



Center for Restorative Justice & Peacemaking

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

Victim Sensitive Offender Dialogue in Crimes of Severe Violence Differing Needs, Approaches, and Implications

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This monograph is dedicated to the late Susan Laurence, the OVC grant manager for this project, in recognition of her enormous contribution to the field of restorative justice and victim offender mediation.

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I. Restorative Justice: *Through Victim Offender Dialogue*

Restorative justice focuses upon the harm caused to individual victims and the community while emphasizing the importance of engaging key stakeholders (victims, community and offenders) in the process of developing a restorative response to the crime (Bazemore & Umbreit, 1994, 1995; Van Ness and Strong, 1997; Zehr, 1990). Restorative justice theory is having an increasing impact upon communities, and even entire justice systems, throughout North America, Europe and the South Pacific (Alder and Wundeesitz, 1994; Bazemore and Walgrave, 1999; Galaway and Hudson, 1996; Hudson, Morris and Maxwell, 1996; Messmer and Otto, 1992; Umbreit, 1998; Umbreit and Stacey, 1996; Umbreit and Zehr, 1996; Wright and Galaway, 1989).

The oldest, most widely disseminated and documented practice throughout the world, and empirically grounded expression of restorative justice is victim offender mediation. With more than twenty-five years of experience and research, involving many thousands of annual case referrals to programs in more than 1,400 known communities throughout North America and Europe (Umbreit and Greenwood, 1999; Umbreit and Neimeyer, 1996; Umbreit, 1995) victim offender mediation (often referred to as victim offender reconciliation or victim offender conferencing) remains a strong empirically grounded pillar within the growing restorative justice movement.

A growing amount of empirical data has emerged from studies of victim offender mediation in property crimes and minor assaults, in the U.S., Canada, and England. High levels of client satisfaction with the mediation process and outcome has been consistently found over the past 18 years in studies throughout Europe and North America (Coates and Gehm, 1989; Collins, 1984; Dignan, 1990; Galaway, 1988; Galaway and Hudson, 1990; Gehm, 1990; Marshal and Merry, 1990; Perry, Lajeunesse and Woods, 1987; Umbreit, 1989; 1994; 2001; Umbreit and Bradshaw, 1997, 1999; Umbreit and Coates, 1993; Umbreit, Coates, and Roberts, 2000; Umbreit and Roberts, 1996; Wright and Galaway, 1989), with some studies finding higher restitution completion rates (Umbreit, 1994a), reduced fear among victims (Umbreit and Coates, 1993; Umbreit, 1994), and reduced future criminal behavior (Nugent and Paddock, 1995; Nugent, Umbreit, Wiinamaki and Paddock, 2000; Schneider, 1986; Umbreit, 1994). It is becoming increasingly clear that the victim offender mediation process humanizes the criminal justice experience for both victim and offender; holds offenders directly accountable to the people they victimized allows for more active involvement of crime victims and community members (as volunteer mediators) in the justice process and suppresses further criminal behavior in offenders.

During the early 1980's, many questioned whether crime victims would even want to meet face-to-face with their offender. Today it is very clear, from empirical data and practice experience, that the majority of victims of property crimes and minor assaults presented with the opportunity of mediation chose to engage the process, with victim participation rates often ranging from about 60 to 70% in many programs. A statewide randomized public opinion survey in Minnesota found that 84% of citizens, including many who had been victimized by crime, indicated they would be likely to consider participating in victim offender mediation if they were the victim of a property crime (Pranis and Umbreit, 1992). A more recent statewide survey of victim service providers in Minnesota found that 91% felt that VOM was an important service to be made available to victims on a volunteer basis and that it should be offered in each judicial district of the state (Minnesota Department of Public Safety, 1996).

II. Victims of Severe Violence: *A Search for Meaning*

Both restorative justice in general, and victim offender mediation specifically, continue to be identified with primarily, if not exclusively, addressing non-violent property crimes, and perhaps even minor assaults. This monograph will challenge such assumptions by providing empirical evidence that suggests that many of the principles of restorative justice can be applied in crimes of severe violence, including murder. Some would even suggest that the deepest healing impact of restorative justice is to be found in addressing and responding to such violent crime.

An increasing number of victims of sexual assault, attempted homicide, and survivors of murder victims are requesting the opportunity to meet the offender to express the full impact of the crime upon their life, to get answers to many questions they have and to gain a greater sense of closure so that they can move on with their lives. In most cases this occurs many years after the crime occurred and the actual mediation/dialogue session is typically held in a secure institution where the offender is located. In the mid-1980s, only a handful of such cases in scattered locations throughout the United States were provided with the opportunity for a mediated dialogue. As we approach the end of the century, Victim Services Units in six states are at various levels of developing a statewide protocol for allowing such an encounter between a victim/survivor of a severely violent crime and the offender. In Texas, there has been a waiting list of more than 300 victims of severe violence, including many parents of murdered children, who have requested a meeting with the offender through the Victim Offender Mediation/Dialogue Program of the Victim Services Unit, Texas Department of Criminal Justice. A growing number of victims of severe violence in Canada and Europe have also expressed interest in a mediated dialogue session with the offender. The Canadian Ministry of Justice has for many years supported the development of these services by the Victim Offender Mediation Program of the Frasier Area Community Justice Initiatives in Langley, British Columbia.

III. Victim Sensitive Offender Dialogue: *Differing Approaches*

In response to the growing number of requests over the past decade from victims and survivors of severely violent crime to meet the responsible offender, a small but increasing number of programs and practitioners are offering this service. Most often, this is made available by highly experienced and trained mediators familiar with the basic victim offender mediation process in property crimes and minor assaults and working closely with victim services agencies. The largest programs to date in the United States have been offered through victim services units of department of corrections in several states. These developments, however, have not come about without controversy. The concept of restorative justice and victim offender mediation remains highly controversial to many in the victim rights movement, even though far more victim advocates and organizations have become active stakeholders in the restorative justice movement than in earlier years. To date, the use of mediation and dialogue in such cases through statewide programs in the United States described below is entirely victim-driven. Crime victims themselves initiate the process.

While the process of victim offender mediation in property crimes and minor assaults is well tested and empirically grounded, the basic model is not adequate for working with severely violent crimes. To do so would be to likely re-victimize crime victims and even offenders. Far more advanced training of mediators and preparation of the parties is required in cases of severe violence such as sexual assault, attempted homicide, and murder.

The use of mediation and dialogue in cases of severely violent offenses has a number of distinguishing

characteristics. These include the following: emotional intensity, extreme need for non-judgmental attitude, longer case preparation by mediator (6 to 18 months), multiple separate meetings prior to joint session, multiple phone conversations, negotiation with correctional officials to secure access to inmate and to conduct mediation in prison, coaching of participants in the communication of intense feelings, and boundary clarification (mediation/dialogue versus therapy). Because of the intense nature of these cases there are a number of clear implications for advanced training for any person who chooses to work in this area. The field of restorative justice and victim offender mediation is only beginning to come to grips with how the basic mediation model must be adapted to serve the more intense needs of parties involved in serious and violent criminal conflict. Far more extensive training of mediators is required, as is an entire new generation of written and audiovisual training resources. For example, mediators will need special knowledge and skills related to working with severely violent crimes, in addition to the normal mediation skills. Advanced training would not focus on the mechanics of negotiation/mediation. Instead, it would emphasize an experiential understanding of the painful journey of the participants. Such advanced training would need to focus on the process of facilitating a direct and frank dialogue between the parties related to the violent crime that occurred, the journey of grief being experienced by the victim and/or surviving family members, and the possibilities for closure and healing through a process of mutual aid.

