



# Center for Restorative Justice & Peacemaking

An International Resource Center in Support of Restorative Justice Dialogue, Research and Training

School of Social Work  
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## *Executive Summary Report*

# MEDIATION OF CRIMINAL CONFLICT: AN ASSESSMENT OF PROGRAMS IN FOUR CANADIAN PROVINCES

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## **Introduction**

Resolving a wide range of criminal conflicts through a process of mediation and dialogue, at both a pre and post trial basis, has now been conducted in thousands of cases by more than 175 programs in North America for two decades. Victims of criminal behavior have been able to play an active role in the justice process, to receive direct information about the incident, to express their concerns about the impact of the criminal behavior and to negotiate a mutually agreeable resolution to the event and any losses incurred. Individuals involved in criminal behavior have been able to gain a far better understanding of the real human impact of their actions, to “own up” to their behavior, and to have the opportunity for making amends directly to the person they affected. Both parties can gain a greater sense of closure and the ability to move on with their lives. Mediation of criminal conflicts is one of the most powerful expressions of restorative justice which emphasizes that crime is relational -- not just against the state, that the role of victims in the justice process should be elevated, and that the focus of justice should be upon restoring emotional and material losses left in the wake of crime and building safer communities through active citizen participation (Zehr, 1990).

High levels of client satisfaction with the mediation process and outcome has been consistently found over the years in studies throughout North America and Europe (Coates and Gehm, 1989; Collins, 1984; Dignan, 1990; Fischer and Jeune; Galaway, 1988; Galaway and Hudson, 1990; Gehm, 1990; Marshal and Merry, 1990; Perry, Lajeunesse and Woods, 1987; Umbreit, 1989, 1991, 1993; 1994; 1995; Umbreit and Coates, 1993; Wright and Galaway, 1989), with some studies finding higher restitution completion rates (Umbreit, 1994), reduced fear among victims (Umbreit and Coates, 1993; Umbreit, 1995), and reduced future criminal behavior (Butts and Snyder, 1991; Schneider, 1986; Umbreit, 1994). While multi-site studies within England (Marshal and Merry, 1990) and the United States (Coates and Gehm, 1989; Umbreit, 1994) have been conducted, no large scale multi-site analysis of mediation of criminal offences in Canada has been conducted prior to the current study.

The origin of what is today known generically as the “victim offender mediation” field (referred to as criminal court mediation by some) began many years ago in the Province of Ontario. In May of 1974, an experiment began in Elmira, a few miles north of Kitchener, Ontario, that would later trigger the international development of a new justice reform. Two young men pleaded guilty to twenty-two counts of property damage. Their probation officer and a colleague of his with the Mennonite Central Committee in Canada, had the vision and courage to try some basic peacemaking principles in resolving the conflict between these young men and the twenty-two people they victimized (Peachy, 1989).

A recommendation was made to the court that these two offenders go back and meet every single person they victimized and assess how much loss occurred. The judge ordered a one month remand in order to allow these two young men to meet their victims, with the help of their probation officer and his colleague from the Mennonite Central Committee. After meeting with their victims and gaining a more human understanding of the impact of their criminal behavior, the judge sentenced them to probation and required them to pay restitution to the victims. Three months later, the offenders again visited each victim and handed them a cheque for the amount of his or her loss.

The Kitchener experiment led to the initiation of the first Victim Offender Reconciliation Project (VORP) in North America. Victim offender mediation and reconciliation projects have now spread to more than twenty other jurisdictions throughout Canada, largely as alternative measures programs pursuant to the provisions of the Young Offenders Act of 1984. In addition to VORP, many of the other more than 175 similar programs in North America identify themselves as victim offender mediation programs; a few identify themselves as criminal court mediation programs.

The first replication of VORP in the United States occurred in 1978 when the Mennonite Central Committee, probation staff, and a local judge in Elkhart, Indiana began accepting cases (Umbreit, 1985; Zehr, 1980). By the mid 1990's, a network of approximately 150 victim offender mediation or reconciliation programs existed in the U.S. (Hughes and Schneider, 1989; Fagan and Gehm, 1993, Umbreit, 1994), in addition to the 26 programs in Canada. The field has actually grown more rapidly in Europe, during recent years, with 54 programs in Norway, 40 in France, 25 in Germany, 18 in England, 20 in Finland, 8 in Belgium and 1 in Scotland (Umbreit, 1994).

## **Overview of Mediating Criminal Conflict**

Mediation is a process by which a trained neutral third party brings together people in conflict. The parties have an opportunity to talk about the conflict and to negotiate its resolution, if possible. Mediators do not impose settlements. The process is meant to empower both parties.

