



Victim Offender Conferencing Training Manual

For Juvenile Justice Programming in the State of Nebraska



Center for Restorative
Justice & Peacemaking

School of Social Work University of Minnesota

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by

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Introduction to Victim Offender Conferencing

Victim offender conferencing is a facilitated process which provides interested victims of primarily property crimes and minor assaults the opportunity to meet with the offender in a safe and structured setting with the goal of holding the offender directly accountable for their behavior while providing assistance and compensation to the victim. In cases where a victim chooses to not participate or is unavailable, the conferencing model allows surrogate victims and community members to meet with offender parties to ensure the same restorative and reparative discussions.

With the assistance of a trained facilitator, the victim is able to let the offender know how the crime affected them, receive answers to questions they may have, and be directly involved in developing a restitution plan for the offender to be accountable for the losses they incurred. The offender is able to take direct responsibility for their behavior, to learn of the full impact of what they did, and to develop a plan for making amends to the person(s) they violated. While there exist certain procedural differences and differences in terminology between implementing victim offender conferencing in juvenile versus adult courts, the overall approach and procedure is quite similar in both settings.

The Naming of Dialogue Programs

Victim offender conferencing programs were initially referred to as "victim offender reconciliation programs" (VORP) in the mid-1970s and 1980s. Today, most programs worldwide identify themselves as victim offender mediation (VOM) programs. Some may be called "victim offender meetings" or "sessions". An increasing number are called "victim offender conferences" which widens the way for multiple participants and support people. All of these, however, tend to abide by basic mediation standards.

While many other types of facilitation or mediation are largely "settlement driven," victim offender conferencing or mediation is primarily "dialogue driven" with the emphasis upon victim healing, offender accountability, and restoration of losses. The primary goal is fostering direct, heart-to-heart conversation between parties most involved in a crime.

Victim offender conferencing and mediation is the oldest, most widely developed, and empirically-grounded expression of restorative justice. **This manual uses "conferencing" language, yet it is in full concert and harmony with victim offender mediation practices and standards.**

Dr. Mark Umbreit

Restorative Justice Basics

Restorative justice is an approach to justice that focuses more on the harm done than the law broken. Legal concerns are important, but relational concerns can often be minimized in a justice system that only addresses the broken law and establishes a punishment to match up to this violation against the state. But when violations to the victim and community are set in the center of the stage, responses to crime require that offenders understand the impacts of their actions and take responsibility to repair the harm done. In this light, restorative justice seeks to give balanced attention to the needs of victims, the needs of offenders, and the needs of the community. It also engages all three of these parties in ways that opens up dialogue and empowers them to be the primary players in determining appropriate resolutions.

Two Key Principles about Restorative Justice:

- Focus is on the HARM done more than the LAW broken
- Process ENGAGES and EMPOWERS main players involved:

VICTIMS

OFFENDERS

COMMUNITIES

"Restorative justice requires, at minimum, that we address victims' harms and needs, hold offenders accountable to put right those harms, and involve victims, offenders, and communities in this process." - Howard Zehr

Since the late 1970s, research on dialogue-based restorative programs has shown higher restitution payback rates and lower recidivism rates for offenders, greater levels of satisfaction with processes and outcomes by both offenders and victims, and reduced fear and emotional strain for victims. Nearly 40 years later, restorative justice is practiced worldwide in thousands of programs and services.

Restorative Justice Basics

When moving from restorative principles to restorative practices, one key feature continues to remain in the center of a restorative justice process:



Unlike justice processes in courtrooms that tend to restrict the flow of information and communication, giving professional stakeholders the primary roles in discussion and decision making processes, restorative models tend to open up conversations between the key players who were involved in the crime, giving them the primary role to discuss things and make decisions for resolving matters. These processes are generally led by third-party helpers who guide safe, constructive communication between victim, offender and community stakeholders. Third-party helpers can be mediators, facilitators, circle keepers, and panel conveners.

Restorative justice has its roots in ancient and tribal traditions, but has risen strong on the worldwide scene since the mid-1970s. As a result of this new growth, many indigenous, community-oriented traditions have been revitalized. At the same time, these centuries-old traditions have informed a number of practices in the restorative movement including the role of elders, the inclusion of family, the reintegration of the offender, and the power of listening in circle processes. In this context of the spreading and sharing of alternative models for resolving crimes and conflicts, **four main dialogue-based models** have stood the test of time:

MEDIATIONS	PANELS
CONFERENCES	CIRCLES

Restorative Justice Dialogue

Common denominators in all four of these restorative dialogue processes include:

- Adequate preparation of parties
- Attention to the web of relationships
- Guidance by third-party helpers / facilitators
- Invitation for support people and family to be present
- The power of storytelling and listening
- The importance of being heard and understood
- Practical agreements that are created by all involved

These core features give greater attention to communication processes more than legal processes. In this light, **restorative justice prefers inclusive, collaborative, dialogue-driven processes that result in consensual outcomes.** Unlike win-lose outcomes that often result from legal processes, restorative justice emphasizes good communication and trust-building that foster win-win outcomes. The primary role of third-party helpers and conveners is not to solve problems for other people but to create the proper space in which parties can meet each other, discuss the issues, come to deeper understandings about the other party, and solve things themselves.

Typical discussion content in restorative dialogue work covers:

1. **What happened?** (the Information)
2. **Who was affected?** (the Impacts)
3. **What repairs can be made?** (the Resolution)

This outline fits well with helping parties to progress from the PAST through the PRESENT to the FUTURE. That is the main goal of restorative justice: helping all parties to reach a better future that is no longer held captive to the hard things of the past. While bringing victims and offenders together for dialogue is often viewed as the most important feature of restorative justice, it is not the main goal. **The main goal of restorative justice is to help parties move forward in life whether or not they have face-to-face dialogue.** There are many other ways to help victims and offenders to journey forward, and good restorative programming can adapt processes to allow any client to reach a better future. The use of community members and surrogate victims, for example, can greatly help with modified models that still ensure good restorative dialogue and restorative outcomes.

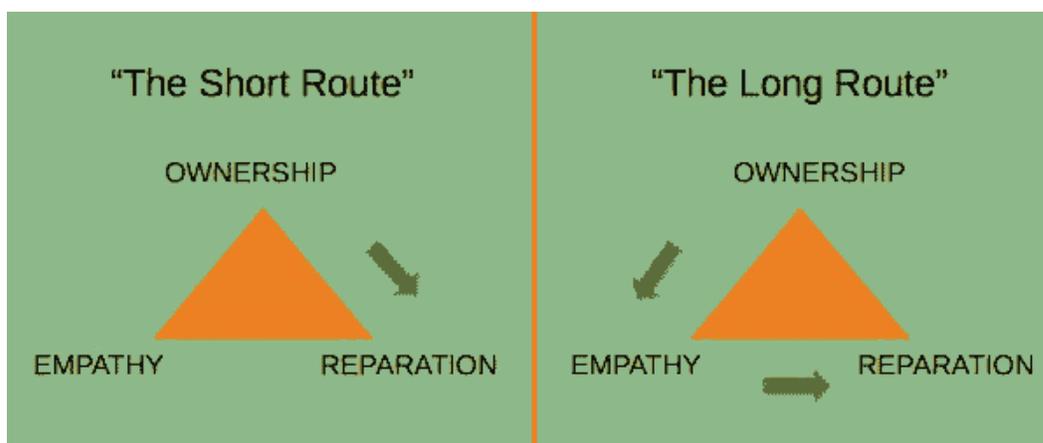
Restorative Justice Dialogue (continued)

One way to sum up the essence of a good restorative process is its capacity to integrate healing and accountability.

GENUINE HEALING + MEANINGFUL ACCOUNTABILITY

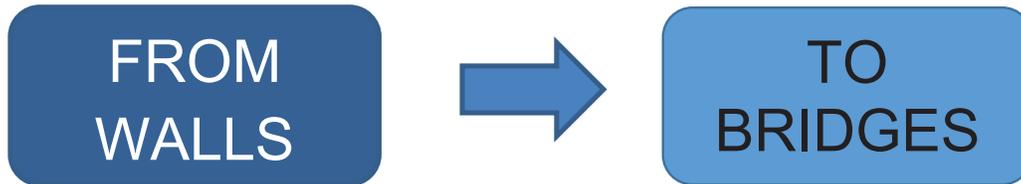
Through open communication, victims experience degrees of healing when their experience is validated. Offenders too, having often been victimized in prior situations, experience a type of healing when they are dignified in a justice process. This support does not diminish their accountability. In fact, respectful engagement of offenders heightens their internal capacity to be accountable, not in the sense of 'taking your medicine', but rather as a giving back of positives to replace the negative damage. This heightened sense of **responsibility is in truth an offender's RESPONSE-ABILITY** to make things right again with their victims. But to get to that responsive point, they have to hear and learn about how the victim was affected. Through this, offenders gain empathy and thus find greater internal motivation to make amends and not repeat violation crimes against others.

Instead of a quick fix, restorative dialogue seeks a longer route through the empathy experience, where victims and offenders see the humanity of the other, and this leads to a richer, longer-lasting reparative outcome.



Restorative Justice Dialogue (continued)

Crime creates walls of distrust between parties, and distrust makes it hard for good communication to happen. Conversely, restorative dialogue processes emphasize good and open communication as a way to rebuild trust and replace walls of negative emotional energy with bridges of trust.

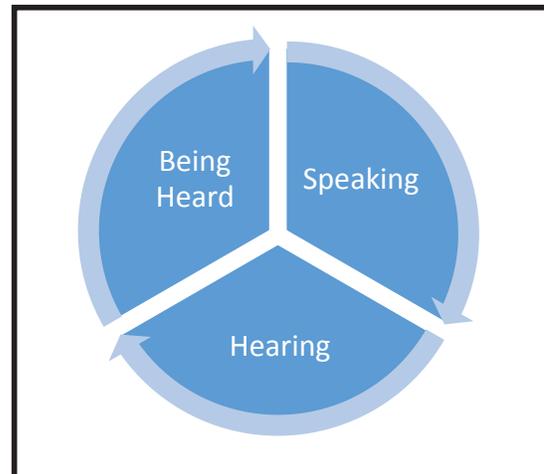


LOW TRUST GOES WITH STRAINED COMMUNICATION. Because people experience lowered trust and the resulting blockage of communication, crimes and conflicts can **disempower people**. It is unfortunate when legal processes add to this experience of disempowerment when parties are kept separate and communication is restricted.

RISING TRUST GOES WITH OPEN COMMUNICATION. Alternative Dispute Resolution (ADR) processes and restorative dialogue can **re-empower people** so that they can have a stronger role in shaping better outcomes and better futures. Effective ADR models seek to raise trust levels between parties through the facilitation of good communication.

The role of mediators, facilitators, and circle keepers is to create safe spaces in which parties can have positive, empowered conversations where they speak, listen and be heard well by others so that trust can be rebuilt and relationships can be restored.

“Those who facilitate or mediate conflicts need foremost to bear witness rather than get lost in problem solving or advice giving. Bearing witness is about honoring the strength and resilience of people on a healing journey.” – Mark Umbreit



Restorative Justice History and Growth



Centuries-Old Indigenous Practices. Most tribal-based cultures worldwide have preserved community-oriented practices for resolving crimes and conflicts that share many components with restorative justice. These include the voicing of impacts to the community and the reintegration of the offender back into the community. They also include the power of storytelling and the respected wisdom of elders. Many of these traditions, though lost through the era of colonialization, have been revitalized in recent decades as a result of the restorative justice movement.

The 1974 Elmira Case. An unprecedented justice process in Kitchner, Ontario, served as a significant catalyst for the rise of restorative justice in North America. Two teenagers, under the influence of alcohol, destroyed 22 different properties in a rural town. Mennonite Central Committee workers Mark Yantzi and Dave Worth asked Judge McConnell if the offenders could make direct apology and reparation to the victims, and the judge allowed for them to initiate this process by meeting every victim party at their front door. Out of this case, the Victim Offender Reconciliation Program (VORP) mediation model developed and spread through North American Mennonite networks, starting first in Elkhart, Indiana.

