



National Association of Community and Restorative Justice

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NACRJ Policy Statement on Victim Offender Mediated Dialogue (VOMD) in State Government Correctional Facilities in the United States:

1. The NACRJ Board of Directors seeks to promote policies or practices that allow mediated or facilitated contact between victims and offenders. While we recognize that there are states with a no victim offender contact policy, we strongly encourage those states to reconsider their positions and join the more than twenty states that already have formal protocol to make VOMD available to those victims and survivors who request it. We are calling for all states to adopt VOMD programming, which promotes healing of victims and works toward earning redemption for offenders while increasing accountability for their actions.¹
2. NACRJ seeks to assist states:
 - a. In developing the policy and capacity to support victims of crime who seek a VOMD process in states where VOMD programming in correctional facilities is not currently offered.
 - b. To develop evidence-based policy and practices to implement VOD practices where they do not currently exist.
 - c. To make technical supports available to corrections staff in states seeking to initiate VOMD programming.
3. NACRJ seeks to create awareness of the potential of VOMD to augment correctional practices in ways that are meaningful to victims and offenders and promote increased safety within correctional institutions.

¹ NACRJ recognizes that within those systems with a no-contact policy correctional administrators may have discretionary authority to waive the prohibition in particular cases. While a discretionary waiver is a good step, it is at the discretion of the correctional administrator and is not supported by policy. Allowing VOMD programming within prisons by policy systematizes the option and when used provides an added level of personal accountability for offenders to their victims or their families which is otherwise not available to them.

Addendum

“Victim Offender Mediated Dialogue (VOMD) in State Government Correctional Facilities in the United States”

Implementation and Management Guidelines

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General Credits:

This addendum to the NACRJ policy statement on *Victim Offender Mediated Dialogue (VOMD) in State Government Correctional Facilities in the United States* is heavily influenced by earlier works produced by the:

- **National Association of Victim Service Professionals in Correction (“NAVSPIC”)** - NACRJ is deeply appreciative of the work by NAVSPIC for developing an important set guidelines for *Victim-Centered Victim Offender Dialogue in Crimes of Severe Violence* that are consistent with the theory, principles and values of restorative practice. The full NAVPIC document is available at the NACRJ website and on the NAVSPIC website (<http://navspic.org/PDF/Toward%20Principles-Standards%20for%20VOD-final.pdf>).
- **Colorado Coalition of Restorative Justice Directors (CCRJD) and approved by the Colorado Restorative Justice Council (CRJC) (“CCRJD/CRJC”)**

NACRJ is similarly appreciative of the work by the CCRJD and CRJC for their work to develop and approve the *Restorative Justice Facilitator Code of Conduct and Standards for Training and Practice*. A full copy of this document is available on the NACRJ website.

Both these sources are oriented toward VOMD in cases of serious violent crime. However, NACRJ holds that VOMD could be effectively used with lesser offenses where victims wish to meet with their offender and their offender is willing to meet with them. As with more serious offenses mediators/facilitators require training in restorative practices and VOMD specifically; and, both victims and their offender require preparation to ensure that they are ready to talk with one another in honest and respectful ways that reduce risks and increase their emotional and physical safety.

In combination with restorative justice theory, values and principles presented in *Restorative justice dialogue: An essential guide for research and practice* (Umbreit & Armour, 2010), these documents provide the substantive foundation for the Implementation and Management Guidelines presented below. Content from these three sources is integrated into a set of comprehensive guidelines for implementation and management of victim offender mediated dialogue (“encounter”) in correctional facilities. The source is identified by “NAVSPIC”, “CCRJD/CRJC” or “Umbreit & Armour, 2010”.

Implementation and Management Guidelines

Compliance with Legal Authority

1. All facilitators, victims/survivors, and offenders will comply with the policies and procedures of the corrections agency and/or victim services program responsible for providing victim offender dialogue within a correctional institution (adapted from NAVSPIC #19).
2. All facilitators, victims/survivors, and offenders will comply with the policies and procedures of the correctional facility within which the victim offender dialogue is conducted as well as the supervisory authority under which the offender is housed or supervised (adapted from NAVSPIC #20).