From the victim perspective, it will be important for the mediator to have the following: understanding of the victimization experience/phases, dealing with grief and loss (our own and others), understanding post-traumatic stress and its impact, and the ability to collaborate with psychotherapists.

From the offender perspective, mediators will need the following: a thorough understanding of the criminal justice and corrections system, an understanding of the offender and prisoner experience, the ability to relate to offenders convicted of heinous crimes in a non-judgmental manner, and the ability to negotiate with high level correctional officials to gain access to the offender/inmate.

The earliest known use of mediation and dialogue in severely violent crimes is found during the early 1980's in the pioneering work of the Genessee County Sheriff's Department in Batavia, New York. The work of Dennis Whitman, director of the program, stands alone as the earliest and most creative, if not courageous, use of mediation and dialogue to serve the needs of highly traumatized victims and survivors as they chose to meet with the offender(s). The program in Genessee County serves many crime victims and offenders a year through such restorative justice interventions as community service and a wide range of victim services. While handling only a limited number of mediation /dialogue cases in severe violence each year in this small upstate New York community, the work of Dennis Whitman and his colleagues in Genessee County represents some of the most deep and well-integrated expressions of restorative justice at both an interpersonal and systemic change level known in the United States.

Another early expression of the use of mediation and dialogue in crimes of severe violence is seen in its periodic use with victims of severe violence and incarcerated juvenile offenders in Anchorage, Alaska. The work of Donis Morris at the McLaughlin Youth Center in Anchorage (Flaten, 1996) is one of the only known examples of working with juvenile offenders in such severely violent cases.

Communication and dialogue between interested victims of severe violence and the offenders currently occurs in a number of different forms, ranging from highly therapeutic models developed and used by Dave Gustafson in Langley, British Columbia and David Doerfler in Austin, Texas to non-therapeutic dialogue models developed and used by Mark Umbreit in St. Paul, Minnesota and Karen Ho in Columbus, Ohio.

As the practice of victim sensitive offender dialogue in crimes of severe violence becomes more widespread both through the services provided by individual mediators and statewide services offered by victim services units within correctional departments, it is becoming evident that there are a number of different approaches.

Drawing upon the experience in British Columbia, Texas, Ohio, Pennsylvania, and a number of mediators trained in Minnesota and operating in a number of different states, we have developed the typology described below. Brief descriptions of each program are also provided.

A. VICTIM SENSITIVE OFFENDER DIALOGUE TYPOLOGY

Interviews with staff and volunteers in VSOD programs and a review of descriptive literature regarding these programs make clear that while programs designed under this rubric share much in common, there remain significant differences in intent and scope. Each program attempts to help victims and offenders deal with the pain of injury and loss and taking responsibility for their own actions. While information about the total range of VSOD programs currently in operation is still incomplete, the outline of a preliminary typology of such programs is beginning to take shape.

The differences between types of VSOD approaches are a matter of emphasis. At present, three foci are frequently referred to in interviews and in the literature: 1) therapeutic, 2) narrative and 3) empowerment. Existing programs refer to these three in varying degrees. In other words, while each program is concerned with all three foci, one focus emerges as dominant or most central to philosophy and practice of each.

The director of the Texas VSOD project states, "The purpose of the process is healing. While it is not therapy, it's very therapeutic." This emphasis upon healing/therapeutic comes to the forefront when staff seeks volunteers for training. "We are looking for people who think outside the box and who want to help people heal." (Source: VSOD research project)

Empowerment is the key word heard when talking with staff and volunteers in the Ohio program. While healing and being therapeutic are goals, as is getting victims and offenders to tell their stories regarding the crime and its consequences, the director notes that "whatever victims want to get out of a dialogue is of paramount importance." Staff and volunteers are not engaged in long term, in-depth therapeutic work. "The key things that I want to make sure of," says the director, "are that we're having something that's going to be safe for both offender and victim, and in the end it's going to benefit both of them . . . much of our goal is to help them keep on track." (Source: VSOD Research Project)

The central focus within humanistic mediation VSOD programs is narrative, that is, for each participant to speak to the impact of the crime: "The telling and hearing of each other's stories about the conflict, the opportunity for maximum direct communication with each other, and the importance of honoring silence and the innate wisdom and strength of participants are all central to humanistic mediation practice." (Umbreit, Bradshaw, and Coates, 1999). The humanistic mediation narrative approach to VSOD is practiced and taught in Minnesota, as well as numerous other locations.

To summarize, the three goals which are identified by program staff and literature are: narration, or telling the story; empowering victims and offenders to define their own needs and take responsibility for meeting those needs; and providing a healing/therapeutic experience. All VSOD programs for which information is available include all three of these goals in their program objectives. However, in practice, one of these areas emerges as a central focus.

Three preliminary types of VSOD programs emerge from the interview data and the available program literature. The resulting typology is outlined in the below chart. The three types, which are apparent at present, tend to place more of an emphasis on therapeutic, narrative, or empowerment goals. It must be underscored that this typology is preliminary in nature and that it will inevitably shift and change as more data are gathered on additional programs.

VICTIM SENSITIVE OFFENDER DIALOGUE TYPOLOGY

TYPES

	<u>Type I</u>	<u>Type II</u>	<u>Type III</u>
	Therapeutic	Narrative	Empowerment
RANK ORDERED FOCI	Narrative	Empowerment	Narrative
	Empowerment	Therapeutic	Therapeutic
EXAMPLE	Texas VOM/D Canadian VOMP (Langley, British Columbia)	Humanistic Mediation/Dialogue (University of Minnesota)	Ohio VOD Pennsylvania VOD

An example of the Therapeutic type is the Texas Victim Offender Mediation/Dialogue program. The three foci discussed above receive emphasis in the following order: therapeutic, narrative and empowerment. The example of the Narrative type is Humanistic Mediation. The focus rank order is: narrative, empowerment and therapeutic. And the Ohio Victim Offender Dialogue program is an example of the Empowerment type. The focus rank order in this program is: empowerment, narrative and therapeutic.

Certainly other variations of rank ordering are possible within VSOD types. Based on the review of literature only, the Victim Offender Mediation Project in Langley, British Columbia would fall under the Therapeutic type. And its rank-ordered foci would be: therapeutic, empowerment and narrative. For example, the director of the program states that the program was established "to meet some of the therapeutic needs unique to survivors of serious criminal trauma as well as to offenders responsible for those harms." (Gustafson, 1997). A research report on VOMP describes therapy in that context as "time spent with individuals working through deep emotions" (Roberts, 1995). The director also underscores the importance of empowering individuals as it relates to the dominate therapeutic goal: "autonomy, and its exercise, is fundamental to trauma recovery." The narrative is also important in VOMP as program staff often used letters and taped videos and preparation for a possible meeting between the victim and offender. It may be that more empirical data would lead to categorizing this program as Therapeutic with a rank ordering of a therapeutic, narrative and empowerment. In either instance, it would remain a Therapeutic type approach to victim sensitive offender dialogue.

The utility of such a typology is threefold. First, such a typology makes clear that there exist similar but different approaches to VSOD. While there are share principles across the approaches, there is no single way to do VSOD.