Circles and Conferencing Rise in the 1980's. As the mediation model began to spread, Judge Barry Stuart of the Yukon Territorial Court adapted the Sentencing Circle as a way to honor older indigenous traditions of native communities. Meanwhile, Maori practices in New Zealand developed the facilitated Family Group Conference model to address all levels of crime with the help of family members and support people.

Restorative Justice Growth and Applications

40 Years Later... The restorative justice movement has seen worldwide expansion as well as unforeseen applications on many broad levels.

WITHIN THE REALM OF CRIMINAL JUSTICE:

- **Victim Offender Mediation and Conferencing**
- **Peacemaking and Healing Circles**
- **Restorative Panels and Accountability Boards**
- **Victim Panels and Victim Support Groups**
- **Reparation Crews and Community Service**
- **Victim Empathy Classes for Offenders**
- **Re-entry Circles and Supports for Post-Incarceration**

It is helpful to chart adaptations of these services on a continuum of LEAST RESTORATIVE TO MOST RESTORATIVE (See Appendix, page)

WITHIN THE REALM OF SCHOOL PRACTICES AND DISCIPLINE:

- **Community-Building and Peacemaking Circles**
- **Affective Restorative Statements to Students**
- **Restorative Conferencing / Suspension Alternative Re-entry**
- **Peer mediation models**
- **Truancy prevention and intervention models**

WITHIN THE REALM OF TRANSITIONAL JUSTICE:

- **Truth and Reconciliation Commissions (South Africa)**
- **Indigenous, village-based courts (Rwanda, Sierra Leone)**
- **Revisiting Unresolved Legal Cases (US Civil Rights)**

WITHIN THE REALM OF CONFLICT AND DISPUTE RESOLUTION:

- **Intergroup / Intertribal / Interfaith Dialogue Forums**
- **Integrative Law Adaptations of Restorative Dialogue**
- **Parent-Teen Mediation and Facilitated Family Conferencing**
- **Workplace Setting Resolution Processes**

The Restorative Paradigm

(Excerpted from "Restorative Justice Through Victim Offender Mediation" by Mark Umbreit (1998))

Restorative justice is a victim-centered response to crime that provides opportunities for those most directly affected by crime - the victim, the offender, their families, and representatives of the community - to be directly involved in responding to the harm caused by the crime.

Restorative justice provides an entirely different way of thinking about crime and victimization. Rather than the state being viewed as the primary victim in criminal acts and placing victims and offenders in passive roles, restorative justice recognizes crime as first and foremost being directed against individual persons and communities.

Restorative justice attempts to draw upon the strengths of both offenders and victims, rather than focusing upon their deficits. While denouncing criminal behavior, restorative justice emphasizes the need to treat offenders with respect and to reintegrate them into the larger community in ways that can lead to lawful behavior.

Here are six important priorities within the field of restorative justice.

1. Restorative justice is far more concerned about restoration of the victim and victimized community than simply the ever-more costly punishment of the offender.
2. Restorative justice elevates the importance of the victim in the criminal justice process through increased involvement, input and services.
3. Restorative justice requires that offenders be held directly accountable to the person and/or community that they victimized.
4. Restorative justice encourages the entire community to be involved in holding the offender accountable and promoting a healing response to the needs of victims and offenders.
5. Restorative justice places greater emphasis on having offenders accept responsibility for their behavior and make amends, whenever possible, than on the severity of punishment.
6. Restorative justice recognizes a community responsibility for social conditions which contribute to offender behavior.

The chart on the following page is adapted from the paradigm distinction of retributive and restorative justice as formulated by Howard Zehr and Lorraine Stutzman Amstutz in 1998. Emphasis, however, is not on the black and white distinction but rather on a continuum between both pairings.

RETRIBUTIVE JUSTICE  RESTORATIVE JUSTICE

Crime defined by violation of rules	Crime defined by harm to people
Crime seen separate from harms / conflicts	Crime seen as related to harms and conflicts
State as victim	People and communities as victim
State and offender as primary parties	Victim and offender as primary parties
Interpersonal dimensions irrelevant	Interpersonal dimensions central
Offense defined in technical/legal terms	Offense seen in full context: relational, moral, social, etc.
Guilt is absolute, either/or	There are degrees of responsibility
Guilt is indelible (permanent)	Guilt is removed thru repentance/reparation
Debt paid by punishment	Debt paid by making things right
Accountability = "taking your medicine"	Accountability = taking responsibility
Blame fixing is central	Problem solving is central
Focus on the past	Focus on the future
Contestual, adversarial models normative	Dialogue and cooperation models normative
Justice tested by intent and process	Justice tested by constructive outcomes
Process alienates people	Process reconciles people
Victims' needs ignored	Victims' needs central
Offender is socially stigmatized	Offender is offered social reintegration
State monopoly on determining resolution	Victim, offender, community roles recognized
Proxy professionals are the key players	Victim and offender key players; professional help is available
Win-lose outcomes assumed	Win-win outcomes encouraged
Restitution is rare	Restitution is normal

A Victim-Sensitive Approach to Justice

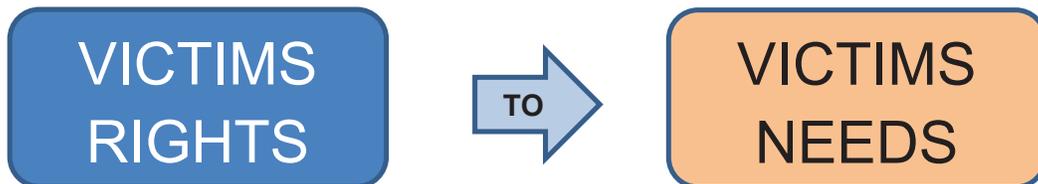
PARALLEL JUSTICE FOR VICTIMS OF CRIME

"For every reported crime, our society responds by trying to apprehend, prosecute, sanction and eventually reintegrate offenders back into productive communal life. Following the Parallel Justice framework, there would always be a separate set of responses for victims of the crime. Parallel Justice responses seek to restore victims' safety, help them recover from the trauma of the crime, and regain a sense of control over their lives."

"These responses would not depend on whether the offender is ever identified or convicted. In all cases, the harm experienced by victims of crime would be acknowledged and addressed separately and apart from the criminal justice process. While victims' legal rights within the criminal justice process should be enforced, society's obligation to provide justice to victims extends beyond the criminal justice process."

(From the Parallel Justice website by Susan Herman, author of *Parallel Justice for Victims of Crime*)

A restorative approach to victims shifts the emphasis from...



Protective and Informative Rights are still very important. The main issue is that in the setting of supporting and guiding victims through justice process, their needs should be taken seriously to the extent that justice processes are shaped according to the best means for meeting those needs.

Restorative Dialogue may not be suited for every victim, but options for conversational and dialogue-based processes should be available to every victim. The needs of each victim will vary, but all victims deserve to identify their top needs and to discuss how those needs can best be met.

Best Practices Learned From Research for Victim Offender Conferencing (VOC)

1. Impartial role of facilitators in VOC
2. Thorough training of facilitators in VOC
3. Involvement of crime victims in VOC
4. Preparation of victim and offender, and other support people
5. Creating a safe place for dialogue in all pre-joint sessions and in joint sessions
6. The VOC process cannot be rushed; multiple meetings can happen as needed
7. Importance of community-based organizations in providing VOC in partnership with criminal and juvenile justice system agencies
8. Importance of police, prosecutors, and judges supporting VOC and in referring cases
9. VOC can work at any point in the criminal justice system
10. VOC can work with a wide range of cases regarding type and severity

Other best practices that have stood the test of time:

- The importance of confidentiality and non-legal facilitation
- The importance of facilitator/mediator positive presence
- The importance of voluntary consent and self-determination
- The importance of unimpeded direct face-to-face dialogue
- The importance of signed, trackable reparation agreements

Research Supporting Restorative Programming

More than 90 empirical research studies in 7 countries have found positive impact of restorative justice dialogue in juvenile and criminal cases through VOC/VOM (Victim Offender Conferencing/Victim Offender Mediation) and FGC/RCC (Family Group Conferencing/Restorative Community Conferencing)

1. Canadian Meta-Analysis (2001)

- 35 studies (27 VOM, 8 FGC)
- 26 youth, 9 adult
- Positive impact on v/o satisfaction, restitution completion, reduced recidivism

2. US - Nugent/Umbreit Meta-Analysis (2003)

- Total sample of 9,307 juvenile offenders
- Sample came from 19 program sites (15 prior studies)
- 26% reduction in recidivism

3. UK- Sherman/Strang Meta-Analysis (2007)

- *Restorative Justice: The Evidence* -- "Far more evidence on RJ, with positive results, than for most innovations in criminal justice"
- Included randomized controlled studies by S/S
- Reduced recidivism for both violent and property offenders
- RJ reduced costs when used as a diversion
- Suggest RJ may be more effective with adults

4. Minnesota Dept. of Corrections (2012)

CIRCLES of SUPPORT and ACCOUNTABILITY (MNCOSA)

- Participants in MNCOSA had significantly lower recidivism:
- 62% lower re-arrest rates
- 72% lower technical violation rates
- 84% lower return to prison rates
- Cost benefit per MNCOSA participant is \$11,716
- MNCOSA produced savings of \$363,211

6. Baltimore, Maryland, Community Conferencing Center

Community-based Non-Profit Servicing Diversion Juvenile Cases
(from courts, schools, but mostly from police)

- Population: 637,418 (Black: 63%, White: 32%, Hisp: 3%, Asian:2%)
- Youth in community conferences(CC): 604 (Minority: 558)
- Agreements reached in CC: 98%
- Agreements completed in CC: 97%
- Recidivism data: (CC participants 60% less likely to re-offend)

SECTION

2

Understanding the Experience of Victims

Sometimes minor crimes can have major impacts. On the surface we might think that a victim can 'get over it' but the truth of the matter is that many crimes have jarring effects and long-term consequences upon those who are impacted. Any kind of traumatic event that comes without forewarning can remove a person from a normal, well-ordered life and throw them into a chaotic, disordered life. The experience of physical, financial or possession-based loss for all victims can set in motion a series of emotional states that will be different for every person.



Scenario to Consider. If you were to return to your car in a parking lot after shopping, only to see your side-window smashed in and some valuables taken from the seat of your car, what would you be feeling...

1. When you first arrived and saw what happened?
2. A few minutes later?
3. A few hours later?

Share in pairs what your experience would be like in these time frames.

Scenario to Consider. If a close family member unexpectedly died and you just heard the news, what would you be feeling...

1. When you first heard the news?
2. A few hours later?
3. A few days later?

The larger the impact and stress upon a person’s heart and soul, the more it is likely that emotional stages of reactions will be stretched out over time. But this is never the same for all people. It is important to remember that...

- Each individual will have different ways of reacting to a similar trauma
- Each individual will have different pacing of how they deal with trauma

The most important insight in understanding victims of crime is to treat them as having a unique profile that requires a unique sensitivity.

Understanding the Experience of Victims

The Psychological Trauma of Crime Victimization

Along with financial loss, property displacement, and physical injury, the most devastating part of post-crime victimization is the emotional pain that can continue for victims, family members and even communities over long periods of time. This inner trauma can be separate into two phases, The Crisis Reaction Phase and the Long-Term Stress Reactions Phase.

The Crisis Reaction Phase

Premise: People exist in normal states of equilibrium and trauma throws people off balance, throwing them out of those normal states.

1. **The Physical Response:** Physical shock, numbness, and frozenness are the first to come. An early 'fight or flight' response can heighten one's adrenaline as well as their perceptions. Heartbeats and breath rates typically increase. Physical exhaustion can also follow afterwards.
2. **The Emotional Response:** Mental shock, disbelief, and denial tend to come first. Next can come strong feelings of helplessness and vulnerability; many experience a sense of disorientation and/or confusion. Following this can be feelings of fear, anger, frustration, and even self-blame. For some, strong rage and hatred can surface. Finally, feelings of sadness, loss, and grieving are common for many.
3. **The Reconstruction of Equilibrium:** The reconstruction of a new equilibrium is an emotional process that resembles a roller-coaster. It is rarely a linear process in which victims go from grief to a new life. There are ups & downs. When a new equilibrium is established, it will be different than before. This process will be difficult, and for most it will take a long time. It includes surviving bad days in order to reach good days. Crisis intervention and supportive services can help victims move toward a new equilibrium more quickly. Without those supports, some victims can remain stuck in that roller-coaster existence for years, and it can begin to shape their sense of personhood.

