
How to Increase Referrals to Victim-Offender Mediation Programs

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Fund for Dispute Resolution

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About the Author

Mark Umbreit joined the faculty of the School of Social Work at the University of Minnesota (Minneapolis) in 1990. He has a Ph.D. in social work (focusing on mediation and criminal justice) and an M.P.A. from Indiana University. Umbreit is a practitioner based researcher, trainer, consultant and scholar. He is also a practicing mediator. Prior to joining the University, he was Vice-President of the Minnesota Citizens Council on Crime & Justice in Minneapolis which operates a wide range of programs for victims and offenders, including a mediation project Umbreit is the founder and past-President of PACT and its Institute of Justice in Valparaiso, Indiana. PACT worked cooperatively with the Mennonite Central Committee on the development of the first VORP in the U.S. in Elkhart, Indiana. Mark Umbreit has provided technical assistance and training to victim offender mediation programs in more than 30 jurisdictions in North America over the past decade. He is the author of *Crime & Reconciliation: Creative Options for Victims and Offenders* (Abingdon Press), numerous articles and monographs, and is conducting the first cross-national assessment of victim offender mediation programs in Canada, England and the United States. Umbreit was the founding and past chairperson of the U.S. Association for Victim Offender Mediation, now known as the Victim Offender Mediation Association.

Table Of Contents

Introduction	1
Case Referral Issues	2
Strategies for Increasing System Support	5
Strategy #1: Stakeholder Analysis	5
Strategy #2: Advisory Committee	5
Strategy #3: Presentations/Mini-Seminar	5
Strategies for Increasing Case Referrals	6
Strategy #4: Victim Information Letter	7
Strategy #5: Weekly Phone Calls & Office Visits	7
Concluding Remarks	B
Attachments	
Stakeholder Analysis Form	A-1
Advisory Committee Purpose Statement	A-2
Sample Victim Information Letter	A-3
Probation Officer Contact Chan	A-4
Plan of Action	A-S
Victim-Offender Mediation Resources	A-6

Introduction

The first Victim-Offender Reconciliation Project (VORP) was established in Kitchener, Ontario in 1974. Nearly twenty years later, a widespread network of programs calling themselves VORP's or victim-offender mediation programs has developed throughout North America and Europe. Today, there are 25 programs in Canada, over 100 in the U.S., 18 in England, 40 in France, 25 in Germany, 8 in Belgium, 54 in Norway and 20 in Finland. Austria has a federal policy promoting victim-offender mediation for youth throughout the county. Victim-offender mediation programs have also recently been developed in Australia, New Zealand and South Africa.

Victim-offender mediation programs provide a unique opportunity for offenders (primarily those who have committed non-violent property crimes) to meet their victims face-to-face in the presence of a trained mediator. Both parties have an opportunity to discuss the crime, express their feelings and negotiate a restitution agreement.

The impact of crime and delinquency upon individuals and communities is a major concern in North America and Europe. In response to this, an increasing number of individuals and organizations are focusing upon a more recent development in social theory, that of restorative justice theory. Restorative justice emphasizes that crime is a violation of one person by another, rather than simply an act against the State. Whenever possible, dialogue and negotiation are central in restorative justice. Problem-solving for the future is seen as more important than establishing blame for past behavior. Severe punishment of offenders is less important than providing opportunities to empower victims in their search for closure, impressing upon the offender the real human impact of their behavior and promoting restitution to the victim. Instead of ignoring victims and placing offenders in a passive role, restorative justice principles place both the victim and the offender in active and interpersonal problem-solving roles.

The emerging field of victim-offender mediation with young offenders originated in Canada and is now developing extensively in Europe and the U.S.

It represents one of the more creative efforts to respond to crime and victimization. The mediation process promotes active participation by both parties. It can strengthen offender accountability, offer a greater sense of closure for the victim (including compensation for losses) and thereby enhance the experience of fairness. It is the clearest expression of restorative justice theory.

Although the practice of victim-offender mediation and reconciliation has grown substantially over the past twenty years, its impact on the justice system in many jurisdictions continues to be marginal, though it is usually of high quality. This marginal impact relates to the fact that many programs receive relatively few referrals. When compared to the large volume of cases processed each year by the justice system in any given jurisdiction, the number of referrals to victim-offender mediation programs represents only a very small proportion. A growing body of research in North America and Europe is finding that the process of mediating conflict between crime victims and offenders provides many benefits to the parties involved, the community and the justice system. It has also been found that many victims and offenders want to meet, when given the opportunity, and work things out in a manner that is perceived to be fair to both parties. Far more victims and offenders must have access to mediation, however, if the well documented potential of victim-offender mediation is to move from the margins to the mainstream of how we understand and respond to crime in modern, industrialized societies.

