

Victim/Offender Mediation

Victim offender mediation is a process that provides interested victims an opportunity to meet their offender, in a safe and structured setting, and engage in a mediated discussion of the crime. With the assistance of a trained mediator, the victim is able to tell the offender about the crime's physical, emotional, and financial impact; to receive answers to lingering questions about the crime and the offender; and to be directly involved in developing a restitution plan for the offender to pay back his or her financial debt.

This process is different from mediation as it is practiced in civil or commercial disputes, since the involved parties are not "disputants" nor of similar status — with one an admitted offender and the other the victim. Also, the process is not primarily focused upon reaching a settlement, although most sessions do, in fact, result in a signed restitution agreement. Because of these fundamental differences with standard mediation practices, some programs call the process a victim offender "dialogue," "meeting," or "conference."

Currently, there are more than 290 victim offender mediation programs in the United States and more than 500 in Europe. The American Bar Association recently endorsed victim offender mediation and recommends its use throughout the country. A recent statewide survey of victim service providers in Minnesota found that 91 percent of those surveyed believe that victim offender mediation should be available in every judicial district, since it represents an important victim service.

Goals

The goals of victim offender mediation include:

- Support the healing process of victims, by providing a safe and controlled setting for them to meet and speak with the offender on a strictly voluntary basis.
- Allow the offender to learn about the impact of the crime on the victim and to take direct responsibility for their behavior.
- Provide an opportunity for the victim and offender to develop a mutually acceptable plan that addresses the harm caused by the crime.

Implementation

Cases may be referred to victim offender mediation programs by judges, probation officers, victim advocates, prosecutors, defense attorneys, and police. In some programs, cases are primarily referred as a diversion from prosecution, assuming any agreement reached during the mediation session is successfully completed. In other programs, cases are usually referred after a formal admission of guilt has been accepted by the court, with mediation being a condition of probation (*if the victim has volunteered to participate*). Some programs receive case referrals at both stages. The majority of mediation sessions involve juvenile offenders, although the process is occasionally used with adults and even in very serious violent cases

In implementing any victim offender mediation program, it is critically important to maintain sensitivity to the needs of the victim. First and foremost, the mediator must do everything possible to ensure that the victim will not be harmed in any way. Additionally, the victim's participation must be completely voluntary, as should the participation of the offender. The victim should also be given choices, whenever possible, concerning decisions such as when and where the mediation session will take place, who will be present, who will speak first, etc. Cases should be carefully screened regarding the readiness of both victim and offender to participate. The mediator should conduct in person, pre-mediation sessions with both parties and make follow-up contacts, including the monitoring of any agreement reached.

Lessons Learned

A large multi-site study (Umbreit, 1994) of victim offender mediation programs with juvenile offenders found the following:

- 3,142 cases were referred to the four study-site programs during a two-year period, with 95 percent of the mediation sessions resulting in a successfully negotiated restitution agreement to restore the victim's financial losses.
- Victims who met with their offender in the presence of a trained mediator were more likely to be satisfied (79 percent) with the justice system than similar victims who went through the normal court process (57 percent).
- After meeting the offender, victims were significantly less fearful of being revictimized.
- Offenders who met with their victims were far more likely to successfully complete their restitution obligation (81 percent) than similar offenders who did not participate in mediation (58 percent).
- Fewer offenders who participated in victim offender mediation recidivated (18 percent) than similar offenders who did not participate in mediation (27 percent); furthermore, participating offenders' subsequent crimes tended to be less serious.

For More Information

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