Second, such a typology, when linked with more detailed information regarding actual practice, can

illustrate how a dominant focus is related to or determines practice. For example, with its therapeutic emphasis, the Texas VOM/D program struggles with the concept of closing a case for in their therapeutic view a case may never be closed. In Ohio, with its empowerment emphasis, a case is typically closed within a month or two after mediation. If the victim and offender feel that their questions have been answered as well as they are likely to be, then the case is closed. This difference regarding closed cases does not make one program right and the other wrong; each is consistent with its own guiding philosophy and purpose.

Third, such a typology can be helpful to jurisdictions thinking about establishing a VSOD program. Planners will be better able to determine what they might implement given their own philosophies, desired impact and available resources. A jurisdiction might desire to adapt one of the current approaches, create a variation within a current type, or develop a new type entirely. However it chooses to proceed, an empirically grounded victim sensitive offender typology will serve to provide a context in which to assess policy and practice.

Project Descriptions

B. VICTIM OFFENDER MEDIATION PROJECT, Langley, British Columbia

A pilot for the Victim Offender Mediation Project (VOMD) began in February 1991 under the auspices of the Correctional Services of Canada. The program works with offenders and victims in cases of serious crime such as sexual assault, serial rape, murder and armed robbery. The primary focus is on healing for both victims and offenders. Professional staff are trained trauma recovery clinicians (Gustafson, 1997).

VOMP has its roots in the Victim Offender Reconciliation Programs (VORPs), which the Fraser Region Community Justice Initiatives Association (CJIA) had pioneered in Langley since 1979. Individuals within the justice system as well as offenders and victims acknowledged the value of VORPs as they worked with less serious cases and wondered whether something could not be done in cases where the trauma was far greater. CJIA staff, over a period of years with input from victims and offenders, developed the VOMP that emphasizes healing rather than reconciliation. Cases may be referred by victims or by criminal justice officials on behalf of offenders. The cases are referred after sentencing and post-incarceration. Face-to-face meeting of victim and offender is not regarded as necessary for healing but such a meeting occurs in over half the cases. Formal agreements are rare as they are not a goal of VOMP process and are not regarded as particularly relevant for healing.

Assessment and preparation are often lengthy and are therapeutic in nature. A three-member VOMP staff team works with each of the parties. Individuals participate in shaping their own process, which may include communication between victim and offender through letters, videotaped interviews, and exchange of video statements. Most often one or more face-to-face meetings between victim and offender will result with a meeting "convened and chaired" by program staff. Two mediators are always present in these meetings. One mediates and the other runs the video camera and may also contribute to the substance of the mediation. Meetings average three to five hours and are structured around a two-hour break. Occasionally, a case may involve more than one meeting.

VOMP does not use volunteers in their program. Staff is trained in offender treatment issues and victim trauma recovery. Follow-up is also likely to be lengthy and intensive and may involve additional family members. VOMP does not use volunteer mediators. Staff is trained in offender treatment issues and victim trauma recovery as well as mediation. Feedback by victims and offenders to an independent research team is very positive regarding the VOMP experience.

C. VICTIM OFFENDER DIALOGUE - OHIO

The Ohio Victim Offender Dialogue Program operates within the Office of Victim Services under the auspices of the Ohio Department of Rehabilitation and Correction. The underlying premise of Victim Offender Dialogue (VOD) is to help victim and offenders define their own needs regarding meeting one another and that the program exists to facilitate that meeting in a manner that is safe for all involved. While the process is victim driven, that is, victim initiated, offenders are not coerced into participation. Victim and offender are to be viewed as equal partners by the facilitators (Ho, 1999, 2000).

The Ohio program conducted its first victim offender mediation in May of 1996 after months of program development within the state as well considering models emerging in other states. In March of 1999, thirty-three volunteers from within and without the Department of Rehabilitation and Correction underwent an intensive five-day training session to prepare them to be facilitators.

In this process, two volunteers act as co-facilitators and share responsibility for preparing and bringing victim and offender together for a joint dialogue. In most instances, one facilitator is employed by the Department (although functioning as a volunteer when working with VOD) and the other is from the community at large.

The focus of VOD is empowering victims and offenders to identify their needs and a process whereby progress can be made in meeting those needs. Whereas it is not expected that a meeting of victim and offender will result in wounds being healed or grief being eliminated, it is hoped that such a dialogue will be a step in that healing journey.

Preparation time will depend largely on the scope of what the victim or offender desire to pursue in face-to-face interaction. The victim may only be interested in pursuing a couple questions. In that instance, the preparation may be rather short. The offender and victim as well as the facilitator have a fairly clear idea of what will be discussed during the meeting. This is part of providing for a safe place. The actual face-to-face meetings typically take two to four hours with breaks. Seldom is more than one meeting necessary. Follow-up is typically completed within a month after the meeting and may involve direct contact with the volunteer or phone contact.

Feedback from victims and offenders to an independent research team is very positive regarding their experience with VOD.

D. VICTIM OFFENDER MEDIATION/DIALOGUE PROGRAM - PENNSYLVANIA

The Pennsylvania Victim Offender Mediation program operates within the Office of Victim Advocate under the auspices of the Department of Corrections. The program works with a range of violent crimes including those where an offender has a death sentence. This program does not handle domestic abuse cases.

The program has been designed and refined over a five-year period with a restorative justice framework in mind. Its focus is on generating a dialogue whereby the victim may share the impact and trauma of the crime and receive answers and additional information from the offender. It "provides an opportunity for the victim to be heard" and "gives the offender an opportunity to accept responsibility for his/her actions . . . (and) to express his/her feelings about the crime and its consequences."

Request for mediation is victim-initiated and victim-driven. Victim participants must be 18 years of age or older. Offender participants must be cleared by the institutional psychologist. Mediator/facilitators are

community volunteers who have gone through "intensive training." Most mediations involve co-mediators. Cases require "extensive preparation" before the two parties come to a face-to-face mediation. Indirect dialogue is also an option within this program.

E. VICTIM OFFENDER MEDIATION/DIALOGUE PROGRAM - TEXAS

The Texas Victim Offender Mediation/Dialogue Program (VOM/D) is housed in the Victim Services of the Texas Department of Criminal Justice. Its purpose "is to provide victims of violent crime the opportunity to have a structured face-to-face meeting with their offender(s) in a secure, safe environment in order to facilitate a healing, recovery process." The program was begun in December 1993. Referrals come from victims. A long waiting list exists of victims who have expressed interest in participating in the program. Offenders are invited to participate and must do so voluntarily (Doerfler, 1997).

The process is intense and extensive. The actual face-to-face meeting is regarded as only one important point along a "continuum of care" from point of referral, through preparation, to meeting, through post-mediation follow-up. Preparation will easily require six months and often longer. Participants are offered a series of batteries and protocols designed to facilitate their coming to grips with their fears and their grief and to help them move along in the process of healing and recovery. Mediators work with very detailed protocols, which guide their preparatory work with victims and offenders. Mediators continually assess the victim's readiness to meet with the offender and vice versa.

The actual face-to-face meeting typically lasts from three and a half hours to eight with eight being normative. Mediators have a detailed checklist to follow for the meeting, but the emphasis is on providing a minimal presence allowing the dialogue between victim and offender to flow without undo guidance or restriction. Most mediated cases are done by paid staff. However, a cadre of volunteer mediators have been trained, some of whom are beginning to work cases. In rare instances, the program uses co-mediators.

Follow-up post-mediation is extensive and ongoing. Contact has been maintained with some participants for months and years after mediation. It remains uncertain within the program when a case is actually closed. Feedback to a team of independent researchers by victims and offenders is very favorable regarding the VOD experience.

