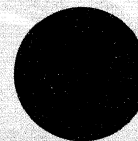


U.S. Department of Justice
Office of Justice Programs
Office for Victims of Crime



National Survey of Victim-Offender

Mediation Programs

in the
**United
States**

176350

c.2

April 2000

Center for
Restorative Justice
& Peacemaking
University of Minnesota

Office for Victims of Crime

OVC

Advocating for the Fair
Treatment of Crime Victims

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NCJ 176350

This document was prepared by the Center for Restorative Justice & Peacemaking (formerly the Center for Restorative Justice & Mediation) under grant number 96-VF-GX-K006, awarded by the Office for Victims of Crime, Office of Justice Programs, U.S. Department of Justice. The opinions, findings, and conclusions or recommendations expressed in this document are those of the authors and do not necessarily represent the official position of the U.S. Department of Justice.

The Office for Victims of Crime is a component of the Office of Justice Programs, which also includes the Bureau of Justice Assistance, the Bureau of Justice Statistics, the National Institute of Justice, and the Office of Juvenile Justice and Delinquency Prevention.

National Survey of Victim-Offender Mediation Programs in the United States

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April 2000

Office for Victims of Crime

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*Advocating for the Fair
Treatment of Crime Victims*

Message From the Director

This collection of six documents covers a number of important issues related to restorative justice. Four of the documents focus on victim-offender mediation, which is a major programmatic intervention that fully embraces the concepts of restorative justice. The first of these documents is the *Guidelines for Victim-Sensitive Victim-Offender Mediation: Restorative Justice Through Dialogue*, which assists administrators in developing or enhancing their restorative justice programs. It provides practical guidance for mediators to facilitate balanced and fair mediation, which will ensure the safety and integrity of all the participants. The *National Survey of Victim-Offender Mediation Programs in the United States* contains information about the characteristics of the various victim-offender mediation programs operating nationwide and the major issues facing them in their day-to-day operations. The *Survey* describes the actual functioning of the programs, while the *Guidelines* sets standards for the practice of victim-offender mediation. Next, the *Directory of Victim-Offender Mediation Programs in the United States* lists all identified victim-offender mediation programs in the country and provides their addresses, phone numbers, and contact and other basic information. The purpose of the *Directory* is to provide easy access for persons who would like to contact a given program. The *Family Group Conferencing: Implications for Crime Victims* document discusses a related form of restorative justice dialogue that originated in New Zealand and Australia and has been replicated in some communities in the United States. The *Multicultural Implications of Restorative Justice: Potential Pitfalls and Dangers* document informs practitioners about concerns regarding the implementation of such frameworks when working with persons of cross-cultural perspectives. The sixth document, entitled *Victim-Offender Mediation and Dialogue in Crimes of Severe Violence*, will be added to the collection late FY 2000. It will provide case study evidence suggesting that many of the principles of restorative justice can be applied to crimes of severe violence, including murder. In addition, this document includes a discussion about the need for advanced training for persons working with victims of severe violence.

The Office for Victims of Crime does not insist that every victim participate in victim-offender mediation, family group conferencing, or other restorative justice intervention. Such participation is a personal decision that each victim must make for herself or himself. We strongly advocate, however, that all restorative justice programs be extremely sensitive to the needs and concerns of the victims who would like to meet with their offenders. No pressure should be placed on victims to participate, for participation must be strictly voluntary. Victims should be granted a choice in the location, timing, and structure of the session and a right to end their participation at any stage in the process. These protections for victims do not mean that offenders can be treated insensitively. Both victim and offender must be dealt with respectfully.

We sincerely hope that restorative justice programs already in operation in probation or parole agencies, judicial agencies, religious groups, victim service organizations, community-based organizations, or elsewhere study these documents and embrace the victim-sensitive

guidelines that are relevant to their particular type of intervention. Restorative justice programs can only be strengthened by operating with heightened awareness of the needs of crime victims.

Kathryn M. Turman
Director
Office for Victims of Crime

Acknowledgments

The Office for Victims of Crime (OVC) would like to offer special thanks to authors Mark S. Umbreit, Ph.D., Director, and Jean Greenwood, M.Div., former Training Coordinator, of the Center for Restorative Justice & Peacemaking (formerly the Center for Restorative Justice & Mediation), School of Social Work, University of Minnesota. We also appreciate the contributions of research assistants Claudia Fercello, M.S.W., and Jenni Umbreit, B.A.

We recognize the valuable contribution of the members of the Board of Directors of the Victim-Offender Mediation Association (VOMA), who played a critical role in offering thoughts about the survey and providing the VOMA mailing list, which was the foundation of the national survey of programs. We thank the many program staff members who took the time to participate in the Center's phone interviews about victim-offender mediation policies and practices. Also, we would like to acknowledge the valuable contribution made by Robert Schug, Administrative Aide at the Center for Restorative Justice & Peacemaking, who spent many hours preparing the document and responding to numerous requests for draft copies.

This project also benefited greatly from the contributions, guidance, and support of Susan Laurence, the Project Manager at OVC. This *Restorative Justice and Mediation Collection* is the result of the efforts of many individuals in the field who generously shared their materials and experiences with the Center for Restorative Justice & Peacemaking so that victims may be provided additional options in the process of healing.

