

**VICTIM-OFFENDER
RECONCILIATION PROGRAMS**

THE JOHN HOWARD SOCIETY OF ALBERTA

EXECUTIVE SUMMARY

While the formalized criminal justice system is based on a retributive approach to criminal justice, where crime is perceived as an act against the state, VORPs fall under the concept of restorative justice, which aims to provide for the needs of the offender and the victim, and crime is a conflict between individuals.

There are four main models of victim-offender reconciliation programs. Church-related programs are sponsored and funded by churches. Community-based private criminal justice agencies are run by non-profit agencies working within the criminal justice system. Probation-based programs rely on trained volunteers to be mediators. Dispute settlement centres are those agencies which have extended their services to victim-offender mediation.

There are four phases to the process. The intake phase is where the agencies accepts referrals. These referrals come from various sources, and are for various crimes. In the preparation phase, the offender and the victim are contacted and a meeting is arranged between the mediator and each individual. Either the victim or the offender can refuse to participate. During the mediation phase, the two parties meet to discuss the incident, and an agreement is worked out. The follow-up phase checks to see whether the agreement has been completed.

The victim, the offender, and the community can all benefit from victim-offender reconciliation programs. VORPs leave both parties satisfied with not only the program, but with the entire criminal justice experience itself. The majority of victims and offender find the experience satisfying and state they would participate in the program again if they had the opportunity. Studies into the effectiveness of VORPs on recidivism rates are inconsistent.

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INTRODUCTION

The formal criminal justice system is based on a retributive approach to criminal justice. Crime is perceived as an act against the state, leaving the individual victims neglected and ignored and the offenders incarcerated and unable to make direct amends. The victim's needs for restitution, answers, an emotional outlet and the restoration of power and autonomy are left unattended. By not meeting their needs, victims are left "with feelings of fear, distrust, guilt, shame, anger and vulnerability" (Zehr & Umbreit, 1982).

The restorative justice approach to criminal justice aims to provide for the needs of the offender and the victim. Restorative justice sees crime as a conflict between individuals. The focus of restorative justice is on compensation to the victim for any material or psychological loss, "problem-solving for the future, allowing time for information and emotional needs to be addressed and a mutually agreeable restitution to be determined" (Severson & Bankston, 1995). The goals of the restorative justice approach include reconciliation, rehabilitation, crime prevention, accountability and restitution.

Victim-offender reconciliation programs are based on the restorative justice model, and are community mediated victim-offender conflict resolutions designed to be fair to both the victim and the offender. VORPs are an alternative to the formal criminal justice system, designed to improve conflict resolution, provide material reparations to victims, prevent recidivism and offer a speedier and less costly alternative to formal processes.

Negotiation leaves both parties satisfied with the results; the result is a mutually satisfactory solution. The victim and offender work together to find a solution, leaving the victim, the offender and the community with the feeling that justice has been served and that life will return to normal.

DESCRIPTION OF GROUPS WHO OFFER VORP

There are four main providers of victim-offender reconciliation programs: church-related programs, community-based criminal justice agencies, probation-based agencies and dispute settlement centres (Umbreit, 1995). Church-related programs are directly sponsored and largely funded by various churches, or those which are free-standing and community based but are primarily funded by church members and organizations. Community-based criminal justice agencies are the largest provider of VORP. They are run by non-profit agencies that work within the criminal justice system. Probation-based programs initially began with probation officers as mediators, but since they were not a neutral third party, these programs turned to trained volunteers to be mediators. Dispute settlement centres are established community dispute settlement centres that simply extend their services to victim-offender mediation.

HOW DOES VORP WORK?

There are four phases to the process: intake, preparation, mediation, and follow-up.

Intake Phase

People enter the VORP through referrals from various sources, including the Crown Prosecutor, defense counsel, duty counsel, alternative measures, the police, the accused or the victim. Crimes diverted to VORP can include assault, mischief, theft, or uttering threats. This program is for those offenders who are willing to accept responsibility for their actions.

The Crown prosecutor must approve the mediation, and once it is approved, the case worker is able to do an initial screening process and the case is assigned to a mediator. The Crown Prosecutor approves the majority of the cases referred to mediation.

Preparation Phase

Usually the offender is contacted first so the victim's expectations will not be dashed. The initial contact with both the offender and the victim is over the phone, unless circumstances require a face-to-face contact. This initial contact gives general information about the VORP program and sets up one-on-one meetings between the mediator and the offender, and the mediator and the victim.

