

VICTIM OFFENDER MEDIATION: AN ANALYSIS OF PROGRAMS IN FOUR STATES OF THE U.S.

Mark S. Umbreit, Ph.D.

Robert B. Coates, Ph.D.

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822 South Third Street
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In Cooperation with:

School of Social Work
University of Minnesota

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Mark S. Umbreit, Ph.D.
Principal Investigator

Research Advisory Committee

Dr. John Clark
Department of Sociology
University of Oregon

Dr. Burt Galaway
Faculty of Social Work
University of Manitoba

Barbara Schmidt
Wichita, Kansas

Sue Wiese
Victim Offender Reconciliation Program
LaCrosse, Wisconsin

John Conbere
Citizens Council Mediation Services
Minnesota Citizens Council on Crime and Justice

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Executive Summary Report

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Mark S. Umbreit, Ph.D.
Principal Investigator
Citizens Council Mediation Services
Minnesota Citizens Council on Crime & Justice

School of Social Work
University of Minnesota
400 Ford Hall
Minneapolis, Minnesota 55455

Robert B. Coates, Ph.D.
Senior Research Associate
Salt Lake City, Utah

July, 1992

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Introduction

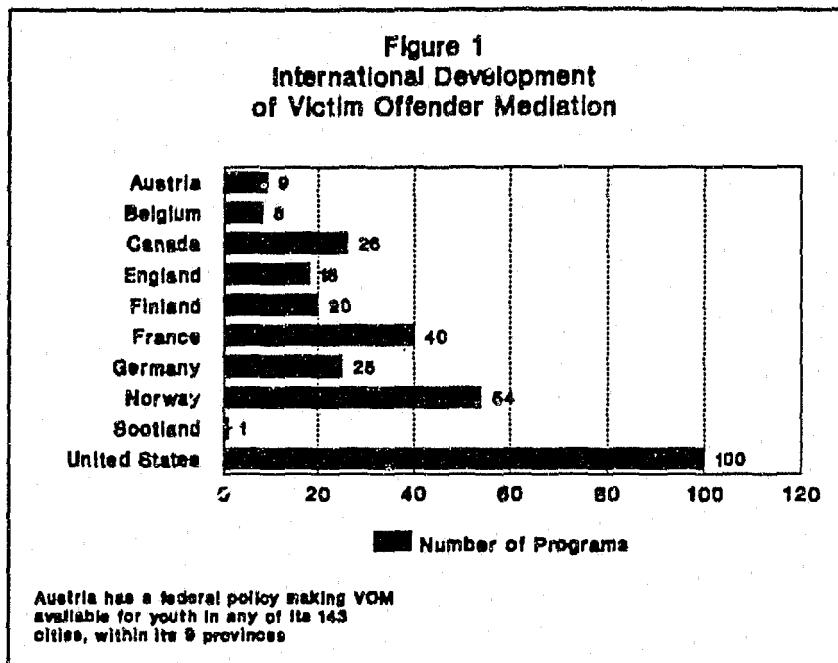
The process of allowing certain crime victims to meet face-to-face with their offender, in the presence of a trained mediator, is now being offered in a growing number of communities throughout North America and Europe. There were only a handful of victim offender mediation programs in North America in the early to mid 1970's. As noted in Figure 1, there are one-hundred (100) programs in the United States and twenty-six (26) in Canada. The field of victim offender mediation is actually growing more rapidly in Europe, where it began to develop in the mid-1980s (Umbreit, 1991).

The development of victim offender mediation in recent years has occurred within the larger context of restorative justice theory (Umbreit, 1991; Zehr, 1990). "Restorative justice" emphasizes that crime is a violation of one person by another, rather than simply against the State. Allowing victims and offenders to be directly involved in resolving the conflict, through dialogue and negotiation, is central to restorative justice. Problem solving for the future is seen as more important than establishing blame for past behavior.

Restorative justice theory views harsh punishment for the offender as less important than empowering victims in their search for closure through direct involvement in the justice process, impressing on offenders the real human impact of their behavior and compensating victims for their losses through restitution by the offender. Both victims and offenders are viewed as active players in responding to and resolving the criminal conflict.

This Executive Summary reports on the first large cross-site evaluation of victim offender mediation programs to occur in the U.S., involving multiple data sets, research questions, comparison groups and multiple quantitative and qualitative techniques of analysis. Program sites examined worked closely with juvenile courts in Albuquerque (NM), Austin

(TX), Minneapolis and St. Paul (MN), and the East Bay area of San Francisco (CA). Issues related to the mediation process and outcomes, client satisfaction,



perceptions of fairness, cost implications, restitution completion and recidivism are examined.

As the field of victim offender mediation, referred to as victim offender reconciliation by some programs, has grown over the past nearly two decades, it appears to be making an important contribution to meeting the needs of many crime victims, offenders, and court systems. Opportunities are being provided for victims of primarily property crimes to meet their offender, discuss what happened, express their concerns, and to negotiate a mutually agreeable restitution plan.

While the field of victim offender mediation and reconciliation has grown considerably, there exists only a limited amount of empirical data to evaluate its effectiveness. Several smaller studies have found that the mediation process had a positive impact upon both victims and offenders (Coates and Gehm, 1989; Davis, *et al.*, 1980; Dignan, 1990; Gehm, 1990; Umbreit, 1990, 1989, 1988). These findings were

confirmed by a large multi-site study in England (Marshall and Merry, 1990), as well as by the preliminary findings of the current study (Umbreit and Coates, 1992; Umbreit, 1991). No study to date, however, has examined the impact of victim offender mediation upon successful completion of the offender's restitution obligation to their victim. Nor

has any study in the U.S. examined the cost implications of operating these programs or examined their impact, through the use of comparison groups, upon victims and offenders in multiple sites, representing different geographical regions of the country.

Conclusions

A substantial amount of quantitative and qualitative data has been collected from a total of 1,153 interviews with crime victims and juvenile offenders in four states, review of program and court records, interviews with court officials and program staff, and observation of 28 mediation sessions. The conclusions that emerged from analysis of these many data sources are first identified below. While these conclusions cannot be generalized to represent all victim offender mediation programs, they do provide important insight into this growing international field of justice reform. Additional descriptive information and findings are then reported in the remainder of this Executive Summary.

1. Victim offender mediation results in very high levels of client satisfaction (victims, 79%; offenders, 87%) and perceptions of fairness (victims, 83%; offenders, 89%) with the mediation process for both victims and offenders. This is consistent with a number of previous studies (Coates & Gehm, 1989; Digman, 1990; Marshall & Merry, 1990; Umbreit, 1991, 1990, 1988).
2. The importance among victims and offenders of meeting each other and interacting through the mediation process is documented quantitatively in this study, whereas prior research (Coates & Gehm, 1989) provided qualitative data related to this issue.
3. Participants experience mediation as having a strong effect in humanizing the justice system response to crime, for both victims and juvenile offenders. This is consistent with the findings of prior studies (Coates & Gehm, 1989; Marshall & Merry, 1990; Umbreit, 1991).
4. The process of victim offender mediation has a more significant positive effect upon crime victims (when examining comparison groups), even though both victims and offenders indicate very high levels of satisfaction and perceptions of fairness with mediation.
5. Victim offender mediation makes a significant contribution to reducing fear and anxiety among crime victims. Prior to mediation, nearly 25% of victims were afraid of being victimized again by the same offender. After mediation, only 10% were afraid of being revictimized.
6. Juvenile offenders do not perceive victim offender mediation to be a significantly less demanding response to their criminal behavior than other options available to the court. The use of mediation is consistent with the concern to hold young offenders accountable for their criminal behavior.
7. Victim offender mediation can be effective in working with juvenile offenders with prior convictions, rather than simply with "first-time" offenders.
8. The mediation process can be effective in working with more serious crimes such as burglary, robbery, and assault.
9. The specific location and sponsorship of the program had no major impact upon the high

- degree of client satisfaction with the outcome of mediation or their perception of fairness with the mediation process, for either victims or offenders.
10. Victim offender mediation has strong support from court officials, both judges and probation staff, and is increasingly becoming institutionalized into the juvenile court system.
 11. The vast majority of offenders indicate they voluntarily chose to participant in victim offender mediation. Programs in this study appear to have done a better job of presenting VOM as a voluntary choice to the offender (81% of offenders) than indicated in prior research (Coates & Gehm, 1989).
 12. Mediation is perceived to be voluntary by the vast majority of victims who participated in it. Although 91% of victims felt they voluntarily chose to participate in mediation, a small number of victims (9%) felt that they were coerced into participating in the victim offender mediation program. Whether this perception of coercion was a function of the program staff, mediators, court related officials or even parents (of juvenile victims) is unclear.
 13. Considerably fewer and less serious additional crimes were committed within a one year period by juvenile offenders in
 14. victim offender mediation programs, when compared to similar offenders who did not participate in mediation. Consistent with two recent English studies (Marshal & Merry, 1990; Digman, 1990), this important finding, however, is not statistically significant.
 15. Victim offender mediation has a significant impact on the likelihood of offenders successfully completing their restitution obligation (81%) to the victim, when compared to similar offenders who completed their restitution (58%) in a court administered program without mediation.
 16. There is some basis for concern that the mediation process can become so routinized as to suggest an impersonal atmosphere, potentially leading to a dehumanizing experience for participants. The spontaneity, vitality and creativity of the mediation process must be preserved by training and monitoring.
 - As the field of victim offender mediation expands and becomes more institutionalized, a danger exists that VOM will alter its model to accommodate the dominant system of retributive justice, rather than influencing the present system to alter its model to incorporate a more restorative vision of justice upon which victim offender mediation is based.

Implications

A number of implications for both justice policy and direct practice are offered, based upon the conclusions that emerged from this extensive two and one half year multi-site study of victim offender mediation in the United States.

Policy Implications

- Wider public policy consideration should be given to increasing the availability of victim

offender mediation services, perhaps even as a basic right for those victims of crime who would find it helpful, assuming the offender agrees to such a meeting and a credible victim offender mediation program is available to both parties.

Victim offender mediation should be more consistently integrated into the large national network of court sponsored restitution

programs. There is strong evidence that victims of crime are more likely to actually be compensated if the restitution plan is negotiated by the offender and victim.

- Mediating conflict between interested crime victims and their offenders should receive far more attention from the large network of victim advocacy groups throughout the U.S. There is strong evidence that a victim's sense of vulnerability and anxiety can be reduced following a direct mediation session with their offender.

Program Implications

- Training of mediators should be enhanced to insure that an appropriate non-directive style of mediation is used. This style includes the ability to make use of silence during mediation sessions and to avoid missing opportunities to encourage either victim or offender to address issues that are important to them. Emphasis should be placed on demonstrated skill competency rather than simply completing a set number of hours of mediation training.
- New written and video training resources should be developed to highlight the importance of a non-directive style of mediation. Specific examples of how to avoid "missing opportunities" for greater emotional closure for the victim and offender should be provided.
- Additional attention should be given to insuring that participation in mediation is voluntary for both parties. This should include training of case developers and mediators to inform both parties of all available options prior to their choice of mediation.
- Programs should routinely have victims and offenders sign a "consent to participate in

mediation" form, prior to the actual mediation session, which clearly explains mediation, states the voluntary nature of mediation and identifies other options that are available to the parties.

- The appropriate role of parents in the mediation process involving juvenile offenders needs additional clarification. Rather than either a policy of including or not including parents in the actual mediation session, programs should develop policies that identify for whom and under what specific circumstances parents should be allowed in the entire mediation session.
- New written and video training resources should be developed to provide program staff and mediators assistance in identifying which cases and under what circumstances parental involvement in the mediation is desirable. The manner in which parents are allowed to be in the mediation session, including additional ground rules, should be incorporated into mediator training.
- Case referral criteria in victim offender mediation programs should include both offenders with prior convictions and cases involving more serious offenses, such as residential burglary, robbery, aggravated assault, and negligent homicide.
- Programs should develop an on-going system for collecting client satisfaction and other related data that is helpful for maintaining high quality control. This should include collecting data related to the participants' perception of voluntary participation and the role and effectiveness of the mediator. A program evaluation kit made available through this study could be helpful with such an effort.

Program Sites

The study is based primarily upon a thorough examination of three victim offender mediation programs located in Albuquerque (NM), Minneapolis (MN), and Oakland (CA). A fourth program, in Austin (TX), was added much later in the study and received a more limited range of analysis.

The three primary programs reflected in this study are operated by private non-profit community based organizations working closely with the juvenile court. Nearly all of the mediation cases were referred by the local juvenile court and probation staff. A relatively small number of cases were referred by the prosecuting attorney or police.

Several factors were considered in selecting these program sites for study. Private non-profit organizations sponsor the majority of victim offender mediation programs throughout the country. Most programs in the U.S. focus primarily upon juvenile offenders (Hughes and Schneider, 1989; Umbreit, 1988). The three primary programs offered both regional diversity and program development diversity. Each victim offender mediation program employed a very similar case management process with juvenile offenders and their victims, with a few notable exceptions.

Albuquerque

The Victim Offender Mediation Program in Albuquerque (NM) was initiated in early 1988 as a component of the New Mexico Center for Dispute Resolution. It is co-sponsored by the local juvenile probation department of the state Youth Authority. In addition to victim offender mediation, the New Mexico Center for Dispute Resolution operates a parent-child mediation program, a school mediation program, and a mediation program for youth in correctional facilities. During 1990 and 1991, it had a caseload of 591. The program serves a jurisdiction with a population of about 450,000, including large Hispanic and Native American communities.

Minneapolis

The Center for Victim Offender Mediation in Minneapolis (MN) was initiated by the Minnesota Citizens Council on Crime and Justice in 1985. The

Center is a program of the Citizens Council Mediation Services. Operating within a jurisdiction of approximately two million in the metro area of Minneapolis and St. Paul, it was one of the first such programs in a large urban jurisdiction. The Center for Victim Offender Mediation has the highest volume of case referrals of the three primary sites, with a total of 903 case referrals during calendar year 1990 and 1991. In addition to the Center, the Citizens Council Mediation Services also has a parent-child mediation program, a school mediation program, and a mediation training program in juvenile correctional institutions. Staff are increasingly providing technical assistance and training for other mediation programs in the state.

Oakland

The Victim Offender Reconciliation Program in Oakland (CA) serves the East Bay area of San Francisco. It was initiated in 1987 by the Office for Prisoner and Community Justice of Catholic Charities/Oakland Diocese. Both Alameda and Contra Costa counties are served by the program, representing a large urban multi-cultural jurisdiction with a population of nearly two million, adjacent to San Francisco. During 1990 and 1991, the program had a total of 541 case referrals. The Office of Prisoner and Community Justice of Catholic Charities has worked in the criminal justice field for many years, offering a range of services and advocacy for prisoners, ex-offenders and crime victims. The program in Oakland has more recently branched out to provide technical assistance to other newly developing victim offender, as well as school based, mediation programs.

Austin

A fourth site in Austin (TX) was added quite late in the study. This program is operated by the Travis County Juvenile Court Department, in conjunction with the local Dispute Resolution Center. The Austin program offered a unique addition to the original design of the study, by allowing for analysis of any possible effects of a public versus private victim offender mediation program upon client satisfaction and perceptions of fairness. During 1990 - 1991, the program in Austin had a total of 1,107 case referrals.

Methodology

This study is based upon analysis of both quantitative and qualitative data, involving multiple data sets, research questions, and comparison groups. A total of 1,153 interviews were conducted with 948 crime victims and juvenile offenders, representing 304 pre-mediation interviews, 432 post-mediation

interviews, and 417 interviews with two different comparison groups.

Table I identifies the research questions, data sources, data instruments and type of analysis.