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I. Introduction

Opportunities for victims of crime—primarily of property offenses and minor assaults—to meet their offenders in the presence of a trained mediator have increased in communities throughout the United States. When the first victim-offender mediation (VOM) programs began in the late 1970s, only a limited number of victims in several communities participated. Today, thousands of crime victims in nearly 300 communities nationwide are involved in VOM programs. To determine how widespread this service has become and to promote victim-sensitive mediation practices, the Office for Victims of Crime (OVC) within the Office of Justice Programs, U.S. Department of Justice (DOJ) provided a grant to the Center for Restorative Justice & Peacemaking (formerly the Center for Restorative Justice & Mediation), School of Social Work, University of Minnesota, in 1996.

The Center for Restorative Justice & Peacemaking conducted the largest and most comprehensive survey ever undertaken in the growing field of victim-offender mediation. Far more programs were found, at various stages of development, than had been previously estimated by both the Center and other related organizations, including the international Victim Offender Mediation Association.

This report on the results of the survey provides a brief overview of the international growth of VOM. Also included in this document are the quantitative findings that emerged from the national survey of programs in the United States and a number of themes that were gleaned from the responses to open-ended questions on the survey and from conversations with the staff from the 116 programs (out of 289 programs identified) that participated in interviews. The findings from this national survey of the field have contributed to the development of guidelines for victim-sensitive mediation practices, available in the OVC publication *Guidelines for Victim-Sensitive Victim-Offender Mediation: Restorative Justice Through Dialogue*.

II. Growth of Victim-Offender Mediation

A growing number of communities in North America and Europe now provide opportunities for victims of certain crimes and their offenders to meet face-to-face to talk about the crime, to express their concerns, and to work out a restitution plan. In the late 1970s, only a handful of VOM and reconciliation programs existed. Today, more than 1,000 programs operate throughout North America (N=315) and Europe (N=707) (see table 1). Although many VOM programs are administered by private, community-based agencies, an increasing number of probation departments are developing such programs, usually in conjunction with trained community volunteers who serve as mediators. Victim services agencies are beginning to sponsor VOM programs as well.

Many thousands of property-related offenses and minor assaults, involving both juveniles and adults, have been mediated during the two decades since the first Victim Offender Reconciliation Project was initiated in Kitchener, Ontario, Canada, in 1974, and replicated in the United States in Elkart, Indiana, in 1978. Some victim-offender mediation programs continue to receive only a relatively small number of case referrals. Many others consistently receive several hundred referrals each year. Some of the more developed programs receive more than a thousand referrals per year. During the past several years, two specific community-based programs in the United States (in Orange County, California, and Portland, Oregon) have received county grants of up to \$300,000 to divert 1,000 or more juvenile cases from the overcrowded court systems.

Perhaps the clearest expression of how the field has developed and been recognized for its work is seen in the 1994 endorsement of VOM by the American Bar Association (ABA). After many years of supporting civil court mediation, with limited interest in criminal mediation, the ABA now endorses the process and recommends the use of "victim-offender mediation and dialogue" in courts throughout the United States.

The manner in which the ABA endorsed victim-offender mediation reflects the concerns of many victim service providers that victim-sensitive language be increasingly used in the mediation process. The ABA was initially challenged by a number of its members to consider endorsing "victim-offender reconciliation programs." The

Table 1: Number of Victim-Offender Mediation Programs, by Country

Country	Number of Victim-Offender Mediation Programs
Australia	5
Austria	17
Belgium	31
Canada	26
Denmark	5
England	43
Finland	130
France	73
Germany	348
Italy	4
New Zealand	Available in all jurisdictions
Norway	44
South Africa	1
Scotland	2
Sweden	10
United States	289

Data are taken from Umbreit, 1994b; Wright, 1996; and the Center's national survey of victim-offender mediation programs (on which this document is based).

victim caucus on the ABA subcommittee examining this issue could not accept the term “reconciliation,” because it seemed to diminish the legitimate anger that most crime victims experience. The term “reconciliation” might also suggest to victims that they are expected to forgive the offender, even though they may not be ready to do so. The phrase “victim-offender mediation” was later inserted into the ABA debate, as it emphasized the process rather than the expected outcome of mediation. For many, this seemed far more acceptable. The resolution to endorse the field, however, occurred only after the victim caucus recommended the use of the phrase “victim-offender mediation and dialogue” to clearly distinguish this type of mediation from the more settlement-driven civil court mediation, in which both parties are considered disputants and are encouraged to compromise in finding an acceptable agreement. It was the intention of the ABA victim caucus to clearly state that the losses experienced by victims are not open to negotiation, even though the manner in which those losses are restored can be negotiated. The caucus also wanted to ensure that issues of guilt or innocence would not be open to debate.

The discussions within the ABA mirror discussions that have occurred frequently throughout the country over the past 10 years within the VOM field. As a result, a number of programs that formerly identified themselves as VORPs (victim-offender reconciliation programs) have changed their program name to incorporate the new terminology, such as victim-offender mediation programs, mediation services for victims and offenders, victim-offender meetings, or victim-offender conferences. Regardless of how they identify themselves, the majority of programs express a concern for victim sensitivity and appear to value the importance of genuine expressions of remorse, forgiveness, and reconciliation.