The field of mediating criminal conflicts is most often generically referred to as “victim offender mediation”, even though historically it has often been referred to as victim offender reconciliation. All programs providing mediation services in criminal conflicts, however, do not refer to themselves exclusively as either a victim offender mediation program (VOMP) or a victim offender reconciliation program (VORP). For the purposes of this study, I am defining victim offender mediation as a conflict resolution process that focuses upon criminal conflict (either alleged or confirmed) and that works in cooperation with

one or more agencies of the criminal/juvenile justice system. Many similarities and differences exist among victim offender mediation programs, as noted in Table 1. The Victim Offender Reconciliation Program in Langley and the Victim Young Offender Reconciliation Program in Calgary are more similar than the other two sites in this study. The Victim Offender Mediation Program of Mediation Services in Winnipeg and the Criminal Pretrial Mediation Programme of The Dispute Resolution Centre for Ottawa-Carleton are also more similar to each other than different, when compared to the Calgary and Langley sites. The programs in Langley, Calgary and Winnipeg clearly identify themselves as victim offender mediation, while the Dispute Resolution Centre for Ottawa-Carleton refers to itself as a criminal court mediation program.

During victim offender mediation, the parties have an opportunity to talk about what happened and to express their concerns. Offenders have an opportunity to understand the real human impact of their behavior and to “own” their behavior. They can take direct responsibility for their actions by making amends to the person they victimized. Victims are given the opportunity to get answers to questions they have, to express their sense of violation and to negotiate a restitution agreement with the person that violated them.

Most, but not all, victim offender mediation programs employ a relatively similar process consisting of four generic phases: intake, preparation for mediation, mediation and follow-up. Even though the four programs in this study differ in how they process cases and identify these phases, we will first present the generic model in this section and later highlight differences between the programs. It should also be noted that when we refer to “accused/offenders” we do so for purposes of recognizing that two of the programs (Winnipeg and Ottawa) refer to the “accused” since no formal admissions of guilt have occurred. Similarly, we refer to “complainants/victims” to reflect the fact that these two programs refer to “complainants” rather than victims.

During the intake phase, case information is logged in and the case is assigned to a mediator. The preparation for mediation phase involves a considerable amount of work. The parties involved in the conflict will be contacted separately and interviewed. In most victim offender mediation programs, the mediator will call and then later meet separately with the victim and the offender. This process of caucusing with individuals prior to the joint mediation session is believed to be essential in the mediator building trust and rapport with both parties, as well as for collecting information that can contribute to later conflict resolution. In two of the programs in this study, however, the mediator would have no prior contact with the parties. Staff in the agency would contact the parties by letter and most often interview them by phone. An in-person interview would occasionally be conducted when deemed appropriate.

The mediation phase consists of the joint victim offender meeting. The agenda usually focuses first upon clarifying information about the alleged or actual criminal behavior and expressing concerns that one or both parties may have. The second part of the mediation session addresses the issues related to the impact the conflict had on the parties, usually culminating in a discussion of the losses experienced by the complainant/victim and the potential for the accused/offender to compensate the complainant/victim. This often results in the parties negotiating an agreement to restore losses incurred or to address other concerns. Mediation sessions tend to range in length from one to two hours.

The follow-up phase consists of monitoring completion of any negotiated restitution that was agreed upon, intervening if additional issues arise or conflict develops between the parties, and scheduling follow-up joint meetings between the involved parties when appropriate, although this is not frequently done.

Many programs focus on young offenders, accepting referrals from the Crown Attorney’s Office, judges or probation officials, at both a pre-adjudication (diversion) and post-adjudication level. Two of the programs in this study (Winnipeg and Ottawa) accept referrals of primarily adult cases. Both staff and community volunteers serve as mediators. Some programs also accept referrals from defense counsel, police, and either party involved in the incident.

## **Program Sites**

Community based non-profit organizations providing mediation services for referrals from the criminal justice systems in cities in four provinces were examined. Three of these programs (Langley, Calgary, and Winnipeg) specifically identify themselves as victim offender mediation programs, whereas the program in Ottawa identifies itself as a criminal court mediation program. The four program sites offer a wide range of diversity in program design, community acceptance, caseload size, history, case management procedures and impact on the criminal justice system.

### **Calgary**

The Youth Advocacy and Mediation Services Program in Calgary was initiated in 1985 by the Calgary John Howard Society. This program assists victims to better understand their feelings about being victimized, and presents a unique opportunity to become more involved in the criminal justice system. The young people who choose to participate are given the opportunity to

take more responsibility for their actions by discussing the offence and deciding upon a restitution agreement. From 1991 through 1993, 258 cases were referred to this victim offender mediation program.