(This material was adapted with permission from Dr. Marlene Young's *Victim Assistance: Frontiers and Fundamentals*, 1993, with the National Organization for Victim Assistance.)

Victim Disempowerment and Re-empowerment

Because victims are disempowered on numerous levels in the wake of a traumatic, unexpected incident, the journey through stages of feelings can be accompanied by supports that empower victims. These can be internal within an individual or external as social supports. What really matters is that from the start, victims have support resources for empowerment.

A. Internal resources: (strengths within a person)

(name some):

B. External resources: (relationships, services, etc.)

(name some):

Typically, victims who do not get enough empowerment from internal or external resources remain in a sort of roller-coaster ride of feelings and moods which makes it very hard to return to a normal, peaceful, less-weighted-down life. It is essential for restorative justice facilitators and advocates to become aware of what stage victims are in so that a particular victim is best supported with options they can voluntarily choose at any point in a resolution process.

Consider: How do courtroom processes relate to the empowerment issues for victims?

This discussion opens the way to consider what victims are needing most from a justice process.

Understanding the Needs of Victims

By balancing the needs of victims and offenders, both parties in a restorative conference will learn that the process only works well when BOTH parties are seen as having legitimate needs to be met. This is part of the humanizing aspect of the process. Victims come to see offenders as real people with real needs, and offenders come to see victims as people with real needs.

Outlining the Needs of Victims

A. Typical Needs at the Front-End:

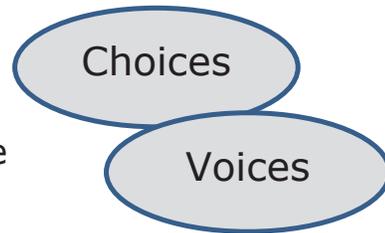
- Safety and Security
- Supports and Caring Presence
- Validation and Ventilation
- Assistance with Daily Tasks

B. Typical Needs During Resolution:

- Information about the Offender/Case
- Good Trust in Support People
- Education about Process Options
- A Significant Voice in the Process

C. Typical Needs at the Back-End:

- Compensation of Losses
- Regained Trust in Offender
- Sense-Making Out of Everything
- Emotional Closure (at any level)



"The experience of being respectfully heard opened the door for me to have resolution. With the relief that comes with being understood, I could not have moved forward. When I look back at an event that would otherwise have been a terrible memory, I have gratitude beyond what any other justice process could provide."

- victim of a harassment offense

Crisis Intervention and Supports for Victims

“With the gift of listening comes the gift of healing, because listening to your brothers or sisters until they have said the last words in their hearts is healing and consoling.” - Catherine de Hueck Doherty

Being with Victims over Doing Something for Victims. In our society we are predisposed to helping people fix problems or to move out of a space of difficulty or conflict. But because there are no easy ‘fixes’ for people who have been traumatized by a crime or harmed within a difficult conflict, the main thing such people need is simply our presence. We have to learn how to just be with people in restorative work and not think that we are the ones who are going to make things better for them.

In this light, crisis intervention is not so much about intervening on behalf of others, but about being present to them and making a human connection with them. In this setting, the art of listening takes center stage.

Nevertheless, the goal is to help impacted parties to journey forward in time so they reach a point where they are no longer burdened or captivated by the happenings of the past. This requires a positive, hopeful orientation on the part of the helper to convey that there is light at the end of the tunnel.

Note: The following outline presents a traditional support system for victims at the front end of receiving help that victim advocates within a Victim Services department would learn. Most of it applies well to restorative work with victims.

A. Safety and Security

Victims need to fore mostly BE safe in the aftermath of being impacted, but they equally need to FEEL safe. Helpers will ask questions of the victim to tune into these safety concerns. A major part of this is proximity to the offending party. Assurances can be given as to how an offending party will not be appearing unexpectedly.

Recommendations that are helpful to victims who have been severely traumatized and who need safety and assurance.

- Assure the victim that they are safe with you
- Ensure confidentiality of what victims tell you and explain legal options
- Assist in finding information about other victims or family members
- Protect victims from having to face media interviews
- Provide small, practical ways for victims to regain a sense of control

B. Ventilation and Validation

Allowing victims to tell their story and express their feelings is something that creates greater trust with an advocate or helper, and this trust, in turn, allows victims to progress a bit further in their journey of emotions. By articulating their stories, they are literally re-piecing together their lives after being pieced apart by the crime. The new combination of certain words also allows for deeper feelings to rise up within them and be released.

Validation for the victim only happens dyadically. In other words, only by being heard by another can the victim experience the empowerment that comes from knowing their story is true and real, and this then helps them to recover their sense of normality in the world.

Recommendations that are helpful to victims of impactful crimes who need to vent their thoughts and feelings.

- Allow the victim to be as repetitive as they may be. Each time gives them a chance to fit in a new missing puzzle piece.
- Recognize that every emotion is a legitimate emotion as it bears a truth about the impact of the situation and the needs of the victim.
- Acknowledge what you hear without judgment and without recommendations for solution.
- Practice silence and restraint of response as a way to offer deeper validation for what you have heard a victim say.
- Assure the victim that "It is okay to not be okay."

The art of helping victims to ventilate and to be validated is all in the way in which questions are asked INVITATIONALLY. Asking questions in this setting of deep listening is not about you getting answers for your own sake but about the victim getting to a better place emotionally.

Invitational questions, therefore, are in the service of getting all of the story elements out to cover all the bases:

1. Description of the crime event details
2. Experience of learning about the crime
3. Feelings and reactions since the event
4. Losses and other consequences
5. Other people who have been affected
6. Hopes and requests for reparation
7. Concerns about the justice process

C. Prediction and Preparation

Once safety is established and a victim has had the chance to talk out their experience in a way that serves themselves well, things can PIVOT more toward the near future. This is where communications with the victim party can review **sets of information that create order out of disorder**. This is precisely how victims begin to regain a sense of control in order to move forward. Questions at this stage include:

- What will happen next in the process?
- Where is the offender and what will he/she do next?
- What are options for me as a victim?
- Where are my stolen items?
- Can I receive some compensation funds?
- What are my legal rights as a victim?
- How am I going to make it emotionally day by day?

A good victim advocate will give conversational space for all of these future-leaning topics, and honor the question as much as they might assist in finding the answers. For highly impacted victims, predictability is a key part of rebuilding one's life, and practical recommendations can be made to victims who may need to establish daily rhythms of self-care for both body and soul.

In preparation of a restorative dialogue opportunity, the most important thing is to serve victims on their own terms and not ask, early on, if they want to have a meeting with their offender. It's all about meeting their needs.

How are Victims a Part of Restorative Justice?

How do Victims experience the current criminal justice system?

It is not uncommon for victims to experience a blockage of influence within a court-based resolution process. Jury trials may bar victims from the proceedings so as to not "prejudice the jury." Over 80% of guilty findings in the US happen from guilty pleas--not jury determinations. A guilty plea may be for lesser charges than what the victim would like or had expected. The result is that the offender is put in jail or on probation, or the sentence may even be suspended. The victim might feel isolated and powerless in having a say in the determination of his or her case. In contrast, Restorative Justice seeks to involve victims, the community and the offender in working out how an offender may more directly repair the harm that he or she caused

Victims Need to be Restored.

Restorative Justice supports the *needs* of victims; there is a priority to attend to these needs at the front end. This includes:

- Acknowledging how the crime or event affected the victim.
- Allowing and supporting the victim to participate in the justice process.
- Giving the victim a key voice in making decisions within the process.

Once these personhood-empowerment needs have been met, justice processes can then seek to restore financial losses and even address the relational needs of the victim and offender, if applicable. In short, victims have rights, including the right to be heard. Victims also have the right to have their needs met.

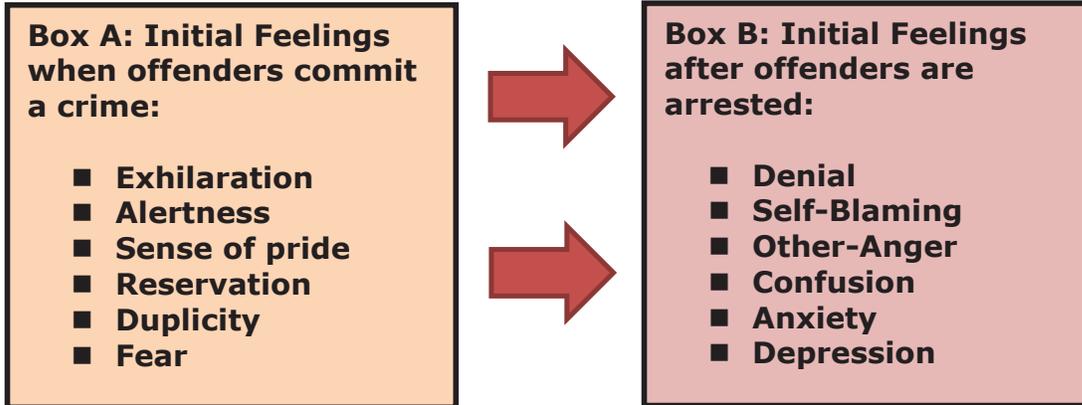
Victims Also Need to be Involved.

Along with a victim's *right* to participate in full-orbed justice processes comes his or her *responsibility* for participation. Victims may not be able to participate in their own justice process immediately, due to the effects of the crime or other circumstances. However, at some point, after their basic needs have been met through resolution processes, victims need to be supported in assuming their responsibilities as citizens. The whole point of restoration is for victims and offenders to have a clean start so that they are no longer held captive to the events of the past.

New responsibilities can include the reporting of crime, the support for policy changes, crime prevention initiatives, the participation in victim panels or surrogate victim dialogue sessions, and volunteers with victim service or restorative agencies.

Understanding the Offender Experience

Just as victims experience the jarring impact of an unexpected situation, offenders too experience a jolt when they are caught and arrested. Their emotions jump from a high intense place of being on high-alert to a dramatic point of low-disgust.

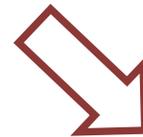


This sudden drop of emotions from Box A to Box B can set in motion a variety of emotions that last over a stretch of time. If they are not tended to well, offenders can rollercoaster with their emotions and reactions no less than how victims can go up and down over time. Many offenders can get stuck in a mindset of being a 'victim' of unlucky circumstances and thus they never fully come to terms with how their actions may have affected other people (let alone, affected themselves).

In the same way a tragic death can emotionally control a person's life if they don't journey through normal stages of grief, a criminal offense can also emotionally control an offender unless the he or she goes through a set of stages.

At best these stages move from...