III. National Survey of Victim-Offender Mediation Programs in the United States

An extensive survey to determine the number of VOM programs developing in communities throughout the United States was initiated in 1996 by the Center for Restorative Justice & Peacemaking at the University of Minnesota School of Social Work. This survey was made possible by a grant from OVC. OVC is interested in the development of victim-offender mediation and its potential for serving a wide range of crime victims through the development of victim-sensitive procedures and policies.

Methodology

The methodology for conducting the survey involved securing lists of actual or potential programs from such organizations as the international Victim Offender Mediation Association, the Mennonite Central Committee, and the National Association for Community Mediation. Considerable effort involved asking a sampling of existing program staff or other resource people if they knew of new programs in their area that were unlikely to appear on any organization's lists. Through this method, 289 VOM programs were identified. This list included very large, well-established programs that had been in operation for many years as well as entirely new programs that had yet to receive their first case referral (35 programs were too new and inexperienced to be interviewed). Extensive telephone surveys (refer to survey questionnaire in appendix A of *Guidelines for Victim-Sensitive Victim-Offender Mediation: Restorative Justice Through Dialogue*) were conducted with 116 programs throughout the country.

The quantitative findings of the survey are shown in this report by highlighting each specific question asked. Following this information, a number of themes that developed from the open-ended questions, which often involved lengthy conversations, are presented.

Type of Agency

The vast majority of programs participating in the survey are nonpublic agencies. Of the 115 programs responding to this question, the largest single category (43 percent) of programs is private, community-based agencies. The second largest category (22 percent) is church-based programs. As table 2 indicates, VOM programs are now developing in many different settings, including probation departments, victim services agencies, prosecuting attorney's offices, and correctional facilities.

Juvenile and/or Adult Program

A total of 94 programs, representing 91 percent of the programs responding to this question, reported working with juvenile offenders and their victims; 57 programs reported working with adults, representing 55 percent of the total programs responding to this question. These figures are not mutually exclusive because a number of programs work with both age groups. Reframing these data as mutually exclusive categories based on the 103

Table 2: Type of Agencies Sponsoring Victim-Offender Mediation Programs

Type of Agency	Number of Programs	Percentage of Total Responses (N=115)
Private, community-based agency	49	43
Church-based organization	26	22
Probation department	18	16
Correctional facility	9	8
Prosecuting attorney's office	5	4
Victim services agency	4	3
Police department	2	2
Residential facility	2	2

programs that responded to this variable, the survey found that 46 programs (45 percent) work only with juvenile offenders and their victims, 9 programs (9 percent) work only with adult offenders and their victims, and 48 programs (47 percent) work with both.

Primary Sources of Funding

Programs most frequently identified their primary source of funding as either State or local government (table 3). Foundations are the third most frequent source of funding. Churches, individual contributions, and the Federal Government are the next most frequently identified sources. Fundraising projects, the United Way, and miscellaneous fees are the least frequently identified sources.

Table 3: Primary Sources of Funding for Victim-Offender Mediation Programs

Source of Funding	Number of Responses*	Percentage of Total Responses (N=160)
Local government	43	27
State government	39	24
Foundations	20	12
Churches	16	10
Individual contributions	15	9
Federal Government	10	6
United Way	9	6
Fundraising projects	4	3
Miscellaneous fees	4	3

* Many programs identified more than one source of funding.

Size of Program Budget and Number of Staff/Volunteers

The mean (average) annual program budget of the 116 programs participating in the phone interview is \$55,077, ranging between \$1 (totally voluntary effort) and \$413,671. The average number of staff in the programs is 2.3 full-time staff members, with a range of 1 to 13 staff members. An average of 37 volunteers work with 1 program.

Case Referrals

The actual number of cases referred on an annual basis to victim-offender mediation programs varies a great deal. The mean (average) number of juvenile cases referred to programs annually is 136, with a range of 1 to 900 case referrals. The mean (average) number of adult cases referred to programs is 74, with a range of 1 to 1,672 cases. Of the total cases referred to programs in the survey, felony case referrals make up 33 percent on average and misdemeanor case referrals make up 67 percent. Table 4 shows that the primary referral sources are probation officers, judges, and prosecutors.

Table 4: Primary Referral Sources for Victim-Offender Mediation Programs

Primary Referral Sources	Number of Responses*	Percentage of Total Responses (N=148)
Probation officers	43	29
Judges	34	23
Prosecutors	23	15
Juvenile diversions	19	13
Police officers	15	10
Defense attorneys	10	7
Community members	3	2
Victim advocates	1	1

* Many programs identified more than one referral source.

The three most common offenses referred to the programs in the survey, in order of frequency, are vandalism, minor assaults, and theft. The next most frequent is burglary. Together, these four offenses account for the vast majority of offenses referred, with a small number of other property-related offenses and a few severely violent offenses also being identified.

When programs were asked if they ever conducted mediation sessions in cases of more severe violence, a surprising number reported that they occasionally handle such cases as assault with bodily injury, assault with a deadly weapon, negligent homicide, domestic violence, sexual assault, murder, and attempted murder (table 5).