**Table ES-1  
Program Characteristics By Site**

	Calgary	Langley	Ottawa	Winnipeg
Program Start	1985	1982	1989	1979
Organization Type	Private Non-profit	Private Non-profit	Private Non-profit	Private Non-profit
Total Budget, 1991	\$69,025	\$55,000	\$55,000	\$105,290
Total Budget, 1992	\$55,000	\$55,000	\$75,000	\$120,758
Total Budget, 1993	\$55,000	\$55,000	\$85,000	\$122,000
Staff (FTE's), 1991	1.7	2	1	4
Staff (FTE's), 1992	1.5	2	1.6	4.6
Staff (FTE's), 1993	1.5	2	1.6	4.5
# of Volunteer Mediators, 1991	0	30	3	50
# of Volunteer Mediators, 1992	0	30	7	55
# of Volunteer Mediators, 1993	1	25	10	55
Mediation Training Length	40 hrs. + Apprenticeship	30 hrs. Class + 3 Observations	3 Days + Apprenticeship	4.5 Days + Apprenticeship
Co-Mediators Routinely Used	No	No	No	Yes
Primary Referral Source	Probation	Probation	Crown	Crown
Point of Case Referral	Post-sentencing	Pretrial/ Court Order	Postcharge/ Pretrial	Postcharge/ Pre-plea/ Pretrial
Most Frequent Offense	B & E	Mischief	Assault	Assault

### Langley

The Victim Offender Reconciliation Program in Langley, British Columbia was initially developed in 1982 by the Langley Mennonite Fellowship and later became one of several programs of the Fraser Region Community Justice Initiatives which was founded in 1985. As indicated in its program flyer, VORP is a community based alternative which empowers participants to devise their own solutions in face to face encounters guided by trained community mediators. This program serves courts in both Langley and Surrey. From 1991 through 1993, a total of 851 cases were referred to VORP.

### Ottawa

The Dispute Resolution Centre for Ottawa-Carleton was established in 1986 as a community based non-profit agency with the mandate to demonstrate and facilitate the practice of conflict resolution techniques within the community of Ottawa-Carleton. The DRCOC works closely with the Crown Attorneys and the Special Pre-Trial Process that was begun in the Ottawa-Carleton community in September of 1989. Mediations are conducted in selected cases after a charge has been laid by the Police but generally before the case has been set for trial. From 1991 through 1993, a total of 689 cases were referred to the Dispute Resolution Centre for Ottawa-Carleton. While similar to other victim offender mediation programs in North America, the Dispute Resolution Centre for Ottawa-Carleton does not conceptualize its work as "victim offender mediation." Instead, the Centre describes its services as a Criminal Court Mediation Program.

### Winnipeg

The Criminal Court Program of the Mediation Services agency in Winnipeg was initially established in 1979 as a victim offender mediation project of the Mennonite Central Committee Manitoba. In 1992, Mediation Services: A Community Resource for Conflict Resolution was born, growing out of the early work of MCCM and its desire to establish a broader base of community support and involvement in the organization. The purpose of Mediation Services is to "promote peace and restorative justice within the community by empowering people, through education and mediation, to resolve conflict using

non-violent conflict resolution processes.” From 1991 through 1993, a total of 2,647 cases were referred to the Criminal Court Program of Mediation Services in Winnipeg, representing the largest volume of case referrals to a single victim offender mediation program in Canada, if not all of North America.

**Table ES-2**  
**Program Outcomes By Site**

	Calgary	Langley	Ottawa-Carleton	Winnipeg	Combined
Case Referrals, 1991	40	317	178	725	1,260
Case Referrals, 1992	79	349	200	963	1,591
Case Referrals, 1993	139	185	311	959	1,594
<i>Total Case Referrals, 1991-93</i>	<i>258</i>	<i>851</i>	<i>689</i>	<i>2,647</i>	<i>4,445</i>
Mediations, 1991	12	142	60	335	549
Mediations, 1992	28	107	85	393	613
Mediations, 1993	51	82	114	327	574
<i>Total Mediations, 1991-93</i>	<i>91</i>	<i>331</i>	<i>259</i>	<i>1,055</i>	<i>1,736</i>
Successfully Negotiated Agreements, 1991	11 (92%)	141 (99%)	53 (88%)	299 (89%)	504 (92%)
Successfully Negotiated Agreements, 1992	24 (86%)	105 (98%)	79 (93%)	358 (91%)	566 (92%)
Successfully Negotiated Agreements, 1993	48 (94%)	81 (99%)	111 (97%)	290 (89%)	530 (94%)
<i>Successfully Negotiated Agreements, 1991-93</i>	<i>83 (91%)</i>	<i>327 (99%)</i>	<i>243 (94%)</i>	<i>947 (90%)</i>	<i>1,600 (93%)</i>
Proportion of Mediations to Case Referrals, 1991	33%	45%	34%	46%	44%
Proportion of Mediations to Case Referrals, 1992	36%	31%	43%	41%	39%
Proportion of Mediations to Case Referrals, 1993	37%	44%	37%	34%	36%
<i>Proportion of Mediations to Case Referrals, 1991-93</i>	<i>35%</i>	<i>39%</i>	<i>38%</i>	<i>40%</i>	<i>39%</i>

