal cases, where an information video on the service webpage²² focuses on the needs of the parties rather than those of the victim – as opposed to the formerly mentioned internal promotion video for the Danish VOM programme.

In an interview, the head of the Oslo Mediation Service noted that the term ‘mediation’, which could possibly invoke notions of the quest for some kind of common ground, might create inappropriate connotations in the case of some offences. Hence, the head stated, the current trend in the service is to talk about *meetings* rather than mediations. This is also visible in another information video about the Service entitled ‘Nothing to mediate over but perhaps something to talk about.’^{23 24} The topic of this video is a rape case. It has been internationally debated whether sexual assault/rape cases are suited for mediation. This is also reflected in the practice of the Danish VOM programme, where – according to the national secretary – mediation generally only happens in such cases if one of the parties requests it themselves. In this way, the existence of a Norwegian Mediation Service promotion video focusing on rape in itself underpins the relatively wider portfolio of this service’s practice.

In Norway too, the Mediation Service has the option of dismissing a case if one or more parties are considered unfit for mediation. In contrast to the Danish programme, the Norwegian Mediation Service generally does not have access to Stigma-related information on potential parties. A case cannot be dismissed without involving the department head. The Oslo department head lists two possible reasons for such dismissal: heavy substance abuse-related and/or mental illness-related concerns. These reasons for dismissal are like those mentioned in the recommendation behind the Danish VOM programme. Yet, the practice of the Norwegian Service does not include a record-based screening of the parties so a dismissal would be based only on the contact between the Mediation Service and the party in question. In the three years the current department head has held the position, this person has only dismissed one case on this basis. In this way, judging from my data, in the Norwegian Mediation Service it is predominantly the ideals of impartial mediation which are applied for the screening of cases.

There are no national records of the total number of coordinator-dismissed cases in the Danish VOM programme. Yet, my data indicate a much higher dismissal rate here than in

22. <https://www.youtube.com/watch?v=wytCF-ALyeyo&feature=youtu.be>

23. Norwegian title: Ingenting å mekle om, men kanskje noe å snakke om? My translation. <http://www.konflikttraadet.no/line-moette-voldtektsmennene.5572329-314028.html>

24. This video was shown to me during one of my observation periods in the Norwegian Mediation Service. However, I have not been able to locate it on the webpage of the Service.

Norway: Even with approximately 12 times fewer cases, various reasons for dismissal are mentioned with several accompanying examples by the Danish management and several coordinators. Furthermore, the aforementioned analysed records for potential VOM cases from two police districts include a total of 15 cases dismissed by coordinators. As demonstrated, some of these reasons play well into the rationale of police typologisation, indicating that sometimes the *police gaze* triumphs over the ideals of impartial mediation in the screening processes for the Danish VOM programme. Yet notably these dismissals are also in line with the Danish VOM legislation.

Furthermore, in Norway I had the possibility to observe the screening process for the two restorative youth sanctions. These sanctions are based in the Norwegian Mediation Service and include for the young offender to participate in mediation.²⁵ In this way, I was able to observe discussions among professionals on the individual suitability of a restorative sanction in different cases.²⁶ The screenings for the restorative youth sanctions happen at Coordination Group Meetings. While the Mediation Service does not have access to personal information on the young offenders, in the Coordination Group Meetings other professions can provide such personal information when co-screening for these sanctions.

The professionals present at these meetings are: Mediation Service Youth Coordinator, Police, Prosecution Service, Children's Services, and Probation Service. Other relevant parties such as Health Service and others can attend depending on local organisation (Konfliktrådet, 2019). Based on their different knowledge of the situation of the young offenders, it is for the Coordination Groups to decide whether these sanctions are an appropriate option in each case.

The Coordination Group meetings provided very interesting perspectives to my research, as the formal screening process in the Danish VOM programme is not very observable, since it is a process that largely happens in the head of the individual coordinator.

Notably, at the meetings I observed none of the professionals essentially went against offering a young offender the possibility of a restorative sanction, even if they had maybe vocalised their doubts that the young person would be able to complete the sanction and/or desist in the future. Yet, in the six Coordination Group Meetings I observed, there was a clear tendency of the youth coordinators being the main source of vocalising ideals of impartiality and of preserving a resource based focus, among other by focusing on the deed rather than the doer. At the other end of the spectrum, in these meetings, the police professionals were the most frequent to problematize the young offender, his/her background, and the outlook of the young person desisting from future offending. At some meetings, the professionals from social services tended take the same position as the police in this regard.

Conclusion

In this article, I explore how the *police gaze* and ideals of impartial mediation interact in the screening of potential cases for restorative meeting in the Danish VOM programme, compared against the backdrop of the Norwegian Mediation Service.

The intention with this article is to make a Scandinavian contribution to existing international research on police discretion in relation to restorative justice initiatives.

25. The sanctions demand consent. If given they can replace a process in the traditional penal system. If the victim does not wish to participate in a mediation, it is held anyway. The mediation service then employs various methods to include a victim perspective. Also, see Rasmussen 2018.