Table 5: Occasional Referral of Severely Violent Offenses

Type of Offense	Number of Responses*	Percentage of Programs (N=116)†
Assault with bodily injury	47	40
Assault with a deadly weapon	25	22
Negligent homicide	15	13
Domestic violence	12	10
Sexual assault within family	10	9
Sexual assault by stranger	8	7
Murder	8	7
Attempted murder	5	4
Other	11	9

* Many programs identified more than one type of offense.

† Percentages do not total 100 because some programs gave multiple responses.

Of the total cases referred annually to the programs in the survey, an average of 106 cases per program participated in mediation sessions. The number of mediation sessions annually ranges between 1 and 771 mediations. Of the cases that were mediated, an average of 92 cases (87 percent) per program resulted in a written agreement, with a range per program of 1 to 720 written agreements. Programs reported that, on average, 99 percent of these agreements were successfully completed.

Voluntary Participation by Victims and Offenders

All (100 percent) of the programs surveyed reported that victim participation in the mediation program was voluntary, and 99 percent of them indicated that victims can back out of the mediation program at any time. Offender participation in mediation, however, is not entirely voluntary in all programs. For 79 percent of the programs, offenders voluntarily enter the mediation process with the victim, while 21 percent of the programs require the offender to meet the victim, if the victim is interested.

Admission of Guilt Prior to Offender Participation

In 65 percent of the programs interviewed, offenders are required to admit their guilt to the specific offenses that led to their referral to the VOM program.

Point in the Justice Process at Which Mediation Occurs

The most common point in the justice process at which the mediation session occurs is diversion, prior to any formal finding of guilt (table 6). Mediations occur at both the post-adjudication level and the pre-disposition level in 28 percent of the responses. In 7 percent of the programs, mediation occurs at various points; in a smaller percentage (3 percent) of programs, mediation occurs prior to any court involvement.

Table 6: Point in the Justice Process at Which Mediation Occurs

Point in Justice Process	Number of Responses*	Percentage of Total Responses (N=207)
Diversion	71	34
Post-adjudication but pre-disposition	57	28
Post-disposition	57	28
At various points	15	7
Prior to court	7	3

* Many programs identified more than one point in the justice process.

Case Preparation

In 99 percent of the programs surveyed, the victim and offender are telephoned prior to the mediation session (table 7); 49 percent are called by program staff and 51 percent by the mediator. Separate meetings are held with the victim and offender prior to the joint mediation session in 78 percent of the programs; 80 percent of these meetings are with the mediator and 20 percent are with intake staff.

Table 7: Separate Pre-Mediation Contact With Victim and Offender

Type of Contact	Number of Responses	Percentage of Total Responses
Someone calls the victim and offender (V/O)	114	99
No one calls V/O	1	1
Someone meets separately with V/O prior to mediation	88	78
No one meets separately with V/O prior to mediation	25	22

Who Makes Contact, of Those Programs That Call the Victim/Offender

Contact Made by	Number of Responses	Percentage of Total Responses
Intake staff	59	52
Mediator	55	48

Who Makes Contact, of Those Programs That Meet Separately With the Victim/Offender

Contact Made by	Number of Responses	Percentage of Total Responses
Intake staff	18	20
Mediator	72	80

Most Important Mediator Tasks

The three most important tasks of the mediator are, in order of significance, facilitating a dialogue between the victim and offender (28 percent); making the parties feel comfortable and safe (24 percent); and assisting the parties in negotiating a mutually acceptable plan for restitution for the victim (12 percent). A number of other important mediator tasks were also identified, as noted in table 8.

Table 8: Most Important Tasks of the Mediator in Victim-Offender Mediation Programs

Mediator Tasks	Number of Responses*	Percentage of Total Responses (N=320)
Facilitating a dialogue between V/O	90	28
Making the parties feel comfortable and safe	75	24
Assisting the parties in negotiating a restitution plan	39	12
Actively listening to both parties	36	11
Keeping a low profile so that the parties can talk directly to each other	20	6
Actively and efficiently moving the parties toward a written agreement	19	6
Reframing the statements of the parties	14	4
Providing leadership	12	4
Actively paraphrasing the comments made by the parties	6	2
Other	9	3

* Many programs identified more than one mediator task.

Location of Mediation Session

Table 9 shows the most frequently identified locations for mediation sessions: program offices (72 percent); neighborhood and community centers (44 percent); conference rooms in libraries (42 percent); and churches, synagogues, and temples (39 percent). In 94 percent of the programs in the survey, the victim and offender sit across from each other during the mediation session, allowing for direct eye contact.

When asked who chooses where the mediation will be held, the most frequent response was that this is done collaboratively by the victim and the offender.

Table 9: Most Frequent Places To Hold Mediation Sessions

Location	Number of Responses*	Percentage of Programs (N=116)†
Program office	83	72
Neighborhood/community center	51	44
Conference room in library	49	42
Church/synagogue/temple	45	39
Courtroom	21	18
Home of victim	20	17

* Many programs identified more than one location.

† Percentages do not total 100 because some programs gave multiple responses.

Use of Comediators

Comediation is widely used in the field of victim-offender mediation. This activity usually involves a lead mediator along with a second mediator who assists with the process. Participants in the survey identified many benefits of comediation, including greater opportunity for involvement of community volunteers; quality control; ability to respond to issues of diversity unique to a specific case; case processing and debriefing; safety; and teamwork. As table 10 indicates, 93 percent of programs either routinely or occasionally use comediators.