Programmatic Fidelity

Victim Offender Mediated Dialogue (VOMD) in correctional settings that *maintain fidelity to restorative justice theory, principles and values* **require**:

1. A confidential post-conviction facilitated process *initiated only* by crime victims/survivors, sometimes many years after the conviction of the offender(s). (NAVSPIC #1)
2. A process “*centered*” on *meeting the victim/survivor’s needs* through the corrections agency or a victim service agency in the state where the offender was convicted. (NAVSPIC #2)
 - *Victim-centered* VOD must be intended to help victims or survivors meet some of their unmet needs which they continue to experience, including the expression of strong feelings, and the opportunity get answers to persisting questions (CCRJD/CRJC, I, A-B).
 - A “*humanistic*” style of mediation that is *victim-sensitive* will be used. This style of mediation is *process driven* - not “*outcome driven*” or “*settlement driven*” unlike the more common and familiar “*legalistic*” mediation (Umbreit & Armour, 2010).
 - Humanistic mediation focuses on (CCRJD/CRJC, I, A-B):
 - Creating a *safe place for discussion* by those involved;
 - Ensuring *respect for all* participants;
 - *Preparation of participants* so that they are ready to talk with one another in honest, meaningful and respectful ways; and,
 - Facilitation of discussion in ways that allow each person to *tell their story*, *focuses on the harms* and *how those harms may be repaired by the offender*.
 - Mediators must maintain *impartiality* and *avoid any conflict of interest* that could interfere with unbiased facilitation by the mediator (CCRJD/CRJC, II, A-B; III, A-D).
 - Mediators must *protect the victim from re-victimization* through insensitive interactions by their offender. They will cancel or terminate the dialogue session if they conclude that:

- The offender is not ready to participate in a victim-sensitive encounter in an honest, meaningful and respectful manner;
- The offender is unwilling to accept personal responsibility for the harm; or
- Is not ready to consider making amends before they interact with their victim.

Adequate preparation of the offender by the mediator is the key to minimizing the risks of (preventing) re-victimization (CCRJD/CRJC, I, A-B)

3. A process that must be *completely voluntary* for offenders, who must agree to participate in VOMD preparation and dialogue *without pressure or expectation*. (NAVSPIC #3; CCRJD/CRJC, I, A)
 - Both the preparation and the dialogue between a victim and offender must *maintain a victim-centered focus*. However, the dialogue must also be respectful of and sensitive to the emotional needs and concerns of offenders, as their participation requires courage to face their victim in a mediated dialogue process.
 - The *principle of voluntary participation* is applied to all participants in VOMD processes.
 - Offenders must be *free to decline* participation or withdraw from VOMD processes at any time.

4. A process in which participating *offenders must be willing to acknowledge their role and responsibility* in crimes(s) against the victim that are already on record during the preparation stage *before* they participate in an encounter with their victim. (NAVSPIC #4; CCRJD/CRJC, Preamble Quote from HB11-1032).
 - By acknowledging their role and responsibility in preparation meetings *before* the dialogue, offenders are provided an opportunity to face their role and responsibility in relative privacy with the mediator before meeting their victim and where they have the opportunity to express personal responsibility to their victim in a manner that is honest and respectful.
 - Offenders must be willing to participate *without* an expectation of beneficial effect on their case or living conditions.
 - Offenders who are *appealing their conviction* should generally be seen as *unsuitable* candidates for a VOMD process until their appeals have been exhausted. They may be unwilling to acknowledge their role and responsibility until their appeals have been exhausted and their denial would probably re-victimize the victim.

5. A process that strives to *keep all risk of physical and emotional harm* to the victim/survivor and the offender *at an absolute minimum*. (NAVSPIC #5)
 - *Personal safety* (physically and emotionally) is the *highest priority* for both victims and offenders. The most likely form of re-victimization that victims is emotional and could

be caused by the offender lying, denying, minimizing, victim blaming, or other expressions, attitudes or demeanor that deflects responsibility or avoids accountability. (CCRJD/CRJC, VI, A, 8)