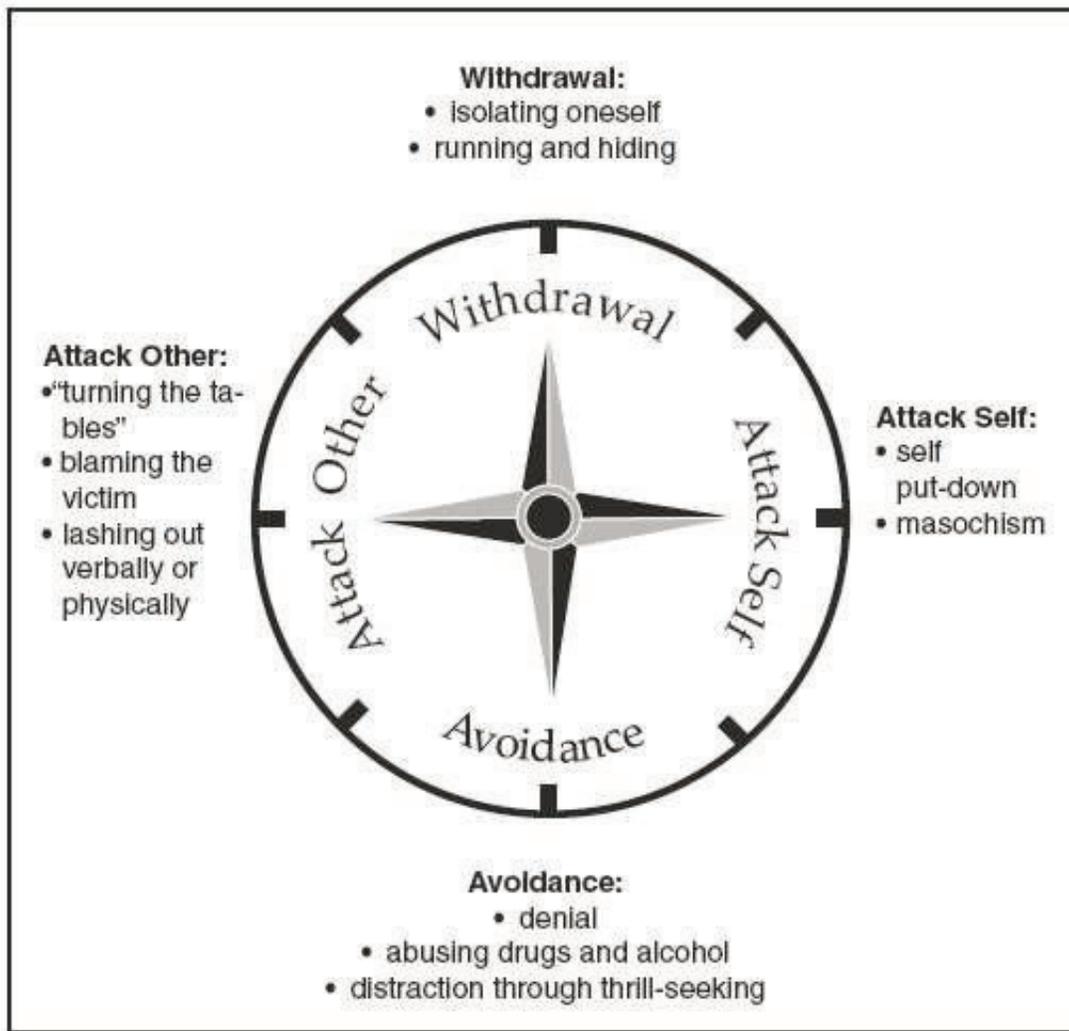
- 1. Denial** (re: the incident)
- 2. Regret** (re: one's own self)
- 3. Remorse** (re: impact on others)
- 4. Reparation** (re: self and others)



Understanding the Offender Experience

The Four Defensive Directions of the "Compass of Shame"

by Dr. D. L. Nathanson



John Braithwaite, in an important study, distinguished between:

Stigmatizing Shame

Denounces offense **and** the offender

Reintegrating Shame

Denounces the offense, **not** offender

Understanding the Offender Experience

Most offenders are already struggling with internal shame for **WHAT THEY DID**, so the last thing they need is to be in a justice system that denounces, directly or indirectly, **WHO THEY ARE**. In contrast, offenders who are dignified and supported in justice processes tend to step up to the plate better to accept responsibility for what they did and also accept positive responsibility for making things right again.

“When individuals are shamed so remorselessly and unforgivingly that they become outcasts or even begin to think of themselves as outcasts it becomes more rewarding to associate with others who are perceived in some limited or total way as also at odds with mainstream standards.”

JOHN BRAITHWAITE, *Crime, Shame and Reintegration*

Whereas disintegrative (or stigmatizing) shaming tends to alienate offenders from the community in which they committed a crime, reintegrative shaming is first of all an expression of disappointment in the individual who has done wrong. Rather than treating the offender as a "bad person," reintegrative shaming actually reaffirms the offender's morality; the disappointment stems from the fact that a "good person" would do something wrong. Reintegrative shaming means that expressions of community disapproval, which may range from mild rebuke to degradation ceremonies, are followed by gestures of reacceptance into the community of law-abiding citizens. This kind of shaming supports the offender in making apology and being repentant.



Understanding the Needs of Offenders

Offenders, like victims, also **experience a disempowerment**, though for very different reasons than how victims would feel disempowered. It has more to do with losing control and thus losing 'face'. This leads to a sense of shame, and every offender will work out their shame in different ways (as seen in the Compass of Shame chart above). Some get harder on others; some get harder on themselves. Some become more reclusive; some become more defensive.

Consider: How do you build trust with an offender who feels disempowered or who is stuck in one direction in the compass of shame?

This discussion opens the way to consider what offenders are needing most from a justice process.

Typical Needs Before a Resolution Process:

- A dignity that distinguishes between the offense and the offender
- Space to feel regret and remorse without judgment
- Forecasts of positive responsibility rather than favors or punishments
- Supports and information about justice processes

Typical Needs During Resolution Process:

- Encouragement to take responsibility for the situation
(both past responsibility and future responsibility)
- Opportunity to learn about impacts and express remorse/apology
- Practical and tangible avenues to make things right

Typical Needs After a Resolution Process:

- Provision to make practical amends and restitution
- Positive connections with family, friends, support groups
- Job supports, transportation, health, etc.
- Sense of clear completion and having a clean slate to start anew

How to Work Well With Offenders

(The following is adapted from materials written by William Bradshaw and Ronald Rooney.)

Defense Mechanisms are Commonplace

Defenses are a part of human beings ways of protecting themselves from anxiety and threats to self-image and self-esteem. Offenders frequently respond to their criminal offense with defensive behavior that draws attention to them as problems and limits understanding and relating to them as a persons. Identifying offender defenses and understanding their protective function can enhance understanding and lessen negative responses on the part of front-end helpers and facilitators.

Principle offender defense mechanisms include:

- 1. Denial:** denial or non-acceptance of important aspects of reality. Failure to accept responsibility. "I didn't do it." Guilty with an explanation.
- 2. Minimization:** lessening the severity of the offense. "It wasn't that big a deal. I didn't intend to harm anyone."
- 3. Projection:** the offender attributes responsibility onto others. "I didn't want to do it, my friend did it. He made me help."
- 4. Rationalization:** the use of convincing reasons to justify the offense. "I needed it; they are rich, they can afford it."

The Offender's Non-Voluntary Status

Many offenders are involuntarily referred to restorative dialogue programming, and while it is vital for voluntary consent to be established at the outset of that programming, it is helpful to understand the overall context wherein offenders experience justice processes without having any real choice or options.

The Reality of Pressured Contact. Due to the power differential between offenders and justice system workers, offenders usually have to follow along with what is either mandated by court or recommended by diversionary programming. This power dynamic can influence the way offenders perceive all of their forthcoming choices.

Common Responses to Mediated Processes. Since offenders have already experienced some encounters with law enforcement and other justice workers where they have felt disempowered, their initial response to mediated or facilitated dialogue process may vary along these lines:

- a) Openness to participate (inner or expressed remorse)
- b) Resistance to participate (inner or expressed hostility)
- c) Compliance with participation but lacking genuine investment
- d) Refusal to participate due to minimizing ownership or viewing self as the real victim

Once they meet with facilitators or mediators they may present themselves in a variety of ways in order to 'save face' for themselves:

- a) Self-promotion: accenting their most positive traits
- b) Acquiescence: agreeing to all things
- c) Guardedness: selective disclosure of facts or truths
- d) Intimidation: using intensity or fear to control things

The best way to move beyond these masks, some of which can be very manipulative, is to convey authentic interest in the offender as a human being, and to help them understand the respect-oriented nature of a restorative dialogue process. Ultimately it is a matter of eliciting the offender's strengths and higher self to the point where they no longer are compelled to mindlessly present themselves out of fear or shame.

Oppressed and Minority Groups. For offenders coming from backgrounds marked by social discrimination, their defense mechanisms can be intensified by any number of factors. Adding cultural differences to the equation of introducing facilitation or mediation processes (which are largely born out of a white, Euro-centric culture) creates a complicated situation that requires keen sensitivity and compassion. One strong recommendation is the use of facilitators who share the same oppressed or minority background as the offender.

Identifying Offender Strengths. Restorative processes are supported best by strength-based approaches rather than deficit-based approaches. Deficits are nonetheless real (as are all at-risk factors) in an offender's life, and are to be taken into consideration. But in preparation for a restorative dialogue process the emphasis is placed on highlighting an offender's inner capacities "to rise up to the occasion" and "to put their best foot forward." This can include their capacity to take ownership, to feel empathy, and to brainstorm around reparation options. The key is to find out what truly motivates them toward positive goals. Strengths can also extend outwardly toward the inclusion of other support people, such as family members or friends.

At-Risk Youth Issues and Interventions

The profile of most juvenile offenders involves a set of **risk factors** that are predictive for criminal behaviors in young people. It goes without saying that increasing the **protective factors** in the lives of youth offenders can only serve to mitigate those negative factors that make them predisposed toward crime.

RISK FACTORS:	PROTECTIVE FACTORS:
<ul style="list-style-type: none">• Poor functioning family• Racial / ethnic discrimination• Presence of abuse and trauma• Poverty-level economics• Negative peer influence• Chronic truancy at school• Drug or alcohol usage• Lack of parent communication• Other _____	<ul style="list-style-type: none">• Stable home life• Healthy diet• High parental involvement• Active in school activities• Positive peer influence• Other supportive adults• Able to discuss problems• Access to good organizations• Other _____

Think of one youth you know who has 3 or 4 risk factors.
Think of one youth you know who has 3 or 4 protective factors.

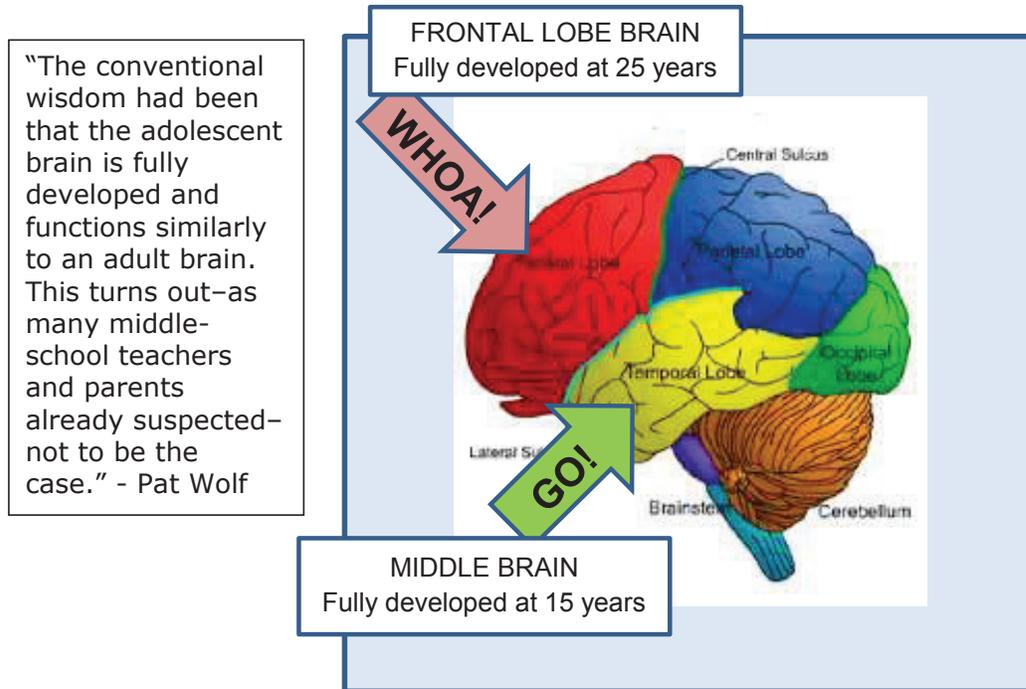
The Bottom Line: Are youth well connect to school, employment and social supports, or are they disconnected?



Since disconnected youth are more likely to end up engaging in criminal activity, it is important that once they become offenders within a justice system that justice processes do not exasperate their experience of being disconnected, but rather help them to reverse this orientation by reconnecting them on all levels. Restorative justice is a significant intervention here as it capitalizes on the power of reconnecting people in the wake of a crime.