Table 10: Use of Comediators in Victim-Offender Mediation Programs

Frequency	Number of Programs	Percentage of Total Responses (N=115)
Routinely	81	70
Occasionally	26	23
Never	8	7

Parties Tell Their Stories After Opening Statement by Mediator

Following a brief opening statement by the mediator(s), a typical VOM session begins with the parties “telling their stories” by describing what happened and the impact the event has had upon their lives. In the majority of programs (53 percent), the victims are the first to tell their stories. The offenders are first in 33 percent of the programs, and in 14 percent of the programs the order varies depending on the specific case (table 11).

Table 11: First To Tell His or Her Story in Victim-Offender Mediation Sessions

Person	Number of Programs	Percentage of Total Responses (N=114)
Victim	60	53
Offender	38	33
Varies	16	14

In the majority (53 percent) of the programs surveyed, the mediator (staff or volunteer) determines which party begins the storytelling phase of the mediation. In other programs, this decision is determined by the program staff, the victim, or the victim and the offender (table 12).

Table 12: Person To Decide Who Begins the Storytelling in Victim-Offender Mediation Session

Person	Number of Programs	Percentage of Total Responses (N=116)
Mediator	62	53
Program staff	23	20
Victim	14	12
Victim and offender	8	7
Varies	9	8

Parents of Offender Present at Mediation

Only a small proportion (8 percent) of victim-offender mediation programs never have parents of juvenile offenders present during the mediation session (table 13). The majority of programs in the survey (52 percent) always have the parents present, and another 27 percent sometimes have parents present.

Table 13: Parents of Juvenile Offenders Present at Mediation Session

Frequency	Number of Programs	Percentage of Total Responses (N=116)
Always	60	52
Sometimes	32	27
Occasionally	15	13
Never	9	8

Mediator Training

Victim-offender mediation programs frequently train community volunteers to serve as mediators. The average number of hours of training for staff or volunteer mediators is 31 hours, with some programs in the survey indicating even more lengthy training of up to 89 hours. The average amount of time spent role playing the mediation process during training is 11 hours. In addition to the classroom training, the average number of cases that trainees are required to participate in with an experienced mediator, as a period of apprenticeship prior to completing their initial training, is four cases. Table 14 provides a breakdown of the major training components for mediators.

Table 14: Training Components for Mediators in Victim-Offender Mediation Programs

Component	Number of Programs	Percentage of Programs (N=116) That Include This Component*
Mediation skills	114	98
Communication skills	114	98
VOM concept and process	113	97
Understanding conflict	111	95
Preparation for mediation skills	110	94
Risks and benefits of VOM	110	94
Restorative justice	103	88
History of VOM	100	86
Culture and gender issues	95	81
Comediation	91	79
Understanding experience and needs of crime victims	93	80
Crisis response to victimization	78	67
Victims' rights	57	56
Guest speaker from victim services agency	45	39
Presentation by crime victim	29	25
Understanding experience and needs of offenders	87	75
Guest speaker from offender services agency	93	80
Presentation by ex-offenders or former clients	20	18

* Percentages do not total 100 because some programs gave multiple responses.

When asked if victim-offender mediators should be required to become certified by completing a legislatively mandated number of hours for VOM training, the vast majority of respondents to the survey (61 percent) indicated no. For the 39 percent who felt that certification of mediators should be required, the average number of hours they suggested for such training was 35. On the other hand, when asked if advanced training should be required in applying the VOM process in cases of severe violence, all (100 percent) indicated that such advanced training is necessary.

IV. Themes That Emerged From Interviews With Program Staff

1. In VOM programs, procedures, practices, and program design and viability are affected by the program's community context.

Community context is a significant factor in the development of VOM programs. General attitudes about crime among the populace and receptivity to restorative justice among victim service providers and juvenile and criminal justice system personnel influence the procurement of funding, accessibility of referrals to mediation, and availability of volunteers to serve as mediators. Many interviewees commented on the retributive, "conservative" attitudes in their geographical areas and their negative impact on the growth and effectiveness of the victim-offender program. They bemoaned the difficulty of working with unsympathetic judges, attorneys, and victim services personnel and the challenge of cultivating a cadre of mediators who are sensitive and empathic.

Without support at the top, interviewees noted, it is hard to develop a viable program. When court personnel do not understand the principles of restorative justice and the nature of the VOM process, they may be prone to apply pressure for particular outcomes or simply for a "quick fix." "A huge mind-change is needed!" commented one interviewee. When volunteer mediators lack sufficient commitment, programs may shorten mediation training and even curtail the process, omitting an in-person preparation phase. Other interviewees said it is usually a lack of funding that eliminates the preparation phase. As a consequence, a program may then limit itself to mediation of less serious offenses because more serious offenses require greater preparation.

Some programs encounter difficulties due to a community's highly transient population. Volunteer mediators, as well as victims and offenders, are often on the move, restricting the program's ability to provide services and to ensure quality and continuity. Programs located in rural communities where people know one another have found that this greater stability may help shape and achieve the goals of the mediation session. In a locale where frequently "everyone runs into everyone," issues of confidentiality can be particularly important and challenging; when "wrongs last a lifetime," reconciliation may become compelling to participants.