## Methodology

The initiation of a cross-site program evaluation must balance the need for a valid and reliable design with practical issues related to administering such a study, particularly when only limited resources are available. While common data points must be used across all sites, the actual language in the interview schedules related to those data points must be adapted to fit the specific program and cultural context of the specific site. In addition, while the use of a comparison group was critical for such a cross-site study, employing a true experimental design, with random assignment of cases, was not feasible given the limited number of referred cases available for such random assignment, at some sites, and the time and complexity of negotiating such arrangements when conducting a cross-site study on very limited resources.

A quasi-experimental design, therefore, was employed in this cross-site assessment of programs that apply techniques of mediation in resolving conflict between people affected by criminal behavior. This included both quantitative and qualitative data collection and analysis techniques. Phone interviews with victims and offenders were conducted two months following either the mediation session (experimental group) or the date that the prosecutor, court, or related agency, otherwise disposes of the case (comparison group). Observations of actual mediation sessions at program sites in different Provinces were particularly important in gaining insight into what precisely was happening in the process of mediating conflict between crime victims and their offenders. Interviews with court officials, program staff and volunteer mediators, as well as review of record data, were used to examine how the process of mediation with offenders and their victims was being applied and to identify any public policy implications. Case study qualitative research techniques were used to examine the growing trend to apply victim offender mediation in cases involving violence. Emphasis was placed upon understanding the application of the mediation process and the outcomes in differing programmatic and cultural settings.

A total of 610 interviews were conducted with participants in mediation, involving 323 complainants/victims and 287 accused/offenders. Fifty-nine percent of the complainants/victims were male, with an average age of 33, and 86% were white while 14% were minorities. There were no significant differences between the mediation and no mediation samples for complainants/victims. Eighty percent of accused/offenders were male, with an average age of 24, and 80% were white while 20% were minorities. At the Ottawa and Winnipeg sites, most accused/offenders were adults. The largest minority race for both complainants/victims and accused/offenders was Aboriginal. The most common offence referred was assault, followed by property crimes such as vandalism, theft, and burglary. The sub-samples within program sites are identified below in Table 3.

**Table ES-3**  
**Canadian Cross-site Program Sub-samples**

	Experimental Groups		Comparison Groups		Total Sample
	Participating in Mediation Samples <i>Victims</i> <i>Offenders</i>		Referred but No Mediation Samples <i>Victims</i> <i>Offenders</i>		
Calgary Program	7	7	2	5	21
Langley Program	42	41	37	42	162
Ottawa Program	42	16	22	12	92
Winnipeg Program	92	95	79	69	335
<b>TOTALS</b>	<b>183</b>	<b>159</b>	<b>140</b>	<b>128</b>	<b>610</b>

As an exploratory study to gain a more thorough understanding of the impact of victim offender mediation upon offenders and their victims in a variety of settings, the use of open-ended questions, with probes, was essential to address several of the research questions. A number of Likert scales were used and descriptive statistics related to respondent characteristics were provided.

### Research Questions

The study was guided by the following questions:

1. What are the characteristics of accused/offenders and the complainants/victims who participate in the mediation process and how do these differ in a variety of program settings?
2. Why do accused/offenders and the complainants/victims choose to participate in mediation and what are their expectations of the process?
3. How does the mediation process actually work in different Provinces and what is the nature of the mediator’s role and function?
4. What is the extent and nature of training provided to staff and volunteer mediators in different program settings?
5. How do the participants (complainants/victims and accused/ offenders) evaluate the mediation process?
6. What do court officials think about mediation of criminal conflicts?
7. What are the immediate outcomes of the mediation process?
8. What is the meaning of fairness to accused/offenders and complainants/victims participating in the mediation process?

The “key findings” reported in this Executive Summary were determined to be significant through chi-square tests, at a .05 criteria.

### Key Findings

During the course of this two year study, a large amount of qualitative and quantitative data was collected from a total of 610 interviews with complainants/victims and accused/offenders, 45 interviews with criminal justice system officials, 24 observations of actual mediation sessions, multiple interviews with program staff in the four Provinces, and review of program records. The most significant findings to emerge from this research are first presented. While these findings cannot be

generalized to all victim offender mediation programs or criminal court mediation programs, they do provide helpful insight into this growing international field of justice reform that originated in Ontario 20 years ago and is now developing even more extensively in the United States and Europe.