At-Risk Youth Issues and Interventions

Understanding Brain Development in Teenagers

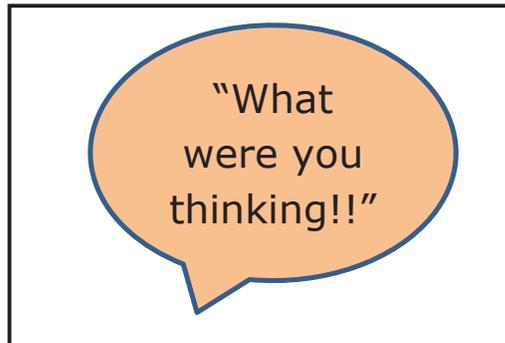


(The following excerpts are taken from Pat Wolf's website, Mind Matters, Inc., *"The Adolescent Brain: A Work in Progress"* 2015)

Scientists have discovered that very complex changes are taking place in the brain during adolescence and that the brain is not fully "installed" until between ages twenty to twenty-five. The brain is still changing during the teen years!....One of the final steps in developing an adult brain is myelination. Researchers at the University of California at Los Angeles compared scans of young adults, 23 – 30, with those of teens, 12 – 16, looking for signs of myelin which would imply more mature, efficient connections. As expected, the frontal lobes in teens showed less myelination than in the young adults. This is the last part of the brain to mature: full myelination is probably not reached until around age 30 or perhaps later.

Understanding Brain Development in Teenagers (cont.)

Why are these changes in the frontal lobes significant? The frontal lobes area is often referred to as the CEO of the brain. It is in this part of the brain that executive decisions are made and where ethical/moral behavior is mediated. In fact, this part of the brain has been dubbed "the area of sober second thought." Persons with damage to this part of the brain often



know what they are supposed to do but are unable to do it. In these persons the damage also appears to impair their ability to imagine the future consequence of their actions. They tend to be more uninhibited and impulsive. Observations such as these suggest that teens may have difficulty inhibiting inappropriate behaviors because the circuitry need for such control is not fully mature. Cognitive and behavioral functions of the prefrontal cortex include:

- Organization of multiple tasks
- Impulse inhibition
- Self-control
- Setting goals and priorities
- Empathizing with others
- Initiating appropriate behavior
- Making sound judgments
- Forming Strategies
- Planning ahead
- Adjusting behavior when situation changes
- Stopping an activity upon completion
- Insight

These functions are a laundry list of characteristics that adolescents often lack. Many researchers suspect that an unfinished prefrontal cortex, with its excess of synapses and unfinished myelination, contributes to the youth's deficits in these areas. Another factor is at play...is that the emotional center matures before the frontal lobes. Emotion therefore often holds sway over rational processing. When we realize that the prefrontal cortex allows reflection while the amygdala is designed for reaction, we can begin to understand the often irrational and overly emotional reactions of teens. Our oft-asked question when teens engage in irrational behavior, "**What were you thinking?**" is difficult for teens to answer because in many cases they weren't thinking reflectively; they were reacting impulsively.

At-Risk Youth Issues and Interventions

Substance Abuse during the Teen Years. Since the shaping of the frontal lobes is mediated by experience, drug and alcohol consumption for teenagers has been found to impede normal brain development. Even without alcohol, a teen's 'WHOA' capacity is lacking; alcohol simply increases this deficit in a person's inner control over their judgments.

OTHER CHALLENGING ISSUES:

- **Trauma and Abuse in Dysfunctional Families**
- **Lack of Care and Clear Boundaries**
- **Economic and Racial Obstacles**
- **Mental Health Issues**
- **Poor Diet, Poor Sleep, Poor Exercise**

What is at stake when these youth become criminal offenders?

PUNITIVE MODELS that foster more disconnection tend to place juvenile offenders in regressive states with respect to positive socialization and integration. We need interventions that reverse the conditions that initially led them into negative behaviors.

Strength-Based Interventions to Address Youth Issues

- Cognitive Group Intervention
- Trauma-Informed Care
- Violence Prevention for Youth
- Holistic Family Services and Conferencing
- Drug and Alcohol Programming
- Anger Management Classes
- Mentorship Programs
- Teen-parent Mediation and Communication Learning

All of these are complemented by **restorative justice practices** that build character competencies for offenders to help them reintegrate with the community (empathy, responsibility, etc.).

The Role of Empowered Communities

"We must rethink the relative roles and responsibilities of the government and the community. Government is responsible for preserving a just order and the community for establishing a just peace."

-- Daniel Van Ness

The Balancing of Community and Government Resources

In our society, local communities used to oversee much of what current government systems now oversee. The restorative justice movement has allowed many local communities to rediscover ways in which they can exercise more

oversight in the areas of public safety, conflict resolution, and criminal justice. By recognizing the community's stake in justice and conflict issues, both as an impacted entity as well as a helping entity, members of many communities are investing more time and resources in being part of new solutions where prevention strategies are part in parcel with intervention strategies.

This involves an awareness that both government and community systems have their...

STRENGTHS

AND

LIMITS

Consider: What are some corresponding strengths and limits within government and community systems?

One way to compare the two is to see how governments can provide sturdy, quality-built structures that stand the test of time, whereas communities can be flexible and freer in adapting to changing situations without being tied to great constraints. Communities can also mobilize resources much quicker, and promote volunteerism without the need for funding.

The Role of Empowered Communities

A Symbiotic Relationship. In light of the strengths and limits inherent in both government and community systems, it is clear that both need each other in strong, two-way partnerships that openly acknowledge each other's respective strengths. A symbiotic relationship can only function when both sides are free to function without overstepping their bounds. Because the US government has taken on too strong of a role in criminal justice, it has created an imbalance that has disempowered communities from their inherent peacekeeping role. One way to understand this imbalance is to see the reluctance of government agencies to hand over cases they are used to handling themselves.

Community Based Programming Relies on Community Resources.

While being supported by government agencies, community-based programming must equally be supported by community resources in the way of volunteerism, funding and material resources.

- Volunteer Facilitators/Mediators – the lifeblood of programs
- Volunteer Surrogate Victims and Community Members
- Community Facilities to hold meetings and trainings
- Community Service sites for offenders to do work
- Supplemental services such as mental health, job readiness, mentoring, tutoring, etc., to support families
- Public Media channels to build awareness and support
- Awards that give the program communal legitimacy
- In-kind donations for office supplies, tech support, food, etc.
- Funding from foundations, corporations, employee giving funds and individuals

Volunteers Assisting with Dialogue Models. At the heart of any community-based restorative programming are trained volunteers from the community who provide time and passion toward the work of resolution. This fits with the idea that community justice and peacemaking is work...

“...of the people, by the people, for the people.”



Surrogate Victims and Community Members

When an actual victim chooses to not participate in a dialogue process or is not available, it is still important to carry things forward with other participants who can ensure that a full restorative conversation can happen.

The role of **community members** and **surrogate victims** is 3-fold:

1. To speak as a representative victim in a similar crime (without representing the actual victim). "Had I been in that situation, I would have experienced..."
2. To speak as a representative of the community that is more widely impacted by crime. "The whole community loses trust when you..."
3. To speak as an advocate for restorative outcomes. Participants in these roles are already vested in non-punitive measures, and therefore they help to determine reparative conditions of an agreement that mend the harms and foster positive responsibility and reintegration.

Facilitators are
'PROCESS
PEOPLE'

Community Members
are 'CONTENT
PEOPLE'

A chief benefit of including community members and/or surrogate victims in conferences or mediations with offenders is because they have more liberty than facilitators to say whatever they wish to say. They can speak more subjectively (as a subject or a party in a case), and they can fully represent people impacted by the crime. Perhaps they have their own similar story from their past. Altogether, community members have vested interests in the community they share with offenders, and thus they promote outcomes of safety, closure, accountability, and reintegration for all involved.

Community members and surrogate victims can also be asked to support meetings that include the actual victim of a crime. This would be at the request of the victim who would inform the case worker or mediator.

NOTE: When a victim chooses to participate in a Victim-Shuttle arrangement to relay impact and reparation statements, it is the facilitator who handles the shuttle of information, not the volunteer surrogate victim(s).

SECTION

3

A Humanistic, Dialogue-Driven Approach

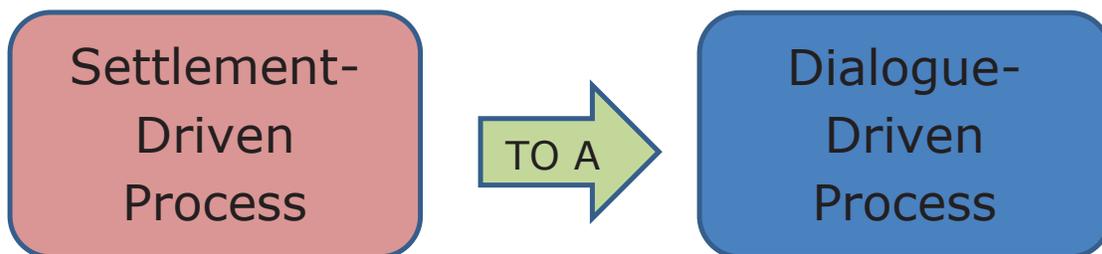
“A humanistic approach to mediation and dialogue adds the human-element on all levels of a mediation process: mediators tune into their own human issues and capacities, parties tune into their own deeper humanity and the humanity of the other party, and consequently, the process itself is humanized through deepening, uninterrupted conversation.”

- Mark Umbreit, Ted Lewis, *What is a Humanistic Approach to Mediation: An Overview* (mediate.com)

A humanistic approach to conferencing (or mediation) is fully aligned with a transformative approach as set forth by Bush and Folger, and yet it also adds several new emphases. In *The Promise of Mediation* the authors even use the term “humanize”, recognizing the inherent strengths within parties that help them gain greater confidence in themselves and greater empathy for the other party. Developed at the same time in the early 1990s, largely in the context of working with victims and offenders of severe crimes, humanistic mediation has emphasized three things that complement transformative mediation:

- **the power of preparation meetings**
- **the power of mediator presence**
- **the power of party-to-party conversation**

From Settlement-Driven to Dialogue-Driven. These features that honor the depth of good preparation, the depth of mediator presence, and the depth of heart-to-heart conversation essentially draw restorative dialogue out of the conventional realm of...



Victim Offender Conference/Mediation Continuum: From Least to Most Restorative Impact

<p>Least Restorative Impact</p> <p><i>Settlement-Driven: Offender Focus</i></p>	<p>Most Restorative Impact</p> <p><i>Dialogue-Driven: Victim Sensitive</i></p>
<ul style="list-style-type: none"> • Main focus is on determining restitution or reparation, with reduced discussion on impacts and consequences of the crime, or on feelings past and present • No separate preparation meetings with the victim and offender prior to bringing the parties together • Meeting sites are predetermined without consideration of victim’s preferences or needs • Support people and surrogates are routinely not incorporated into joint meetings • Facilitators generally play a directive role throughout the session, and are the primary question-asking participant • Facilitators provide case content in order to advance the discussion toward resolution and restitution • Low tolerance for moments of silence or expression of feelings • Voluntary for victim but may be required of offenders whether or not they even take responsibility 	<ul style="list-style-type: none"> • Main focus is on the discussion between the victim and offender regarding the impacts and consequences of the crime, including feelings past and present • Separate preparation meetings with the victim and offender prior to joint dialogue is standard • Victim’s preferences and needs help to determine meeting site location and logistics • Victim and offender are invited to include support people of their choice in joint meetings • Facilitators play a more non-directive role throughout the session, empowering parties to ask questions and have direct dialogue • Facilitators slow down case description discussion by having parties fully cover all the bases • High tolerance for moments of silence or expression of feelings • Voluntary for both victim and offender, with full consent after trust-building preparation meetings

A Humanistic, Dialogue-Driven Approach

Outlining the Main Components of a Humanistic Approach

All social service practices are undergirded by values. Most values draw from a deep reservoir of human strength and goodwill that essentially point to a set of beliefs about human nature, conflict, and the search for healing. Such beliefs within a human-centered approach include:

- a belief in the connectedness of our common humanity
- a belief in the desire of most people to live peacefully with each other
- a belief in the healing power of stories and the expression of feelings
- a belief in the capacity of all people to draw on their own inner reservoirs of strength to overcome adversity, to grow, and to help others in similar circumstances

While crime and conflict stir up a type of negative, even toxic emotional energy between people, good resolution processes aim to dispel and even transform that energy into something positive. This involves the bringing forth of positive human strengths that are found within facilitators, within parties and even with processes themselves. In other words, a humanistic approach to resolving conflict and crime through facilitated dialogue involves the potentialities that are waiting to be enlivened during a resolution process, and once enlivened, they can foster the necessary depth and power to help people SHIFT from the negative past to a positive future.