As the needs of the local community and the availability of funding and referrals change, many programs make major adaptations, carving out a new way for the victim-offender process to match the community's changing needs. For example, one program works primarily with shoplifting cases, whereas another specializes in providing mediation for run-away juveniles and their parents and for juveniles returning home after treatment.

2. VOM programs frequently operate in relative isolation from other programs and, as a corollary, mediators often complete their cases having minimal contact with other mediators or staff personnel.

A concern about isolation was expressed by a number of interviewees. Many program directors commented that they have no idea what other programs are doing and no peers

with whom to discuss critical issues in the field, strategies for program development, procedures, and practices. Interviewees attributed this isolation to geographical distance or to lack of resources, primarily staff time. For some, the survey interview represented the first opportunity to discuss, in depth, concerns about their programs, accomplishments, and issues of interest in the field of victim-offender mediation.

This isolation is echoed in the relative autonomy with which mediators work cases. “I wish I had others to talk to before a mediation,” lamented one program director who also mediates cases. The exceptional, and rare, program provides the mediator with up-front brainstorming and coaching with staff prior to the mediation session, and then full case debriefing with staff. Although some programs conduct quarterly case review sessions for all volunteer mediators, most programs offer only informal debriefing as requested by mediators.

3. VOM programs are being asked to mediate crimes of increasing severity and complexity.

Many programs reported a trend in referrals toward a “higher level of crime,” as they see it. They are being asked by the courts to mediate cases that are increasingly serious and complex. Cases often entail greater violence, committed by offenders with several prior convictions. Cases may also involve more parties and/or some degree of ambiguity relative to the identity and role of the victim and the offender. Occasionally multiple parties have both offended and been victimized.

Program directors are wondering: At what point is our process or the training of our mediators inadequate to meet the needs of these more serious cases? Furthermore, if we question the appropriateness of mediation in these cases, will that diminish the flow of referrals and threaten funding?

4. The preparation phase of the VOM process, while a fundamental element for most programs, continues to raise questions for some.

Program directors who see in-person preparation of mediation participants as central to the effectiveness of the VOM process cited the importance of spending adequate quality time with all parties to lay the groundwork for an effective mediation session. Seriously “working the case,” with commitment, is essential, according to many. Some interviewees suggested that even if the parties do not proceed to mediation, the pre-mediation session itself is a valuable service (indeed, an intervention).

Several program directors indicated that with victims of property crimes, particularly lower level offenses, it doesn’t seem necessary to conduct a pre-mediation interview because there has been little if any personal trauma. Other directors disagreed, commenting that many people feel personally violated by property crimes.

A few interviewees, representing community mediation programs that have added a victim-offender component, voiced concern about mediator neutrality, positing that preparation of the parties for the mediation session crosses the line of neutrality (being unbiased, not taking sides even though they are not equal), as the mediator presents the benefits of mediation and eases the parties’ concerns.

5. Program staff in VOM programs typically express strong convictions about the positive impact mediation has on participants and communities.

Zeal and enthusiasm for mediation characterized the attitudes of many, if not most, program directors. Clearly, those most involved in the practice and administration of victim-offender mediation believe that these programs are useful. When asked about the benefits of mediation for participants, interviewees had much to say. They reported high levels of participant satisfaction, gleaned from evaluation instruments and informal comments. Interviewees added that communities benefit as well, because mediation works to reduce community isolation and fragmentation.

The following statements are examples of the comments made by program directors:

- ◆ “When they walk into the mediation session, these are people who don’t trust each other or recognize any importance or commonality in each other. Then an hour and a half later they walk out recognizing their commonality. . . . It’s sort of a soul-purging for something that had happened to them—they get it off their minds and it’s really a revelation for them. They get it out and get on with their lives. . . . It is a wonderful thing to be able to say you’re sorry.”
- ◆ “When offenders are done with probation, the probation officer asks them what it is that will most help them not reoffend. Those who have experienced mediation often remark, ‘Mediation was the hardest thing to do, but I get it now—it made me think about the victim.’ ”
- ◆ “Just even contacting the parties and acknowledging that they’ve been through an experience that’s different. . . . They don’t have this opportunity elsewhere in their lives to have a third person assist them through a recognition process. They come out saying, ‘This is really nice—everyone should have a chance to do this.’ ”
- ◆ “If we truly follow the process, people will be changed even if we don’t see it. . . . We can’t undo the damage or take pain away but we can help them put it into perspective, set it aside a bit or use it, and move ahead, so they don’t have to define themselves only as a victim.”

The dedication of program staff is noteworthy. A number of programs are run virtually on a shoestring budget—in one instance, solely on the pension of the director. The enthusiasm and dedication of mediators and program staff have no doubt contributed to the growing interest in restorative justice measures evident in many judicial systems. Interviewees reported that victim-offender mediation is, in fact, finding its way into the penal codes of a number of States.

6. Although VOM programs may use different practices in the mediation process, their goals are relatively similar. Typically, they focus more on achieving transformation of the participants than on the settlement of any monetary loss.