TABLE I
Research Plan for Cross-Site Analysis of Victim Offender Mediation

| <i>Research Questions</i> | <i>Data Collected</i> | <i>Data Sources</i> | <i>Data Instruments</i> | <i>Analysis</i> |
|--|---|---|---|-----------------------------|
| 1. Who participates in the victim offender mediation process and why? | Client demographics Reasons for participation | Mediation clients Program records | Participant log sheets Coding schedule for record data Interview schedule | Quantitative Qualitative |
| 2. How does the process work and what is the role and function of mediator? | Project plans & accomplishments Project activities | Program records Mediators | Coding schedule for record data Interview schedule Observation protocols | Qualitative |
| 3. How do participants in the mediation process evaluate it? | Expression of client satisfaction or dissatisfaction | Mediation clients | Likert scales Interview schedule | Quantitative Qualitative |
| 4. What do court officials think about mediation? | Expression of satisfaction or dissatisfaction | Court officials | Interview schedule | Quantitative Qualitative |
| 5. What were the immediate outcomes of the victim offender mediation process? | No. mediation sessions No. restitution agreements Amount/type of restitution | Mediation clients Program records Program staff | Interview schedule Coding schedule for record data Interview schedule | Quantitative Qualitative |
| 6. What is the impact of mediation on restitution completion rates? | Amount of restitution Impact on victim/offender attitudes & perceptions Case closed-out information | Program records Court records | Coding schedule for record data | Quantitative |
| 7. What is the impact of mediation on recidivism? | Criminal offenses committed within a one year period | Court records | Coding schedule for record data | Quantitative |
| 8. What are the cost implications? | Unit cost of processing referrals Unit cost of mediation | Program records | Coding schedule for record data | Quantitative |
| 9. What is the meaning of <i>fairness</i> to victims and offenders in mediation? | Attitudes and perceptions of victims and offenders | Mediation clients | Interview Schedule | Qualitative |

Attitudes of victims and offenders related to a number of important issues in the mediation process were examined through the use of pre- and post-mediation interviews. Client satisfaction and perceptions of fairness were examined through use of post-mediation interviews and two comparison groups: (1) victims and offenders who were referred to the mediation program but did not participate in mediation ("referred/no mediation"); and, (2) victims and offenders from the same jurisdiction who had been matched (with the mediation sample) along the offender variables of age, race, sex, and offense but who were never referred to the mediation program ("non-referral").

Pre-mediation interviews were conducted over the phone within a week of the mediation. Post-mediation interviews were conducted in person approximately 2 months after the mediation.

Comparison group interviews occurred over the phone approximately 2 months after the case disposition date.

Restitution completion by offenders in victim offender mediation programs, along with recidivism was analyzed though use of a comparison group (non-referral) from the same jurisdiction that was matched along the variables of age, race, sex, offense and restitution amount. Offenders in this matched sample were ordered to pay restitution through the existing restitution program in the probation office.

All victims and offenders referred to the mediation programs during 1990-91 were given the opportunity to participate in the study. The sub-samples for the mediation group and the two comparison groups consisted of the following:

TABLE II
Samples of Individuals Interviewed
(During Calendar Years 1990-91)

| Program Site | - Referred to Mediation - | | Not Referred To Mediation (Comparison Group #2) | Total |
|-----------------------|---------------------------|--|--|------------|
| | Participating | Non-participating (Comparison Group #1) | | |
| ALBUQUERQUE - victims | 73 | 33 | 25 | 131 |
| - offenders | 65 | 36 | 28 | 129 |
| MINNEAPOLIS - victims | 96 | 51 | 72 | 219 |
| - offenders | 81 | 40 | 71 | 192 |
| OAKLAND - victims | 61 | 19 | 10 | 90 |
| - offenders | 56 | 19 | 12 | 87 |
| AUSTIN - victims | 50 | | | 50 |
| - offenders | 50 | | | 50 |
| TOTAL | 532 | 198 | 218 | 948 |

Note: Many of the victims and offenders who participated in mediation were interviewed before and after the mediation, resulting in a total of 1,153 interviews.

Findings

1. Mediation Referrals

- *A total of 2,659 juvenile offenders were referred to the four programs during 1990-1991.*
- *A total of 2,799 crime victims were referred to the four programs during 1990-1991.*

There were a total of 5,458 victims and offenders who were referred by the juvenile court to the four victim offender mediation program sites during calendar years 1990 and 1991. This represented 2,799 individual victims and 2,659 individual offenders. Eighty-three percent (83%) of these referrals involved a property crime, such as vandalism, theft or burglary, and 17% involved a crime of violence, primarily minor assaults.

The vast majority of offenders referred to the mediation programs had no prior criminal convictions. A small minority of referrals, however, did have prior convictions, ranging from two to six offenses.

The following chart indicates the characteristics of offenders at the four program sites.

TABLE III
Offender Characteristics
(Two Year Period, 1990-91)

| <i>Variable</i> | <i>Albuquerque N = 604</i> | <i>Austin N = 1,087</i> | <i>Minneapolis N = 658</i> | <i>Oakland N = 310</i> | <i>Total N = 2,659</i> |
|-------------------------|--------------------------------|-----------------------------|--------------------------------|----------------------------|----------------------------|
| 1. Average offender age | 15 | 15 | 15 | 15 | 15 |
| 2. Offender age range | 10-19 | 10-17 | 10-18 | 7-18 | 7-18 |
| 3. Offender gender | | | | | |
| a. Male | 90% | 87% | 85% | 82% | 86% |
| b. Female | 10% | 13% | 15% | 18% | 14% |
| 4. Offender race | | | | | |
| a. Caucasian | 30% | 31% | 70% | 64% | 54% |
| b. Black | 2% | 25% | 23% | 15% | 14% |
| c. Hispanic | 65% | 42% | 2% | 15% | 27% |
| d. Other Minorities | 3% | 2% | 5% | 6% | 5% |

Taken together, 85% of the cases referred to the four programs occurred prior to formal adjudication, as a diversion effort. As Table IV indicates, the remaining cases (15%) were referred following formal adjudication by the juvenile court.

While the proportion of post-adjudication referrals at individual sites varied from 2% in Austin to 28% in Minneapolis, the vast majority of cases at all sites represented pre-adjudication/diversion referrals.

TABLE IV
Referral Characteristics
(Two Year Period, 1990-91)

| Variable | Albuquerque | Austin | Minneapolis | Oakland | Total |
|--------------------------------|-------------|----------|-------------|-----------|----------|
| 1. Cases referred | 591 | 1,107 | 903 | 541 | 3,142 |
| 2. Pre-Adjudication | 76% | 98% | 72% | 91% | 85% |
| 3. Post-Adjudication | 24% | 2% | 28% | 9% | 15% |
| 4. Individual victims | 654 | 1,058 | 633 | 454 | 2,799 |
| 5. Individual offenders | 604 | 1,087 | 658 | 310 | 2,659 |
| 6. Types of offenses | | | | | |
| a. Against property | 73% | 81% | 89% | 87% | 83% |
| b. Against people | 27% | 19% | 11% | 13% | 17% |
| 7. Most frequent property off. | burglary | burglary | vandalism | vandalism | burglary |
| 8. Most frequent violent off. | assault | assault | assault | assault | assault |

2. Client Expectations for Mediation

- *Victim's primary expectation was to both recover their loss and to help the offender.*
- *Offender's primary expectation was to "make things right."*

Victims and offenders who participated in mediation had varied expectations. Victims were most likely to indicate that recovering their loss and helping the offender were equally their most important expectation. These were followed in frequency by the opportunity to tell the offender the effect of the crime and, finally, by getting answers to questions they had about the crime.

While only one (1) in four (4) victims indicated they were nervous about the pending mediation session with their offender, nine (9) out of ten (10) victims believed that the mediation session would probably be helpful.

Offenders were most likely to indicate that "making things right" was their primary expectation or hope.

This was followed in frequency by having the opportunity to apologize to the victim and, finally, by being able "to be done with it." Only one (1) out of ten (10) offenders indicated that they expected the face-to-face mediation session with their victim to be less punishment than they would have otherwise received. Nearly half of the offenders, from the combined sites, stated that they were nervous about the pending mediation session with their victim. Six (6) out of ten (10) offenders indicated that they cared about what the victim thought of them and, similar to their victims, nine (9) out of ten (10) offenders believed that the mediation session would be helpful.

3. Voluntary Participation in Mediation

- 91% of victims indicated voluntary participation.
- 81% of offenders indicated voluntary participation.

The question of whether or not victims and offenders actually participate voluntarily in mediation is crucial to the integrity of the victim offender mediation process. From the perspective of the young offender, it is important that they have ownership in the mediation process and outcome. Moreover, if they were coerced into mediation against their will, this anger could be reflected in their behavior in the meeting with their victim.

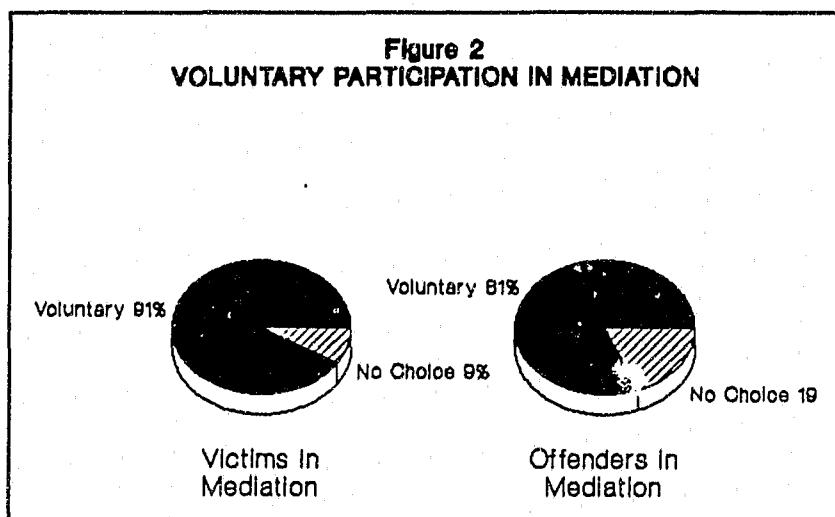
A major concern of the victim rights movement is the issue of choice, allowing victims various options to regain a sense of power and control in their lives. If the victim offender mediation process was imposed upon victims of crime, in a coercive manner, that experience itself could be victimizing.

While a very high proportion of both victims (91%) and offenders (81%) clearly felt that their participation in mediation was voluntary, victims of crime were even more likely to indicate their belief that they were not coerced into mediation. For victims, there were no significant differences between the three program sites.

An earlier study by Coates and Gehm (1989) found that many offenders did not experience their

involvement in mediation as voluntary. Particularly because of the highly coercive nature of any justice system's interaction with the offender, one would expect that many offenders in mediation would feel

Figure 2
VOLUNTARY PARTICIPATION IN MEDIATION



coerced into it. Yet, eight (8) out of ten (10) offenders from the combined sites experienced their involvement in mediation as voluntary. There was, however, a significant difference found between program sites. The Minneapolis program site had the highest rating of voluntary participation for offenders (90%), while the Albuquerque program site had the lowest rating (71%).

4. The Mediation Process

The three primary victim offender mediation programs in the study employ a relatively similar process consisting of four phases: intake, preparation for mediation, mediation and follow-up. During the intake phase, case information is logged in and the case is assigned to a mediator. The preparation for mediation phase involves a considerable amount of work. The mediator will call and then later meet separately with the victim and the offender. This

process of caucusing with individuals prior to the joint mediation session is believed to be essential in building trust and rapport with both parties, as well as collecting information that can contribute to later conflict resolution.

The mediation phase consists of the joint face-to-face victim offender meeting. The agenda focuses first upon the facts and feelings related to the crime that

was committed. The second part of the mediation session addresses the issue of losses experienced by the victim and the potential for negotiating a mutually satisfying restitution agreement. Mediation sessions tend to be about one hour in length. The follow-up phase consists of monitoring completion of the restitution agreement, intervening if additional conflict develops, and scheduling a follow-up victim offender meeting when appropriate.

During the meeting, offenders are put in the often uncomfortable position of having to face the person they violated. They are given the opportunity to become known as a person and even to express remorse in a very personal fashion. Through open discussion of their feelings, both victim and offender have the opportunity to deal with each other as people, often times from the same neighborhood, rather than as stereotypes.

The three program sites accept referrals of juvenile offenders from probation officials, at both a pre-adjudication (diversion) and post-adjudication level. Both staff and community volunteers serve as mediators. Each mediator receives approximately 20-25 hours of initial training in mediation skills and program procedures.

The Austin (TX) program has a slightly revised case management process. Employees of the Travis County Probation Office, called Mediation Case Developers, handle all of the tasks of the preparation for mediation phase, including separate contact with the victim and offender prior to mediation. The actual mediation session is conducted by volunteer

5. Immediate Outcomes

- *Total of 1,131 mediations held at the four programs during 1990-1991.*
- *95% rate of successfully negotiating restitution agreements.*

The most obvious immediate outcome for those victims and offenders who chose to participate in mediation is the highly probable successful negotiation of a restitution agreement, ranging from 91% in Oakland to 99% in Albuquerque. These agreements consisted of a variety of elements. Most focus upon payment of financial restitution by the offender to the victim, however, it is not unusual for

mediators from the local Dispute Resolution Center in Austin, who have had no prior contact with either the victim or offender prior to the evening of the mediation. The Mediation Case Developer from the probation staff briefs the mediators just prior to when the mediation occurs on pre-set evenings at the juvenile probation office.

From the twenty-eight (28) observations of mediation sessions that were conducted at the three primary sites, it was found that the type of process described above was usually applied, although not always in such a clear sequence (opening statement, telling of stories, transition to restitution discussion and agreement). Also, there were a number of notable examples in which the mediation process appeared to be applied in a very routinized fashion, with unclear leadership and guidance by the mediator, including missed opportunities for facilitating the mediation in such a way that both victim and offender received the maximum possible emotional benefit.

The specific tasks of the mediator were examined in regard to how important they were to the parties in mediation. Victims ranked the most important task of the mediator to be leadership. This was followed by: made us feel comfortable; helped us with restitution plan; and, allowed us to talk. Offenders had a slightly different ranking of the most important mediator tasks, beginning with the ability of the mediator to make them feel comfortable. This was followed by: allowed us to talk; helped us with the restitution plan; and, the mediator was a good listener.

agreements to include personal service for the victim or community service, both of which are likely to result from conversion of a specific dollar amount of loss into hours of work, usually at an approximate minimum wage rate. Some restitution agreements simply require an apology by the offender to their victim.

TABLE V
Immediate Outcomes
(Two Year Period, 1990-91)

| <i>Variable</i> | <i>Albuquerque</i> | <i>Austin</i> | <i>Minneapolis</i> | <i>Oakland</i> | <i>Total</i> |
|---|--------------------|---------------|--------------------|----------------|--------------|
| 1. Number of Mediations | 158 | 300 | 468 | 235 | 1,131 |
| 2. Successfully negotiated restitution agreements | 99% | 98% | 93% | 91% | 95% |
| 3. Agreements with: | | | | | |
| a. Financial restitution | 82 | 171 | 239 | 111 | 603 |
| b. Personal service | 57 | 21 | 31 | 36 | 145 |
| c. Community service | 29 | 130 | 107 | 39 | 305 |
| 4. Total financial restitution | \$23,542 | \$41,536 | \$62,301 | \$23,227 | \$120,606 |
| 5. Aver. financial restitution | \$287 | \$243 | \$135 | \$209 | \$200 |
| 6. Total personal service | 1,028 hrs. | 439 hrs. | 508 hrs. | 585 hrs. | 2,560 hrs. |
| 7. Aver. personal service | 18 hrs. | 21 hrs. | 16 hrs. | 16 hrs. | 18 hrs. |
| 8. Total community service | 1,073 hrs. | 4,064 hrs. | 1,937 hrs. | 588 hrs. | 7,662 hrs. |
| 9. Aver. community service | 37 hrs. | 31 hrs. | 18 hrs. | 15 hrs. | 25 hrs. |

Restitution contracts are not the only immediate outcome of the mediation program. Participants, after going through mediation, often indicate other more important outcomes. Table VI depicts two outcomes which underscore the importance of a face-to-face mediation. Crime victims from across the combined sites were significantly less upset about the crime and less fearful of being re-victimized by the

same offender after they were able to meet their offender in mediation. A common theme expressed by victims is captured in the statement, "It minimized the fear I would have as a victim because I got to see that the offender was human, too." These findings held true at individual sites, with the exception of Albuquerque (feeling upset about the crime) and Oakland (afraid of being revictimized).