This paper presents a more assertive process of negotiating and receiving referrals from criminal justice agencies than that used by many programs. A number of specific strategies to increase case referrals are discussed.

Case Referral Issues

Although the field of victim-offender mediation has grown considerably in Canada since the first VORP appeared in Kitchener, many programs still experience a low rate of case referrals from the courts, probation, Crown or police. During the early years, as the field of victim-offender mediation and

reconciliation was developing in Canada and the U.S., most programs employed a rather passive case referral procedure. This essentially involved the program providing the referral source with a list of criteria for referral of cases and then waiting for referrals to be made.

For some programs, a sufficient number of cases were referred in this way. For many other programs, however, few referrals were received. Sometimes programs had to wait for six months to a year to receive their first case. This was very frustrating for program staff and volunteers who were eager to mediate. It also presented a considerable problem for the program as they tried to explain the situation to funding sources who were interested in knowing how many cases had been referred to the program and how many of those cases had resulted in a face-to-face mediation session.

More recently, programs have found that a more pro-active and assertive case referral process is more effective. Rather than waiting for referrals to come from the Crown or other sources, mediation program staff can negotiate with the referral source to arrive at a process by which the staff can come to the office of the referral source on a regular basis and select cases for mediation. The referral source does not have to struggle to decide whether or not a given case is suitable for mediation. They simply need to identify a larger pool of cases that are most likely to benefit from mediation. The mediation program staff then review these cases in detail and select those which are most appropriate.

A pro-active, assertive process of case referral has benefits for both the mediation program and the referral source. The referral source does not have to spend as much time examining cases for possible referral. All they need to know is the "broad stroke" of case categories that tend to work well in mediation. The referral source also does not have to fill out any paper work to make the referral. Once a case is reviewed and selected by mediation staff, a case information sheet is filled out by that staff person. The referral process becomes much easier and less time-consuming for the referral source.

The major benefit for the mediation program is the increased likelihood of case referrals. The program gains some measure of control over the "demand" for mediation and the appropriateness of cases referred. Two programs which have developed a strong pro-active approach to gaining referrals are:

Mediation Services
583 Ellice Avenue
Winnipeg, Manitoba
Canada R3B 1Z7
(204) 774-2469

Citizens Council Mediation Services
Victim Offender Mediation Program
822 South Third Street
Minneapolis, Minnesota
U.S.A. 55415
(612) 340-5432

The primary obstacle to such a pro-active and assertive case referral procedure is the credibility of the mediation program in the eyes of the referral source. If the Crown or probation office perceives the mediation program to consist of "do-gooders" who have no experience in working in the real world of criminal justice and who are likely to just get in the way, it is highly unlikely that the referral source will allow mediation staff to select cases from their office on a weekly basis. The key to overcoming this obstacle is classic negotiation: always focus on the underlying joint interests of both parties, build a relationship of trust and develop a referral process that works for all parties.

Program staff must be credible in the eyes of the referral source. It is important that they clearly understand the terminology of the criminal justice system and its basic procedures. In hiring staff it is good to find someone who either has a background working within the criminal justice system (such as probation, court services or a community-based advocacy organization) or who has worked in related areas of human services and can quickly learn how the local criminal justice system works. While this may not always be possible, even someone who has an academic background related to justice or student placement experience in a criminal justice agency can often be quite effective.

Ultimately, staff credibility has more to do with personal presentation, knowledge of the justice system, confidence and communication skills than it does with formal credentials. Even the manner in which staff dress when going to court or to the Crown's office can significantly affect their credibility in the eyes of various referral sources.

Strategies For Increasing System Support

The involvement and support of key criminal justice officials in the development and operation of the mediation program is critical to having cases referred to the program. Without the support of these officials, it is unlikely that the program will even be taken seriously, let alone receive an adequate number of referrals on a regular basis. Several strategies are offered for increasing the support of criminal justice officials for the program.