F. VICTIM SENSITIVE OFFENDER DIALOGUE PROGRAM – MINNESOTA

The Victim Sensitive Offender Dialogue Program (VSOD) for crimes of severe violence began as a modest and quite limited initiative in 1991 in direct response to a small, but growing number of victims and survivors of severe violence who requested assistance from Dr. Mark Umbreit at the University of Minnesota, School of Social Work, in meeting the involved offender. These offenders were typically inmates in a maximum-security prison. The program initially worked with a limited number of cases in Minnesota and other states.

The VSOD program is currently in a transition period from its initial effort involving primarily Dr. Umbreit and a handful of others as mediators or co-mediators to a fully developed statewide initiative at the request of the Minnesota Department of Corrections. Approximately 15 to 20 mediators will be trained and supported to work in this broader initiative. The Center for Restorative Justice & Peacemaking will continue to respond to victim-initiated requests from other states. Cases from other states always require an on-site co-mediator to assist extensively with case development. Today the VSOD program

consists of three components: case services, training, and research.

Case Services Component

With rare exceptions, nearly all cases are victim-initiated and victim-driven. In all cases, involvement of the parties in a mediated dialogue is entirely voluntary and has no direct effect on the legal or institutional status of the offender/inmate. The vast majority of cases (70%) have been homicides, most first or second-degree murder (many involving parents of murdered children). Several cases involved negligent homicide from drunk driving, sexual assaults, one murder resulting from a large terrorist act, and one case involving a serial murderer. The VSOD services are provided by highly trained volunteer mediator(s), with no cost to the participants. About two thirds of case referrals to the VSOD program in Minnesota come from within the state, with the remaining cases referred periodically from a variety of other states

Recognizing and honoring the importance that spirituality and/or religion may play in the lives of those affected by violent crime is central to the healing process offered through victim sensitive offender dialogue. Of tremendous importance is the recognition that any discussion of or action related to the spiritual needs of the involved parties must be anchored in their expressed needs, their culture, and their mutual agreement. The mediator must never impose issues related to spirituality, based on the mediator's own needs or assumptions.

The basic elements of the VSOD model, in one form or another, tend to be used by many as a foundation for practice. There is, however, a considerable amount of diversity and creativity used by individual practitioners and programs. The VSOD model, Victim Sensitive Offender Dialogue (Umbreit & Bradshaw, 1995), should be understood more as a process or an approach, rather than a rigid model. It requires a tremendous amount of compassionate listening, patience, and self-care on the part of the practitioner throughout the entire case, in addition to the specific phases and tasks required.

Training Component

Over the past seven years, several hundred people from throughout North America, Canada, Europe, and other parts of the world have attended the advanced training in victim sensitive offender dialogue in crimes of severe violence offered by the Center for Restorative Justice & Peacemaking at the University of Minnesota. This training has been co-sponsored by the National Organization for Victim Assistance and directors of similar programs in Texas and Ohio have served as co-trainers, along with several others. This advanced training is now 6 days (48 hours) long. The use of a humanistic model of mediation and dialogue (described below) is central to the VSOD approach presented in the training.

The VSOD approach (Umbreit & Bradshaw, 1995) consists of three essential phases that often occur over a six to twelve month period of time: case development, involving extensive preparation of the parties; the victim offender dialogue, including pre- and post-dialogue briefing with all parties; and follow-up, which may involve a final dialogue between the parties. Some cases have required up to 18 months of preparation. The actual length of case development time is determined by the specific needs of the involved parties, the legal and correctional context of the case, and the mediator's assessment. The VSOD approach provides a "road-map" for working with cases of severe violence. In practice it is far less linear than it appears and is continually adapted to the specific needs of the involved parties. It is particularly important to adapt the process to any presenting cultural needs that may be present in the case.

Research Component

In 1998, the Center for Restorative Justice Peacemaking at the University of Minnesota initiated the first and largest multi-site study (Umbreit, Brown, Coates, & Vos, 2001) to date of the impact of mediation and dialogue in crimes of severe violence, focusing on statewide programs in Texas and Ohio. Whereas

more than 42 empirical studies of victim offender mediation in property crimes and minor assaults have been conducted in North America and Europe, only four such smaller studies that focused on crimes of severe violence have been completed, with the largest in Canada (Roberts, 1995). The final report of the Center's study of the programs in Texas and Ohio will be available on the Center's web-site during early 2002. Preliminary data is reported below in Section V. "What We Are Learning from Research."

IV. Humanistic Mediation: Creating a Safe Place for Dialogue

Humanistic mediation (Umbreit, 1997) represents a "dialogue-driven" rather than "settlement-driven" approach to confronting conflict. It emphasizes the importance of the following elements: meeting with the parties individually and in person prior to the joint mediation session, in order to listen to their story, build rapport, explain the process and prepare them for engagement in a mediated dialogue; a non-directive style of mediation in which the parties are primarily speaking to each other with minimal intervention by the mediator; and a mediator attitude of unconditional positive regard and connectedness with all parties, while remaining impartial (e.g., not taking sides).

While the focus of the mediator's work is upon the creation of a safe, if not sacred, place to foster direct dialogue among the parties about the emotional and material impact of the conflict, written settlement agreements often occur but are not central to the process. Humanistic mediation is a specific practice application of the broader theory of transformative mediation (Bush and Folger, 1994). It is grounded more in a paradigm of healing and peacemaking than problem-solving and resolution. The telling and hearing of each other's stories about the conflict, the opportunity for maximum direct communication with each other, and the importance of honoring silence and the innate wisdom and strength of the participants, are all central to humanistic mediation practice. It is particularly important to use a humanistic style of mediation when working with crimes of severe violence since the primary issues are typically focused on exchanging information, expressing feelings, reconstructing the event, and for many, a search for meaning following such a devastating event in their lives.

Qualities of the mediator that are central to victim sensitive offender dialogue through humanistic mediation include: being fully present and centered on the needs of the involved parties; feeling compassion and empathy for all the involved parties; being comfortable with silence, with ambiguity, and with intuition; maintaining a spirit of humility about one's own contribution to the healing process; and bearing witness to the enormous courage, strength and capacity of the parties to help each other, and honoring the meanings they place on the encounter.

V. What We Are Learning from Research

There exist many anecdotal stories from victims and offenders who often speak of their participation in a mediated dialogue as a powerful and transformative experience that helped them in their healing process. Parents of murdered children have expressed their sense of relief after meeting the offender/inmate and sharing their pain as well as being able to reconstruct what actually happened and why. One such mother whose son was murdered stated, "I just needed to let him see the pain he has caused in my life and to find out why he pulled the trigger." A schoolteacher who was assaulted and nearly killed, commented after meeting the young man in prison, "It helped me end this ordeal...for me, it has made a difference in my life, though this type of meeting is not for everyone." An offender/inmate who met with the mother of the man he killed stated, "It felt good to be able to bring her some relief and to express my remorse to her." A doctor in California whose sister was killed by a drunk driver and who was initially very skeptical about meeting the offender, following the mediation session stated, "I couldn't begin to heal until I let go of my hatred...after the mediation I felt a great sense of relief...I was now ready to find enjoyment in life again."

Only three studies of victim offender mediation in crimes of severe violence have been conducted in the U.S. Two were small exploratory initiatives that each examined 4 case studies. The third study has just recently begun and represents the first major initiative in the U.S. involving multiple sites.