These potentialities include:

- **Potentialities within Communication Processes**
- **Potentialities within Facilitators**
- **Potentialities within Parties**



“Humanistic mediation is grounded more in a paradigm of healing and peacemaking than problem-solving and resolution.”

- Mark Umbreit

A Humanistic, Dialogue-Driven Approach

Each of the three areas (above) can be further divided into nine practice components:

RE: Potentialities within Communication Processes:

1. **Pre-mediation Preparation Sessions** -- Vital time to listen, provide information, build rapport and trust, clarify expectations, prepare for mediation, and offer communication coaching.
2. **Mediation Session Dialogue** -- Due to good preparation, the non-directive mediator invites direct, party-to-party dialogue in order to ensure sufficient depth of conversation.
3. **Post-mediation Follow-up Sessions** -- The offering of follow-up sessions provides a wider safety net for parties to experience the fullest healing and accountability possible.

RE: Potentialities within Mediators:

4. **Mediator Centeredness.** Clearing the mind of clutter and personal 'stuff' allows mediators to focus well on the task of peacemaking and to develop a sense of compassion for the parties.
5. **Connecting with the Parties.** Building rapport and trust at the beginning builds up a bank account of trust that parties can draw upon later.
6. **Deep Listening from the Heart.** As mediators use their hearts to listen 'beneath' the words they hear, they develop greater capacities to respond from the heart.

RE: Potentialities within Parties:

7. **Eliciting Parties' Strengths.** Starting in preparation sessions, mediators tune into the innate strengths that each individual can tap into at their own pace and recognition.
8. **Face-to-face Seating.** While taking cultural and power-dynamic considerations in mind, appropriate seating can promote authentic heart-to-heart sharing. In most cases eye-to-eye communication is vital.
9. **The Power of Silence.** Mediators recognize how undisturbed silence can elicit inner thinking on the part of parties who have the space to respond as they wish.

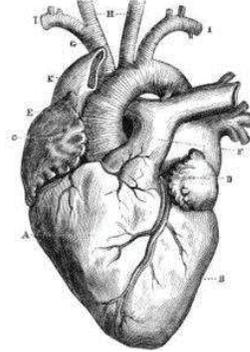
Listening and Speaking from the Heart

Structure is important – like notes on staff lines are a key part of music

Skills are important – like hand coordination is for playing instruments

Standards are important – like rules are necessary in sports games

But in victim offender conferencing, the most important element is the **Human Heart**. Heart-based language is frequently used in the mediation field metaphorically ('heart-to-heart' conversation; open-hearted, warm-hearted, etc.). New research, though, is showing that the actual human heart is very much engaged in conflict resolution processes. Consider how stress effects the heart, and how the relaxing after a conversational shift-point relaxes the heart and blood pressure.



So while Structure and Skills and Standards are all important in the fields of conflict resolution and restorative justice, and while they are helpful to learn when guiding people through resolution processes, the foundation of all resolution work is **creating safe spaces** where people can meet to speak from their hearts, listen deeply with their hearts, and connect with each other at a heart-level. Third-party helpers who are tuned into these heart matters and who eventually become fluent in the language of the heart, will grow with any process and learn to be a calm, centered presence for others.

"Active listening, as a skill or technique for mediators is important, but there is a way of serving others in a deeper way. Deep compassionate listening requires us to listen from the heart, to quiet our mind and ego, to allow the healing energy of story to emerge. It requires a conscious effort to not solely rely on understanding the verbal content being expressed, but to be open to looking for the emotional energy underneath the language, which may be quite inconsistent with the words being expressed. Deep listening has everything to do with the energy of one's presence, and one's own groundedness in humility and compassion. In this light, mediators need to learn how *to step out of the way* in order to let parties meet each other at the deepest possible level."

– Mark Umbreit, *On Deep Listening*

Overview of VOC Case Development

The Initial Context

1. Youth offender arrested
2. Youth offender charged
3. Case filing and investigation
4. Case referred to VOC program



The Intake Stage

5. Case logged and filed
6. Letters sent to offender, then victim
7. Case assigned to facilitator(s)
8. Initial calls made to offender, then victim



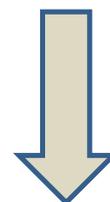
The Preparation Stage

9. Preparation meeting with offender party
10. Preparation meeting with victim party
11. Conference scheduled for both parties
12. Confirmation letters sent and/or calls made



The Conference Stage

13. Facilitators get needed paperwork
14. Facilitators prepare meeting site
15. Conference is held
16. Paperwork returned to program staff



The Follow-up Stage

17. Program staff file case and agreement data
18. Program staff track agreement plan
19. Offender and victim are notified of completion
20. Case closing data is reported to referral source



Basic Elements of Victim Offender Conferencing

Four Main Stages of Case Work: (see above)

1. The Intake Stage
2. The Preparation Stage
3. The Conference Stage
4. The Follow-up Stage

Party Considerations:

- Requires Admission of Guilt or Ownership by Offender(s)
- Offender Participation Should be as Non-Coercive as Possible (and voluntary consent is best at end of initial meeting)
- Victim Participation Must be Voluntary! (also an option for victim shuttle communication relayed through the program agency)
- Support People, Victim Surrogates, and Community Members can all be considered for appropriate participation

Facilitated Process Considerations:

- Facilitator(s) Meets With Each Party Separately Before Date of Mediation to Prepare Parties and Screen for Safety
- Conference Involves Face-to-Face Meeting in a Safe, Quiet Setting
- Facilitators Empowers V/O Parties to Resolve Conflict Through Dialogue & Mutual Aid
- Facilitators are Trained to Abide by Mediation Standards (see page)

Typical Outline of a Conference:

1. Introduction Time
2. Discuss Facts / Feelings (Storytelling and dialogue)
3. Discuss All Impacts and Consequences (Transition phase)
4. Discuss Reparation Plan (Conflict resolution and restitution)
5. Closing Time

Initial Contact with Offenders and Victims

Once a referred case has been filed by program staff, and letters have been sent to the parties to establish agency credibility, the Intake Stage of case development can proceed with first phone contacts with offender and victim.

Information to give at the start of a phone call to parties:

- Your name
- Your volunteer status
- The agency you represent
- A brief reference to the specific crime incident (and month)
- A reference to the initial letter sent to them

Goal of the phone call. The main purpose of an initial call is to develop greater trust and confidence for the party to take the next step in scheduling an in-person preparation meeting. In general, more time can be spent with victims who need greater assurances or the chance to share their story.

"We are hoping to meet with you so that we can learn more about your situation and story, and you can also learn about how our process works."

Should you talk to the youth offender or the parent? Each program may have a different view on this, but one standard can be as follows:

- For juvenile offenders **15 years or older** (high school), it is okay to talk to them first to highlight their own responsibility. But after this you need to talk with a parent to establish a connection with them.
- For juvenile offenders **14 years or younger** (middle school age), it is always best to talk to a parent first. After that you can talk briefly with the youth to establish some connection and rapport directly with them.

Leaving phone messages. Use your best discretion as to when to leave a message and what to say. Make messages brief without case content. The goal is simply to have someone get back in touch with you or your office.

Exercise (in Pairs) for Initial Calls to the Offender and Victim

Lori Stevens (offender, 17) is the lead offender of three teenagers who egged the house and roof of Judith Kelsey (victim, 62) who is Lori's English teacher. This is not the first egging of the house, but it is the first time the victim reported it to the police. (based on a real case from KS)

The Importance of Preparation Meetings

Why Are Preparation Meetings Important in Victim Offender Conferencing?

- **To establish trust** and rapport between parties and facilitators so that victims and offenders will feel safe in proceeding with the mediation process
- **To provide space** for parties to articulate their stories and feelings, and thus be heard, acknowledged and dignified in their experience
- **To personalize** the juvenile/criminal justice process for both victims and offenders and thereby embody the respectful essence of restorative principles
- **To educate** parties about the benefits and risks of conferencing, to describe the process and to answer questions, and to empower parties to make a fully informed and voluntary choice about whether or not to participate
- **To screen** victims and offenders as candidates for conferencing, to assess their readiness for joint dialogue as well as the appropriateness of the case for conferencing, thus guarding against any scenario of re-victimization
- **To gather information** that will clarify the issues that need to be addressed in conferencing, including other persons in the crime, and restitution requests
- **To assess the needs** of parties and thus determine adjustments to the process and logistics that can best meet those needs
- **To determine support people** that could also participate (family members, resource people, community members)
- **To prepare** parties for conferencing with a sense of optimism, with 'thinking' homework, and possibly to give them any communication coaching

The main goal is to build TRUST and to set people at EASE.

Discussion Elements of a Preparation Meeting

Prior to the Preparation Meeting:

- Be aware of stand-out elements from a police report
- Make sure a parent or guardian accompanies the youth
- Arrive prior to the time a party might arrive

During a Preparation Meeting: (Outline)

Preliminaries:

- Introductions and informal conversation
- Give your word of confidentiality
- Highlight RJ distinctives and program strengths
- Forecast the three main discussion areas

Main Discussion: (bulk of time)

- Storytelling "What Happened?"
- Impacts "Who Was Affected?"
- Resolution "What Repairs Can Be Made?"
(write down suggested reparations)

Forecasting Time:

- Determine voluntary consent for conferencing
- Explain conferencing process and forms
- Ask about support people or other parties
- Ask about any concerns that the party has
- Discuss best dates for conference scheduling

After a Preparation Meeting:

- Debrief with co-facilitator
- Report special case factors and needs to staff

Communication Skill Set for Facilitators:

- Build trust and rapport at outset
- Ask open-ended, invitational questions
- Acknowledge what is said before steering things ahead
- Be with the victim or offender in a manner that conveys your compassion and support

In many ways, preparation meetings cover the same ground that conferences do, and in this way they are like "dress rehearsals" of the main performance.

Discussion Elements of a Preparation Meeting

Preparation Meetings with Offenders: Key Points

- Assess experience of 'pressured contact' with justice process
- Assess levels of ownership and remorse
- Assess the motivation and capacity of offender to make amends
- Encourage offender to articulate a fuller, detailed narrative of crime
- Key in on offender strengths and personal goals
- Ask parent what they have experienced through the whole time

Toward the close of the meeting, after consent to go forward has been established, discuss the following items with an offender and parent

- Best times of the week for a scheduling a conference
- Think ahead of time what they want to say to the victim
- Prepare to listen to the victim and to respond
- Consider how they want to make amends or repairs

Preparation Meetings with Victims: Key Points

- Assess levels of emotional impact and caution for conferencing
- Tune into what victims repeat, and what they most want from dialogue
- Reality-check for victim's expectations of the offender and conference
- Review and log information regarding a victim's financial losses
- Answer questions victim may have about justice system, restorative process, victim rights, victim resources, etc.
- Assure the victim that they can terminate at any point in the process

Toward the close of the meeting, after consent to go forward has been established, find out what the victim prefers with respect to...

- Meeting time and length
- Meeting location and room
- Seating arrangement
- Who talks first
- Support people



The Benefits and Risks of Conferencing

Potential Benefits for the Offender:

1. Learning the real impact of their behavior on others and moving beyond denial to taking responsibility.
2. Building self-esteem through taking action to make things right with their victim and community.
3. Having a chance to tell one's story, to represent oneself, to be heard.
4. Having a say in determining a plan for restitution.
5. Feeling more powerful and in control of one's life after feeling shame and disempowerment.