TABLE VI
Emotional Impact of Mediation on Victims

| <i>Combined Sites</i> | <i>Pre-Mediation</i> % N | <i>Post-Mediation</i> % N | |
|--|-----------------------------|------------------------------|------------|
| Upset about crime | 67% (155) | 49% (162) | p = .0001* |
| Afraid of being revictimized by offender | 23% (154) | 10% (166) | p = .003* |

* Finding of significant difference

6. Client Satisfaction With Mediation

- Mediation had a significant impact on increasing victim satisfaction with juvenile justice system.*
- 90% of victims were satisfied with mediation outcome.*
- 91% of offenders satisfied with mediation outcome.*

Nearly eight (8) out of ten (10) offenders in all three groups (Tables VII and VIII) indicated that they were satisfied with how the system handled their case. While 87% of offenders in mediation indicated they were satisfied, compared with 80% of the "referred but no mediation" offender group and 78% of the

"non-referral to mediation" offender group, these differences are not statistically significant. For offenders, therefore, participation in mediation appears to not have significantly increased their satisfaction with how the juvenile justice system handled their case.

TABLE VII
Client Satisfaction with Case Processing by System:
Mediation Sample Compared with Referral/No-Mediation Sample

| Combined Sites | Victims % N | Offenders % N |
|--|----------------|------------------|
| Mediation Sample (experimental group) | 79% (204) | 87% (181) |
| Referred/No-Mediation Sample (comparison group #1) | 57% (95) | 80% (95) |
| Probability of chance | p = .0001* | p = .15 |

* Finding of significant difference

TABLE VIII
Client Satisfaction with Case Processing by System
Mediation Sample Compared with Non-Referred to Mediation Sample

| Combined Sites | Victims % N | Offenders % N |
|---|----------------|------------------|
| Mediation Sample (experimental group) | 79% (204) | 87% (181) |
| Non-referral Sample (comparison group #2) | 57% (104) | 78% (110) |
| Probability of chance | p = .0001* | p = .055 |

* Finding of significant difference

A significant difference is found, however, for victims. While 79% of victims in the mediation group indicated satisfaction, 57% in the "referred but no mediation" group as well as 57% of victims in the

"non-referral to mediation" group indicated satisfaction. These findings are significant at the .05 level. The mediation process had a significant impact on increasing victim satisfaction with how the

juvenile justice system handled their case, as compared to those victims who were referred to mediation but did not participate (comparison group #1) or to similar victims who were never referred to mediation in the first place (comparison group #2). This greater sense of satisfaction is reflected in statements by victims such as "it gave us a chance to see each other face-to-face and to resolve what happened" or "it reduced my fear as a victim because I was able to see that they were young people" or "I feel good about it because it worked out well, because I think the kid finally realized the impact of what happened and that's not what he wants to do with himself."

As Figure 3 indicates, mediation had a considerable impact upon increasing victim satisfaction with the justice system. This impact was found to be statistically significant for both comparison groups at the Minneapolis site, although only for comparison group #1 (referred but no mediation) at the Oakland site.

Offenders were quite satisfied with the mediation process, however, no individual site indicated that mediation had a significant impact upon increasing their satisfaction with the justice system (Figure 4).

In regard to the actual outcome of the mediation session, which was nearly always a written restitution agreement, nine (9) out of ten (10) victims and offenders at all of the sites combined were satisfied. A frequent theme among offenders is expressed by the statement "it was helpful to see the victim as a person and to have a chance to talk with them and make up for what I did." As Figure 5 indicates, there were slight differences found between individual sites, with the most notable difference seen in a lower rate of satisfaction with the mediation outcome at the Albuquerque program site.

Figure 3
Victim Satisfaction by Program Site
(Case Processing by Justice System)

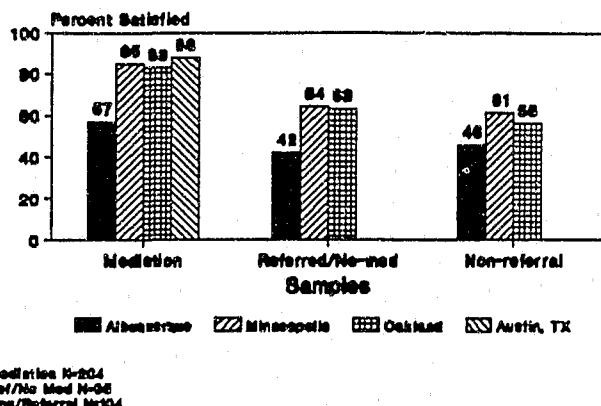


Figure 4
Offender Satisfaction by Program Site
(Case Processing by Justice System)

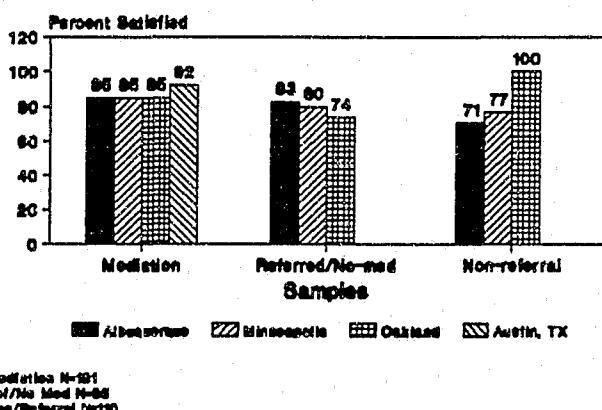
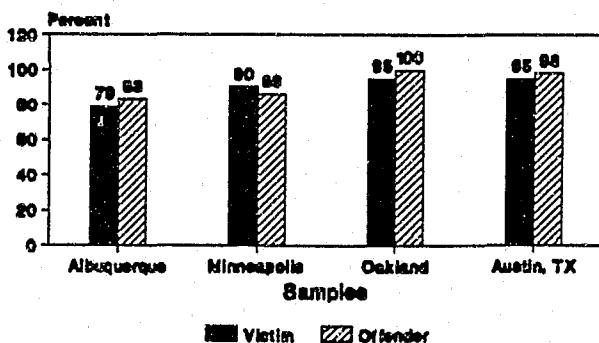


Figure 5
Satisfaction With Mediation Outcome
(By Program Site)



7. Client Perceptions of Fairness

- *Victims who participate in a mediation session with their offender are significantly more likely to have experienced fairness in the justice system, than similar victims who were not in mediation.*
- *83% of victims in mediation experienced fairness in the manner in which their case was handled by the justice system.*
- *89% of offenders in mediation experienced fairness in the manner in which their case was handled by the justice system.*

The data that emerged from this analysis, based on aggregated data from all three sites, indicates that the mediation process was significantly more likely to result in a perception by victims that cases were handled fairly by the juvenile justice system. As Tables IX and X indicate, 83% of victims in the mediation group stated they experienced fairness in the processing of their case, compared to only 53% in the "referred but no mediation" group and 62% in the "non-referral to mediation" group.

When compared to similar offenders who were never referred to the mediation program, juveniles who met

their victim in mediation were also significantly more likely to indicate that they experienced fairness in the processing of their case by the juvenile justice system. Table X indicates that for offenders in mediation, 89% indicated they experienced fairness, compared to 78% in the "non-referral to mediation" group. When compared to other juveniles who were referred to the mediation program but who did not participate (Table IX), however, no statistically significant difference was found in their experience of fairness in the processing of their case by the system.

TABLE IX
Perceptions of Fairness with Case Processing by System
- Percent Indicating They Experienced Fairness -
Mediation Sample Compared with Referred/No-Mediation Sample

| Combined Sites | Victims % N | Offenders % N |
|---|----------------|------------------|
| Mediation Sample (experimental group) | 83% (204) | 89% (178) |
| Referred/No-Mediation Sample (comparison group #1) | 53% (95) | 82% (92) |
| Probability of chance | p = .0001* | p = .10 |

* Finding of significant difference

TABLE X
Perceptions of Fairness with Case Processing by System
- Percent Indicating They Experienced Fairness -
Mediation Sample Compared with Non-referral to Mediation Sample

| <i>Combined Sites</i> | <i>Victims</i> % N | <i>Offenders</i> % N |
|---|-----------------------|-------------------------|
| Mediation Sample (experimental group) | 83% (204) | 89% (178) |
| Non-referral Sample (comparison group #2) | 62% (98) | 78% (109) |
| Probability of chance | $p = .0001^*$ | $p = .02^*$ |

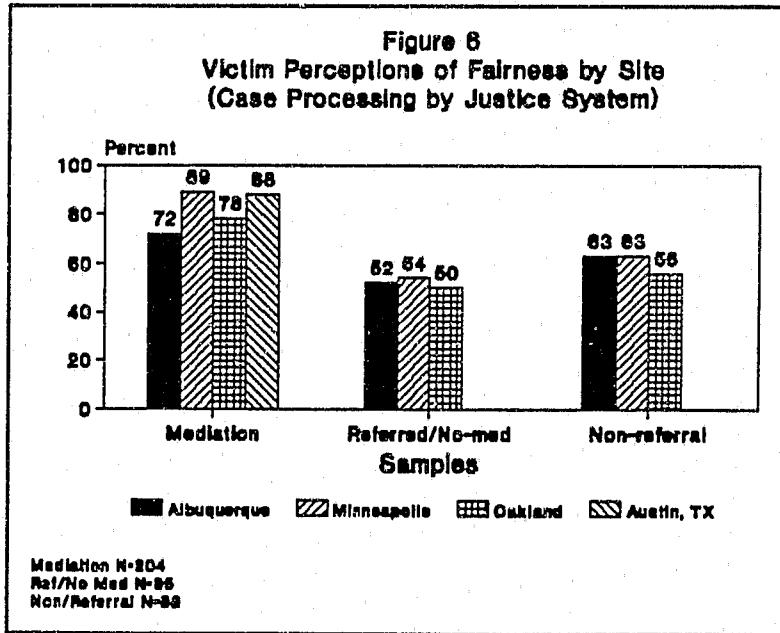
* Finding of significant difference

When crime victims who participated in mediation were asked to rank their most important concerns related to fairness in the justice system, they identified "help for the offender" as the primary concern, consistent with a prior study (Umbreit, 1988). This was followed by "pay back the victim for their losses" and "receive an apology from the offender."

Juvenile offenders in mediation indicated that to "pay back the victim for their losses" was their most important concern related to fairness in the justice system. This was followed by "personally make things right" and "apologize to the victim."

When the data on perceptions of fairness is examined within program sites, rather than aggregated data across the sites, no significant differences are found among offenders. As noted in Figure 6, however, victims in mediation were considerably more likely to have experienced fairness at each of the three primary sites.

Significant differences were found at the Albuquerque site (between mediation sample and referred/no mediation samples) and the Minneapolis site (between mediation sample and both comparison groups).



8. Victim/Offender Attitudes About Mediation

- *The opportunity for the victim to tell the offender the effect of the crime, to get answers and to negotiate restitution were the most important issues to victims.*
- *Actually receiving restitution was the least important issue to victims of juvenile crime.*
- *For offenders, telling the victim what happened, apologizing, negotiating and paying restitution were equally important issues.*

Both victims and offenders identified a number of important issues related to the process of talking about the crime and negotiating restitution. Negotiating restitution was important to nearly nine (9) out of ten (10) victims at both a pre- and post-mediation level. Actually receiving restitution, however, was important to only seven (7) out of ten (10) victims. The opportunity to directly participate in an interpersonal problem solving process to establish a fair restitution plan was more important to victims than actually receiving the agreed upon restitution.

As indicated in Table XI, significant differences were found between pre- and post-mediation group samples

related to informational and emotional needs of the victim, as well as the process of negotiating restitution. Specifically, for victims to receive answers from the offender about what happened, and to tell the offender how the crime affected them were both significantly more important after, rather than before, the actual mediation session. This was also true with negotiating restitution with the offender during the mediation session, even though actually receiving restitution was less important.

TABLE XI
Victim Attitudes About Important Issues
(Percent Indicating It Was Important)

| Combined Sites | Pre-Mediation % N | Post-Mediation % N | P Value |
|-------------------------------|----------------------|-----------------------|---------|
| Negotiating Restitution | 85% (153) | 93% (161) | .02* |
| Receiving Restitution | 66% (155) | 71% (161) | .34 |
| Receiving Answers/Information | 79% (157) | 90% (167) | .007* |
| Telling Offender Effect | 79% (157) | 91% (166) | .003* |
| Receiving Apology | 70% (157) | 78% (166) | .12 |

* Finding of significant difference

For offenders, there were no significant differences between the pre-and post-mediation samples. Negotiating restitution, paying restitution, telling the victim

what happened, and apologizing to the victim were important to nine (9) out of ten (10) offenders in both samples.

TABLE XII
Offender Attitudes About Important Issues
(Percent Indicating It Was Important)

| <i>Combined Sites</i> | <i>Pre-Mediation</i> % N | <i>Post-Mediation</i> % N | <i>P Value</i> |
|------------------------------|-----------------------------|------------------------------|----------------|
| Negotiating Restitution | 94% (138) | 90% (130) | .30 |
| Paying Restitution | 84% (139) | 90% (128) | .20 |
| Telling Victim What Happened | 93% (140) | 90% (137) | .40 |
| Apologizing to Victim | 88% (144) | 89% (134) | .50 |

* Finding of significant difference

Table XII does not, however, fully capture the impact that mediation had on the attitude of the offenders. Being held personally accountable for their criminal behavior, through a face-to-face meeting with their victim, can trigger a significant change in the attitude of many juvenile offenders. This change is expressed in the following statements. "After meeting the victim I now realize that I hurt them a lot . . . to understand how the victim feels makes me different." Through mediation "I was able to understand a lot

about what I did...I realized that the victim really got hurt and that made me feel really bad."

The importance of this change in the attitude of many offenders is reflected in a statement by a judge in the Oakland area. He states that the main impact of victim offender mediation on young offenders is "a major learning experience for kids about the rights of others, with implications far beyond just the delinquent act."

9. Juvenile Court Attitudes About Mediation

- *Victim offender mediation has strong support from court officials at all sites.*
- *Programs are increasingly becoming institutionalized into the juvenile court system.*

Juvenile court officials at the three primary research sites were uniformly in support of the victim offender mediation program in their jurisdiction. While there were some skeptics of the mediation concept during the early development of the program, most notably at the Minnesota site, judges and probation staff are now strong supporters and have played an important role in helping move toward institutionalizing these programs.

Judges at all three sites recognized that the emotional benefits of the program were even more important than simply the payment of restitution. A Judge in Albuquerque stated "mediation helps these kids realize that victims are not just targets, they are real people." In Minnesota, a Judge stated that "victim offender mediation humanizes the process . . .

victims gain a sense of control and power . . . offenders learn the real human impact of what they have done." The importance of young offenders taking responsibility for their criminal behavior, by compensating the victim, was highlighted by a judge in the Oakland area: "Victim offender mediation teaches kids that 'what I did affected real people' . . . paying restitution as a consequence for their behavior is part of growing up."

These sentiments were echoed by probation directors and line staff at the three sites. Probation staff were also often quick to add that the mediation programs were of considerable assistance in relieving the pressure of their high caseloads, particularly in cases involving more complex issues of restitution determination and payment.

10. Impact of Mediation on Restitution Completion

- Victims are significantly more likely to actually receive restitution if they participate in a mediation session with their offender.
- Juvenile offenders are held more accountable for successful completion of their restitution obligation through victim offender mediation programs.

Restitution is increasingly being required of juvenile offenders in many courts throughout the U.S. The more important issue, however, is whether or not restitution is actually completed by the offender. For victims to have their expectations raised by court ordered restitution, yet to later never receive compensation by the offender, could lead to a "second victimization" experience.

At the Minneapolis and Albuquerque program sites, court data related to actual completion of restitution was analyzed. The comparison groups for this analysis represented a sample of similar offenders from the same jurisdiction who were matched on the variables of age, race, sex, offense and amount of restitution. As Table XIII indicates, offenders who

negotiated restitution agreements with their victims through a process of mediation were significantly more likely to actually complete their restitution obligation than similar offenders who were ordered by the court to pay a set amount of restitution.