Separate meetings are arranged with the victim and with the offender to provide an opportunity for the mediator to introduce him- or herself and to explain the concept behind VORP. Both the victim and the offender receive an opportunity to describe the chain of events to the mediator. The time applied to each case during the preparation phase is approximately two hours, dedicated to case building and phone calls.

Either party can refuse to participate, and subsequently, the case will proceed to court. More often than not though, both parties agree to participate. When a victim refuses to participate, they often give the following reasons: the case is not important enough to warrant participation, an agreement with the offender has already been worked out, lack of confidence in the offender's goodwill, fear, or anger (Niemeyer & Shichor, 1996). The reasons offenders refuse to participate include: offender feels they have not done anything wrong, or, in the case of a youth, the parents do not want the offender to participate (Niemeyer & Shichor, 1996). The victim is more often the individual who refuses to participate (Davis *et al.*, 1997).

Mediation Phase

If both parties agree to participate in the program, arrangements are made for the main meeting, which usually lasts between two and three hours. The victim and the offender are brought together

at the main meeting. Seeing the offender often relieves the victim for by meeting the offender, a humane and remorseful individual is seen rather than the “frightening character” that victims so often picture (Umbreit, 1993, p. 70).

Both participants are given the opportunity to state the facts from their point of view, and are allowed to voice their opinions and emotions regarding the events. Neither party is able to intervene or interrupt the other individual. Once the venting of emotions is done, a verbal negotiation is worked out regarding reparations. This negotiation is then documented in writing and signed by all parties present.

The mediator does not make decisions for the parties, but rather assists them to work towards a resolution that is fair and addresses both their needs. The mediator only talks about 15 to 20 percent of the time (Umbreit, 1993, p. 72).

Follow-up Phase

Once a restitution contract is agreed upon, there is a period of evaluation and follow-up to determine if the negotiated restitution has been completed. Once the agreement is finished, a recommendation is made that the criminal charges not be pursued.

If an agreement is not reached, or the negotiated settlement is not fulfilled, the case is referred back to court. When both parties agree to meet, an agreement is reached in the majority of cases. Once an agreement has been made, the majority are completed.

BENEFITS OF VORPS

Both the victim and the offender can benefit from victim-offender reconciliation programs. Benefits to the victim include:

- the victim is given the opportunity to express his or her views directly to the offender;
- the victim has the opportunity to obtain realistic compensation for losses incurred as a result of the incident;
- the victim receives answers to questions about the offense that only the offender can provide;
- the victim has the opportunity to be involved in the sentence of the offender; and,
- victims are more likely to receive restitution through VORPs than through the court: the collection rate for court-ordered restitution is low (58%), but for VORPs, the rate is 81% (Umbreit, 1994, p. 112).

Benefits to the offender include:

- the offender is able to take direct and personal accountability for actions;
- offenders have the opportunity to learn about the consequences of their actions, apologize, express regrets, and make amends directly to the victim; and,
- the offender is given the opportunity to participate in a process through which the stigma of a criminal record can be avoided.

Benefits to the community can also take place:

- VORPs contribute to the peace of the community by assisting persons to reach resolutions that address the cause of the conflict; and,
- VORPs save society money: it costs several hundred dollars for an offender to be placed in VORP, but it costs thousands for an offender to be on probation or parole, and at least \$40,000 for an offender to be incarcerated.

EFFECTIVENESS

Coates and Gehm (1989, as cited in Umbreit, 1994, p. 18) found that 83% of offenders and 59% of victims were satisfied with the experience, and another 30% of victims expressed that they were somewhat satisfied with the experience (p. 18). The majority of studies have found that mediation has a high rate of victim satisfaction (Severson & Bankston, 1995; Umbreit, 1994). Most victims say, that if given the opportunity, they would participate in VORPs again (Umbreit, 1992, as cited in Niemeyer & Shichor, 1996), and Coates and Gehm (1989, as cited in Umbreit, 1994) cite this number to be as high as 97% (p. 18).

There have been mixed results as to whether VORPS have been effective in reducing the recidivism rate. Many researchers have compared recidivism rates of offenders who participated in VORP to those who did not, and while some found that the recidivism rate for VORP participants was lower, others did not find this same result (Niemeyer & Shichor, 1996).

CONCLUSION

Victim-offender reconciliation programs are being used more and more as the move towards restorative justice increases. People are moving away from incarceration to punish offenders and towards alternatives like victim-offender reconciliation programs. These programs are not yet used on a wide scale basis though, but as society moves away from the retributive approach to criminal justice, this program will be used more extensively.

VORPs have many benefits for the victim, the offender and the community, and they prove to be more satisfying to all parties involved than the traditional process.

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