Potential Risks for the Offender:

1. Re-experiencing anger, frustration, loss of control associated with committing the crime.
2. Reinforcement of shame and despair through learning the effects of the crime on the victim.
3. Unrealistic expectations about the victim's response (too optimistic or too pessimistic; fearful of strong emotions on the part of the victim)
4. Feeling vulnerable as a result of expressing some of their own true feelings of shame about what they did, or about their life circumstances.

Potential Benefits for the Victim:

1. Expressing anger and pain directly to person responsible for it.
2. Learning new information about the crime that is helpful to the victim.
3. Seeing remorse in the offender and being heard.
4. Experiencing a greater sense of closure.
5. Feeling more powerful and in control of one's life after feeling disempowered.

Potential Risks for the Victim:

1. Bringing up uncomfortable feelings related to the victimization.
2. Re-experiencing the initial anxiety, trauma of related symptoms.
3. Learning painful new information about details related to the crime.
4. Not seeing the degree of desired remorse in the offender.
5. Unrealistic expectations in regard to the offender's rehabilitation.
6. Not knowing ahead of time what the end result will be.

Facilitators need to be aware of these benefits and risks in order to talk frankly about them with parties in preparation meetings.

The Role of Facilitators in VO Conferencing

FACILITATE: Based on the French word “facile” which means “to make things easy.”

Facilitators provide for safe, constructive communication between people. They don't fix things for people; they help people fix things themselves.

The Overall Role of a Facilitator:

- Build bridgework of good communication...
- Maintain a safe, constructive, ethical space...
- Balance the power differentials...
- Assist with realistic and reachable agreements...

} ...between parties

Facilitators promote basic mediation standards:

- Voluntary involvement of parties
- Confidentiality respected
- Effort to reduce emotions and barriers
- Self-determination of parties to determine outcomes
- Consensual agreements that are not legally binding

What do you bring to the table as a facilitator?

THE SEVEN P's

- **Our PERSONALITY**
- **Our PERCEPTIONS**
- **Our PAST EXPERIENCES**
- **Our PREJUDICES**
- **Our PUSH BUTTONS**
- **Our PARTIALITY**
- **Our PRESENCE**

Consider: What are some examples of how any of these can be a problem in a facilitated dialogue?

Consider: Which of these are givens for you and which of them can be changed by you?

The real issue:

MINDLESSNESS

vs.

MINDFULNESS

The Power of Dialogue in VOC Conferencing

“Being a facilitator is like being a conductor for an orchestra. A conductor is essential for holding everything together from start to finish, but is essentially silent throughout. Parties themselves, like musicians, are the ones who make the music.”

-Ted Lewis

Understanding the Dialogue Triad:

SPEAKING HEARING BEING HEARD

It is one thing for a party to speak. It is a second thing for the other party to listen. But it is completely a third thing for the first party to be heard. This third aspect of communication is what allows parties to experience a deeper sense of satisfaction with the process which helps them to move forward toward a positive conclusion. It is also the area in which both parties experience the common humanity of each other.

A facilitator’s job is to make sure that all that needs to be said and heard has been said and heard. On one hand this is a matter of inviting things to be said and confirming that things have been heard, but on the other hand it is a matter of stepping out of the way in order to allow space for the parties to speak and listen without interruption. In this light, the facilitator must be in tune with how much needs to be said and how much of it has truly been heard.

The Offender’s Communication:

By speaking, an offender deepens his/her ownership and moral conscience

By hearing, a victim gets new answers and sees the offender’s humanity

By being heard, an offender experiences a new connection with the victim

The Victim’s Communication:

By speaking, a victim releases some of the burden within and regains power

By hearing, an offender gains deeper understanding and empathy

By being heard, a victim experiences a new connection with the offender

Victim Offender Conference – Outline of Steps

Pre-meeting: Meet with co-facilitator 30 minutes before meeting to...

- Talk over case details and process options
- Determine who will lead parts of the mediation
- Prepare necessary forms
- Set up room with chairs, water, etc.
- Become centered and focused

Introduction Time:

- Welcome participants; do introductions by name
- Review what has taken place and highlight restorative justice
- Summarize conference process with front-end form to sign
- Touch on 'respect' as main ground rule; option for breaks
- Forecast 3-stage outline and general timeframe

Stage 1: Storytelling Discussion -- What Happened?

- Offender (and sometimes victim) goes first to tell their story
- Other party is invited to ask any questions
- Others present, including facilitators, ask more questions
- Victim (and sometimes offender) goes second to tell their story
- Other party, other participants, facilitators ask more questions
- More storytelling is invited to cover feelings, motives, context, etc.
- Ideal is for both parties to talk directly back and forth to each other

Stage 2: Impact Discussion – Who Was Affected?

- Victim is invited to summarize how they were affected
- Offender is invited to respond or to echo back what was heard
- Others present, including facilitators, ask more questions
- Facilitators extend conversation to how others were affected
- Ideal is for both parties to empathetically connect with each other

Stage 3: Reparation Discussion – What Repairs Are Needed?

- Victim is invited to share their requests for reparation
- Offender is asked to respond to those ideas, and to add any
- All present surface possible options before evaluating them
- Options that are mutually agreeable *and* realistically achievable are written on pads and eventually transferred to an agreement form

Closing Time:

- Congratulate participants for their hard work
- Invite each participant to give a reflection on the meeting
- Review any follow-up plans or expectations
- Don't underestimate how parties can share new things from the heart

Post-Meeting Debrief: Always debrief with your co-facilitator

VOC – The Introduction Time

Essential Elements of a Facilitator’s Introduction:

After general intros, small talk, logistics, etc., it is helpful to:

1. Give a brief snapshot of how the case was referred to the program
2. Give a brief review of how the parties had preparation meetings
3. Give a brief description of restorative justice distinctives

Then **in conjunction with any front-end form to be signed**, cover...

4. **What Conferencing Is:** voluntary, confidential, non-legal, self-determination
5. **Who Facilitators Are:** third-party guides, not judges or attorneys
6. **Why Conferencing Works:** ground-rules of respectful listening, no interruptions, dialogue-driven between parties
7. **How Conferencing Unfolds:** storytelling, impacts, then resolution

Introduction Content and Youth Offenders. While the main goal of the introduction time is to SET ALL PARTIES AT GREATER EASE, it is equally important to not cater to adults and ignore youth. Generally, adults will tune in more to preliminaries than teenagers, so the key is to not allow for an ‘energy drop’ at the outset of the conference. Because this is more of a challenge for youth, there are several ways to keep them engaged:

- Favor eye contact with youth more than with parents
- Make the preliminaries meaningful and relevant to youth
- Don’t ask ‘yes and no’ questions, but get youth to talk a bit

Examples of questions to ask youth offenders in Introduction Time:

- When you were arrested, did the police have a direct conversation with you? How was that for you?
- How would you define the word ‘confidentiality’?

Examples of making things relevant in Introduction Time:

- “A restorative justice process is letting you both fix things rather than having other people decide on how to fix things for you.”
- “Remember what you learned in your school literature class, how every story has a series of conflicts, a climax and a resolution? Well that’s pretty much what this process is all about.”

VOC – The Storytelling Discussion

Expanded Flow of Storytelling Discussion

Main Goal: To surface all information and feelings about the crime incident and related issues up to the present

“I want to remind you both that this is your conversation and that you will mostly be speaking to each other. I’ve asked you (the victim) if you would like to start with your story or if you prefer to hear (the offender’s) story first.”

(Typically, offender’s go first because most victims like to ‘get a read’ on the offender before they feel ready to share about their own experience. On the other hand, some victims may prefer to go first if they are ‘brim full’ with things they want to say. Give every victim a choice of going first or not.)

Victim or offender tells their story first. Facilitator asks the other party to ask any questions of the party who just shared. Only after that should facilitator(s) ask additional questions to help surface a fuller picture. This sets a precedent to say, “This is your conversation, not mine.”

After that the facilitator invites the other party to share their story of how they experienced the crime situation. Again, the listening party is then invited to be the first to ask any questions. Facilitators can follow up with lingering questions.

Other participants can also be asked to share more information about their experience or to ask new questions from anyone.

Even though there is a transitional discussion section to cover the impacts, it is common for a victim’s story to blend both information and impacts together.

Sample transition question before moving into the Impact Discussion:

“We’ve had good discussion about everything that happened, and I think we are about ready to move into our next discussion about the impacts, but before we do that, does anyone have anything else they want to share about the crime incident?”

VOC – The Impact Discussion

Expanded Flow of the Impact Discussion

Main Goal: To surface all impacts and consequences resulting from the crime and helping parties reach a deeper understanding and connection.

Facilitator will invite the victim to summarize all of the major impacts that they experienced.

Facilitator will then invite the offender to respond to what they have heard. This can either be... “Would you like to respond to what _v_ has said?” or “Could you repeat some of the main things you heard _v_ talk about.”

Ideally, the parties are not needing prompts to respond to each other at this stage, but are initiating their responses on their own. But some youth offenders need small prompts to keep the conversation moving forward.

Ask others present how they were affected by the situation. For surrogate victims, ask how they would have experienced the situation had they been the actual victim.

Ask the offender how he or she was affected, and what other consequences they experienced.

If no direct apology has been offered by the offender to the victim, a facilitator can ask the victim, “Can you sum up how this situation has affected you the most?” Then ask the offender, “How would you like to respond?” If silence follows, let the silence remain so that the offender lives into a deeper realization and initiates a response.

At some point, facilitators will take brief notes on the victim’s losses and harms that suggest possible repairs that will be addressed later.

Discussion can also include how an offender would make better choices in similar situations in the future. Sometimes a youth’s family life or relationship with a parent can be addressed to some degree.

Sample transition question before moving into the Resolution Discussion: “We’ve had good discussion about all of the impacts, and I think we are about ready to move into our next discussion about resolving things, but before we do that, does anyone have anything else they want to share about how people have been affected?”

VOC – The Reparation Discussion

Expanded Flow of Reparation Discussion

Main Goal: To address all possible solution ideas for reparation and determine which ones the parties mutually choose to put into a written agreement.

Facilitator: “Now that we have identified the harms and the impacts, we can move into our final stage to repair the harms.”

Invite the victim party to identify their main requests. Jot things down.

Facilitator asks the offender to respond to those requests. Offender can also be asked to offer additional options for repair.

Others present can be asked to give their input regarding reparations.

Facilitators do not offer suggestions, but they can invite new discussion topics. “You previously talked about the damage to the door. Would you both like to discuss possible options that addresses that matter?”

First surface all possible options. Once that is complete you can have parties evaluate the options to see if they are mutually agreeable as well as realistically achievable. Have people consider merits of a follow-up meeting.

Facilitators finally help parties to draft a written reparation agreement that finalizes the repairs that both parties consensually agree to, including other present stakeholders.

Starting with brief notes, these repairs are read to the parties to ensure it is in language of their choice, but also in very specific, unambiguous language.

Finally, one facilitator neatly writes the agreement onto a reparation or restitution form, it is read a final time, and all parties sign their names.

“Will make some copies of this form, and also go over some other forms that are aids for tracking the agreement. But now we are ready to shift into our Closing Time to have some final discussion about how this whole process went.”

(If a copy machine is nearby, one facilitator can make copies of the agreement while the other transitions into the Closing Time.)

VOC – The Closing Time

Main Goal: To wrap up any loose ends extending out of the Reparation Agreement and to give final space for parties to share on a deeper level as they reflect on the meeting.

If the agreement writing and signing is the climax of the conference, the Closing Time is like the necessary wind-down period such as after a running race.

“We want to congratulate all of you for pressing through to a good outcome. Thank you for your hard work and participation.”

In situations where there is not very good resolution or a sense that there is still mistrust or blockage in the energy of the case, you can still affirm the value of meeting to allow new truths to be voiced and aired. The program will always be available in any way that it can help in the future.

“I want to invite each of you to share how this meeting has been for you. Who would like to start?” The idea here is that when parties have reached a more relaxed point in the conference, they are apt to share new and personal statements that can further the bridge-building between parties. It is important to give that space for them to go deeper if they choose.

The closing time is also a time to review follow-up arrangements and expectations so that everything in the agreement has clear “next steps” in place. Victims can be asked how often they would like to be contacted to be informed of the progress of the reparation agreement.

Assure both parties that the agency staff will be calling them to notify of the completion of the case.