Strategy #1: Stakeholder Analysis

It is important to do an analysis of the key stakeholders related to the development and operation of a victim-offender mediation program within the jurisdiction. Such an analysis should identify people by name, position, their level of support for mediation, who they are influenced by and how any resistance can be neutralized or overcome. Key stakeholders usually include: Crown, defense, legal aid, judges, probation, victim advocates, offender advocates and court administrative staff. The importance of neutralizing opposition cannot be over-emphasized. By meeting with the person, listening to their reasons for not supporting mediation enthusiastically, asking for any suggestions and essentially agreeing to disagree on some points, it is quite possible to eliminate their active, vocal and public opposition. (*See attached Stakeholder Analysis Form.*)

Strategy #2: Advisory Committee

In order to increase justice system involvement in the program, an Advisory Committee of key justice system representatives should be organized. This Advisory Committee might meet 4-12 times a year. It can both increase support for the program and provide helpful feedback and guidance. (*See attached Advisory Committee Purpose Statement*)

Strategy #3: Presentations/Mini-Seminar

Presentations should be scheduled at regular meetings of Crown attorneys, defense lawyers, judges, probation officers or other referral

sources. By going to their "turf" you are most likely to get their attendance and attention. You might want to schedule presentations and updates about the program on an annual basis for your key referral source. In addition, a good strategy during early development of the program is that of a luncheon mini-seminar on victim-offender mediation in which you invite key people from the community, the political system and the criminal justice system. While the presentations at meetings of key referral sources are likely to be brief (15-30 minutes), the luncheon mini-seminar could be two hours. A guest speaker or consultant who is familiar with the field could present a broader perspective on how the field of victim-offender mediation is developing and the impact it is having. A presentation by local staff or Board could be made in conjunction with a video tape of a mediation or testimony by several victims or offenders who have gone through mediation and feel good about it. At this type of event it would be a good idea to have the media present.

Strategies For Increasing Case Referrals

Although the above strategies for increasing system support for the program will provide both short and long term benefits, they are unlikely to result in an immediate increase in the number of cases being referred to the program.

Verbal endorsement of the program by key referral sources should never be confused with actually receiving case referrals. To receive more cases, a very assertive and cooperative communication strategy must be employed to help a large bureaucracy change the manner in which it understands and responds to crime. This is no easy task. One should never assume that good intentions and philosophical support for mediation mean more referrals. Similarly, one should never assume that a lack of referrals means that the referral source doesn't really support the concept of mediation and restorative justice, despite their verbal statements to the contrary. More often than not, the lack of referrals to victim-offender mediation programs has more to do with the program itself and the communication strategies it uses than it does with the larger system actively resisting the concept. If the program staff make it easy for the referral source to send cases and the referral source sees it in their interest to reduce their caseload, most referral sources will eventually send plenty of cases, sometimes even too many.

Some strategies for developing a more assertive and pro-active process of case referral are:

Strategy #4: Victim Information Letter

A brief victim-oriented letter, flyer or card should be developed and given to referral sources so that they can routinely provide it to victims being contacted about the mediation program. The more direct or indirect contact that the mediation program has in "marketing" the mediation concept to victims, the more likely that victims will participate. If persons who are unfamiliar with the victim-offender mediation concept, or even resistant to it, have the initial contact with the victim, it is quite likely that they will not do a good job of encouraging victims to consider the benefits of mediation. *(See attached Sample Victim Information Letter)*

A victim information letter can be mailed out to victims with the letter that is usually sent to inform them that their case has been referred to the program and that a representative from the program will be contacting them. It can also be handed to the victim during the initial individual meeting with the victim that occurs in the vast majority of victim-offender mediation programs. If the victim seems skeptical about mediation during the initial phone call and is not likely to even agree to an individual meeting with the mediator, the victim marketing letter could also be mailed to them (if it has not already been sent) prior to calling them back at a later point. By giving the victim more time to think about mediation and by providing a brief and persuasive letter/flyer, the likelihood increases that the victim will agree to a separate meeting with the mediator and possibly to mediation itself during the next phone conversation.

Strategy #5: Weekly Phone Calls & Office Visits

In order to maintain a constant presence with key referral sources and to keep them continually aware of the program and its openness to referrals, weekly phone calls should be made to key contacts. Each key contact should not necessarily be called each week, but calls should be made each week to several key people who could make direct referrals *(See attached Probation Officer Contact Chart)*.

These calls will most likely be made to probation staff and Crown attorneys who work with a large caseload. The calls should be brief and made in a very pleasant tone to ask if they have any current cases which might be appropriate for referral to mediation. In addition to periodic phone calls to key referral contacts, periodic visits to the offices of the

referral source are important. These can often be brief and their purpose is to simply have you and the program become more known to staff the agency.