**Case Referrals**

1. Case referrals to the four program sites during 1991 through 1993 totalled 4,445 (primarily adult cases). Mediation Services in Winnipeg is by far the largest and most well established program providing mediation in criminal cases, with a total of 2,647 cases during this three year period. The Victim Offender Reconciliation Program in Langley had the next largest number of cases referred (851), followed by the Dispute Resolution Centre for Ottawa-Carleton (689) and the Victim Young Offender Reconciliation Program in Calgary (258). In Winnipeg and Ottawa, nearly all referrals were adult cases, while in Langley and Calgary most referrals were youth.
2. Mediation sessions between the involved parties were held in 39% of the cases referred to the four program sites during 1991 through 1993. Within program sites, mediation rates ranged from 35% in Calgary, 38% in Ottawa, 39% in Langley, and 40% in Winnipeg. It should be noted that for those referred cases that did not result in a joint mediation session, a number of services were still usually provided, including supportive listening, conflict assessment, presentation of options for resolution and/or referral to another agency.
3. Successfully negotiated agreements that were acceptable to both parties were reached in 92% of the cases that were mediated at three of the four program sites where this data was available, during 1991 through 1993. Within program sites, this ranged from 90% in Winnipeg, 91% in Calgary, 94% in Ottawa and 99% in Langley.

**Client Satisfaction**

4. Client satisfaction with the manner in which the justice system responded to their case was significantly more likely to be found among complainants/victims (78%) and accused/offender(74%) who participated in mediation, at the combined sites, than among similar complainants/victims(48%) and accused/offender (53%) who were referred to mediation but never participated in mediation.

**Table ES-4  
Complainant/Victim Satisfaction With Criminal Justice System  
(Comparing Mediated To Non-Mediated Cases)**

	Combined Sites*		Calgary		Langley		Ottawa*		Winnipeg*	
	Med.	Non-Med.	Med.	Non-Med.	Med.	Non-Med.	Med.	Non-Med.	Med.	Non-Med.
Satisfied (%)	78.0	48.0	86.0	100.0	58.0	57.0	85.0	52.0	82.0	41.0
Dissatisfied (%)	22.0	52.0	14.0	0.0	42.0	43.0	15.0	48.0	18.0	59.0
n=	178	134	7	2	40	37	41	21	90	74

\* Finding of significant difference between mediation and non-mediation samples.

**Table ES-5  
Accused/Offender Satisfaction With Criminal Justice System  
(Comparing Mediated To Non-Mediated Cases)**

	Combined Sites*		Calgary		Langley*		Ottawa		Winnipeg*	
	Med.	Non-Med.	Med.	Non-Med.	Med.	Non-Med.	Med.	Non-Med.	Med.	Non-Med.
Satisfied (%)	73.9	53.2	28.6	100.0	83.0	59.5	68.8	41.7	74.2	47.8
Dissatisfied (%)	26.1	46.8	71.4	0.0	17.0	40.5	31.2	58.3	25.8	52.2
n=	157	126	7	5	41	42	16	12	93	67

\* Finding of significant difference between samples.

- Significant differences in complainant/victim satisfaction were found within two of the four program sites (Ottawa and Winnipeg). Significant differences in accused/offender satisfaction were also found in two of the four program sites (Langley and Winnipeg).
- Satisfaction with the outcome of the mediation session they participated in was found in the vast majority of complainants/victims (89%) and accused/offenders (91%), at the combined sites.

**Table ES-6  
Complainant/Victim Satisfaction With Outcome**

	Combined	Calgary	Langley	Ottawa	Winnipeg
Satisfied (%)	89.3	100.0	81.6	92.9	90.0
Dissatisfied (%)	10.7	0.0	18.4	7.1	10.0
n=	177	7	38	42	90

**Table ES-7  
Accused/Offender Satisfaction With Outcome Of Mediation**

	Combined	Calgary	Langley	Ottawa	Winnipeg
Satisfied (%)	91.4	100.0	97.4	93.3	88.2
Dissatisfied (%)	8.6	0.0	2.6	6.7	11.8
n=	152	6	38	15	93

- Within individual sites, complainant/victim satisfaction with the mediation outcome ranged from 82% in Langley (N=38) to 100% in Calgary (N=7). Accused/offender satisfaction with the mediation outcome ranged from 88% in Winnipeg (N=93) to 100% in Calgary (N=6).

**Voluntary Participation**

- Client perception of participating voluntarily in mediation was indicated by 90% of complainants/victims and 83% of accused/offenders at the combined sites.

