

Victim-Offender Conferencing: *A Solution for Empowering and Restoring Victims, Reducing Recidivism, and Lowering Costs*

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Introduction

Victim-offender conferencing offers the opportunity for the victim to be restored while the offender learns the impact of the crime on the victim.

State lawmakers have the opportunity to create the option for interested local jurisdictions to implement a victim-offender conferencing program. There would be no cost to state taxpayers and, in fact, savings are likely to be achieved through reduced utilization of judicial, prosecutorial, and indigent defense counsel resources.

Victim-offender conferencing must be chosen by both the victim and the offender, because the offender is required to take responsibility for his conduct and waive his right to trial and appeal. Additionally, the case only goes to conferencing if the attorney representing the state refers it. A written agreement is reached that typically requires restitution, community service, no further offenses, and, in some instances, counseling. The agreement is then ratified by the prosecutor or judge. Failure to comply leads to traditional prosecution and, if necessary, incarceration.

This is significantly different from mediating a civil dispute because one party has criminally wronged the other. The purpose in victim-offender conferencing is not to negotiate but to create a dialogue that allows the victim to discuss the impact of the crime, specify what is needed to make them whole, and obtain closure.

The U.S. Department of Justice has recommended victim-offender conferencing and published guidelines for its successful implementation.¹

Victim-Offender Conferencing Improves Outcomes for Victims

First, many victims want this option. In a British Crime Survey, 60 percent of property offense victims expressed interest in a conferencing.² Conferencing offers victims

an expedited means of obtaining justice in contrast to protracted pretrial proceedings, jury selection, and seemingly endless appeals.

A study of conferencing programs serving adults and juveniles found that 89 percent of agreements were successfully completed.³ That means the restitution was fully paid in these cases, as that is part of over 90 percent of agreements. In contrast, in Maryland, the Division of Parole and Probation had collected only 12 percent of the restitution that judges had ordered in fiscal year 2007 by December of 2008.⁴

A multi-site study found that 79 percent of victims who participated in conferencing were satisfied, compared with 57 percent of victims who went through the traditional court system.⁵

The availability of conferencing may also promote crime control by increasing the percentage of crimes reported by victims. A New Zealand study found that 28% of victims who failed to report a crime did not do so because they thought that the crime should be solved by the community or by themselves.⁶

Victim-Offender Conferencing Reduces Recidivism

A meta-analysis that looked at 27 victim-offender conferencing programs in North America found that 72% of them lowered recidivism and that the average decline was 7 percent.⁷ Similarly, a comparison group study of four U.S. programs by Umbreit & Coates found that 18.1 percent of offenders who took part in conferencing committed a new offense, compared to 26.9 percent of those who did not participate and that, of the reoffenders, 41 percent of those in the conferencing group committed less serious offenses than before but only 12 percent in the control group.⁸

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A national study of 1,298 juveniles who participated in pretrial victim-offender conferencing found 32 percent less recidivism compared to the control group.⁹ Evidence also indicates that, among those offenders who recidivate, those who have participated in conferencing commit less serious crimes.¹⁰

Victim-offender conferencing works because the offender often realizes the harm they have caused to the victim and develops a sense of empathy. The more indirect the connection between the crime and the actual victim, the easier it is for an offender to rationalize his conduct. For example, many more people would shoplift from Wal-Mart than would take something out of the room of a nursing home resident. The conferencing also allows the victim to get closure and ask questions that only the offender can answer, such as why the offender did it and why they were the chosen victim.

Victim-Offender Conferencing Promotes Employment and Is Cost Effective

Since victim-offender conferencing programs would be governed by similar nondisclosure language that applies to pretrial drug courts, offenders will not have a conviction on their record if they do everything required by the agreement to the satisfaction of the victim, prosecutor, and judge—a strong incentive. Without a conviction, the offender is much more likely to be employable. Ex-offenders who are employed are three times less likely to recidivate.¹¹

Finally, victim-offender conferencing saves money on court and prosecutorial costs and avoids the taxpayer expense of court-appointed counsel for indigent defendants. One study

found that a California victim-offender conferencing program costs only \$250 per case, a fraction of the cost of the traditional method of processing cases that often takes months, if not years.¹²

Conclusion

While some states have a statute that expressly allows for the use of victim-offender conferencing, many states do not. Beyond providing the clear statutory authority that ensures local entities can use this approach with confidence that it is legally permitted, states should also consider providing greater flexibility in how local jurisdictions can use state funds designated for the processing of criminal cases. For example, if a county can reduce its need for courts and prosecutors paid for with state funds through the use of conferencing, the county should have the flexibility to reallocate such funds. States, counties, and prosecutor's offices should also review performance measures used to evaluate prosecutors and courts to ensure that the successful resolution of a case through victim-offender conferencing is not viewed negatively because it does not constitute a conviction. In some states, it is currently put in the same statistical category as a dismissal, which is often viewed as a prosecutorial failure.

In sum, the evidence demonstrates that victim-offender conferencing can in appropriate cases produce positive outcomes for victims, taxpayers, and offenders. Accordingly, state and local governments should remove obstacles that have prevented greater utilization of this approach. ★

¹ Mark Umbreit, U.S. Department of Justice, "Guidelines for Victim-Sensitive Victim-Offender Conferencing: Restorative Justice Through Dialogue" (Apr. 2000).

² H. Reeves, "The Victim Support Perspective," in M. Wright & B. Galaway (Eds.), *Conferencing and Criminal Justice* (London: Sage, 1989).

³ J. Gehm, "Mediated Victim-Offender Restitution Agreements: An Exploratory Analysis of Factors Related to Victim Participation," in B. Galaway & J. Hudson (Eds.), *Criminal Justice, Restitution, and Reconciliation* (Monsey, NY: Criminal Justice Press).

⁴ "Making Restitution Real," National Center for Victims of Crime (May 2011).

⁵ M. Umbreit with R. Coates and B. Kalanj, *Victim Meets Offender: The Impact of Restorative Justice and Conferencing* (Monsey, N.Y.: Criminal Justice Press, 1994).

⁶ "Experiences of Crime and the State's Response," published in *Monograph No 45, Justice versus Retribution: Attitudes to Punishment in the Eastern Cape* (Feb. 2000).

⁷ Latimer, Dowden & Muise, *The Effectiveness of Restorative Justice Practices: A Meta-Analysis* (2000).

⁸ Mark Umbreit & R.B. Coates, "The Impact of Mediating Victim Offender Conflict: An Analysis of Programs in Three States," *Juvenile and Family Court Journal*, (Reno, Nevada: National Council of Juvenile and Family Court Judges, 1993).

⁹ William R. Nugent, Jeff Paddock, Lizabeth Wiinamaki and Mark S. Umbreit, "Participation in victim-offender conferencing reduces recidivism," *VOMA Connections* no. 3 (Summer, 1999) 5, 10.

¹⁰ *Ibid.*

¹¹ Austin Goodwill Annual Report.

¹² M. Niemeyer and D. Shichor (1996). "A Preliminary Study of a Large Victim/Offender Reconciliation Program," *FEDERAL PROBATION* 60(3):30-34.