- *Preparation is critically important* since this is how victims and offenders are readied to talk with one another in emotionally honest ways that are also respectful to the other (Umbreit & Armour, 2010).
 - Victims have every right to be feel anger and outrage toward the offender and they have a right to express those feelings. However, within VOMD it is *not* appropriate for such expressions to get “out of control” and cause the offender to feel disrespected, physically threatened or to shut them down emotionally.
 - *Careful preparation* of the offender and the victim(s) in *separate pre-dialogue sessions* provides the means by which the risks of re-victimization are minimized or prevented. In these meeting the ground rules for respectful encounter are explained and the participant tells their story about the incident - what happened, why it happened, and the impacts of the incident on their lives (Umbreit & Armour, 2010).
 - With cases of serious violent crimes, it is recommended that *at least four separate preparation meetings should be conducted* with the victim and the offender. These preparation sessions should be scheduled 2-4 weeks apart and last 1-3 hours each. This cautious approach is needed to ensure that participants are ready to meet and talk in honest and respectful ways and avoid causing additional harm. (CCRJD/CRJC, VI, A, 8)
 - The mediator/facilitator role requires that dialogue sessions be suspended, postponed or cancelled if the participants are not ready to participate in an honest and respectful discussion or if mediators perceive a substantial risk of emotional or physical harm.
6. A process that must *allow either party to cease participation at any time* during the preparation or dialogue. (NAVSPIC #6; CCRJD/CRJC, I, A)
- In order for a victim to know that the offender is participating freely, both parties must understand that *they may choose to withdraw at any time* from preparation or the encounter. This helps both parties to feel safe and clarify their motives.
 - Participants may request breaks during dialogue sessions or a slower process with longer time periods between preparation meetings.
7. A process that has *no direct influence* on the classification, custody, parole, probation, or release date status of the offender. (NAVSPIC #7)
- The use of VOMD is for the personal benefit of the participants as they strive to heal the harms caused by victimization. It is not a legal process.

- Any case notes made the by the facilitator/mediator are private and do not become part of the offender’s institutional record or correctional case file. CCRJD/CRJC, V, A-E)
8. A process consisting of *three distinct stages*: a preparation stage, a dialogue (i.e., encounter) stage, and a post-dialogue stage. (NAVSPIC #8)
- *Preparation Stage* - familiarizes participants with the restorative dialogue process, allows each participant to tell their story about the offense in a safe setting, enables them to tell their story to the other in honest and respectful ways, and allows the mediator/facilitator to assesses the readiness of the participants to participate in a victim-sensitive and victim centered restorative encounter.
 - *Dialogue or Encounter Stage* – affords the victim and offender an opportunity to meet one another in a safe setting and engage in mediated dialogue that helps victims heal and allows offenders to make amends and repair the harms the caused. It is during this stage that victims and offenders tell their separate stories about the harm, what lead up to it and its impact to one another. This process allows the offender to be held directly accountable to their victim. *Humanistic mediation* (not “legalistic” mediation) is the form of mediation
 - *Post-Dialogue Stage* – concerns follow-up debriefings to ensure that victims and offenders feel emotionally comfortable and safe. There may also be later follow-up meetings between the facilitator and the victim to monitor and assess effects and determine whether additional assistance, supports may be needed.
9. A process intended to lead to a *one-time direct mediated encounter* between the victim/survivor and the incarcerated offender. It is overseen by one or two facilitators *properly trained in the principles and practices of Victim-Centered VOMD preparation and dialogue facilitation*. (NAVSPIC #9; CCRJD/CRJC, IV, VI, X)
- Facilitators (i.e., mediators) need *competency in the use “humanistic” mediation* which is process driven. That is, the goal is to create a process for safe and meaningful discussion about deep interpersonal conflict and promotes understanding, reparation and accountability. This is quite different from “legalistic” mediation. Humanistic mediation focuses on creating and maintaining a safe space for difficult dialogue over harms and human conflict. It employs victim-sensitive and victim centered process that promote healing and alleviate suffering caused by their victimization (Umbreit & Armour, 2010).
 - Effective training requires *24 to 40 hours of instruction* in the practice of restorative justice theory, principles and values by an experienced instructor. *It involves role play simulations*. Where possible, the training should be followed by understudy observation of sessions conducted by an experienced facilitator, and experienced facilitator observation of sessions conducted by the trainee.