The first study (Umbreit, 1989) found that offering a mediated dialogue session in several very violent cases -including a sniper shooting case- was very beneficial to the victims, offenders and community members or family members that were involved in the process. Three of these four cases (all adult offenders) were handled by a police department in upstate New York (Genesee County) that operates a comprehensive restorative justice program. The second study (Flaten, 1996) involving four cases of severely violent crime committed by juvenile offenders found very high levels of satisfaction with the process and outcomes, from both victims and offenders. The offenders were inmates in a juvenile correctional facility in Alaska.

A third study (Umbreit & Brown, 1999; Umbreit, Coates, Vos & Brown, 2001) is a multi-site, multi-year study (initiated in 1998) that represents the largest initiative in the United States to examine the impact of victim offender mediation and dialogue in crimes of severe violence. Programs in Texas and Ohio were examined, along with a number of cases in other states.

A total of 80 interviews with victims and offenders have been completed. Of the 20 mediated cases in Texas, 70% involved homicide. Of the 21 cases mediated in Ohio, 57% involved homicide. For the victims interviewed at both sites, post-mediation interviews indicated that 90% were very satisfied and 10% somewhat satisfied with the case preparation; 76% felt the meeting with the offender was very helpful and 24% felt it was somewhat helpful; and 100% were very satisfied with their overall involvement in program. For the offenders interviewed at both sites, post-mediation interviews indicated 93% were very satisfied and 7% somewhat satisfied with the case preparation; 93% felt the meeting with the victim was very helpful and 7% felt it was somewhat helpful; 81% were very satisfied and 19% somewhat satisfied with their overall involvement in program.

A far more descriptive picture of the impact the mediated dialogue session had upon their lives is offered in the participants' actual statements. The following victim comments illustrate common themes:

"I told him, 'When you murdered my daughter, you murdered me.' My kids, they didn't just lose their sister, they lost their mother because I was not able to function after that, I was brain dead for the longest period of time."

"It's probably the best thing I've ever done."

"On a scale of one to ten, it's a hundred."

"I think in a lot of ways that this is probably the hardest thing that [the offender] ever did, was to sit in front of me and accept responsibility; he didn't have anything besides his own well being to gain from it. And I think that he had to look at some really hard things in himself to do that."

"My daughter's dead. . . . but I know I'm better, I can sleep at night, I know it's a good feeling not to hate some monster, and I know my daughter didn't give him any reason to kill her."

"Before, he was just, you know, a murderer. . . . after, he was a human being." Offender comments included the following themes:

"I think I'm more alive now than I ever have been at any one point in time . . . I feel like I'm

actually living life now, instead of just existing, you know? Very much at peace . . . I told the mediator I felt cleansed. I felt washed, refreshed, . . . I felt a great burden had been lifted off my shoulders. I felt joy."

"Okay, I did this, now I need to move on, I need to work with inside myself, to say . . . now what else can I do to make this better, is there something that I can do? . . . That you've done something positive, that at least something positive will come out of this."

"It felt good to be able to mend that broken spot in her life. Though I can't ever replace what was lost."

And, in answer to the question, what surprised you most?

"Her compassion, her deep feeling for not only my family and my daughter's and my friends, but her deep feeling for me. I met another face of God that night. And the face God wore that night was hers. The God I know is a God of mercy, a God of love, a God of forgiveness, and that night I met all those things in her."

The only other known study, completed in Canada (Roberts, 1995), examined the Victim Offender Mediation Project in Langley, British Columbia. This community-based Canadian program, after having pioneered the early development of victim offender mediation and reconciliation with property offenses and minor assaults many years ago, initiated in 1991 a new project to apply the mediation process with crimes of severe violence involving incarcerated inmates. Prior to initiating this project, a small study (Gustafson & Smidstra, 1989) had been conducted by the program to assess whether victims and offenders involved in severely violent crime would be interested in meeting with each other in a safe and structured manner, after intensive preparation, if such a service were available. A very high level of interest in such meetings was found.

In the study conducted by Roberts (1995), virtually all of the 22 offenders and 24 victims who participated indicated support for the program. This support was reflected in their belief that they found considerable specific and overall value in the program, felt it was ethically and professionally run, and would not hesitate to recommend it to others. The overall effects of the mediation session expressed by victims included: they had finally been heard; the offender now no longer exercised control over them; they could see the offender as a person rather than a monster; they felt more trusting in their relationships with others; they felt less fear; they weren't preoccupied with the offender any more; they felt peace; they would not feel suicidal again; they had no more anger.

For offenders, the overall effects of a mediated dialogue with the victim included: discovering emotions; feelings of empathy; increasing awareness of impacts of their acts; increasing self-awareness; opening eyes to the outside world, rather than closed institutional thinking; feeling good about having tried the process; achieving peace of mind in knowing one has helped a former victim.

VI. Two Case Studies: Parents of Murdered Children Meet Offender

The courageous stories of parents of murdered children in two separate cases who initiated the process of eventually meeting the offender, in prison, responsible for their child's death is presented in this monograph. For the purposes of these case studies, the actual names of all involved parties have been changed. First, a brief overview of each case and an analysis of themes that emerged and specific implications for the practice of mediated dialogue in similar cases will be offered.

Case Overviews

A. Jan Ellison-Allen Jones Case

On March 14, 1989, Mark Ellison, son of Jan Ellison, was murdered. A bungled robbery netted a watch worth fifteen dollars, and a twenty-dollar bill. The man convicted of this killing was Allen Jones, a small time drug dealer high on booze and drugs. He was sentenced to a maximum-security prison for 32 years.

The death of her son shattered Jan Ellison's life. She grieved deeply her loss. In time, she reached out to other families in her state who suffered with the loss of a murdered family member. Active in the victim rights movement, it was surprising and disconcerting to some of her friends and colleagues that she desired to meet with the man who killed her son. She was advised not to do so. Many of Allen Jones' family did not want him to meet face to face with Jan Ellison.

In spite of conflict with friends and family, and in response to Jan Ellison's request, each agreed to meet with a mediator present. The mediator worked for months to help both understand the purpose and process of victim-offender mediation-dialogue as well as clarify their own needs and expectations.

Eight years after the murder of her son, Jan Ellison met with the man who held the gun to Mark's head. She wanted him to feel and see her pain, to have a glimpse of Mark, and to answer many unanswered questions. During an initial two and one half hour exchange the pain was indeed shared and many questions were answered. Some, however, were not answered to her satisfaction. Allen also had questions about Jan and her son that were answered. He, too, was able to share the pain that the murder brought to bear on his family. He hoped for forgiveness. Jan Ellison wanted Allen to do well. She no longer saw him as inhuman. But she could not forgive him.

They met a second time nearly two years later. At that point, both were struggling with moving on. Although Allen's parole was likely quite a ways off still, he was already making plans for starting over. Jan, also, was making plans to start over by changing jobs and doing some things for herself.

B. Jim and Sue Manley-Gary Evans Case

During the early hours of July 2, 1991, Carol Manley, the daughter of Sue and Jim Manley, was abducted, raped and murdered. Alex Jansen and Gary Evans were convicted of these crimes. Several days of frantic

searching lapsed before the two men turned themselves in and Carol's body was found. The Manley family and their small rural community felt victimized over and over by the abduction, the rape, the murder, the not knowing what happened and by the conflicting "truths" presented at the separate trials.

Around the time of the trials in late 91, Jim Manley became aware of restorative justice concepts and specifically about victim-offender mediation. He saw this approach as a possible way of getting answers to questions about Carol's death that continued to plague him and his family. It would also be an opportunity to share their own story of pain.