Representing the first study to examine the impact of face-to-face mediation on successful completion of restitution, this finding is critical. At a time when concern for serving the needs of crime victims continues to grow, the fact that victim offender mediation can significantly increase the likelihood of victims being compensated, in some form, for their losses has very important implications for juvenile justice policy makers.

TABLE XIII
Restitution Completion by Offenders
(Percent of Restitution Completed)

| Sample | Minneapolis % N | Albuquerque % N | Total |
|---|--------------------|--------------------|------------|
| Mediation Sample (experimental group) | 77% (125) | 93% (42) | 81% (167) |
| Non-referral Matched Sample (comparison group) | 55% (179) | 69% (42) | 58% (221) |
| Probability of chance | p = .0001* | p = .005* | p = .0001* |

* Finding of significant difference

Note: The Minneapolis sample consisted of post-adjudication cases in Hennepin County. It was based upon total restitution agreements, after offenders were matched.

11. Impact of Mediation on Recidivism

- Juvenile offenders in victim offender mediation programs committed considerably fewer crimes than a matched sample of similar offenders not in mediation.
- This finding of lower recidivism, however, was not statistically significant.

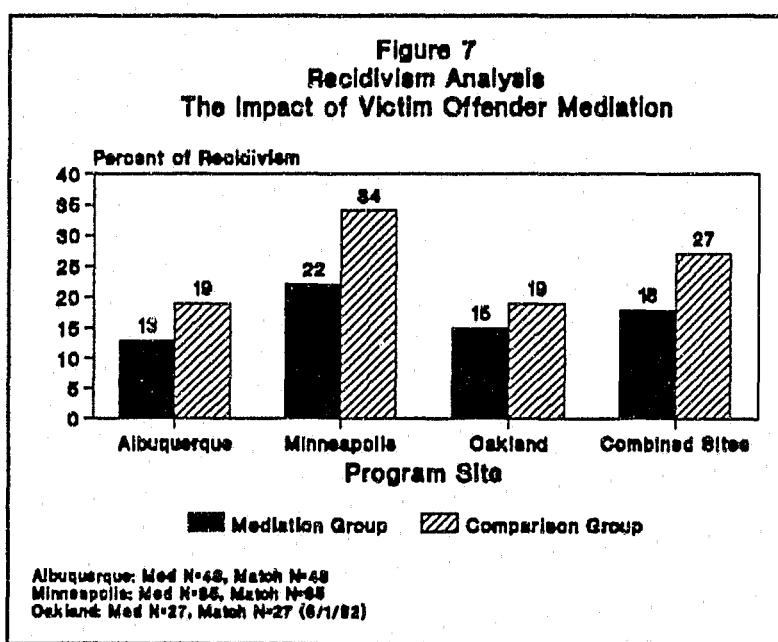
The issue of whether or not the victim offender mediation process has an impact upon reducing further criminal behavior (recidivism) by those offenders participating in mediation was examined at each of the three initial sites. The comparison group at each site consisted of similar offenders from the same jurisdiction who were matched with offenders in mediation, along the variables of age, sex, race, offense and restitution amount.

As Figure 7 indicates, juvenile offenders in the three mediation programs committed considerably fewer additional crimes, within a one year period following the mediation, than similar offenders in the court administered restitution program. They also tended to commit crimes that were less serious than the offense of referral to the mediation program. The largest reduction in recidivism occurred at the Minneapolis program site (post-adjudication cases in Hennepin County), with a recidivism rate of 22 % for the mediation sample and a rate of 34 % for the comparison group sample.

While it is important to know that the victim offender mediation process appears to have had an effect on suppressing further criminal behavior, the finding is not, however, statistically significant. The possibility that this apparent effect of mediation upon reducing recidivism occurred by chance cannot be ruled out. This marginal but non-significant reduction of recidivism is consistent with two English studies of victim offender mediation (Dignan, 1990; Marshall and Merry, 1990). Only one study in the U.S. is known (Schneider, 1986) to have found a significant impact of mediation upon offender recidivism. The program in that study, however, did not employ the same type of procedures

used by the programs described in this cross-site analysis of victim offender mediation.

For some, a finding of a marginal but non-significant impact of the mediation process upon reducing offender recidivism may come as a disappointment. For others, including the authors, it comes as no surprise. Rather, such a finding is consistent with recidivism studies related to other community justice alternative programs. It could be argued that it is



rather naive to think that a time-limited intervention such as mediation by itself (perhaps 4-8 hours per case) would be likely to have a dramatic effect on altering criminal and delinquent behavior in which many other factors related to family life, education, chemical abuse and available opportunities for treatment and growth are known to be major contributing factors.

12. Cost Implications of Victim Offender Mediation

- *Average unit cost of a case referral was \$233.*
- *Average unit cost of a mediation case was \$678.*

The annual cost of operating the three primary programs examined in this study ranged from \$31,530 in Albuquerque to \$127,176 in Oakland. By far the largest single cost item was that of personnel, representing a range of 69% of the budget in Albuquerque to 72% in Minnesota and Oakland. The average amount of staff at these programs was 2.8 FTE.

The unit cost of a referral to these programs ranged from \$81 in Albuquerque to \$346 in Oakland. For those cases referred to the program which later participated in a mediation session, the unit cost of a mediation ranged from \$292 in Albuquerque to \$986 in Oakland.

Each of these three programs operated as a unit within a larger private non-profit agency which provided many different types of support and financial assistance. This relationship appeared to be crucial both during the initial development of each program and during subsequent years when there were period gaps in the flow of revenue to directly support the victim offender mediation program. As Table XIV indicates, the cost implications of operating these three programs differed considerably.

TABLE XIV
Cost of Victim Offender Mediation Programs
(Based on 1991 Expenses)

| Item | Albuquerque | Minneapolis | Oakland | Total |
|------------------------------|-------------|-------------|-----------|-----------|
| Personnel Cost | \$21,753 | \$88,493 | \$91,884 | \$202,130 |
| Number of staff | 1.5 FTE | 3.5 FTE | 3.5 FTE | 8.5 FTE |
| Other Program Costs | \$9,777 | \$34,873 | \$35,322 | \$79,972 |
| Total Annual Cost | \$31,530 | \$123,366 | \$127,176 | \$282,072 |
| Annual Cases Referred (1991) | 391 | 453 | 368 | 1,212 |
| Unit Cost of Referral | \$81 | \$272 | \$346 | \$233 |
| Annual Cases Mediated (1991) | 108 | 179 | 129 | 416 |
| Unit Cost of Mediation | \$292 | \$689 | \$986 | \$678 |

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Chapter 1

VICTIM OFFENDER MEDIATION: WHAT WE HAVE LEARNED FROM PREVIOUS STUDIES

The growing practice of providing victims with the opportunity to confront their offender, in the presence of a third party mediator, remains a relatively new criminal justice reform effort. By allowing victims and offenders to get answers to questions, to express their feelings, and to negotiate mutually acceptable restitution agreements, the victim offender mediation process focuses upon enhancing the experience of fairness for both offenders and victims. Despite more than ten years of program development in the United States and a network of nearly 100 programs, there exist only a handful of empirical studies aimed at assessing the victim offender mediation approach.

The purpose of this chapter is to review the major empirical studies of victim offender mediation. While the focus will be upon studies in the U.S., several other important studies in Canada and England will also be noted. Key findings from each study will be presented, major themes identified, and implications for further research in this emerging field will be presented.

The first known controlled research project (Davis et.al., 1980) assessing the impact of mediation upon cases referred by the criminal courts occurred in New York. It studied a unique project in New York city that worked primarily with cases that arose from felony arrests, most often assault or burglary. This fact set apart the Brooklyn Dispute Resolution Center from the growing number of mediation and conflict resolution programs being established throughout the country, nearly all of which would not even

consider cases of felony arrests. Sponsored jointly by the Institute for Mediation and Conflict Resolution in New York city and the Victim/Witness Assistance Project of the VERA Institute of Justice, the Brooklyn Dispute Resolution Center mediated or arbitrated disputes, between persons who knew each other, which erupted into criminal offenses for which arrests were made. While not identifying itself as a "victim offender mediation program", the mediation process was offered to the parties involved as a voluntary alternative to the conventional process of prosecution in Brooklyn Criminal Court.

An evaluation of this project by Davis and his colleagues (1980) focused upon a comparison of mediation and prosecution, as they affected the disputants' satisfaction with the process by which their cases were resolved. The recurrence of hostilities in their relationships was also examined. Of those arrests which were screened as appropriate for mediation, random assignment into a control and experimental group occurred. In comparing the experimental and control groups, it was found that "it was apparent that complainants whose cases were referred to mediation felt they had greater opportunity to participate in resolution of the dispute, felt that the presiding official had been fairer, and felt that the outcome was more fair and more satisfactory to them." Similar responses were found with defendants. The research, however, found no indication that further conflict between the participants was less frequent in cases that entered mediation as opposed to formal court intervention.

While in some respects similar to programs identified as victim offender mediation or reconciliation, the Brooklyn Dispute Resolution Center was also different in that all

offenders referred to it were diverted from prosecution and the parties involved had an ongoing relationship. In victim offender mediation programs, cases are referred either pre or post conviction and few participants know each other prior to the offense.

It was not until 1974 that the specific intervention which is now called "victim offender reconciliation" first began on the North American continent in a small experiment in Kitchener, Ontario, through the leadership of Mennonite church representatives, and a local judge and probation officer. Contact between victims and offenders, however, had previously occurred in a number of programs, most notably the nationally recognized Minnesota Restitution Center in Minneapolis. Use of mediation at a pre-trial diversion level had also occurred. However, the victim offender reconciliation process represented a significant extension of these other efforts by applying structured mediation techniques in a systematic fashion with convicted offenders and their victims, usually involving the offenses of burglary and theft.

Most oftentimes, the victims and offenders involved in the program had no prior relationship. Rather than a primary emphasis upon restitution collection, the initial Victim Offender Reconciliation Program (VORP) first emphasized the need to address the emotional and informational needs of both parties through the process of face-to-face mediation, with restitution representing an important additional goal. As one expression of the victim offender mediation process, the VORP model was not simply an offender rehabilitation program. Nor was it only a victim assistance program. Rather, it was designed to address the needs of both victims and offenders in a manner which personalized the process of justice by facilitating the empowerment of both

parties to resolve the conflict at a community level (Umbreit, 1985, 1986). The early success of the program in Kitchener quickly led to replication of the program in other parts of Canada.

The first replication of the Victim Offender Reconciliation Program (VORP) model in the United States occurred in 1978 in the northern Indiana community of Elkhart, once again through the leadership of Mennonite church representatives, a local judge, several probation staff, as well as a local community corrections organization called PACT (Prisoner and Community Together). Within several years, this new project in Elkhart, Indiana began receiving nationwide and international attention from the criminal justice community (Umbricht, 1988).

The most informative initial study related to the impact of victim offender mediation and reconciliation is found in research conducted by Coates and Gehm (1988) which evaluated Victim Offender Reconciliation Programs (VORPs) in four Indiana communities.

The study represented the first major attempt to examine VORP projects in the United States. These VORP projects received referrals of offenders from the courts, usually following conviction. A trained mediator would first meet separately with both parties, to listen to their story explain the program and encourage their participation. If both agreed to participate, the mediator would then bring the offender and the victim to a face-to-face meeting during which time the victim could get answers to questions and could express their concerns directly to the person that violated them. In addition, the

offender had an opportunity to display a more human side to their character and was able to negotiate a restitution plan with the victim (Zehr and Umbreit, 1982).

Coates and Gehm (1988) found that for those who participated in the victim offender reconciliation process, being responded to as persons, victim and offender, was probably seen as the greatest strength of the program. While some victims became initially involved in the program in order to recoup their losses, they left the process feeling that they had been dealt with fairly and with dignity. Other findings include: offenders appeared to take the mediation process seriously and seemed to have a better sense that what they did hurt people and required a response; victims and justice officials placed a great deal of value on the increased participation of victims; restitution completion by offenders in mediation was high; both victims and offenders viewed the program as a legitimate form of punishment; and, there was some evidence to suggest that VORP, in conjunction with some short local jail time, was being used as an alternative to more lengthy state incarceration in selected cases.

Satisfaction with the VORP experience occurred with 83 % of the offenders and 59 % of the victims. Another 30 % of victims were somewhat satisfied. Some level of dissatisfaction was expressed by only 11 % of the victims and much of this was related to not receiving full restitution rather than the VORP meeting itself. If they had the opportunity to do it over again, 97 % of the victims would still choose to participate in VORP. The same percentage of victims would recommend VORP to other victims of crime. All of the offenders would again choose to participate in VORP if they had a choice.

Victims identified the following elements as being the most satisfying about the victim offender reconciliation process:

- 1) the opportunity to meet the offender to obtain a better understanding of the crime and the offender's situation.
- 2) the opportunity to receive payback for loss.
- 3) the expression of remorse on the part of the offender.
- 4) the care and concern of the mediator.

The study notes that "it is interesting that more victims commented on meeting with the offender than on restitution, given that the number one reason for most victims choosing to participate in the first place was financial restitution ." Aspects of the process that victims found least satisfying were:

- 1) lack of adequate follow-up and leverage on the offender to fulfill the agreed upon contract.
- 2) the time delay from offense to actual resolution through the VORP process.
- 3) the amount of time required to participate in VORP.

From the offender's perspective, the most satisfying things about the process were:

- 1) meeting the victim and discovering the victim was willing to listen to them.
- 2) staying out of jail and in some instances of not getting a record.
- 3) the opportunity to work out a realistic schedule for paying back the victim and "making things right".

The research found that an offender would often list meeting the victim as both the most satisfying and the least satisfying part of the experience. The study suggests that this

probably reflects the tension between, on the one hand, the stress experienced in preparation for meeting the victim, and on the other hand, the sense of relief over having taken steps "to make things right."

For victims and offenders who participated in a face-to-face meeting, there was a very high probability that restitution contracts would be agreed upon (98%) and successfully completed (82% of financial and 90% of service restitution). In addition, 79% of the victims and 78% of the offenders believed that justice had been served in their cases.

Coates and Gehm (1988) conclude that the Victim Offender Reconciliation Program appears to be an effective means for increasing victim involvement in the criminal justice process. "The VORP process encourages personal accountability on the part of the offender while breaking down stereotypes of both offenders and victims. To the extent that it is desirable to personalize crime and justice, the VORP approach has much to offer."

The concept of fairness as experienced by victims involved in the victim offender mediation process was further examined by Umbreit (1989,1990). While "fairness" is a major goal of the justice system and the theory and practice of victim offender mediation, little is known about what fairness actually means to crime victims themselves.

This study consisted of fifty (50) face-to-face interviews with victims of burglary in Hennepin County, Minnesota (Minneapolis area) who were referred to the Victim

Offender Reconciliation Program (VORP) of the Minnesota Citizens Council on Crime and Justice, during 1986 and 1987. Sixty-two (62 %) percent of the victims who were interviewed for the study participated in a mediation session with their offender. The remainder chose not to enter the mediation process, even though they were referred to VORP. Both qualitative and quantitative data was collected from all subjects in the study.

VORP presented these victims of burglary with the opportunity to confront their offender in the presence of a trained mediator, in order for both parties to talk about the offense, express their concerns and to negotiate a mutually acceptable restitution agreement.

The study was guided by two questions. First, what is the meaning of fairness to crime victims who have been referred to a victim offender mediation program? Second, to what extent are crime victims who participated in a victim offender mediation program satisfied with the mediation process?

The study generated the following findings. It is important to understand these findings in the context of burglary committed by juveniles and referral of the victim and offender to the Victim Offender Reconciliation Program (VORP) in Hennepin County (Minneapolis area) Minnesota. These findings cannot be generalized to a larger population, although they do suggest important themes that may be present in other jurisdictions.

The dominant meaning of fairness to burglary victims in the study focused upon more of a "restorative" than a "retributive" sense of justice. Three dimensions of fairness emerged from the interviews with victims of burglary by juveniles: punishment of the offender; compensation of the victim; and rehabilitation of the offender. These dimensions were found for both victims who participated in mediation (62%) and those who were referred to the program but chose not to enter the mediation process (38%).

The most frequent and intense concern about fairness expressed by victims of burglary by juveniles was related to rehabilitation services for their offender, such as counseling, family therapy or educational assistance. Both victims who participated in mediation (100%) and those who did not (90%) expressed this concern.