10. A *private and personal process* for the victim/survivor designed to restore, as much as possible, the sense of “choice” and “control” taken from them. (NAVSPIC #10)
 - When victimized by another, victims suffer a loss of choice and control and this may continue through a legal adjudication process. One of the most important objectives of VOMD is to *empower the victim by returning a sense of “choice” and “control”* to the victim.
 - It is for this reason that VOMD processes are initiated by victims, not offenders.
 11. A process that requires *sufficient confidential, preparatory pre-dialogue conversation* sessions between the facilitator(s) and the victim or survivors, and the facilitator(s) and the offender. (NAVSPIC #11; CCRJD/CRJC, V, A-E)
 - The objective of preparation meetings is to ensure that victims and offenders are able to thoroughly and safely explore the many emotionally complex feelings, memories, and difficult details that come up during the VOMD session with one another.
 - Most sessions involve only the direct participants in VOMD sessions - the victim and the offender. If someone else is present it must either be required by state policy or be mutually agreeable to the victim, offender and mediator/facilitator.
 - See also Items 5, 8 and 9 above.
 12. A process to be conducted with skill and care by *facilitators who are trained to recognize and address crime victim issues*. This allows victims/survivors to be fully heard by the offender and to have the offender address their unanswered questions about the offense. (NAVSPIC #12)
 - *Victim-centered and victim sensitive processes* are focused on *meeting the needs of victims/survivors* and inviting victims to address persisting impacts and effects of their victimization during the dialogue with their offender. Victims often want to convey to the offender the extent of the harms they have caused, acknowledge this understanding and take responsibility for their actions.
 13. A process to be conducted with skill and care by *facilitators properly trained in recognized offender issues*. This enables offenders to more fully understand how their choices and actions impacted their victims, and allows them the opportunity to take significant responsibility for those choices and actions. (NAVSPIC #13)
 - During preparation meetings with an offender, facilitators strive to help the offender understand the effects of their crime on their victim. This means inviting and encouraging the offender, in tactful ways, to engage in personal reflection, honesty and accountability.
 14. A process that *maintains confidential from beginning to end* for the victim/survivor, the offender, the facilitator(s), and any other support persons mutually agreed upon; or, officials
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who required to participate by agency policy in the preparation and dialogue processes. (NAVSPIC #14; CCRJD/CRJC, V, A-E)

15. A process that has *no expectation of forgiveness, reconciliation, exculpation*, or other cultural, spiritual, or religious imperative unless this is specifically what the victim or survivor wish to achieve or convey to the offender during the VOMD encounter. (NAVSPIC #15)
 - During preparation, offenders should be advised the VOMD is not a setting in which they seek or expect forgiveness.
 - If the issue of forgiveness is raised or discussed it is solely at the discretion of the victim or survivor and should not be raised by the offender.
16. A process designed to lead to dialogue structured *primarily to address to the needs of the victim/survivor* and *subject to the policies of the facility where the offender is housed*. (NAVSPIC #16)
 - Issues to be addressed in advance of the VOMD encounter include how the victim wishes to be addressed, who speaks first in the dialogue, whether the victim is in the room before the offender enters, how introductions will be handled, etc.
 - The dialogue concludes naturally when the victim/survivor has been able to say all she wanted to say, ask all the questions he wanted to ask, and they are able to leave the prison without any significant issues unaddressed.
17. A process that provides for *immediate and separate follow-up debriefings* between the facilitator(s) and the victim/survivor, and the facilitator(s) and the offender. (NAVSPIC #17).
 - Separate debriefings following an encounter is important in that it helps to ensure that victims and offenders feel emotionally comfortable and safe before the victim leaves and before the mediator departs the prison.
 - No-contact orders suspended for the VOMD process are usually reinstated automatically after the VOMD.
18. A process that provides for a *follow-up, within 30 to 60 days* of the VOMD, between the facilitator(s) and the offender alone and the facilitator(s) and the survivor alone. (NAVSPIC #18)
 - Separate follow-up meetings between the facilitator and victim and the facilitator and offender are used to assess whether the effects of the VOMD experience continue to be positive and effective. The meetings create opportunities to provide additional support, encouragement, affirmation and resources.

- The 30-60 day follow-up meetings provide an opportunity to obtain constructive feedback on the VOMD processes for use in program evaluation.

Final Edits by Michael J. Gilbert, Ph. D. on March 6, 2016

References

Umbreit, M. & Armour, M. (2010). *Restorative justice dialogue: An essential guide for research and practice*. New York, NY: Springer Publishing Co.