After much preparatory work by a mediator, Gary Evans agreed to meet with the Manleys. They met, initially, on October 28, 1992. The meeting lasted three hours. The Manleys began by recounting the events that took place on the 3rd and 4th of July. They spoke of the agony of not knowing, of fear, and then of knowing and the resulting grief and anger. Even after finding out that Carol was dead and throughout the trial process, they only received bits and pieces of what happened on that terrible night.

They want answers. They wanted information. Gary Evans walked them through that night in graphic detail. He claimed not to have planned or participated in the rape and murder. He saw himself as a victim who didn't know how to stop what was happening. Gary Evans became most empathic during a discussion with Jim about losing contact with his son and thereby knowing something about Jim's feeling of loss at the death of his daughter. Dialogue began to show that the Manleys appreciated learning some of things that they had not previously known, but neither did they immediately accept Gary's version of the truth.

There were subsequent meetings. Jim met with Gary three times with a mediator present before Jim and Sue met with him together in April of 95. Even at that point there were efforts to clarify the story of what happened. The Manleys realized that the "truth" would never be known. Gary was presenting them with what he could recall, and that may have been true or flawed. There would be no certainty. But more important at that time was working with Gary to try to have something good come out of tragedy. They saw in him remorse, empathy and a desire to help. To that end, the Manleys and Gary Evans attempted to come up with ways where they could share their stories so others, particularly youth, would be able to say no before being dragged into violent situations beyond their control. At the conclusion of this last session, the Manleys felt a sense of closure with Gary and a desire to move on.

C. Case Analysis: *Implications For Mediator Practice*

Preparation

The critical nature of preparing participants for mediation-dialogue cannot be overstated. This is the most time-consuming part of the work for the mediator. Preparation will involve developing relationships, listening to the needs stated verbally and non-verbally, articulating scope and purpose of mediation-dialogue, shuttling back and forth between victim and offender to clarify broad agendas and expectations. The mediator has a huge responsibility for setting the stage for the initial and any future encounters. The message the mediator brings -- whether about the process of mediation or about the needs and mannerisms of the victim or offender -- must be stated clearly while being sensitive to the emotional overload, which so often characterizes these cases.

Four specific implications arise from these two case studies:

1. *Don't oversell expectations.* While victims typically want to meet the offender because they have many unanswered questions, or want the offender to see and feel the pain he or she caused, or desire to help the offender so the same kind of crime will not happen again, expectations about obtaining answers, sensing offender remorse, and helping the offender should be modest. The mediator must not oversell the program. The results of these encounters, as with any human interaction, are likely to be mixed. This was explicitly true for the Manleys and given that Jan Ellison fought against Allen's parole at his first hearing occurring after their first mediation we can assume that she experienced mixed results also. Sue Manley said it quite plainly, "I don't think we could have done it [mediation-dialogue] without you [a mediator]. I don't think we could have done it without you and without all the preparation. I remember when we first started talking about it when my expectations were here (gestured high) as we talked I said, 'Oh, I better lower my expectations or I'm going to be very disappointed.'" Overselling would not only be misleading, it would entail re-victimizing those who are already suffering so very much.

2 . *Emphasize at each step the choice to participate.* Individuals -- victims or offenders -- can refuse to participate at any point in the process. Such refusal must be genuinely honored by the mediator. That refusal might occur at point of initial contact. It might occur after seven contacts and much work on the part of many people. It might simply be a refusal to answer a particular question or to delve into an area of questioning during the course of a mediation/dialogue session.

The mediator must be prepared to affirm such a refusal while allowing the individual to feel good about the decision made. This is part of creating a safe place for all participants to deal as openly as they can with difficult, emotionally charge questions and concerns.

3. Prepare participants for meeting the other participants, address issues of concern, communication styles, etc. The victims and offenders may or may not have seen each other during trials, but it is likely, in many cases, that they have never actually met or talked to each other. The mediator will carry considerable responsibility for sharing and shaping first impressions. Again, general questions and concerns of participants can be shared broadly. If there are areas that one or the other participant has declared as untouchable, those need to be shared with all participants. It may be important to make it known that a particular offender, for example, is very slow of speech. In such cases, it will be necessary to be extra careful to allow the offender to complete his thoughts without interruption. Victims would likely find this information helpful reducing their own frustration at the pace of the meeting.

4. Prior visit to the prison. Most citizens are not familiar with the sights and smells of a maximum-security prison. First exposure to metal detectors, searches, clanging heavy doors, Lysol smells, blank faces of prisoners and guards, and the air of hopelessness which often permeates such a place can be distressing and overwhelming. Coming to grips with the setting may be quite demanding emotionally and intellectually. As the Manleys indicated, the opportunity to tour the prison earlier helped them stay focused on the day of the initial meeting with Gary Evans rather than be caught up in the whirlwind of feelings caused by the foreign nature of the prison setting.

The Meeting

Videotapes of victim-offender mediation/dialogue may not fully reveal the subtle work of the mediator. If the mediator is working properly, he or she may appear to be part of the background, almost unneeded. Such is not the case. While the preparation work requires the proactive involvement of the mediator, the session requires the active presence of the mediator. The extent of direct involvement will depend upon the dynamics of the meeting. Five implications for the mediator are apparent as we consider the Manley and Ellison cases.

1. Opening or icebreaking. It may seem surprising and even redundant, given all the one-on-one preparation meetings, for the opening comments of the mediator to serve as both providing information and being a form of icebreaking for this particular encounter. The mediator is telling the participants what they already know, that is, the purpose of the meeting and the ground rules governing their interaction in the meeting, which they have already agreed to. This is, however, not only a reminder for participants, it serves to make it clear that the mediator is on neither side and has indeed shared similar information with all participants. It is one thing to be told the ground rules privately; it is another to be told and to agree to them in the face of the offender or the victim, whichever the case may be. A more subtle by-product of the opening statement by the mediator is simply giving all participants a chance to catch their breath, to compose themselves, to see the other participant, to become more comfortable with the space and the task at hand. This icebreaking function needs to be valued by the mediator or the opening statement could become merely a rote string of words. The opening sets the tone, at least for the early stages of the meeting, as well as reinforces the mediator's role as responsible for maintaining a safe setting for difficult exchange.

2. Use of silence. Silence may be a time when participants are reflecting on what has been shared

or formulating a new line of inquiry. To rush to fill the gaps of silence may very well cut off the flow of dialogue. Silence may be uncomfortable for some, but then few probably expect this kind of exchange to be easy. While it is important to honor silence and recognize it as an incubation pause, it is also critical to sense when silence has gone on too long, when it has become detrimental to the dialogue. Gary Swanson, for example, encouraged the mediator during a pre-meeting before the last taped session to step in if things "get into a lull." Gary often referred to pulling "a blank" at times. Leaving him to spin in his blankness would not be helpful for the overall movement of the meeting, and it would likely be experienced as punishing.

3. *Tolerance for repetition.* The mediator should expect and develop a tolerance for repetition. Victims will ask the offender the same question in a variety of ways. The same questions may be asked in the same ways in follow-up sessions. It may be that the victim must listen to the answer several times to hear and integrate it, or it may be that the victim is trying to determine if the offender has changed the story or the "truth." In either case, this repetition is part of the dialogue. One could imagine an overactive mediator saying, "We've covered that. Let's move on." On the other hand, the repetition of victim or offender may become so overpowering that it will be necessary for the mediator to do a check-in, something like, "You've been pursuing this line of question now in a variety of ways do you all want to continue or do you want to move on?" Or, "(Name of person) has shared this part of the story several times, do you want to hear it again, or do you want to move on?" What the mediator may experience as repetitive may not be experienced in the same way by participants. If it is necessary to move on, they should be part of making that determination. In any case, the mediator must expect much more repetition of questions and descriptions than found in standard conversation.