Compensation of the victim for their losses, through restitution by the offender, was the second most frequent concern about fairness. Punishment of their offender through some type of incarceration was the least frequent concern about fairness.

The qualitative data from the open-ended questions allowed for construction of a typology of fairness consisting of three categories represented by the metaphors of: "The Healer" (rehabilitation); "The Fixer" (compensation); and, "The Avenger" (punishment).

Participation by crime victims in the criminal justice process was found to be a major element of fairness across all categories of victims. The importance of victim

participation in the justice process included both passive forms (information provision by letter) and active forms (court appearance and/or mediation).

Participants in the victim offender mediation process indicated a very high level of satisfaction: 97% felt they were treated fairly in the mediation session; 94% felt the mediator was fair; 93% felt the negotiated restitution agreement was fair; and, 86% found it helpful to meet the offender, talk about the offense and negotiate a plan for restitution.

A particularly significant finding of this study (Umbreit, 1989,1990) was that victims who were referred to VORP and participated in a mediation session with their offender were twice as likely to have experienced fairness (80%) with the manner in which the criminal justice system dealt with their case than those victims who were referred to VORP but chose not to enter mediation (38%).

Umbreit (1989,1990) notes that the client satisfaction data from this study would suggest that the mediation process, including an empowering style of mediation, employed by the VORP project in Minnesota contributes to crime victim experience of fairness, although the precise nature and degree of that contribution cannot be determined by the limitations of this study.

The data from this study (Umbreit, 1989,1990) suggests that placing certain victims in a far more active role in the criminal justice process, including negotiating a portion of the penalty (restitution) incurred by their offender, may need broader

consideration by criminal justice policy makers.

Expanding upon his earlier study, Umbreit (1991) examined issues related to client satisfaction and fairness for both victims and offenders involved in the Center for Victim Offender Mediation in Minneapolis. The study was based upon post-mediation interviews with a sample of 51 victims and 66 juvenile offenders.

During 1989 a total of 379 cases were referred to the CVOM, representing 228 individual victims and 257 individual offenders. A case is defined as each victim-offender combination, therefore one offender with three victims represents three cases. Of these referrals, 56% represented misdemeanor/gross misdemeanor offenses and 44% were felony offenses. The most common offenses were vandalism (32%), theft (25%), burglary (15%) and tampering (11%). Other offenses included car theft (8%), assault (6%) and robbery (3%). Sixty-one percent (61%) of the referrals occurred post-adjudication and 39% occurred as a diversion from adjudication.

Of the 379 cases referred to CVOM in 1989, 50% resulted in face to face mediation, 9% indirect mediation and 41% no mediation, involving referral back to the court for determining restitution. Restitution agreements were reached in 96% of the mediation cases and these agreements included \$23,328 of monetary restitution, 403 hours of personal service restitution for the victim, 787 hours of community service restitution and 17 agreements with only an apology required by the victim.

For those cases that did not enter the mediation process, there were a number of

reasons, including: victim was unwilling (35%); offender was unwilling (24%); the conflict was resolved by the parties prior to the court referral (17%); one of the parties could not be located.

The data collected for this program evaluation indicates a high level of client satisfaction with the victim offender mediation process, among both crime victims and their offenders. Consistent with prior research (Coates and Gehm, 1988; Umbreit, 1989, 1990), crime victims who met with their offenders in the mediation program (CVOM) indicated that being able to meet the offender, talk about what happened, express their concerns and work out a restitution plan was more important than actually receiving compensation for their losses. While 3 out of 4 victims stated that receiving restitution was important, 9 out of 10 victims indicated other more important non-monetary benefits. Also consistent with this prior research, 8 out of 10 victims were concerned about the offender's need for counseling and other rehabilitative services.

In regard to what crime victims liked the most about mediation, as determined through open-ended questions, three themes were the most common. First, telling the offender how the crime effected them emotionally and/or financially was important. "It was a chance to tell the offender the hardship it put on us as a family." "It was important to just let him know what he put me through, that it was more than one person he victimized."

A second theme focused on the importance of being able to directly confront the

offender. "I liked that the kid had to look me in the eyes." "I guess being able to meet him face to face and realize that he was just a kid who made a mistake was what I liked the most."

The third most common theme expressed by these victims addressed their concern for helping the very person who victimized them. "I wanted most of all to help the boy." "The program helps the offender make restitution and I feel better knowing the person will get help." "Confronting their victims could straighten the kids out."

In regard to the actual mediation session and its outcome, crime victims had positive attitudes. Nine out of ten victims felt good about being in the mediation program and nearly all felt the restitution agreement was fair to both parties. Eighty-six percent (86%) of the victims indicated that meeting their offender was helpful and the majority (55%) had a positive attitude toward their offender. Following the mediation, 9 out of 10 (94%) victims experienced no fear of re-victimization by their offender.

Victims who participated in the mediation were overwhelmingly satisfied with the program. The only things that several victims stated they disliked the most about the mediation program were related to both the anticipatory anxiety they experienced prior to the meeting, "the unknown of the meeting, not knowing what they'd be like", and the initial tension they experienced in the mediation session as indicated by statements such as "I felt nervous" and "it was a very tense situation."

Juvenile offenders involved in the mediation services provided by the Center for Victim

Offender Mediation were also quite satisfied with the program. Telling the victim what happened, working out a mutually acceptable restitution plan, paying back the victim and apologizing to the victim were important issues to 9 out of 10 offenders. Ninety-five percent (95 %) of the offenders in this study actually offered an apology to their victim.

Offenders indicated a slightly lower level of satisfaction with their mediator and the outcome of the mediation than did their victims. Whereas 92 % of victims indicated a positive attitude toward their mediator, 88 % of the offenders did. Similarly, whereas nearly all victims indicated that the actual restitution agreement was fair to both parties, 88 % of offenders stated the agreement was fair to them and 95 % indicated it was fair to their victim. Ninety-four percent of the offenders felt it was helpful to meet their victim, 95 % of the offenders were feeling better after meeting their victim, 84 % believed their victim had a better opinion of them and nearly all (96 %) would suggest victim offender mediation to a friend.

In response to open-ended questions related to what offenders liked the most and the least about the mediation program, several themes emerged. Getting to know the victim, finding out that the victim was nice and that the victim understood them was the most common theme expressed by the juvenile offenders in this study. "The victim was nice." "He understood the mistake I made and I really did appreciate him for it." "The victim was fair and nice about it."

The actual quality of the communication between the offender and their victim was also a common theme. "I liked the honesty." "It was good to be able to actually say how you

felt about it." "I liked that we could talk and get things out in the open."

Being able to apologize to their victim, having the chance to tell the victim what happened, and working out a restitution plan were other important, but less frequent, themes expressed by some of these offenders.

The most common thing that offenders identified as disliking the most was the anxiety that many experienced prior to and during the meeting. "It was hard meeting him face to face." "It was kind of scary and nerve wracking." "Before I met him it was scary." "I didn't like the beginning of the meeting because you are so afraid." "I felt kind of stupid and guilty because he was real sad...but it felt better after I had a chance to apologize."

Factors related to victim participation in mediation sessions with their offenders were examined by Gehm (1990). This exploratory study analyzed data from six victim offender reconciliation programs located in Indiana, Minnesota, Oregon and Wisconsin. Three factors emerged as significantly affecting the victim's decision to participate in a mediation session with their offender. Gehm (1990) found that victims were more likely to enter the mediation process (face-to-face) if the offender was white, if the crime that was committed was a misdemeanor, and if the victim represented an institution such as a school or church, as opposed to an individual victim. Even when controlling for the race and sex of the victim, the three above mentioned factors held. Gehm (1990) notes, however, that these findings must be viewed as suggestive only since there were relatively few minority victims in the sample.

In addition to examining factors related to victim participation, Gehm (1990) also looked at the issues of the frequency of actual meetings occurring between victims and offenders, the development of mutually agreeable restitution contracts and successful completion of the agreed upon restitution contract. The victim declined to participate in a meeting with their offender in 53% of the cases examined by Gehm (1990). Restitution agreements were negotiated between the victim and their offender in 91% of the cases which came to a mediation session and 87% of those restitution agreements were successfully completed.

The issue of recidivism among offenders who participated in a victim offender mediation program has only been directly addressed by one known study. While Guedalia (1980) found that contact with their victims was significantly related to a reduction in recidivism among juveniles offenders in Tulsa County, Oklahoma, the degree of "victim contact" was limited to simply meeting each other or exchanging a letter of apology. It did not include actual participation in a victim offender mediation session.

A significant reduction (from 63% to 53%) in recidivism among juvenile offenders in Washington, D.C. who were involved in a restitution program involving victim offender mediation was found by Schneider (1986), as compared to offenders who were randomly assigned to regular probation supervision. Referrals to this program represented serious felony offenders, with more than 60% being repeat offenders. A complicating factor, however, was the fact that even those offenders who were referred to mediation but chose not to participate (40%) had a lower recidivism rate than those offenders

randomly assigned to regular probation. This finding suggests that even the rather small intervention of allowing juvenile offenders a choice in how they are processed by the courts has a positive effect on their future behavior. It is important to note that the mediation program in Washington, D.C. was considerably different than the victim offender mediation programs in the current study presented in this report.

A final study worth noting is a national survey of victim offender mediation programs conducted by Hughes and Schneider (1989). A total of 171 programs that reported use of victim offender mediation with juvenile offenders were sent questionnaires to obtain information about victim offender mediation. Of this total, 79 programs with a victim offender component responded. This survey focused upon characteristics of programs, including: program administration, characteristics of mediators and mediation, characteristics of the final contract and support for the mediation program.

The most important goals of victim offender mediation, as expressed by those involved in the programs at some level, were ranked in the following order, from most to least important: 1) holding the offender accountable; 2) providing restitution; 3) making the victim whole; 4) reconciling victim and offender; 5) rehabilitating the offender; 6) providing an alternative to incarceration. All of the above were indicated as important. The additional goal of punishing the offender was rated as relatively unimportant.

Most of the victim offender mediation programs in the survey were administered by private nonprofit organizations, although some were directly operated by probation departments or other public agencies. In just over half of the programs, program staff

alone were used as mediators, with nearly 40 % using both program staff and volunteers. Less than 10 % of the programs in the survey used only volunteer mediators.

The most often cited component of restitution agreements that were negotiated in a mediation session was monetary restitution. Components that were less frequently mentioned were community service, a combination of community service and monetary restitution, and behavioral requirements of the offender, such as school attendance or counseling.

In regard to support that is required to operate victim offender mediation programs with juveniles, the juvenile court judge was considered to be the most important. Other important elements of support were: parents and other family members; state juvenile service providers; city/county commissioners; public defenders; alternative juvenile program providers; law enforcement officials; prosecutors; local service organizations; and, state officials (Hughes & Schneider, 1989).

Respondents indicated a uniformly positive response in regard to the effectiveness of mediation as both a specific program and as a dispositional alternative. Even though the programs in the survey varied in age, or size of jurisdiction, the programs were all quite similar in their basic structure.

In addition to the studies noted above, a handful of studies in Canada and England have been conducted during recent years. High levels of client satisfaction and perceptions of fairness with the victim offender mediation process and outcome have been found in

Canada (Collins, 1983, 1984; Fischer and Jeune, 1987; Perry, Lajeunesse, Woods, 1987) and England (Marshal & Merry, 1990).

An evaluation by the Attorney General's Office of Manitoba (Perry, Lajeunesse, Woods, 1987) of a large victim offender mediation program in Winnipeg, operated by Mediation Services (sponsored by the Mennonite Central Committee), found that ninety-two percent (92 %) of both complainants and respondents were satisfied with the mediation process and outcomes. In addition, it found that eight-one percent (81%) of all interviewees would use the mediation program again if they were ever in the same situation.

All of the above studies, however, had weak designs with no comparison groups. An evaluation of a victim offender mediation program in England (Digman, 1991) employed a quasi-experimental design, with a comparison group, and found client satisfaction levels consistent with the above studies. Two English studies (Marshal and Merry, 1990; Digman, 1991) found marginal but non-significant reductions in recidivism.

There have been several studies, however, that have identified some weaknesses in the victim offender mediation model. A Canadian study (Dittenhoffer & Ericson, 1983) examined the systemic impact of such programs. It found that despite the rhetoric of program staff about victim offender mediation being an alternative to incarceration there existed little evidence to support such a claim. They did find, however, that there existed other values of the victim offender reconciliation process, such as directly resolving conflict between the offender and victim, that could justify VORP despite it

having no impact on serving as a substitute for incarceration for certain offenders. A study of several programs in a mid-western state in the U.S. (Coates & Gehm, 1989) had similar findings, although a small effect on reducing the length and location (local jail rather than state prison) was found.

Based upon his examination of programs in England, Davis (1988) has been critical of victim offender mediation because of his belief that the goal of diverting certain offenders from prosecution (as a result of participating in mediation) is fundamentally incompatible with the goal of offering reparation or restitution to the victim, particularly in the context of a retributive criminal justice system. It should be noted that many victim offender mediation programs work with post-adjudication cases, as well as diversion cases.

Implications

The limited number of empirical studies that have examined the victim offender mediation have found rather favorable outcomes, including high levels of client satisfaction with the mediation process and perceptions of fairness (Coates & Gehm, 1988; Collins, 1983, 1984; Digman, 1990; Fischer and Jeune, 1987; Marshal & Merry, 1990; Perry, Lajeunesse, Woods, 1987; Umbreit, 1989,1990,1991), and a positive impact upon recidivism (Schneider, 1986). There are, however, some significant limitations with these studies.

Nearly all of the client satisfaction data reported in the studies above is presented without examining its relationship to a comparison group of victims and offenders who

did not participate in the mediation process. While it is helpful to know that a high level of client satisfaction occurs among victims and offenders who participate in mediation, it would be far more enlightening to know if client satisfaction with mediation is significantly different from satisfaction with the normal court process in which mediation did not occur.

While the Guedalia study (1980) and the Schneider study (1986) indicate some positive impact of victim offender contact upon recidivism, neither study clearly indicates the impact of the victim offender mediation process specifically. In the case of the Guedalia study, only relatively brief contact between the victim and the offender was examined. In the Schneider study (1986), it was not clear whether simply the choice of the offender participating in a mediation process was the most significant factor in recidivism reduction, rather than actual participation in mediation.

In the coming years it will be important to further examine issues related to client satisfaction and perceptions of fairness through the use of comparison groups that are matched along important variables such as age, race, sex, offense, and prior involvement with the courts. The issue of actual restitution completion by offenders who went through the mediation process, as compared to similar offenders who were ordered by the court to pay restitution, will need to be thoroughly examined. Finally, further examination of future criminal behavior by those offenders who participated in a victim offender mediation program is important. Such an analysis should include multiple measures of recidivism in order to determine the frequency, intensity, and severity of any further criminal behavior.

Chapter 2

METHODOLOGY OF STUDY

A quasi-experimental design was employed in this cross-site analysis of programs that apply techniques of mediation in resolving conflict between people affected by criminal behavior. The 1,153 interviews completed during calendar year 1990 and 1991 with victims and offenders were based upon availability samples at all of the four program sites. The study is based primarily upon a thorough examination of three victim offender mediation programs located in Albuquerque (NM), Minneapolis (MN) and Oakland (CA). A fourth program, in Austin (TX), was added much later in the study and received a more limited range of analysis.

The three primary programs are operated by private non-profit community-based organizations working closely with the courts. All work with juvenile offenders involved primarily in property crimes and who are referred by the local courts and probation staff.

These sites were selected for several reasons. The majority of victim offender mediation programs throughout the country are operated by private non-profit organizations and focus primarily upon juvenile offenders (Umbreit 1986, 1988). Together, the three primary program sites offered not only regional diversity but also program development diversity. While they employed a very similar process with juvenile offenders and their victims, each was at a different level of programmatic maturity and experience. Permission had been obtained from the directors of each

program to have access to records related to the study group and to be able to contact subjects.