Some programs seeking a process that addresses the needs of both victims and offenders encourage parents of juvenile offenders to attend the mediation session to support their children and later to encourage them to fulfill the agreement. Other programs, also asserting the importance of a dialogue meaningful to both parties, discourage the presence of parents, feeling they may be intrusive and controlling and detract from the juvenile’s experience. Certain programs may seek to limit the number of people in attendance at a mediation session, wishing to preserve the personal, private quality of the face-to-face dialogue, whereas other programs seek to expand the number of attendees, believing that extensive

ongoing emotional support for the victim and support for the offender combined with recognition of accountability enhances the mediation session and the effectiveness of the followup phase.

A range of perspectives also exists in regard to who speaks first in the mediation session. According to some programs, victims need to be encouraged to speak first because they should have the right to be heard in full and validated as someone who has been hurt; their story is undiminished by any remorse or apology offered by the offender. In other programs the offender is urged to start, sparing the victim the discomfort and risk of speaking first. Still others ask the parties to decide, ensuring equality of opportunity for both parties. One interviewee commented that victims are often moved that the offender has spoken voluntarily, offering words of remorse not elicited by the victim's remarks.

Similar variations exist regarding seating. Some programs use rectangular tables, others round tables, and still others no table at all. One interviewee commented that the round table eliminates any position of power or "head of table" status. What is agreed upon is that the parties should be seated in a way that enhances their comfort and allows for direct dialogue between them, at such time as they feel ready.

A number of programs reported that it is important to decide these particulars on a case-by-case basis, rather than set rules that apply to all cases. Other programs establish set practices as a way to standardize quality of service and simplify responsibilities for mediators.

Although the actual procedures may vary among programs, the underlying intentions seem relatively compatible. Victim sensitivity, for example, while a concern of virtually all programs, is manifested in a range of practices. Even though it may be argued that certain structures or procedures are more effectively sensitive to victims than others, it must also be granted that any particular practice can be made more victim sensitive and that perhaps, as many report, the most important elements of victim sensitivity are not tied to any particular practices. They are, rather, the style and attitude of the mediator who listens patiently, empathizing, not pressuring or pushing, and allowing sufficient time for the dialogue to unfold naturally.

7. Considerable agreement exists among VOM programs regarding the training format, the importance of role playing, and the issues that mediators need to address during training.

There is relative consensus among victim-offender programs that training is most effective when it is interactive, participatory, and experiential, with a varied format that allows for different learning styles. Training, thus, typically involves the use of videos, written material, brief presentations, discussion of cases, written exercises, skill practice, and modeling of skills and processes. Many programs also encourage trainees to draw from their experiences to understand the nature of conflict and the experience of victims and offenders.

Apprenticeship with an experienced mediator is seen as fundamental to the successful training of mediators. Through this experiential mode, training can be customized to the needs of particular trainees. It allows new mediators to observe an experienced mediator in action and to receive the benefit of coaching.

Role playing is generally seen as essential to the effectiveness of mediation training. Many programs, to customize role-play activities to the needs of trainees, shape the roles to reflect certain problems or issues, such as cross-cultural challenges or frequent sources of impasse. Other adaptations are made to enhance the efficacy of role playing, including the use of experienced mediators to play the roles of victims and offenders or simply to serve as coaches, the videotaping of trainees as mediators, and the attendance of actual offenders and victims to the training to play the appropriate roles.

The critical issues for trainees that are commonly incorporated into mediation training include the following: maintaining neutrality (being unbiased and not taking sides even though they are not equal); appreciating diversity and working with diverse participants; dealing with difficult people; and handling conflict and expressions of intense emotions, particularly anger. Working effectively with juveniles and cultivating empathy for the offender represent other concerns mentioned by a number of program directors.

8. Followup to the mediation session, although often given little more than routine attention, is being taken more seriously as an area for substantive and creative enhancement of VOM programming.

Program directors often lamented the inadequacy of their followup procedures. More could be done, they suggested, to evaluate the mediation session, for example, or to support the victim and the offender following the mediation, and to monitor and encourage the completion of the agreement. Several interviewees expressed regret that once the agreements are signed, other agencies then monitor completion. At that point, compliance may founder for lack of support, and even when agreements are fulfilled, the results may not be communicated to the mediation program or to the victims themselves.

A number of programs are experimenting with the followup phase in a variety of ways. Some are exploring new ways of gaining helpful information about the mediation session from participants, for example, by using volunteers to conduct in-person interviews with the parties several months after the mediation. Other programs are asking mediators to debrief comediators, staff, and other volunteer mediators at regular debriefing sessions.

Continued contact with victims is a standard feature in a number of programs. Most often this service is provided by staff members. Victims are contacted repeatedly by phone and encouraged to stay in touch with the program. Referrals are made as needs arise. Occasionally visits are made to the victim's home, or victim advocates provide ongoing support, services, or referrals.

In some programs, compliance with the agreement is monitored by the mediator. The mediator provides ongoing contact with all parties and arranges additional mediation sessions if the terms of the agreement need to be renegotiated.

9. Many VOM programs reported the following as major challenges: securing funding; ensuring referrals; building support in the community and in the justice system; and eliciting victim participation.

A frequent complaint is the paucity of resources for victim-offender mediation. Despite the overall effectiveness of the process and high levels of satisfaction on the part of participants, funds may be difficult to secure from either private or public sources.