Concluding Remarks

In the quest to receive more referrals, it is important to never lose touch with the underlying values of restorative justice. Victim-offender mediation and reconciliation programs continue to represent a powerful symbol of a very different way of understanding and responding to crime. Crime victims, offenders and the community can assume active roles in the process of accountability, restoration and reconciliation. Effective referral strategies must be developed by programs, however, in order to breathe life into this powerful symbol; to move victim-offender mediation from the margins to the mainstream of how we do justice in our communities.

Stakeholder Analysis Form

Person/Title	Level of Support	Who Can Influence Them	Strategy

Advisory Committee Purpose Statement

About Victim-Offender Mediation

Victim-offender mediation is a process which provides crime victims and offenders with the opportunity to meet each other in the presence of a trained mediator. During this meeting, the offense is discussed, questions answered, feelings expressed and a mutually acceptable restitution agreement is negotiated. Providing a conflict resolution process which is perceived as fair to both parties is the goal of victim offender mediation. The program provides practical assistance to victims while encouraging their direct involvement in the justice process. Offenders are given the opportunity to take responsibility for "making things right" with their victims. Cases are usually referred by judges, probation staff or victim assistance staff. Participation by victims is totally voluntary.

Purpose of Advisory Committee or Task Force

1. To assist in development of the program.
2. To assist in building local support for the program.
3. To assist in public relations.
4. To assist in raising funds.

Suggested frequency of meetings: monthly or quarterly.

Sample Victim Information Letter

Dear _____ :

You may be interested in the Victim-Offender Mediation Program.

It can provide a unique opportunity for victims of crime to:

- * receive answers to questions about the offense that only the offender can provide
- * express your frustration and concerns directly to the person who should hear them --- the offender
- * become directly involved in the sentence your offender receives, rather than sitting on the sidelines
- * determine the amount and form of restitution to cover your losses through a structured meeting with the offender, in the presence of a trained mediator

While the Victim-Offender Program is neither appropriate for all victims nor a cure-all for crime in our communities, many victims have found it beneficial. As a victim, participation is totally your choice.

We encourage you to at least learn more about the possible benefits of the program and then make your decision.

Should you be interested, the following staff person will be contacting you:_____

Note to Program Staff:

Be aware that the word "reconciliation" can push buttons and irritate some victims and many victim advocates.

Plan of Action

Task	Target Date	Person Responsible
1.		
2.		
3.		
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20.		

Victim-Offender Mediation Resources

Training and Technical Assistance Manuals

The VORP Book: An Organizational and Operations Manual

This manual is the most comprehensive technical assistance manual on initiating and managing victim offender mediation and reconciliation programs. Includes chapters on: an overview of the process, an organizer's handbook, volunteer training, case and information management and moving toward an urban/multicultural setting. Available for \$25.00 through the PACT Institute of Justice, 254 South Morgan Boulevard, Valparaiso, Indiana 46383, (219)462-1127.

Victim-Offender Mediation Training Package

This comprehensive victim-offender mediation package includes a trainers' manual (\$95.00), two coaches' manuals (\$15.00), ten training and resource manuals (\$25.00) and one 60-minute training video (\$95.00). The entire package costs \$470.00 (Canadian). Available from Community Justice Initiatives Association, 101-20678 Eastleigh Crescent, Langley, British Columbia, V3A 4C4, (604)534-5515.

Training Videos

Available from:

Centre for Creative Justice
304 Lynn Avenue, Ames, Iowa, 50010, (515)292-3820

Community Justice Initiatives Association
101-20678 Eastleigh Crescent, Langley, British Columbia, V3A 4C4,
(604)534-5515

PACT Institute of Justice
254 South Morgan Boulevard, Valparaiso, Indiana, 46383, (219)462-1127

Directories

Victim-Offender Reconciliation and Mediation Directory

Harriet Fagan and John Gehm (1993). PACT Institute of Justice,
254 South Morgan Boulevard, Valparaiso, Indiana, 46383.

Books

Changing Lenses

Howard Zehr (1990). Herald Press, Scottsdale, Pennsylvania, 15663.

Crime and Accountability: Victim-Offender Mediation in Practice

Tony Marshall and Susan Merry (1990). Home Office, P.O. Box 276, London, England, SW8 5DT.

Crime and Its Victims

Dan W. Van Ness (1986). Intervarsity Press, Downers Grove, Illinois.

Crime and Reconciliation: Creative Options for Victims and Offenders

Mark S. Umbreit (1985). Abingdon Press, P.O. Box 801, Nashville, Tennessee, 37202.

Criminal Justice, Restitution and Reconciliation

Burt Galaway and Joe Hudson (1990). Criminal Justice Press, 124 Willow Tree Road, P.O. Box 249, Monsey, New York, 10952.