A fourth site in Austin, Texas was added quite late in the study. This program is operated by the Travis County Juvenile Court Department, in conjunction with the local Dispute Resolution Center. Precisely because all of the initial three sites were sponsored by private agencies, the Austin program offered a unique addition to the original design of the study, by allowing for analysis of any possible affects of a public versus private victim offender mediation program upon client satisfaction and perceptions of fairness.

The study made use of six main data sets, at each of the three primary sites in Albuquerque, Minneapolis and Oakland. These included:

(Experimental group)

1. Victims who participated in mediation
2. Offenders who participated in mediation

(Comparison Group #1)

3. Victims who were referred to mediation but did not participate
4. Offenders who were referred to mediation but did not participate

(Comparison Group #2)

5. Victims from the same jurisdiction who were never referred to mediation, whose offenders were matched along several variables with mediation offenders
6. Offenders from the same jurisdiction who were never referred to mediation and who were matched along the variables of age, sex, race and offense for offenders in the mediation sample

At the Austin site, only two samples were examined. This occurred because the Austin site was added quite late in the study and with a very limited amount of resources available to pay for the cost of interviews. Only the two experimental group samples of victims and offenders in mediation were interviewed.

Interviews were conducted at a pre-mediation (usually within a week of the mediation) and a post-mediation point (approximately 2 months after the mediation) at the three primary program sites. The comparison group interviews were conducted approximately 2 months after the case disposition date. Only post-mediation interviews were conducted at the Austin site.

The vast majority of post-mediation interviews at all four sites were in person and lasted between 45 and 60 minutes on average. If an in person interview was not possible, then a phone interview was conducted, which occurred only in a small number of cases. All of the other interviews (pre-mediation and all comparison group interviews) utilized a briefer instrument and were conducted over the phone.

In addition to the interviews with victims and offenders, twenty-eight (28) observations of mediations occurred across the three primary program sites and interviews with program staff, probation staff and judges occurred.

This study employed both quantitative and qualitative research techniques. Some research questions, such as those related to program cost issues, recidivism and restitution completion rates, required quantitative research techniques. As an

exploratory study to gain a more thorough understanding of the impact of victim offender mediation, the use of open-ended questions, with probes, was essential to address some of the other research questions. A number of Likert scales were also used and descriptive statistics related to respondent characteristics were collected. Structured interview schedules consisting of both closed ended (including Likert scales) and open ended questions were developed and employed in this study.

Research Questions

The study was guided by the following questions:

1. Who participates in the victim offender mediation process and why?
2. How does the victim offender mediation process actually work and what is the nature of the mediator's role and function?
3. How do the participants in the victim offender mediation process evaluate it?
4. What do court officials think about the victim offender mediation process?
5. What are the immediate outcomes of the victim offender mediation process?
6. To what extent is successful completion of restitution by the offender effected by the victim offender mediation process?
7. To what extent is recidivism effected by the victim offender mediation process?
8. What is the impact of victim offender mediation upon costs savings to the courts?
9. What is the meaning of fairness to victims and offenders participating in the victim offender mediation process?

Referral to Mediation Samples

1. Participating in Mediation Referrals

All victims and offenders referred to the three primary mediation programs during calendar years 1990 and 1991 were given the opportunity to participate in the study.

A total of 532 participants (Table 15) in mediation participated in the study, representing approximately 24% of the total participants in mediations held during this time period. There were no major differences in the characteristics of victims and offenders in mediation who were in the study and those who chose not to be in the study, as noted in Tables 16 and 17.

Random assignment of mediation participants into experimental and control groups was ruled out because of ethical issues and concerns of program staff. The initial design for the study included the use of systematic random samples at all sites. It became evident early in the life of the study that this would simply not be possible, primarily because of the relatively limited number of cases referred by the court to each of the three primary program sites, the number of cases that eventually reached mediation, and the difficulty of contacting individuals following the mediation. The desired sample size for analysis purposes would not have been achieved. An availability sample was therefore used for both the experimental and comparison group samples.

2. Non-participating Referrals

Victims and offenders who were referred to the mediation process by the courts

during the same time period, but who did not participate, served as one of the two comparison groups in this study. Particularly since these individuals had already indicated their lack of interest in being involved in the program, it was expected that they would have a quite limited interest in being interviewed for the study. The "referred but no mediation" sample of 198 victims and offenders (Table 15), across all sites, represented approximately 5% of the total number of victims and offenders in cases referred but not entering mediation during 1990 and 1991.

Not Referred to Mediation Sample

The second comparison group, drawn from the same jurisdictions, consisted of an availability sample of similar offenders, and their victims, who were not referred to the mediation process. These offenders were matched on the variables of age, sex, race and offense with those offenders in the mediation sample. The "non-referral to mediation" sample of 218 (Table 15), across all sites, represented approximately 10% of the total cases mediated during 1990 and 1991.

Victims and offenders in both of the comparison groups participated in one interview that was similar to the post-mediation interview.

The sub-samples for the mediation group and the two comparison groups consisted of the following:

Table 15
Samples for Individuals Interviewed

| | Referred to Mediation | | Not Referred To Mediation (Comparison Group #2) | Total |
|-------------|-----------------------|--|--|-------|
| | Partici- pating | Non-parti- cipating (Comparison Group #1) | | |
| ALBUQUERQUE | | | | |
| -victims | 73 | 33 | 25 | 131 |
| -offenders | 65 | 36 | 28 | 129 |
| MINNEAPOLIS | | | | |
| -victims | 96 | 51 | 72 | 219 |
| -offenders | 81 | 40 | 71 | 192 |
| OAKLAND | | | | |
| -victims | 61 | 19 | 10 | 90 |
| -offenders | 56 | 19 | 12 | 87 |
| AUSTIN | | | | |
| -victims | 50 | | | 50 |
| -offenders | 50 | | | 50 |
| TOTAL | 532 | 198 | 218 | 948 |

NOTE: Most of the victims and offenders who participated in mediation were interviewed before and after the mediation, resulting in a total of 1,153 interviews.

Table 16
Characteristics of Victim Samples

| Combined sites | Mediation participants | Referred but no mediation | Non-referral to mediation |
|---|--|--|-----------------------------|
| Age: a. mean b. range | 35 7-89 | 33 7-71 | 36 8-79 |
| Gender: a. female b. male | 45% 55% | 41% 59% | 40% 60% |
| Ethnicity: a. Asian b. Black c. Caucasian (Anglo) d. Caucasian (Hispanic) e. Other | 2% 5% 74% 16% 3% | 3% 9% 69% 13% 6% | 2% 2% 87% 8% 1% |
| Highest grade of education: a. 8th b. 9th c. 10th d. 11th e. 12th f. Assoc/dgr g. College/Bach h. Graduate/dgr | 10% 2% 2% 6% 27% 24% 20% 9% | 12% 7% 5% 6% 30% 20% 13% 7% | unavailable |

Table 17
Characteristics of Offender Samples

| Combined sites | Mediation participants | Referred but no mediation | Non-referral to mediation |
|--|---|---------------------------------------|-----------------------------------|
| Age: a. mean b. range | 15 8-18 | 15 10-18 | 16 9-18 |
| Gender: a. female b. male | 13% 87% | 12% 88% | 5% 95% |
| Ethnicity: a. Amer.Indian a. Asian b. Black c. Caucasian (Anglo) d. Caucasian (Hispanic) e. Other | 3% 2% 17% 51% 26% 1% | 3% 4% 14% 49% 29% 1% | 1% 1% 6% 72% 18% 2 |
| Highest grade of education: a. 5th b. 6th c. 7th d. 8th e. 9th f. 10th g. 11th h. 12th | 6% 11% 8% 16% 15% 21% 16% 7% | 31% 13% 20% 20% 15% 1% | unavailable |
| Prior offenses: a. yes b. no | 27% 73% | 34% 66% | 12% 88% |
| Referral point: a. diversion b. post-adjud. c. post-dispo. | 59% 21% 20% | 40% 32% 28% | 54% 15% 32% |

It should be noted that only a subset of the mediation participants in Hennepin

County, MN (post-adjudication cases), representing the largest site, were selected for generating the matched sample of non-referral to mediation offenders, as noted in Chapter 8. This explains why the characteristics of the mediation participants and the non-referral to mediation samples above are not identical.

Data Collection Instruments

This study employed fourteen data collection instruments which were developed with a reasonable degree of reliability and validity checks. Taken together, the fourteen instruments allowed for cross validation of both qualitative and quantitative data sources. Confidence in the validity of findings was strengthened where similar findings emerged from different data sources. The fourteen instruments consisted of:

1. Pre-mediation victim interview schedule
2. Post-mediation victim interview schedule
3. Pre-mediation offender interview schedule
4. Post-mediation offender interview schedule
5. Referred/no mediation victim interview schedule
6. Referred/no mediation offender interview schedule
7. Non-referral victim interview schedule
8. Non-referral offender interview schedule
9. Program staff interview schedule
10. Court official interview schedule
11. Mediation observation protocols
12. Coding form for restitution completion record data
13. Coding form for recidivism record data
14. Coding form for cost analysis record data

The data collection instruments were pre-tested with a small sample of participants at each site.

(Interview Data)

1. Interview Schedule for Victims & Offenders in Mediation

A standardized interview schedule, consisting of closed ended (including Likert scales) and open ended questions with probes, was administered pre and post mediation. Both the pre and post mediation schedules focused on the impact of mediation, client satisfaction, and the participant's understanding of justice and their attitudes toward the courts. The pre mediation schedule contained fewer open ended questions with probes and was designed to be administered in a brief phone interview within a week prior to the mediation. The post mediation schedule contain far more open ended questions with probes and was designed to be administered in person approximately two months after the mediation.

2. Comparison Groups

A standardized interview schedule, consisting of closed ended (including Likert scales) and open ended questions with probes, was administered to the two comparison groups (referred/no mediation group and the non-referral to mediation group) approximately two months after the disposition date for the case. The interview schedule focused on the impact of mediation, client satisfaction, and the participant's understanding of justice and their attitudes toward the courts. It contained fewer open ended questions with probes than the post mediation interviews schedules and was designed to be administered in a brief phone interview.

3. Interview Schedule for Program Staff

A structured interview schedule, consisting of primarily open ended questions, was administered to the program director at each site. Questions focused upon the initial development of the program, changes that have occurred over time and plans for the future. Various characteristics of the program, its funding sources and case management procedures were also addressed.

4. Interview Schedule for Court Officials

A structured interview schedule, consisting of both open-ended and close-ended questions, was administered to a sample of judges, probation staff and any other relevant court officials that have in one way or another been affected by the victim offender mediation program.

(Observation Data)

5. Observation Protocols

As this study examined the impact of the victim offender mediation process on participants, it was important to observe a sample of actual mediation sessions at each of the five program sites. Observation protocols were developed in order to capture a systematic picture of how the mediation process occurred. Particular emphasis was placed on how the mediator moved from the initial introduction, to encouraging the sharing of feelings related to the conflict, to negotiation of restitution and final resolution. The observation protocols were pre-tested with several cases in Minnesota.

(Record Data)

6. Coding Form for Restitution Completion

Data related to completion of restitution obligations by offenders was obtained from both program records and court records. A coding form was developed to systematically collect and record this data.

7. Coding Form for Recidivism Data

A coding form was used to systematically collect and record data in court records related to subsequent charges and adjudications. The type and degree of subsequent delinquent behavior was identified in order to determine its relative severity to prior delinquent behavior.

8. Coding Form for Cost Analysis

In order to examine potential cost implications to the court that are related to operation of victim offender mediation programs, a coding form was developed to record all relevant cost items so that a unit cost of mediation services could then be determined.

Pre-Test: Reliability and Validity Check

The data collection instruments were pre-tested with a small sample of participants at each site. Because of likely regional, if not cultural differences between the program

sites, it was important to assess whether or not the questions on the instruments had the same meaning at all sites. Having four different persons conduct the pre-test interviews provided a good reliability check. As a validity check, the specific wording of questions in the interview schedule, including those related to the Likert type questions, were examined during the pre-test of the instrument.

Safeguards for Human Subjects

Research subjects were informed of the purpose of the study and their right to refuse to participate in the study. A "consent to participate" form and phone protocol was developed for all research subjects. Names of all research subjects were filed in locked cabinet, separately from the data, with a number code available for appropriate data retrieval. All names were destroyed at the end of the project. Findings are presented in aggregate form; names of specific individual victims and offenders do not appear in the final report, with the exception of key program staff or court officials who gave permission to use their name.

Qualitative Data Analysis

Data analysis related to the face-to-face interviews began during the data collection phase. More intense analysis occurred after the completion of all the interviews, consisting of three essential components: data reduction, data display, and conclusion drawing/verification (Miles and Huberman, 1984). Data reduction consisted of focusing and simplifying the qualitative data emerging from the

interviews. Coding of data was important during this process.

Data display consisted of organizing and presenting the data in a format that facilitates conclusion drawing and verification. This required organizing and presenting the data under specific themes that were emerging.

Conclusion drawing was based upon the emergence of regularities, patterns and explanations. Finally, the meanings emerging from the data were then verified and tested for their plausibility and confirmability (i.e. validity). Cross validation (data triangulation) of qualitative and quantitative data was employed in the verification process. As Denzin (1978) and Patton (1980) note, triangulation represents a mixing of methodologies, in order for the researcher to be more confident in findings. Data triangulation, specifically, involved the use of two or more data sources in a study.

Validity Check: Data Triangulation

A major strength of qualitative data lies in the validity of observations which are made in a more natural setting and which provide more in-depth and contextual material. Yet, multiple data sources often can provide more valid conclusions. Data which emerged from the open-ended interview questions was cross-validated with the quantitative data provided by the Likert scales. This required examining the large volume of data from the open-ended questions and then cross-validating it with responses to identical questions in the form of Likert scales.

Quantitative Data Analysis

A major portion of the quantitative analysis was descriptive, depicting background characteristics of participants, level of satisfaction, and outcomes related to restitution and recidivism. This included frequencies and percentages. Quantitative data analysis also focused upon examining whether any significant differences existed within the four program sites between mediation participants, those who were referred but chose not to participate, and those not referred to mediation. The differences across sites was also explored to determine if size of program, length of program experience, or characteristics of participants are related to differential impact.

Since the level of measurement represented nominal and ordinal data, chi square was employed as the appropriate non-parametric test. For analysis purposes, the five point Likert scales were converted to a dichotomous variable. The criteria for a finding of significance was .05.

Strengths & Limitations of Study

This multi-site analysis of victim offender mediation is the largest study of its kind in the U.S.. It is more rigorous than previous research because of a number of factors.

Client satisfaction and perceptions of fairness are being examined through use of pre and post mediation instruments. Post-mediation data is being analyzed through use

of two comparison groups: (1) victims and offenders who were referred to the mediation program but did not participate in mediation ("referred/no mediation"); and, (2) victims and offenders from the same jurisdiction who have been matched (with the mediation sample) along the variables of age, race, sex, offense and priors but who were never referred to the mediation program ("non-referral").

This study represents the first attempt to examine the impact of mediation on successful completion of restitution. As noted earlier, restitution completion by offenders in victim offender mediation programs is being analyzed though use of a comparison group from the same jurisdiction that is matched along the variables of age, race, sex, offense and restitution amount. Offenders in this matched sample were ordered to pay restitution through the existing restitution program in the probation office.

The actual process of mediation, including mediator styles, is being examined through observations of mediation sessions. Through use of an observation protocol and a mediator assessment instrument, the process of mediating conflict between crime victims and their offenders can be more thoroughly analyzed.

No other study has examined the cost implications of operating victim offender mediation programs, in a number of different jurisdictions. Cost data related to the development and operation of victim offender mediation programs in the U.S., including the unit cost per referral or per mediation, has been collected and analyzed.

There are, however, a number of limitations in this cross-site analysis of victim offender mediation. The findings that have emerged cannot be generalized to other victim offender mediation programs that were not in the study. Because a true experimental design, with random assignment of subjects to an experimental and control group, was not possible, the conclusions and implications offered in this study are at best suggestive.

The lack of available relevant instruments in this new field of victim offender mediation, with well tested and high degrees of validity and reliability, required that entirely new instruments of a survey nature be developed. While they were tested for reasonable levels of validity and reliability, these instruments may lack the strength that comes with pre-existing and well tested instruments. This, obviously, was simply not possible in this study.