**Table ES-8  
Voluntary Complainant/Victim Participation in Mediation**

	Combined	Calgary	Langley	Ottawa	Winnipeg
Voluntary (%)	89.7	100.0	92.1	86.8	89.1
Involuntary (%)	10.3	0.0	7.9	13.2	10.9
n=	157	7	35	33	92

**Table ES-9  
Voluntary Accused/Offender Participation in Mediation**

	Combined	Calgary	Langley	Ottawa	Winnipeg
Voluntary (%)	83.3	100.0	67.5	86.7	88.4
Involuntary (%)	16.7	0.0	32.5	13.3	11.6
n=	156	6	40	15	95

- Within individual sites, voluntary participation in mediation by complainants/victims ranged from 87% in Ottawa (N=33) to 100% in Calgary (N=7). For accused/offenders, voluntary participation ranged from 68% in Langley (N=40) to 100% in Calgary (N=6).

10. The vast majority of complainants/victims (91%) and accused/offenders (93%), at the combined sites, would have participated in mediation again.

**Perceptions Of Fairness**

11. Being fairly treated by the justice system was significantly more likely to be expressed among complainants/victims (80%) and accused/offenders (80%) who participated in mediation, at the combined sites, than similar complainants/victims (43%) and accused/offender (56%) who were referred to mediation but never participated in mediation.

**Table ES-10  
Complainant/Victim’s Perception of Fairness in Justice System**

Perceived:	Combined*		Calgary		Langley		Ottawa*		Winnipeg*	
	Med.	Non-Med.	Med.	Non-Med.	Med.	Non-Med.	Med.	Non-Med.	Med.	Non-Med.
Fair (%)	79.9	42.7	42.9	50.0	63.2	48.6	87.8	42.1	86.4	39.7
Unfair (%)	20.1	57.3	57.1	50.0	36.8	51.4	12.2	57.9	13.6	60.3
n=	174	124	7	2	38	35	41	19	88	68

\*Finding of significant difference between mediation and non-mediation samples.

**Table ES-11  
Accused/Offender’s Perception of Fairness in Justice System**

Perceived:	Combined*		Calgary		Langley		Ottawa		Winnipeg*	
	Med.	Non-Med.	Med.	Non-Med.	Med.	Non-Med.	Med.	Non-Med.	Med.	Non-Med.
Fair (%)	80.1	56.2	57.1	100.0	81.0	69.2	68.8	47.0	83.3	47.0
Unfair (%)	19.9	43.8	42.9	0.0	19.0	30.8	31.2	53.0	16.7	53.0
n=	156	121	7	5	37	39	16	11	96	66

\* Finding of significant difference between mediation and non-mediation samples.

12. Significant differences in complainant/victim perceptions of fairness were found within two (Ottawa and Winnipeg) of the four program sites. A significant difference in accused/offender perceptions of fairness was only found in one (Winnipeg) of the four program sites.
13. The mediated agreement was viewed as fair to the complainant/victim by 92% of complainants/victims at the combined sites and fair to the accused/offender by 93% of accused/offenders at the combined sites.

**Table ES-12  
Complainant/Victim’s Perception of Fairness of Agreement**

	Combined		Calgary		Langley		Ottawa		Winnipeg	
	To Comp/Victim	To Accused/Offender	To Comp/Victim	To Accused/Offender	To Comp/Victim	To Accus./Offend.	To Comp/Victim	To Accused/Offender	To Comp/Victim	To Accus./Offend.
Fair (%)	92.4	93.4	80.0	100.0	88.6	82.3	97.6	100.0	92.0	94.3
Unfair (%)	7.6	6.6	20.0	0.0	11.4	17.7	2.4	0.0	8.0	5.7
n=	170	166	5	5	35	34	42	40	88	87

**Table ES-13  
Accused/Offender's Perception of Fairness of Agreement**

	Combined		Calgary		Langley		Ottawa		Winnipeg	
	To Accuse d/Offender	To Comp /Victim.	To Accuse d/Offender.	To Comp /Victim	To Accus./ Offend .	To Com p/Victim	To Accuse d/Offender.	To Com p/Vic t.	To Accuse d/Offe nd.	To Com p/Vic tim
Fair (%)	91.6	95.0	100.0	100.0	97.3	100.0	100.0	84.6	87.4	94.1
Unfair (%)	8.4	5.0	0.0	0.0	2.7	0.0	0.0	15.4	12.6	5.9
n=	143	140	5	5	37	37	14	13	87	85

14. Within program sites complainant/victim perceptions of the fairness of the mediated agreement to the complainant/victim ranged from 80% in Calgary (N=5) to 98% in Ottawa (N=42). Complainant/victim perceptions of the fairness of the agreement to the accused/offender ranged from 82% in Langley (N=34) to 100% in Ottawa (N=40).
15. Within program sites accused/offender perceptions of the fairness of the mediated agreement to the accused/offender ranged from 87% in Winnipeg (N=87) to 100% in Ottawa (N=14). Accused/offender perceptions of fairness of the agreement to the complainant/victim ranged from 85% in Ottawa (N=13) to 100% in Langley (N=37).