26. Note that the restorative meeting is only one part of the restorative sanctions. They include a follow-up period in which the young offender must adhere to different, individually decided activities/restrictions. A mediation can be held without the restorative sanction.

My material focuses on the access processes for parties to participate in a restorative meeting in the two organisations. Inspired by Goffman's terminology the screening processes can be viewed as castings, determining which roles, facework, identity management, and information control becomes accessible to which offenders.

The police-based Danish VOM programme is inspired by the Norwegian Mediation Service and in the respective national languages the two services share the name *Konflikt-råd*. Yet, the Norwegian source of inspiration completes around 12 times as many mediations per year as the Danish programme and in the recent years, the number of completed mediations in the latter has declined. Furthermore, my data indicate that the Danish VOM programme is characterised by large variations when it comes to informing parties about the possibility of VOM participation.

These variations can occur between police district as well as individual case workers. They are seemingly primarily related to lack of awareness of the VOM programme due to other tasks demanding more organisational and political attention and due to a general pressure on police resources. Yet, my data also indicate that among police officers, personal preferences, and attitudes towards VOM as well as towards specific parties to some extent play into whether parties are informed about the possibility of VOM. Hence, the screening processes for potential VOM cases in the Danish programme can be unconscious or conscious and they can be influenced by larger systemic structures or by characteristics of the individual case.

Overall, my observations and interviews in the Norwegian Mediation Service indicate that the focus on impartiality and on repairing harm rather than who is to blame is very visible in the screening practices of the service. This, I find to be the case in internal screening procedures for mediations in the service as well as in the screening for restorative youth sanctions that takes place in cooperation with other professions. This is to some extent in contrast to my findings from the Danish VOM programme. Here my data indicate that police observations and conclusions, which are in compliance with the concept of the police gaze can interfere with and prevail over the wavelengths of the ideals of impartial mediation. Notably, this is in accordance with the legislative framework of the Danish VOM programme.

Potential Danish VOM cases are screened at two levels at which police officers have the option of exercising what Lipsky describes as discretion-based *street level bureaucracy*. The first is pre-screening, in which police colleagues are supposed to inform potential parties about VOM and refer cases in which the parties are interested in VOM to the district VOM coordinator. This level is where both unconscious and conscious screening can take place. Focusing on the conscious screening, my data indicate that there is an overlap between the typologisation practices related to the police gaze and the decision of whether to inform parties about VOM. Hence, if a well-known *customer* is perceived as not worthy of meeting a victim – for instance if the offender is perceived as insincere and/or likely to reoffend – a police officer might choose not to inform the parties about VOM out of consideration for the victim. In Goffmanian terms, such a situation can be described as the police officer not being able to imagine the offender's ability to communicate out of what they perceive as the offender's character. However, as the presence of police affects the available facework for offenders, police officers only have access to witness part of an offender's facework portfolio. Consequently, they only have a limited prerequisite for estimating the offender's potential facework in a mediation. In the article, I problematize such a situation as inappropriate pre-screening and this view is shared by the interviewed VOM coordinators.

In this regard, compared to those of patrolling police the working conditions of local police are more likely to provide both police and those targeted by the police with mutual

insight to more facets of each other's character. This can provide the option of nuancing the villain on both sides and widen the scope of what is perceived as possible *in-character communication*. In relation to VOM, it can make a police officer more likely to inform parties about VOM even if the offender is *cliente* or a *customer*.

The second level of screening is handled by the district VOM coordinators. In relation to this screening level, my data indicates that the coordinators fall into two categories, when it comes to screening practice. Based on my interviews, casefile reviews, and observations, around half of the coordinator informants seemed to adhere to what could be described as ideals of impartial mediation in their screening practices. These seemed to correspond to those of the Norwegian Mediation Service mirroring a more impartial focus. While also adhering to ideals of impartiality, the other half of the interviewed coordinators do mention reasons for excluding offenders from VOM participation. These are *mental illness* and *insincerity* – two factors, which are potentially offender-disqualifying according to the programme's legislative framework too. In order to investigate whether an offender is fit for VOM, these coordinators would do a background check in the available databases. However, some of the coordinators in this category stressed, that they would try to contact the parties before dismissing a case, even if the background check did not look promising.

In Goffmanian terms, such background checks can be described as exercising *information control*, using registered information to decide whether an offender through participating in VOM gets access to manage the *stigma* or *spoiled identity* possibly resulting from committing an offence. I argue that looking at police records, possibly generated through *police gaze* lenses can only provide a limited insight into an offender's sincerity – if any at all. I further argue that when it comes to mental illness this part of the Danish VOM legislation and according practice of some coordinators is out of touch with the increasing *recovery* orientation of the mental health sector.

Mediation can provide participants to widen the visible scope of their character as well as manage spoiled identity. It can be the scene that changes the perception of the movie's villain. Yet, for this to happen, it has to make it into the script. My data indicate that hitherto, in the Danish VOM programme, the information on access to this possibility is quite randomly distributed and the responsibility to seek it is most often left with the parties themselves. The strained organisational conditions of the police as well as lack of political prioritisation seem to account for a large part of this randomness.

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Recommendations, Legislation and Legislative Considerations, Information

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