The level of measurement employed in the instruments was either nominal or ordinal. Even the Likert type of questions were collapsed into dichotomous variables for the purposes of analysis, therefore, the vast majority of data represents nominal data. The absence of true interval data required that only non-parametric tests be employed. As such, the chi square test for two independent samples was employed most frequently, with a criteria of .05 for significance.

The pre and post mediation measurement, as mentioned above, is part of the strength of the design of this study. As the instruments were administered, however, it became clear that the "pre" measurement occurred too late in the process. By the time the

pre-mediation interview was conducted, after the mediator had secured the interest of the party, a good portion of the overall mediation intervention had occurred. The victim or offender had been listened to, presented with information about the program and had expressed their commitment to participate. Their expectations were fairly high. This probably explains the frequent lack of significant change between the pre and post mediation interviews, when analyzed by individual rather than group. Efforts to conduct the pre-mediation interview prior to having any contact with the mediation staff were considered but no acceptable procedure could be determined by research and program staff that would not interfere with the required case management procedures.

Despite these limitations, however, it is the belief of the authors that the strengths of this multi-site study of victim offender mediation far out weigh whatever limitations are present. It will be important to address these limitations in future research, including the need for a longitudinal study to examine possible long term effects of the mediation process.

Chapter 3

RESTORATIVE JUSTICE THROUGH MEDIATING VICTIM OFFENDER CONFLICT

Our nation's response to crime and victimization is deeply rooted in the principles of "retributive justice". The entire focus of the criminal justice system is upon the State as the victim, with the actual individual victim being placed in a very passive role with little input. Adversarial relationships and processes are normative, as is the imposition of punishment, often severe, in order to deter or prevent future crime. The interpersonal character of criminal behavior is given little attention. Many would argue that the actual conflict between the victim and offender is heightened within the context of retributive justice (Zehr, 1985).

There is an increasing national interest in embracing the principles of a different paradigm of justice. "Restorative justice" views crime as a violation of one person by another, rather than against the State. Dialogue and negotiation are normative, with a focus upon problem-solving for the future rather than establishing blame for past behavior (Van Ness, et.al.,1989, Zehr, 1985).

Severe punishment of the offender is less important than providing opportunities to empower the victim in their search for closure, to impress upon the offender the real human impact of their behavior and to promote restitution to the victim. Instead of ignoring victims and placing offenders in a passive role, restorative justice principles place both the victim and offender in active and interpersonal problem-solving roles.

These principles of restorative justice are now being seen in a growing number of communities throughout North America and Europe in which crime victims are meeting with their offenders, talking about the crime, expressing their concerns and negotiating restitution. Victim offender mediation and reconciliation programs are now operating or developing in more than 100 jurisdictions in the U.S., 26 in Canada, 54 in Norway, 40 in France, 25 in Germany, 20 in Finland, 18 in England, 8 in Belgium and 9 in Austria (Umbreit, 1991).

Communities as diverse as Miami, Oakland, Albuquerque, Minneapolis, Valparaiso (IN), Ames (IA) and Montgomery (AL) are finding the process of mediating victim offender conflict to be an important tool for strengthening victim involvement in the justice system and holding offenders accountable directly to their victim.

Crime victims frequently feel powerless and vulnerable. Some even feel twice victimized, first by the criminal and then by the criminal justice system that often doesn't have the time to address their needs. Having been placed in a passive position with many of their needs ignored, many victims become increasingly angered at the entire criminal justice process.

Offenders rarely understand or are confronted with the human dimension of their criminal behavior - that victims are real people, not just faceless objects without feelings. Nor are offenders often given the opportunity to make amends to the person they victimized in a direct personal fashion. It's not surprising then, that both

victim and offender become more frustrated and angry as they move through the criminal justice system.

Victim offender mediation and reconciliation programs were developed to give the victim a stake in the criminal justice process and to provide a conflict resolution process which is perceived as fair by both parties. After discussing the crime and expressing their concerns, victims and offenders negotiate a restitution agreement consisting of payment of money or work for the victim's choice of a charity. Some victims actually want their offender to do odd jobs for them instead of paying cash restitution.

As the field of victim offender mediation continues to grow, most programs are being sponsored by private organizations working closely with the courts. But more probation departments or other public agencies are becoming sponsors of their own victim offender mediation program.

The mediation process is based on the idea that crime is directed at people - not just the State. The program seeks to downplay the adversarial dynamic which traditional court systems foster. The process begins when offenders (most often those convicted of such crimes as theft and burglary) are referred by the court. Some programs work with juvenile or adult offenders who are diverted from further court processing if the mediation is successful.

Each case is assigned to either a staff or volunteer mediator. In most programs, the

mediator meets with both the offender and victim separately before the mediation session is even scheduled. During this individual session, the mediator listens to the story of each party, explains the program and encourages their participation. Usually mediators meet first with the offender and, if he/she is willing to proceed with mediation, then later with the victim. Encouragement of victim participation in the mediation process must not be confused with coercion. The process is meant to be empowering for victims and offenders, presenting them with choices. Many programs routinely use co-mediators, including three of the four programs in this study.

It is only after the initial separate contact and an expression of willingness by both the victim and offender to proceed that the mediator schedules a face-to-face meeting. The meeting begins with the mediator explaining his or her role, identifying the agenda, and stating any communication ground rules that may be necessary.

The first part of the meeting focuses upon a discussion of the facts and feelings related to the crime. Victims are given the rare opportunity to express their feelings directly to the person who violated them, as well as to receive answers to many lingering questions such as "Why me?", or "How did you get into our house?", or "Were you stalking us and planning on coming back?". Victims are often relieved to finally see the offender, who usually bears little resemblance to the frightening character they may have conjured up in their minds.

During the meeting, offenders are put in the very uncomfortable position of having to face the person they violated. They are given the equally rare opportunity to display

a more human dimension to their character and to even express remorse in a very personal fashion. Through open discussion of their feelings, both victim and offender have the opportunity to deal with each other as people, oftentimes from the same neighborhood, rather than as stereotypes and objects.

The second part of the meeting focuses upon discussion of losses and negotiation of a mutually acceptable restitution agreement as a tangible symbol of conflict resolution and a focal point for accountability. Importantly, the court does not simply order a specific restitution amount. If victim and offender are unable to agree upon the amount or form of restitution the case is referred back to the referral source (oftentimes the sentencing judge), with a good likelihood that the offender will be placed in a different program. Mediators do not impose a restitution settlement. A written restitution agreement has been negotiated and signed at the end of the meeting by the victim, offender and mediator in more than 95 % of all meetings in many programs.

While certainly not meant for all victims and offenders, the mediation process provides an opportunity for the anger, frustration, and fear of some victims to be reduced; offenders can be held accountable for their behavior and can make amends, in a very real and personalized way; victims can receive compensation for their losses; and some offenders can be diverted from initial or continued costly incarceration in local jails or state correctional facilities.

As noted in Chapter 1, previous research conducted in Minnesota and on several of

the initial Victim Offender Reconciliation Programs in Indiana has found that both victims and offenders benefit through a more humanizing experience with the justice process. The victim offender mediation process results in very high levels of participant satisfaction and perceptions of fairness. Mediating victim offender conflict is certainly the most vivid expression of the principles of restorative justice within the complexity of our nation's juvenile justice system.

The description of the victim offender mediation process offered in this chapter represents the "generic" model that is employed by most programs. A number of programs, however, make significant modifications in this model, such as the program in Austin, Texas that is described in the next chapter. For more information about the specific programs in this cross-site analysis of victim offender mediation, refer to Chapter 4.

NOTE: This chapter is based on an article by Dr. Umbreit that was first published in the March 1991 Journal of the International Association of Residential and Community Alternatives. It is reproduced here with the permission of IARCA.

Chapter 4

PROGRAM SITES & PARTICIPANTS

- *Three of the programs were operated by private non-profit agencies, in Albuquerque (NM), Minneapolis (MN) and Oakland (CA).*
- *One of the programs was operated by a juvenile probation office in Austin (TX).*
- *Victim's primary expectation was to both recover their loss and to help the offender.*
- *Offender's primary expectation was to "make things right."*
- *91 % of victims indicated voluntary participation.*
- *81 % of offenders indicated voluntary participation.*
- *Victims who chose to not participate in mediation indicated the following reasons: lack of time; settlement was reached before mediation; and, no desire to meet offender because they were too angry.*

Victim offender mediation programs in four states participated in this study. The three primary program sites were located in Albuquerque (NM), Minneapolis (MN) and Oakland (CA). The program in Minneapolis serves both Hennepin County (Minneapolis area) and Ramsey County (St.Paul area), although by far the largest number of cases are referred by the juvenile court in Hennepin County. The program in Oakland serves the wider East Bay area with most referrals being received from communities outside Oakland itself. All of the research questions were examined at these sites.

A fourth site in Austin (TX) was added much later in the study, since it offered an interesting variable to examine. Whereas the three primary programs were all

operated by private non-profit agencies (reflecting the majority of victim offender mediation programs in the U.S.), the program in Austin was sponsored by the local juvenile probation office. A far more limited range of data collection and analysis occurred at the Austin program site.

The four program sites were selected for a variety of reasons. Each was at a point of development in which there existed a relatively stable stream of case referrals from the court and/or probation. A good deal of regional and programmatic diversity was found in these four sites. Finally, all of these sites expressed interest in participating in the study and were willing to commit resources of their agency over time to the completion of the research.

Each of the four program sites will be described below. Important characteristics of the programs, including developmental issues will be highlighted. First, the three primary sites will be presented. Then, the fourth site in Austin which entered the study at a later point will be addressed. It should be noted that a "case" is defined as each victim offender combination. Therefore, a crime involving one offender and three victims would be three cases since a good deal of work has to be done with each separate victim unit.

Albuquerque Program

The Victim Offender Mediation Program in Albuquerque is a rather unique joint public and private sector venture. While most other victim offender mediation programs throughout the country that are operated by private non-profit agencies

work closely with the local courts and particularly probation officials, the Albuquerque model appears to be one of the first to be designed as a jointly administered and funded program.

The program in Albuquerque is jointly sponsored and administered by the New Mexico Center for Dispute Resolution and the Juvenile Probation Office of the New Mexico Youth Authority. It began in the fall of 1987 and currently has an annual caseload of nearly 400 referrals.

The New Mexico Center for Dispute Resolution is a private non-profit community based agency that began in 1982 and provides a wide range of mediation and conflict resolution services. In fact, the New Mexico Center for Dispute Resolution is one of the more comprehensive mediation programs in the country to sponsor a VOMP, particularly since it also operates a number of other youth related mediation programs, including: parent-child mediation with status offenders referred by the courts in a number of local jurisdictions; school mediation; mediation training for youth in correctional institutions; and conflict resolution for violent juvenile offenders. In addition, NMCDR also provides training in conflict management that is tailored to specific organizations, such as health professionals.

The VOMP program in Albuquerque was originally designed to receive referrals from both the District Attorney's Office (diversion cases) and from Juvenile Court Judges (post-adjudication cases). During the first years of the program, most referrals represented non-violent property offenses by mainly first offenders that

would be diverted from further penetration into the court system if mediation was successful in resolving the conflict, including the victim securing restitution. Kids on probation were also referred. More recently, there has been an increase in cases that are referred at a post-adjudication level by the Juvenile Court.

The offices of the Victim Offender Mediation Program are located at the Juvenile Justice Center, which provides quick access to all probation staff and clients, as well as providing valuable "in-kind" support through free rent and supplies. In addition, VOMP staff become familiar to other probation staff, rather than being seen as "outsiders".

While sharing office space and entering the culture of probation staff is clearly beneficial to the program, it also requires VOMP staff to simultaneously maintain their own separate identity. They are mediators, not probation officers. A certain healthy tension needs to be present and this reality is openly affirmed by the Chief Probation Officer in Albuquerque, Doug Mitchell.

The juvenile probation office has designated one of their staff to serve as the Restitution Director. Part of this person's responsibility is to assist with the intake process by identifying appropriate cases to refer to mediation program and to monitor the payment of restitution.

Once a case is referred to the mediation program, VOMP staff or volunteer mediators of the New Mexico Center for Dispute Resolution call and meet with the

offender and victim separately, if both agree to do so. During these separate meetings, the mediator listens to their story, explains the mediation program, encourages their participation and, if they chose to enter mediation, schedules a mediation session.

The New Mexico Center for Dispute Resolution is responsible for recruiting, training and coordinating all volunteer mediators. Together with the Juvenile Probation Office, they also are responsible for securing funds and building public support for the Victim Offender Mediation. During the early life of the project, there were certainly some rough spots in working out the boundaries of this public/private sector partnership.

What initially began as a potential obstacle, however, later turned out to be a major strength of this collaborative effort. VOMP staff now are recognized for fostering a culture of mediation within the entire probation office, with potential benefits well beyond the victim offender mediation program itself. Rather than being co-opted by the larger bureaucracy, the presence of VOMP staff, on a daily basis, made a positive contribution to the larger organizational culture by promoting values of direct communication and conflict resolution.

From the beginning of the program in Albuquerque, volunteer mediators were extensively used. Use of volunteers was important in that it encouraged community participation in the program and it also represented a cost-effective way of administering the program. A total of 16 hours of training, conducted by a

consultant, was initially provided to each volunteer prior to handling a case on their own. The training focused upon the victim and offender experience, the mediation process and role plays to practice mediation skills.

Mediators are now required to complete a total of 40 hours of training, with additional time spent on skill building exercises related to communication and conflict resolution. Training is now provided by staff of the New Mexico Center for Dispute Resolution and nearly all cases are handled by co-mediators.

While VOMP in Albuquerque remains committed to using volunteer mediators, they have become increasingly aware of the investment of time and energy in recruiting, training, coordinating and nurturing volunteers. Managing a large number of people with different personalities and schedules can, at times, be quite difficult and time consuming. The benefits of using trained volunteers, however, continue to be far greater than the cost.

During the initial development of VOMP in Albuquerque, the support of the Juvenile Court Judge and the Chief Probation Officer was absolutely critical. While both of these individuals provided overall support, it was the Restitution Officer in the Probation Department that played an active day to day role in developing and administering the program.

As VOMP developed over the years, the support of the Juvenile Court Judges has remained vital to the on-going development of the program. Probation staff,

however, remain the most actively involved on a day to day basis with the administration of VOMP. Support from the Chief JPO remains crucial to the on-going growth and development of the program.

The most critical issue related to the development of the Victim Offender Mediation Program in Albuquerque has clearly been that of securing the financial resources to initially begin and then continue operation of the program. During the early months of the program, the New Mexico Center for Dispute Resolution had only limited designated funding for VOMP. In addition to relatively small grants from the state victim agency, and the city and county governments, the Center also used some of its general support funds to cover a portion of the cost of staff time. In 1990, VOMP was able to secure a State Youth Authority grant to further develop and expand the program. Without the in-kind support (staff time and supplies) provided by the juvenile probation department, however, VOMP would not have survived much beyond its first year. The program has now secured on-going state funding.

The other critical issue that VOMP faced was the need to significantly refine its case management procedures, as noted above, so that the much larger number of case referrals could be efficiently processed.

More information about this program can be obtained through contacting:

Victim Offender Mediation Program
New Mexico Center for Dispute Resolution
510 Second Street, NW
Albuquerque, NM 87102
(505) 247-0571

Minneapolis Program

One of the more well developed programs in the U.S. is the Center for Victim Offender Mediation (CVOM) in Minneapolis, a program of the Citizens Council Mediation Services sponsored by the Minnesota Citizens Council on Crime and Justice.

The CVOM began in 1985 and receives referrals of juvenile offenders from court services staff in Hennepin County (Minneapolis area) and Ramsey County (St.Paul area). The support of Juvenile Court Judges and Court Services staff in both counties has played a vital role in both the early development of the program and its continued growth.

Once a case is referred by the court to the Center for Victim Offender Mediation, it is assigned to a staff or volunteer mediator. Mediators are provided with approximately 25 hours of initial training, followed by periodic additional in-service training. During the early years of the program, however, only 12 hours of initial training was provided to mediators. The mediator first meets with the offender and victim separately to hear their story, explain the program and encourage participation. Participation in the mediation process is meant to be voluntary. If both agree, a mediation session is scheduled. The program in Minneapolis has done a particularly good job of presenting mediation as a truly voluntary option for offenders.