Another concern is ensuring a continuing supply of referrals, particularly for offenders who are appropriate candidates for participation in mediation. Programs reported considerable fluctuation in referrals. Sometimes a drop in referrals seems to correlate with an influx of new personnel in a referring agency, who may be unfamiliar with VOM and thereby reluctant to refer cases. At times, referral sources simply appear to need fresh reminders about the availability and efficacy of the mediation program.

The concerns voiced about referrals and funding suggest that mediation programs would do well to invest in the development of these external relationships. Such an investment will also contribute to changing attitudes within the community and the justice system toward a more restorative approach.

10. Practitioners in the VOM field continue to wrestle with a variety of issues and to raise questions about the long-range implications of procedures and practices.

Interviewees voiced numerous concerns that may suggest areas of growth for the field of victim-offender mediation. Some lingering questions that emerged from the interviews are:

A. Certification of mediators

- ◆ If certification for victim-offender mediators becomes legislatively mandated, will the field move in the direction of professionalism and away from volunteerism? Will the shift be away from a “grassroots movement” paradigm and lose the citizen participation or community involvement that undergirds the goals of restorative justice and the efficacy of the mediation process itself?
- ◆ Would certification of mediators lead to higher quality mediations? How do we maintain quality standards in the field?

B. The mediation process

- ◆ How can we balance the needs of victims and offenders?
- ◆ Is preparation of the parties in separate face-to-face sessions essential to maximize the potential of VOM?
- ◆ Is it possible for victims to be revictimized by the process, despite best efforts to be victim sensitive?
- ◆ Is it possible for offenders to be victimized by a process that may be strongly punitive and shaming?

C. The presence of parents and other supporters in the mediation session

- ◆ Is it helpful to have multiple supporters attend the mediation session with the victim and offender? Can the presence of too many “others” detract from the mediation, shifting what was intended to be a personal meeting between the people immediately involved into a “show and tell” session?
- ◆ What is an appropriate and helpful role for parents of juvenile offenders in the mediation session? Are parents inherently problematic in this setting or are they essential as potential supporters of compliance with the agreement?

D. Program procedures

- ◆ Under what circumstances should comediation be practiced? Is it always the preferable model unless limited resources prohibit it, or is it appropriate primarily for cases involving multiple parties?
- ◆ If VOM is sponsored by victim services or by an arm of probation or corrections, will the neutrality of the program be jeopardized in the eyes of participants?
- ◆ Is VOM more useful as an alternative to adjudication, treatment, or incarceration or as a supplement to the conventional court process?

E. Relationships with victim service providers and the judicial system

- ◆ How can the program establish a healthy, collegial, nonadversarial working relationship with victim service providers?
- ◆ How can victim service providers, in good conscience, deal with pressure from the court system for particular outcomes, for example, a quick settlement? Can providers maintain positive relationships with referral sources while maintaining the integrity of the mediation process? How can providers help judicial personnel understand the labor-intensive nature of VOM? Finally, can providers define for themselves what constitutes a successful mediation and a successful program—one that provides important services even in cases where agreement is not reached?

F. Screening of cases

- ◆ At what point in a victim's healing process following the crime is it most beneficial for mediation to occur?
- ◆ Is an unequivocal confession of guilt by the offender necessary before proceeding with the mediation process? Is the victim-offender process potentially effective even if the offender takes only some responsibility for the crime or for a portion of the crime? Should it be solely the victim's decision whether to move forward with mediation when the offender does not express guilt?

G. Training

- ◆ What should be taught in the classroom, and what is better taught through apprenticeship or continuing education?
- ◆ How useful is it to teach communication techniques, when they often seem to work against a natural flow and authentic, spontaneous communication style?
- ◆ Is mediation role playing realistic enough to be genuinely helpful to trainees?
- ◆ How can mediators be trained to empathize with the unique experiences of both the victim and the offender? How can practitioners of victim-offender mediation counter the danger of labeling, which identifies a person solely as "victim" or "offender," while still recognizing the situational imbalance of power as a result of the reality that a crime has been committed by one participant against another?
- ◆ Does training need to be geared to the victim-offender model of mediation, or can it focus on a more generic intervention model? How does the victim-offender model differ from other models of mediation? Is it advisable for mediators to have experience mediating other kinds of cases, for example, community conflicts, prior to working victim-offender cases?

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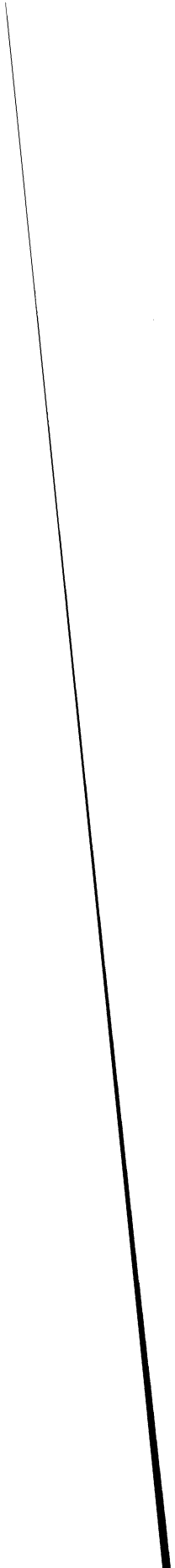
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