Justice for Victims and Offenders

Martin Wright (1991). Open University Press, Philadelphia, Pennsylvania.

Mediation and Criminal Justice

Martin Wright and Burt Galaway (1989). Sage Publications, 2111 West Hillcrest Drive, Newbury Park, California, 91320.

Victim Meets Offender: The Impact of Restorative Justice & Mediation

Mark S. Umbreit. Criminal Justice Press, 124 Willow Tree Road, P.O. Box 249, Monsey, New York, 10952. Available in late 1993.

Pamphlets

Justice: The Restorative Vision, by Howard Zehr, Dan Van Ness and

M. Kay Harris. Mennonite Central Committee, Akron, Pennsylvania, 17501.

Mediating the Victim-Offender Conflict, by Howard Zehr (1982).

Mennonite Central Committee, Akron, Pennsylvania, 17501.

Retributive Justice, Restorative Justice, by Howard Zehr (1985).

Mennonite Central Committee, Akron, Pennsylvania, 17501.

VORP Organizing: A Foundation in the Church, by Ron Classen and Howard Zehr with Duane Ruth-Heffelbower, Mennonite Central Committee U.S., Office of Criminal Justice, 107 West Lexington Avenue, Elkhart, Indiana, 46516.

Journal Articles

- "Cross-Site Analysis of Victim-Offender Mediation in Four States."
Mark S. Umbreit and Robert B. Coates. *Crime and Delinquency*, October 1993.
- "Crime Victims and Offenders in Mediation: An Emerging Area of Social Work Practice". Mark S. Umbreit. *Social Work*, National Association of Social Workers, Washington, D.C., Vol. 38, No. 1, 1993
- "Crime Victim and Offender Mediation as a Social Work Strategy".
Burt Galaway. *Social Service Review*, Vol. 62, 1988.
- "Having Offenders Meet With Their Victims Offers Benefits for Both Parties".
Corrections Today Journal, American Correctional Association, July, 1991.
- "Juvenile Diversion: A Process Analysis". D.G. Fischer and R. Jeune (1987).
Canadian Psychology, 28, pp. 60-70.
- "Juvenile Offenders Meet Their Victims: The Impact of Mediation in Albuquerque, New Mexico". Mark S. Umbreit. *Journal of Dispute Resolution*. University of Missouri School of Law, Columbia, 1988.
- "Mediation of Victim-Offender Conflict". Mark S. Umbreit. *Journal of Dispute Resolution*. University of Missouri School of Law, Columbia, 1988.
- "Minnesota Mediation Center Produces Positive Results". Mark S. Umbreit.
Corrections Today, American Correctional Association, August, 1991.
- "Restitution and Recidivism Rates of Juvenile Offenders: Results from Four Experimental Studies". Anne L. Schneider. *Criminology*, Vol. 24, No. 3, 1986.
- "The Impact of Mediating Victim-Offender Conflict: An Analysis of Programs in Three States". Mark S. Umbreit and Robert B. Coates. *Juvenile and Family Court Journal*, National Council of Juvenile and Family Court Judges, Reno, Nevada, Vol. 43, No. 1, 1992.

"The Victim-Offender Reconciliation Program: A Message to Correctional Reformers". Tony Dittenhoffer and Richard Ericson. *University of Toronto Law Journal*, Vol. 33, No. 3, 1983.

"Victims Seeking Fairness, Not Revenge: Toward Restorative Justice". Mark S. Umbreit. *Federal Probation*, September, 1989.

"Victim-Offender Mediation: A Survey of Program Characteristics and Perceptions of Effectiveness". Stella P. Hughes and Anne L. Schneider. *Crime and Delinquency*, Vol. 46, No. 2, 1989.

"Victim-Offender Reconciliation: An Incarceration Substitute?" Howard Zehr and Mark S. Umbreit. *Federal Probation*, Vol. 46, No. 4, 1982.

Resource Organizations

Victim-Offender Mediation Association
c/o PACT Institute of Justice
254 South Morgan Boulevard
Valparaiso, Indiana
U.S.A. 46383
(219)462-1127
(Includes programs throughout North America)

Victim-Offender Ministries Program
Mennonite Central Committee Canada
50 Kent Avenue
Kitchener, Ontario
Canada N2G 3R1
(519)745-8458

Office of Criminal Justice
Mennonite Central Committee U.S.
P.O. Box 500
Akron, Pennsylvania
U.S.A. 17501
(717)859-3889