4. *Being out of the way, yet being acutely present.* The mediator must be out of the way, allowing dialogue to occur between victim and offender, yet the mediator must not be "lulled to sleep." He or she will be needed in a split second to head off an inappropriate line of inquiry, to answer a verbal or nonverbal request, to actively through non-verbals make it clear to all participants that what they are doing is respected and honored. If the mediator checks out, it won't take long for that absence to be noticed. Responses may range from feeling unimportant and being betrayed to one party beginning to exercise excessive control. The mediator's active presence serves several functions -- none perhaps more important than symbolically and literally, if necessary, preserving a balance of control and participation among the participants.

The need to help strike a balance between the participants can require an immediate response. During the second taped session between the Manleys and Gary Evans, Jim Manley poses a question about Gary's juvenile record. The mediator immediately breaks in: "Excuse me a second. Do you feel comfortable responding to that because that is protected by privacy laws, but if you choose to talk about it you have a right to." Quick intervention empowering the offender to make a choice.

In the Ellison case, Allen is hopeful that Jan will be able to forgive him. Jan states: "I don't know if I can forgive you right now." Sobbing she adds, "Maybe sometime later." The mediator does not interrupt the flow of the dialogue at this time, but does prepare to come back to this issue at a later point. "I want to make a comment on something you brought up Jan. It is important for both of you to realize that the purpose of this mediation session is not to talk about forgiveness. If that happens, that's your choice Jan. Whatever your decision is, that's OK. I think you realize that Allen. The purpose is really to talk about what happened and to try to get some kind of closure and that may or may not involve forgiveness. Forgiveness does take time, even when a person chooses to." The mediator has clarified the purpose of the session, placing forgiveness in the overall context and underscored the individuals' right to forgive or not to forgive.

5. *Be affirming and non-judgmental.* Regardless of the ability of persons to articulate their concerns or viewpoints, despite the level of emotion displayed, it takes a lot of courage as victim or offender to enter into face-to-face dialogue with the other. The mediator will likely have several opportunities to affirm the choices each person has made to be at the table. There may be things said that could press the mediator's own judgment buttons. This must be avoided at all costs. The mediator is human and is certainly subject to being overly engaged in an issue or a question or even over identifying with an individual. During the preparatory work, the mediator should be in a position to flag issues and questions that might lead him or her to become overly directive or overly involved. Knowing ahead of time what is likely to arise should help the mediator deal with such potential pitfalls. If after assessing the situation, it appears that the mediator cannot be affirming or non-judgmental with a particular set of individuals, then a replacement must be found who can be both affirming and non-judgmental. Mediators who cannot withhold judgement will create situations where chances are greatly increased of someone being further victimized.

Follow-up Debriefing

Debriefing after the session is as integral to the process as is preparation and the meeting itself. Debriefing may occur immediately after the session or some time later.

1. *Evaluating the experience.* Whether immediately or later, this is an opportunity for the victim or offender to review the meeting -- its content and emotions -- without the other being present. Here, it is OK for the participant to express disbelief and ventilate. It is OK to acknowledge the pain experienced during the session and that which is ongoing. It is OK to blame or shame. It is OK to express what needs to be expressed about the experience.

2. *Owning the results.* This is also an opportunity for the mediator to work with participants to name and own the mixed results of the session. It is unlikely that all questions will be answered to one's satisfaction or that what one hopes to happen will indeed manifest fully. The Manleys acknowledged quite clearly that they were not satisfied with all the answers they received. There remained differences of opinion regarding Gary's story and of Gary's understanding and claiming his responsibility in the abduction, rape and murder of their daughter. Still, they found something human in Gary Evans as well as remorse and a desire to somehow help make things better. Even with the mixed experience, they would have joined in the mediation-dialogue again knowing what they then knew. Likewise, Jan Ellison does not receive either all the information or comfort she is looking for, yet she wants other survivors to know that such potentially beneficial opportunities of mediation/dialogue exist. In this regard, of owning the mixed results, the mediator is helping the victim and the offender leave with a realistic assessment of personal and shared outcomes.

3. *Steps toward integration.* Participants, particularly victims, take the opportunity during debriefing to retell portions of their story now with new information or differing shades of interpretation. By asking questions, such as how was the mediation for them, the victim is being prompted to integrate the mediation into his/her story of the victimization. This may be a necessary step for letting go of some of the rage, sense of being out of control, or feeling of being crippled. Without ever suggesting that this mediation/dialogue resolves all the hurt and anger resulting from being victimized, it may particularly at this debriefing stage, prompt some letting go and moving on. In the case studies, this was a theme for all participants either at the close of the mediation session or during the debriefing meetings.

D. Overarching Themes

In addition to practical implications for mediators, these case studies also share common themes. Given that we are only considering two case studies here, we are not trying to generalize. It behooves the mediator, however, to be prepared to observe and support participants as they attempt to work through issues at this more global, meta level.

1. Finding common ground. There is an apparent, strong need to find common ground between victim and offender. This was true in both case studies. The Manleys worked hard with Gary to come up with some kind of shared understanding of the events surrounding the death of their daughter. Ultimately, they must accept that not all their questions will be answered. They accept Gary's remorse and move on to try to "make something good come of all of this." Gary and Jim are able to touch one another as fathers. Gary misses his son and recognizes the pain of a father whose daughter was murdered. Gary speaks of holidays as the hardest times for being in the prison and away from family. The Manleys share that holidays are hardest for them also. Jim and Sue try to work with Gary to tell his story so other youth might not make the same mistakes of following and not saying no when events demand a no. Gary wants to please the Manleys and works with them seeking and finding common ground.

The same phenomena are present in the Ellison-Jones case. Jan shares the pain and loss at the death of her son. Allen identifies with her by speaking of the loss of his mother and daughters. They each speak of holidays as the hardest times for feeling their losses. They discover similarities in the fact that some of Allen's family were highly critical of his participating in the mediation and some of Jan's friends took the same position. Jan shares a picture of her son. Allen holds the picture and says, "God bless him." They discuss the common struggles of starting new lives: Allen as he hopes to leave prison and Jan as she starts a new job. Allen says: "I'm a little scared of that [starting over myself]. It's gonna be hard to start over." And Jan responds: "I'll be starting over too. It'll be tough... I know it's gonna be hard."

This mirroring of one another, this search for common ground, may be what draws the participants together in the first place. As the result of a heinous, inhuman event, there is a quest for humanity. When they find it, there is a desire to grasp onto it and build upon it. As strange as it may seem to observers and mediators, one fact binds the offender and victim together in a very elemental way. The offender may be the last person to have seen their child alive or to have heard their child's last words. This unnerving bond should not be minimized by those of us who have not sat at the table as victim or offender.

2. Helping one another heal. In part victims are seeking some kind of closure that allows them to better integrate the events of the murder and the grief of loss so they can move on with their lives in more healthy ways. This in no way means that they seek to forget the loss, but rather to manage the loss so it does not paralyze. To create something good out of the tragedy is one way for this closure to happen. In both of these cases, rehabilitation of the offender was part of the healing for the victim. In the Manley case, the focus was on the Gary Evans to experience remorse, to feel empathy and to do something good for community youth by sharing his story. In the Ellison case, Jan is very concerned about Allen's well-being and about what he will be like when he returns to the community. She praises him for completing his GED and presses him on why he does not attend AA or Narcotic Anonymous meetings. In both cases, there is a desire to help the good part of the human being who somehow participated in the death of their child.