“When I was a teenager, I did some pretty stupid things, too.”

ADULT VICTIM

“I never realized ‘til now how what I did could have all of those bad effects.”

TEEN OFFENDER

Writing Good VOC Agreements

Never forgot that there can be...

Resolution IN
the Dialogue

as much as
there can be

Resolution IN
the Agreement

In fact, without the first (personal) area, it is unlikely there will be any satisfaction in the second (practical) area.

Once parties have 1) discussed the best **Reparation Options**, and
2) agreed upon the best **Reparation Plan**,
then it is time to make sure you have a...

S.M.A.R.T. Agreement

- **Specific:** covers all of the bases for Who, What, When and Where
- **Measurable:** provides actual figures for hours and dollars
- **Attainable:** corresponds to what a youth is truly able to do
- **Realistic:** prevents a victim from setting goals that are too high
- **Timely:** clarifies a timeframe that brings closure to both parties

Three Most Common Types of Restitution:

- Monetary Restitution
- Community Services Hours
- Apology Letters

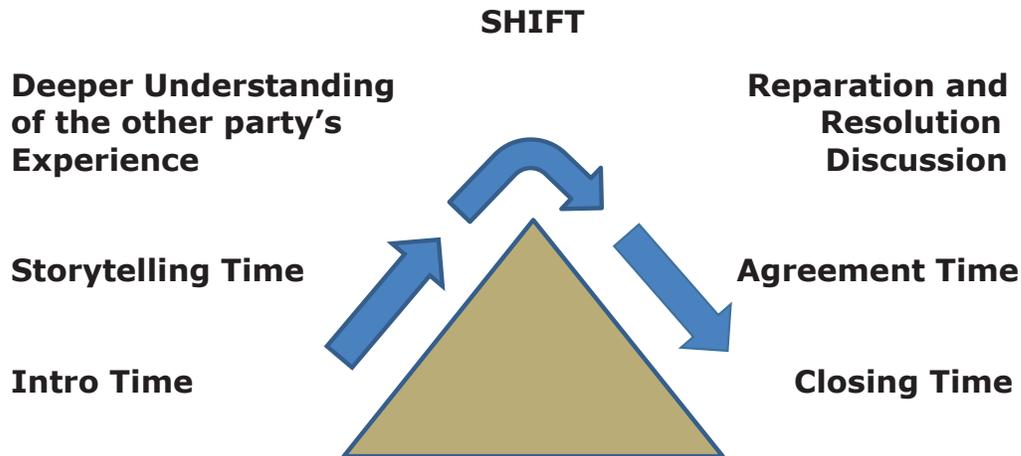
Other Types of Restitution:

- Learning Essay or School Presentation
- Fixing bikes or other repair-ables for a non-profit
- Outdoor help for a victim party (when initiated by the victim)
- School improvement plan (grades, behaviors, projects)

Additional Tips for VOC Facilitators

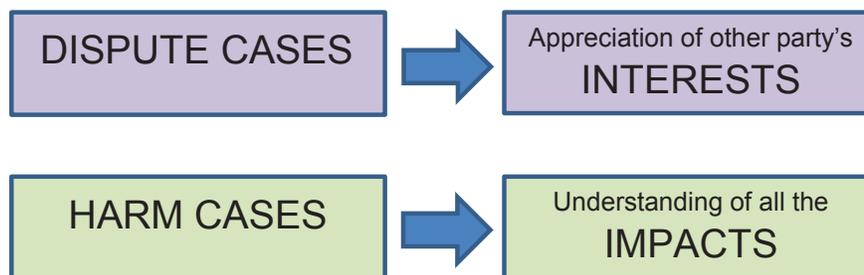
1. Recognizing the Shift Point

Without experiencing some sort of positive **SHIFT POINT**, most victims and offenders will find it hard to pivot from the weight of the past to a freer future. But by gaining a deeper understanding or appreciation for some aspect of the other party, most parties will shift toward a resolution after hearing what they need to hear.



2. Interests and Impacts

The main difference between dispute mediations and VO conferences is that shifts happen after parties truly understand **IMPACTS** instead of **INTERESTS**.



3. Going Deeper vs. Moving Forward

VOC facilitators can slow the process down by helping parties to go deeper in conversation before the conversation is advanced forward to new discussion areas. This can happen through acknowledgements, questions and silence.



4. The Power of Silence

By honoring moments of silence, facilitators honor the capacity within parties to reflect more deeply and to initiate heart-felt responses to the other. These are not awkward moments but rather sacred Moments that should not be filled.



If another party does not eventually make a response, facilitators always first invite a party to make a response before filling the silence with their own responses or questions.

Never forget that there is no rush to finish, and in due time, all will be said and heard.

5. The Art of Asking Questions

All good questions are **INVITATIONAL QUESTIONS** that serve the needs of the participants. The purpose of asking questions is not for facilitators to receive new information but for parties to express new information to themselves and to the other party. Unlike lawyers who use leading questions with predetermined outcomes, facilitators invite empowered conversation between the parties without assessing the content or leveraging the outcome.

Some Typical Questions to Ask Parties:

- **Interest-Seeking Question:** "Why is that important to you?"
- **Party-Echo Question:** "What are you hearing Steve say to you?"
- **Discussion Invitation Question:** "Would you both like to discuss the damages to the fence?"

6. Non-Directive Facilitation

Facilitators are ready to intervene at any time to keep things safe and constructive, but they mostly need to **step out of the way** and simply be a calm, non-anxious presence. When preparation meetings have been done well, parties are apt to talk directly with each other, thus not requiring the directive style of facilitation that might accompany a dispute process.

7. De-escalating Strong Emotions

Reframing loaded statements (taking the 'sting' out of the words) is one way to bring down emotions. But sometimes the expression of emotions is necessary for one or both of the parties to move through the process. The goal is to not allow negative emotions to thwart the progress toward the necessary shift point toward resolution discussion. As a rule, parties cannot easily discuss solutions in the future if strong, mistrustful feelings are still present.

"The emotional energy behind all of our communications, verbal or non-verbal, influences the manner in which we both respond to severe conflicts or traumatic events and are perceived by those who have harmed us. When resolution processes allow toxic energy to be released in healthy ways, it opens the way to finding peace as we experience transformation and healing, perhaps even forgiveness."

Dr. Mark Umbreit, from *The Energy of Forgiveness*

8. When to Break or Caucus

When strong emotions become stuck emotions it is possible to take a break or to caucus. This can either relieve tensions or open up discussion from a new angle.

Let's re-assess.

Let's take a break.

Let's caucus.

When caucusing, make sure that you visit equally with both parties. Anyone can request for a break or a caucus. Caucus conversations are confidential.

12 Ethical Standards for VOC Facilitators

“Standards are like railings on high look-out places. While they seem to restrict things, they actually give greater freedom and safety.” - Ted Lewis

1. Adequate advance preparation of participants
2. Careful screening and assessment for conferencing
3. Voluntary participation with informed consent*
4. Impartiality toward parties; recognition of one’s biases*
5. Conflicts of interest disclosed and discussed*
6. Self-determination of parties fully honored*
7. Duty to protect confidentiality and disclose exceptions*
8. Responsibility of mediator competency and due diligence*
9. Clear boundaries and expectations respected
10. Provide opportunity for full expression of parties’ feelings, needs and interests
11. No pressure for reconciliation or forgiveness
12. Avoid even the appearance of impropriety

*(Primary ethical standards for mediation field)

Understanding Apology and Forgiveness

“Both apology and forgiveness are gifts discovered within and then extended outwardly toward others. They should never be expected or prescribed. In fact, when they are prescribed they paradoxically reduce the chance that the giver and receiver will experience the rich and satisfying depth that can only come when apology or forgiveness are experienced as free offerings.” – Ted Lewis

The Dynamics of Apology

A full apology is more than just saying “I’m sorry”. Full apologies, as seen in most apology letters, usually have three parts corresponding to verb tenses:

- **Admission Statements of Ownership – PAST Tense** (I did...)
- **Expression Statements of Empathy – PRESENT Tense** (I am...)
- **Intention Statements of Reparation – FUTURE Tense** (I will...)

While we might prompt an 8-year old child to apologize, we expect adolescent youth to already have internalized prompts within them. But facilitators can invite victims to share, and then ask the youth to respond.

The Dynamics of Forgiveness

The word ‘forgiveness’ is very problematic in restorative justice because it means many different things and it can also carry religious expectation. Research shows, though, that the most profound experiences of forgiveness are often independent of expectation or the use of forgiveness language.

Genuine forgiveness, on the part of impacted persons, is a journey resulting in a noticeable experience of being unburdened within from negative feelings or attitudes towards the offending person.

Sometimes this can profoundly happen during a dialogue between a victim and an offender when new things are shared, when people feel heard, and they connect with the common humanity of each other.

“Forgiveness is not some saintly act; it is not some ‘should’. It is not saying, ‘I forgive you and I forget it.’ Forgiveness is far more than that; it is a gift of awakening.” – Mark Umbreit

Multi-Method Adaptations for Conferencing

Because every case has a unique Case Profile, it is important to tailor the process to the factors of the case. These factors can include the needs of the clients or the type and severity of the crime. It might also include the number of people involved in the case. Restorative dialogue models requires a FLEXIBILITY to adapt methods and other process-based variables so that the highest aims of restorative dialogue can always be met.



Pre-Conference Meeting Variables

1. initial communications (letter, phone, timing considerations)
2. preparation/intake meeting (length, location)
3. additional preparation meeting (to ensure readiness)
4. front-end letter(s) by offender (to build assurances for victim)
5. victim-shuttle assessment and info gathering
6. agency preparation letters for joint meetings (to forecast things)

Conference Meeting Variables

1. timing of meeting (proximity to time of offense)
2. involvement of other participants or support people
3. use of community members or surrogate victims
4. seating arrangements; use or no use of table
5. hybridizing conference elements with circle model elements
6. double circle for seating (inner circle = primary talkers)
7. planned breaks or caucuses
8. planning follow-up meetings for continuation or resolution
9. facilitation styles (directive - non-directive continuum)
10. shuttle arrangements (i.e. to relay victim info)
11. use of forms (guidelines for meeting; restitution agreement)
12. use of food as a bridge-building element

Post-Conference Meeting Variables

1. offering debrief times for unsatisfied parties
2. communications to parties during tracking of agreements
3. accountability frameworks for restitution-agreements
4. letter exchange to address unexpected complications
5. follow-up meeting at close of tracking period
6. closure communications (by phone)

Victim-Shuttle and Victim Surrogate Options

What is a Victim-Shuttle Option? If a victim party wants to participate but cannot attend the conference (or prefers not to attend), they can give permission for the relaying of their:

- **impact statements**
- **restitution requests**

In most cases, a surrogate victim will attend the conference; however, only the facilitators are in charge of receiving and relaying a real victim's information in a conference process.

How does a Victim-Shuttle Option Work?

1. Program Manager or Facilitator, by phone, determines that the victim wants to participate, but not through face-to-face conferencing
2. Program Manager or Facilitator asks for Impact Statements and Restitution Requests and records them in written form
3. Program Manager or Facilitator confirms permission from victim to relay this information with wider confidentiality
4. Program Manager assigns a Surrogate Victim to the conference (but explains that Facilitators and NOT the surrogate will relay the info)
5. Facilitator(s) relay the information at the appropriate times in the conference
6. Actual Victim does not have to sign the restitution agreement, but Surrogate Victim can sign
7. Program Manager informs victim of restitution plan, tracking progress, and case completion

What is the Role of a Surrogate Victim?

Victim Surrogates, as trained volunteers for a restorative program, can participate in any conference process when an actual victim is not able to participate. They do not represent the actual victim (as noted above), but they do the following:

- Ensure the best possible restorative dialogue process for the offender
- Represent the impacted community
- Speak freely as one who could be impacted by the offender's crime
- Help determine fair restitution plans with the offender

Victim Surrogates can participate in conferences where...

- 1. The Victim-Shuttle option is used**
- 2. The actual victim is not participating**
- 3. The actual victim is present but requests more support**



Victim Offender Conferencing Training Manual

For Juvenile Justice Programming in the State of Nebraska