**Important Concerns**

16. The importance of the complainant/victim receiving answers from the accused/offender about what happened was significantly more likely to be found among complainants/victims (87%) who participated in a mediation session with the accused/offender, at the combined sites, than among similar complainants/victims (51%) who were referred to mediation but never participated in mediation. This was found to be true at all of the four sites.
17. The importance of the complainant/victim telling the accused/offender the impact the event had upon them was significantly more likely to be found among complainants/victims (89%) who participated in a mediation session with the accused/offender, at the combined sites, than among similar complainants/victims (51%) who were referred to mediation but never participated in it. This was found to be true at all sites except Calgary.

**Table ES-14  
Importance of Complainant/Victim Telling Accused/Offender the Impact**

	Combined*		Calgary*		Langley*		Ottawa*		Winnipeg*	
	Med.	Non-Med.	Med.	Non-Med.	Med.	Non-Med.	Med.	Non-Med.	Med.	Non-Med.
Important (%)	89.0	50.7	100.0	100.0	90.2	62.2	90.2	31.8	87.0	49.4
Unimportant (%)	11.0	49.3	0.0	0.0	9.8	37.8	9.8	68.2	13.0	50.6
n=	181	140	9	2	41	37	41	22	92	79

\*Finding of significant difference between mediation and non-mediation samples.

18. The importance of the complainant/victim receiving an apology from the accused/offender was significantly more likely to be found among complainants/victims (74%) who participated in a mediation session with the accused/offender, at the combined sites, than similar complainants/victims (40%) who were referred to mediation but never participated in mediation. This was found to be true at two (Ottawa and Winnipeg) of the four sites.
19. The importance of complainant/victim having been able to negotiate restitution with the accused/offender was significantly more likely to be found among complainants/victims (88%) who participated in a mediation session with the accused/offender, at the combined sites, than similar complainants/victims (52%) who were referred to mediation but never participated in mediation. This was found to be true at all of the sites except Ottawa.
20. The importance of the accused/offender being able to tell the complainant/victim about what happened was significantly more likely to be found among accused/offenders (84%) who participated in a mediation session with the complainant/victim, at the combined sites, than similar accused/offenders (68%) who were referred to mediation but never participated in mediation. Within program sites, this was found to be true at two of the sites (Langley and Ottawa).

21. The importance of the accused/offender having been able to negotiate a restitution settlement with the complainant/victim was significantly more likely to be found among accused/offenders (98%) who participated in a mediation session with the complainant/victim, at the combined sites, than similar accused/offenders (77%) who were referred to mediation but never participated in mediation. Within program sites, this was also found to be true at two of the sites (Langley and Winnipeg).
22. The importance of the accused/offender apologizing to the complainant/victim was significantly more likely to be found among accused/offenders (78%) who participated in a mediation session with the complainant/victim, at the combined sites, than similar accused/offenders (67%) who were referred to mediation but never participated in mediation. This was found to be true only within one of the individual sites (Langley).
23. An apology by the accused/offender was significantly more likely to have been found among accused/offenders (84%) who participated in a mediation session with the complainant/victim, at the combined sites, than similar accused/offenders (30%) who were referred to mediation but never participated in mediation. This was found to be true within all four sites.

### **Fear of Revictimization**

24. Fear of being revictimized by the same accused/offender was significantly less likely to be expressed among complainants/victims (11%) who participated in a mediation session with the accused/offender, at the combined sites, than similar complainants/victims(31%) who were referred to mediation but never participated in mediation. This was also found to be true within two of the program sites (Ottawa and Winnipeg).

**Table ES-15**  
**Fear Of Revictimization by Accused/Offender**

	Combined*		Calgary		Langley		Ottawa*		Winnipeg*	
	Med.	Non-Med.	Med.	Non-Med.	Med.	Non-Med.	Med.	Non-Med.	Med.	Non-Med.
Yes (%)	11.2	31.1	0.0	0.0	19.5	27.8	2.6	27.3	12.1	34.7
No (%)	88.8	68.9	100.0	100.0	80.5	72.2	97.4	72.7	87.9	65.3
n=	178	132	7	2	41	36	39	22	91	72

\*Finding of significant difference between mediation and non-mediation samples.