Similarly, the offenders, too, seek healing. Both Gary and Allen make clear that they want to help the victims, and they do in fact make concrete efforts to do so. Gary, particularly in the

preparatory and debriefing meetings with the mediator, says quite clearly that he participated and continues to participate in order to help the Manleys. He also desires to help the community, but that is a rather more abstract idea for him. His relationship is with the Manleys, and for them he will try his best. Is this desire to help guilt-driven? We certainly don't know. But there is an empathic relationship particularly between Gary and Jim -- perhaps because of both of them being fathers who have lost a relationship with a child.

Allen is resolute as he listens to Jan's pain. Not only does he listen to what she shares voluntarily, he elicits more. When the mediator turns to ask whether he has more questions to ask, unlike what we might expect of the offender who simply wants to get this over, Allen asks probing sensitive questions. For example he wanted to know about Mark's goals, which led to a lengthy discussion of and renewed tears for the man he killed. When Jan asks, "Can you tell me how I can get on with my life?" Allen does not hesitate. His response: "Well, have you tried praying?" A discussion of God and prayer ensued.

Watching these taped sessions, there are moments, when the observer is struck by the fact that he could be observing an intense, emotional exchange between any two or three persons. Little about the exchange would suggest animosity or the enormity of the events that brought these people together. The process of human dialogue, of telling, listening and sharing may have tremendous potential for healing even in the most conflictual of circumstances.

3. *Forgiveness.* Although healing may be an outcome of the dialogue, it is not the goal of the program. Even if it is a goal of participants, there are likely limits as to how far such dialogues can move victim and offender. To recognize the humanity of the person who took the life of your child is one thing; to want that person as well as yourself to heal and therefore to become better at living non-violently is one thing; but to forgive the individual for what he has done is quite another.

Mediators must be prepared for this question to arise explicitly or implicitly. In the Manley case, it was present only implicitly. In the Ellison case, it was very explicit. Gary Evans does not ask for forgiveness from the Manleys. Perhaps it is enough for him to feel partially understood and at least be partially respected. It is clear that he experiences both. Jim Manley readily admits both, but also points out that this in no way mitigates the loss. Nor does it reduce Gary's responsibility for contributing to the death of his daughter. Their differences in perception of Gary's role in some ways doesn't matter. "The differences remain, but so does the conviction. Justice is being served from my perspective." Perhaps Sue Manley spoke to the dilemma which makes forgiveness unlikely, if not unreachable. "As good as this is that we're trying to make come of it...she asked him to help her [escape] and he didn't. And that makes me very angry....It's just the pain and it hurts. We try, we're trying to have something good come of this -- but that's always underneath there."

In the Ellison case, Allen states that he is hoping for forgiveness. Jan acknowledges his hope, but cannot forgive him. Clearly, she is torn, perhaps because of her faith tradition, about her inability to forgive. She believes her son has forgiven him, but she cannot.

The mediator must be prepared, as occurred in the Ellison case, to address the question of forgiveness. It may be a possible outcome of mediation-dialogue, but it is certainly not a goal or expectation. In preparatory work, it may be useful to listen for the issue of forgiveness either as an expectation of the offender or perhaps as a fear from the victim -- a fear that he or she may be expected to forgive. If forgiveness is to occur, it certainly must be genuine and not contrived or done because someone thought the mediator expected it.

VII. Implications for Policy and Practice

As additional states consider developing policies to provide opportunities for interested victims of severe violence to meet with the offender/inmate, we offer the following recommendations for consideration.

Policy

1. Departments of Corrections should consider developing specific procedures for responding to the requests of those victims who request a mediation/dialogue session with the responsible inmate.
2. Public funding should be appropriated to support the development and management of victim sensitive offender dialogue services in crimes of severe violence.
3. Consideration should be given to amending current state crime victim compensation laws to allow reimbursement for the cost of victim initiated mediation/dialogue services with the responsible inmate, when such an encounter is clearly related to their healing process and when such services are provided only by mediators who can document that they have received advanced training in providing victim sensitive offender dialogue services in crimes of severe violence.

Practice

1. Only persons who can document that they have received at least 32 hours of advanced training in victim sensitive offender dialogue in crimes of severe violence and who are under the supervision and support of a mentor should be allowed to provide such services.
2. When providing victim sensitive offender dialogue services, a minimum of 2 in-person preparation meetings which each party should be conducted. In most cases, it is more likely that 4 to 6, or more, preparation meetings will be required.
3. The process of victim sensitive offender dialogue in crimes of severe violence should be entirely voluntary for all parties.
4. Victim sensitive offender dialogue in crimes of severe violence should be victim initiated. When inmates initiate the process, their letter should be kept on file in case their victim(s) later request a mediation/dialogue session.
5. The planning, development and implementation of victim sensitive offender dialogue services should be conducted with active involvement of victim services providers along with correctional staff and other persons familiar with the VSOD process, preferably one who has completed the advanced VSOD training.

VIII. Conclusion

It is clear that the principles of restorative justice can be applied in selected cases of severe violence, particularly through the practice of victim offender mediation and dialogue. A far more intense case development process is required and the “dialogue-driven” humanistic model of mediation offers a more victim sensitive process that is also likely to engage the offender in a dialogue about the full impact of the offense. Preliminary data indicates exceptionally high levels of client satisfaction with the process and outcome of victim offender mediation and dialogue in crimes of severe violence. This bodes well for the future development of this emerging restorative justice intervention. While these studies provide important preliminary data related to the impact of the mediation and dialogue process in crimes of severe violence, particularly homicide, they are suggestive at best. Far more rigorous studies involving larger samples are required before any conclusions can be drawn. A great deal of caution, however, must be

exercised in applying restorative justice principles in such cases. There have already been numerous examples of well intentioned criminal justice officials and individual mediators who are too quick to refer or facilitate the use of mediation and dialogue in crimes of severe violence without having first secured advanced training and mentoring. Many unintended negative consequences could result from such initiatives, including a significant re-victimization of the victim.

There remain many unanswered questions, as well. For whom, under what circumstances, and when is the use of victim offender mediation in crimes of severe violence most appropriate? How extensive should the case development process be? Is there significant variance in the degree and length of pre-mediation case preparation based on characteristics of individual cases? What type of crime victim and offender respond best to such an intervention? How can victim offender mediation/dialogue services, in crimes of severe violence, be offered as a voluntary restorative justice intervention on a larger scale and in a cost effective manner? How extensive should advanced training be? To what extent should families and other support persons be routinely involved in the process, at what points, and to what degree? Can state victim compensation laws cover the cost related to victims of severe violence who request this intervention? While nearly all cases to date are victim initiated, is there a place for offender-initiated cases without triggering the unintended consequence of re-victimizing the victim? Far more rigorous longitudinal, qualitative and quantitative studies are clearly needed in this emerging area that holds the potential for exceptionally high positive impact on participating parties while also including significant risks as well.

At its core, the process of victim offender mediation and dialogue in crimes of severe violence is about engaging those most affected by the horror of violent crime in the process of holding the offender truly accountable, helping the victim(s) gain a greater sense of meaning, if not closure, concerning the severe harm resulting from the crime, and helping all parties to have a greater capacity to move on with their lives in a positive fashion. This emerging restorative justice practice certainly warrants further development and analysis, along with an attitude of cautious and informed support.

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