25. Remaining upset about the crime was significantly less likely to be expressed by complainants/victims (53%) who participated in a mediation session with the accused/offender, at the combined sites, than similar complainants/victims (66%) who were referred to mediation but never participated in mediation. Within program sites, this was found to be true only at the Winnipeg program.

### **Criminal Justice Officials**

26. The vast majority of criminal justice officials (N=45) at the four sites (police constables, Crown attorneys, defence attorneys, judges, probation officers), with a few notable exceptions, were strongly supportive of mediating appropriate criminal conflicts and they indicated an awareness that the major benefit provided by mediation was that of addressing the emotional and informational needs facing the parties.
27. Criminal justice officials at three of the four program sites indicated a high degree of satisfaction with the services provided by the local mediation program. They emphasized: highly dedicated and committed program staff; competent and professional staff; and, effective management and resolution of cases that are referred to the program. A lesser degree of satisfaction was found at the Calgary program site, representing the smallest and least developed site in the study.

### **Criminal Justice System Support**

A total of 45 interviews with criminal justice officials were conducted at the four program sites, including 13 in Calgary, 12 in Winnipeg, 11 in Ottawa, and 9 in Langley. These interviews included 18 Crown prosecutors, 8 judges, 8 police constables, 5 defence attorneys, 4 probation officers and 2 other officials. A number of themes emerged from these interviews.

### **Satisfaction with the Mediation Process**

The criminal justice system officials interviewed, with the exception of those in Calgary, indicated that they were quite satisfied with the victim offender mediation program in their jurisdiction. 61% indicated that they were very satisfied and 27%

indicated that they were satisfied. Many of those who stated they were “satisfied” rather than “very satisfied” indicated their selection was based on their belief that the local program was not getting enough referrals or securing enough financial resources, even though they were very satisfied with the services of the program related to the case that were referred to it.

### **Too Few Cases**

A theme that emerged at all four sites was related to the belief that there were far more cases that should be routinely referred to victim offender mediation. Even in Winnipeg, which represents one of the largest victim offender mediation program in North America and Europe, concern was expressed that many more cases filed in criminal court could be dealt with more effectively through mediation. The concern that these programs receive a larger volume of referrals has important implications for moving the victim offender mediation process from the margins to the mainstream of how justice is done in these communities.

### **Too Little Funding**

There was a keen awareness of the double bind facing victim offender mediation programs. On the one hand, most of those interviewed believed that far more cases should be referred to mediation than is currently being done. On the other hand, more financial resources are required by local victim offender mediation programs in order to work with a larger volume of cases. Virtually all of the four programs are currently struggling to secure and maintain funding to support their current caseloads.

### **Benefits to Justice System**

A number of benefits to the criminal justice system were recognized by those interviewed. These included: reducing caseloads for Crown attorneys; giving more attention to the needs of crime victims; working with difficult cases that the justice system is not well equipped to deal with; freeing up limited resources within the justice system to focus on more serious cases.

### **Mediation with Serious Cases**

A majority of those interviewed stated that they believed that far more serious criminal cases should be considered for referral to mediation, including certain cases involving sexual assault, attempted murder, unintentional murder or family members of murder victims. While such a recognition included a great deal of caution in allowing mediation in violent cases, the concern of those interviewed was grounded in a recognition that mediation might be particularly helpful for some victims of crime who indicated a need for it as part of their healing process.

## **Conclusions**

1. The findings related to high levels of client satisfaction and perceptions of fairness with mediation that emerged from this study of victim offender mediation programs in four Canadian Provinces is consistent with prior research in the United States (Coates and Gehm; Galaway, 1988; Gehm, 1990; Umbreit, 1989, 1991, 1994; Umbreit and Coates, 1993) and in Europe (Dignan, 1990; Marshall and Merry, 1990; Messmer and Otto, 1992).
2. The quality of justice experienced by complainants/victims and accused/offenders can be significantly enhanced through expanded use of mediation in criminal conflicts.
3. Diversion of appropriate criminal complaints after a charge has been laid but prior to a trial can significantly reduce the caseload pressures facing nearly all courts, thereby freeing-up resources to be used for other purposes.
4. Use of mediation after a finding of guilt in criminal court can strengthen the process of holding the convicted offender accountable directly to the victim through determination of a mutually agreeable restitution plan.
5. At a time when the needs of crime victims are receiving increasing attention by policy makers and criminal justice officials, mediation can provide a particularly powerful opportunity for complainants/victims to become actively involved in the process of holding the accused/offender accountable and of gaining a greater sense of closure.
6. The use of mediation to resolve a wide range of criminal conflicts, particularly involving property offences and common assaults, should receive wider public policy support through legislative initiatives and public funding.

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