The program in Minneapolis was initially called VORP (Victim Offender Reconciliation Program). Prior to beginning the program in 1985, an extensive

amount of technical assistance and training was provided by an out of state consultant, made available through the National Institute of Corrections of the U.S. Department of Justice, for nearly two years. This technical assistance proved to be quite helpful in determining the most appropriate program design, case management procedures, and likely funding sources.

The program was designed to accept referrals of only juvenile burglary cases after a plea of guilty had been accepted by the court but prior to the disposition hearing. The offense of burglary was targeted because it represented a very serious and high volume offense, in which victims frequently experienced a great deal of emotional trauma as well as material loss. Rather than focusing on low end cases that could trivialize the potential benefits of mediation, it was believed that the new program could have the greatest impact on both parties by targeting the more serious offense of residential burglary, a crime that was of major concern to the community at the time.

It was believed that this post-adjudication and pre-disposition point of referral was most appropriate for several reasons. Victims of crime could have direct input into part of the penalty that the court would require of their offender. Such direct and active involvement of victims the justice system is rare. The offender's clear admission of guilt was present and there would seem to be few, if any, of the due process issues that are present in diversion cases (i.e. admitting one's guilt without the full benefit of due process protections offered by the court, particularly if the mediation was unsuccessful). Offenders would likely have a good deal of motivation

to participate in "making things right" prior to the disposition hearing. Also, judges would likely be more receptive to approving probation recommendations that included victim offender mediation if, at the time of sentencing, they knew that the victim and offender had already met and agreed the restitution plan that was attached to the pre-disposition report before the judge.

In Hennepin County, approximately 30 days elapsed between the acceptance of a plea of guilty and the disposition hearing. The case would be referred by either probation staff or restitution program staff within a week or so of the court acceptance of the guilty plea. The victim offender mediation program would then need to call the parties, meet with them separately and conduct the mediation. They would need to get the signed restitution agreement back to the probation or restitution staff in time for them to include it in their disposition report to the court. Unfortunately, this 30 day "window" proved to be too small. In practice, the window was more like two or three weeks.

During the initial year of the program, only a small number of cases were referred. By limiting referrals to only burglary, the program was clearly being underutilized. Moreover, handling cases (contacting the parties, making arrangements and conducting the mediation) during the window between adjudication and disposition proved to be too difficult in a large urban area such as Hennepin County.

Referral and case management procedures were later changed to accept any property offenses or minor assaults, at any point within the process. This could include cases

that were diverted from prosecution, cases following adjudication but prior to the disposition hearing, or cases that were referred after the dispositional hearing. Even more important, the program negotiated and implemented far more assertive referral procedures in which program staff would frequently review potential cases at the probation office and select those that seemed appropriate. In Ramsey County, a mediation staff person was housed in a branch office of the juvenile probation department. This proved to be extremely helpful in building better rapport between the victim offender mediation program and probation staff, and, particularly, in receiving case referrals.

The program was later renamed the Center for Victim Offender Mediation and is now one of several programs of the Citizens Council Mediation Services, sponsored by the Minnesota Citizens Council on Crime & Justice. Mediation Services also has a parent-child mediation program, a school mediation program and a youth in correctional institutions program. Staff at Mediation Services are increasingly providing technical assistance and training for other mediation programs in the state of Minnesota. The Minnesota Citizens Council on Crime & Justice is a United Way agency with a long history, over thirty years, of providing services to offenders, crime victims, families of offenders and the general public, through educational materials and policy reports.

During its early years, the program in Minneapolis had only limited referrals and only marginal support from the larger juvenile justice system. Today, the program has one of the larger caseloads of any victim offender mediation program in the U.S., enjoys

strong support from judges and probation staff in both Hennepin and Ramsey counties and has developed an increasingly strong funding base to support its work.

The most critical issues now facing the Center for Victim Offender Mediation are that of continuing to institutionalize its funding base and to expand its program to service adult offenders and their victims.

More information about this program can be obtained through contacting:

Citizens Council Mediation Services
Minnesota Citizens Council on Crime & Justice
822 South Third Street
Minneapolis, MN 55415
(612) 340-5432

Oakland Program

In October of 1986, Catholic Charities of Oakland began to explore the possible development of a new victim offender reconciliation program to serve the East Bay area. The agency had a long history of working with the socially disadvantaged, including persons affected by the criminal justice system. Catholic Charities of Oakland Diocese was currently involved in refugee and immigrant services, employment and placement services, counseling, services for seniors, and services for the physically and developmentally disabled.

Meetings were held with a number of key juvenile justice system contacts, including various representatives of the juvenile court in Contra Costa County. An out of state consultant assisted local program staff as they designed the new program and

attempted to secure public and system support for it. This consultant also provided the initial mediation training for volunteers. Particularly influential in the initial decision to work with a non-profit community agency like Catholic Charities was the Juvenile Probation Director, Thomas E. Jimison and Superior Court Judge John C. Minney.

After reviewing various programs, collecting material, and talking with local court officials, Catholic Charities made a commitment in June of 1987 to establish a Victim Offender Reconciliation Program (VORP) for juvenile offenders.

The new Victim Offender Reconciliation Program was to be part of the Office of Prisoner and Community Justice at Catholic Charities in Oakland. This criminal justice ministry coordinated activities related to prisoner advocacy and visitation, education for both victims and offenders and involvement in larger reform efforts in the Bay area. Catholic Charities worked in both Alameda County (Oakland) and the neighboring Contra Costa County to the east.

The program began with a budget of approximately \$20,000 and a staff of .50 FTE. By 1990 the budget had increased to \$75,000 and a staff of 3 FTE (one of which is a full time VISTA type volunteer who receives stipend). VORP was originally funded by general funds of the sponsoring agency (representing individual donors) and a small grant of \$5,000 from a local foundation. During 1990, the program was funded by a \$36,000 grant from Alameda County, an \$11,350 grant from Contra Costa and the balance from discretionary funds from Catholic Charities. Both of the above

county grants were made possible as a result of a fairly recent California law that provided funds for local dispute resolution programs through a court filing fee and to be administered through local county committees.

The new VORP program was designed to accept referral of juveniles offenders who had committed primarily property offenses from the courts and probation offices in Contra Costa and Alameda counties. Actual case referrals could occur at either a diversion level or a post-adjudication level, although most cases are referred at the diversion level. Initially, most case referrals came from Contra Costa County. In the last couple of years this has changed dramatically, with most referrals now coming from Alameda County (outside the city of Oakland itself).

Cases would first be identified by the probation department based upon the following referral criteria: property offense; 1st or 2nd offense; identifiable loss requiring restitution.

After the probation department referred the case to VORP, staff at VORP would then send a letter to both parties to inform them that their case had been referred to VORP and to mention that VORP mediators would be contacting them. The mediators would call the offender and then conduct an individual meeting with the offender and his or her parents. During this meeting, the mediator introduced the VORP process, listened to their story, collected information, and offered the offender and his or her parents the opportunity to participate in mediation if their victim was willing to.

A brief call would then be made by a mediator in order to set up an individual meeting between the mediators and the victim. During this individual meeting with the victim, the mediators would introduce the VORP process, listen to the victim's story, assess the impact that the crime had upon the victim, collect information about actual losses, and invite the victim's participation in the program.

It should be noted that while participation by the offender clearly had a less than voluntary dimension due to the nature of being referred by the court system, participation in mediation was not mandatory and the volunteer's role was to make that clear to the youth and his or her parents. Additionally, participation of the victim was meant to be entirely voluntary.

Following these two individual meetings, one with the offender and one with the victim, the actual face-to-face mediation session was scheduled and conducted. The mediation sessions began with an opening statement by the mediator to explain their role, present groundrules and identify the agenda for the meeting. The first part of the meeting was meant to focus upon what happened and how the parties felt about it. The second part of the meeting was to focus upon the losses incurred by the victim and the need to negotiate a restitution agreement that was considered fair to both. Immediately after the opening statement by the mediator, both the offender and the victim would have some uninterrupted time to tell their story.

It should be noted that the case management system employed by this program, as

well as the vast majority of victim offender mediation and reconciliation programs operated by private non-profit agencies, it quite different from the process used by most community dispute resolution centers. Rather than having staff do the initial case development work, with mediators being totally removed and not entering the process until the time of the mediation session, mediators in VORP handle the case from the initial contact with both parties through the mediation. This continuity in the mediator's role helps to build trust and increases a party's willingness to participate in mediation.

From its inception in 1988, the Victim Offender Reconciliation Program of Catholic Charities in the East Bay area has used volunteer mediators. It was believed that direct community involvement in a program like VORP was important, as well as the more practical recognition of needing to stretch their limited resources. During the early months of the program there were six community volunteers. Today there is a pool of about eighty (80) volunteers. This program routinely uses co-mediators in all cases and therefore a much larger pool of volunteers is required. Other programs in the study only periodically use co-mediators.

Training of volunteers in the program has evolved with the program. Initially, volunteers received only twelve (12) hours of training, which consisted of a basic overview of the program, case management steps, mediation techniques and role playing of mediations. Today volunteers receive an initial thirty (30) hours of training consisting of all of the above elements of training plus more extensive material on communication skills (active listening, effective speaking, balancing

power, defusing anger, cross-cultural issues), teamwork, and an examination of their own assumptions about conflict and communication. The program also conducts continuing education events for volunteers and a training for trainers program where experienced volunteers develop their own training skills. The program views ongoing skill development as a payoff for volunteers' involvement and a way to keep volunteers interested and excited about their work.

The most critical issue that faces the program in Oakland is that of securing more stable on-going funding to support its work.

More information about this program can be obtained through contacting:

More information about this program can be obtained through contacting:

Victim Offender Reconciliation Program
Catholic Charities
433 Jefferson Street
Oakland, CA 94607
(510) 834-5656

Austin Program

A fourth site in Austin, Texas was added quite late in the study. This program began in early 1990 and is operated by the Travis County Probation Department, in conjunction with the Travis County Dispute Resolution Center. Precisely because all of the initial three sites are sponsored by private agencies, the Austin program offered a unique addition to the original design of the study, by allowing for analysis of any possible affects of a public versus private victim offender mediation program upon client satisfaction and perceptions of fairness.

The Travis County Juvenile Court Department operates under the balanced approach philosophy which requires that juvenile offenders are held accountable for their behavior, are offered a plan to build their individual competencies and that they are supervised for the purposes of protecting the public. Two court and probation units supervise approximately 500 juvenile offenders. They implement the balanced approach by providing stringent community-based supervision to protect the public (which may include electronic monitoring) and a case plan to address accountability and individual competency concerns.

Through the accountability component of the balanced approach, the Travis County Juvenile Court Department attempts to instill a sense of owning their criminal behavior and facing the consequences of it. It is here that the victim offender mediation program fits into the balanced approach, along with monetary restitution to the victim and community service restitution. The accountability, as well as the competency building, component is staffed by the Program Support Unit in the department.

The victim offender mediation services are provided by the Travis County Juvenile Court Department in cooperation with the Travis County Dispute Resolution Center, which provides a wide range of mediation and conflict resolution services in the community. The Juvenile Court develops the case by contacting and preparing youth and their victims for the mediation process. Case development includes assisting victims in documenting monetary loss, applying for state funds under the Victim's

Compensation Act, and furnishing victims with any needed referral information.

After the initial case development, the case is then scheduled for one of two evenings during the week during which a mediator from the Travis County Dispute Resolution Center will be available. The Mediation Case Developer from the Juvenile Court will be present during the evening of the mediation and will brief the mediator prior to the session. This procedure in which the mediator has no prior contact with the victim and offender, through case development, is different from the vast majority of other victim offender mediation programs throughout the U.S., including the three primary program sites in this study. The procedure is, however, quite consistent with how many mediation programs mediate neighborhood disputes.

The program aims to promote offender accountability and build competency through the juvenile's participation in conflict resolution sessions. For the victims, the desired outcomes for this process include restoring the victim's loss and addressing any of their continuing concerns resulting from the crime. Mediation case developers manage their own caseloads as well as serve as a resource to all probation officers regarding victim/offender restitution.

More information about this program can be obtained through contacting:

Victim Offender Mediation Program
Travis County Juvenile Court
2515 South Congress Avenue
Austin, TX 78704
(512) 448-7000

Table 18
1991 Program Characteristics

| Characteristic | Albuqu. | Austin | Mnnpls. | Oakland |
|---|----------|---------|-----------|-----------|
| Start date | 1987 | 1990 | 1985 | 1987 |
| Primary referral source | probatn | probatn | probatn | probatn |
| Sponsorship/management | private | public | private | private |
| Total 1991 budget | \$31,530 | 106,241 | \$123,366 | \$127,176 |
| Number of staff | 1.5 FTE | 3.5 FTE | 3.6 FTE | 3.5 FTE |
| Use of co-mediators | always | always | sometime | always |
| Number of vol. mediators | 32 | NA | 30 | 80 |
| Length of mediation trng. | 40 hrs | 40 hrs | 25 hrs | 30 hrs |
| Total 1991 case referrals | 391 | 853 | 453 | 368 |
| Total mediations in 1991 | 108 | 246 | 179 | 129 |
| Proportion of mediations to case referrals in 1991 | 28% | 29% | 40% | 35% |

Characteristics of Referrals

The following chart indicates the characteristics of offenders at the four program sites.

Table 19
Offender Characteristics
(Two Year Period, 1990-91)

| Variable | Albuqu | Austin | Mnnpls | Oaklnd | Total |
|-------------------------|--------|--------|--------|--------|-------|
| 1. Average offender age | 15 | 15 | 15 | 15 | 15 |
| 2. Offender age range | 10-19 | 10-17 | 10-18 | 7-18 | 7-18 |
| 3. Offender gender | | | | | |
| a. Male | 90% | 87% | 82% | 82% | 86% |
| b. Female | 10% | 13% | 18% | 18% | 14% |
| 4. Offender race | | | | | |
| a. Caucasian | 30% | 31% | 70% | 64% | 54% |
| b. Black | 2 | 25% | 23% | 15% | 14% |
| c. Hispanic | 65% | 42% | 2% | 15% | 27% |
| d. Other Minorities | 3% | 2% | 5% | 6% | 5% |

Taken together, two out of three cases referred to the four programs occurred prior to formal adjudication, as a diversion effort. As Table ___ indicates, the remaining cases (31%) were referred following formal adjudication by the juvenile court. While the proportion of post-adjudication referrals at individual sites varied from 2% in Austin to 41% in Minneapolis, the vast majority of cases at all sites represented pre-adjudication referrals.

Table 20
Referral Characteristics
(Two Year Period, 1990-91)

| Variable | Albuqu | Austin | Mnnpls | Oaklnd | Total |
|--------------------------|--------|--------|--------|--------|--------|
| 1. Cases referred | 591 | 1,107 | 450 | 173 | 823 |
| 2. Pre adjudication | 76% | 98% | 59% | 88% | 69% |
| 3. Post adjudication | 24% | 2% | 41% | 12% | 31% |
| 4. Individual victims | 593? | 1,058 | 317 | 115 | 634 |
| 5. Individual offenders | 604 | 1,087 | 332 | 111 | 656 |
| 6. Type of offenses | | | | | |
| a. Against property | 73% | 81% | 89% | 84% | 87% |
| b. Against people | 27% | 19% | 11% | 16% | 13% |
| 7. Most frequent prprty. | burgl. | burgl. | vandl | vandl | vandl |
| 8. Most frequent violent | assalt | assalt | assalt | assalt | assalt |

Client Expectations for Mediation

For those victims and offenders who participated in a mediation session, there were a number of different expectations for the mediation session. Victims were most likely to indicate that recovering their loss and helping the offender were equally the most important expectation they had. This was followed in frequency by the opportunity to tell the offender the effect of the crime and, finally, getting answers to questions they had about the crime.

While only one (1) in four (4) victims indicated that they were nervous about the pending mediation session with their offender, nine (9) out of ten (10) victims

believed that the mediation session would probably be helpful.

Offenders were most likely to indicate that "making things right" was their primary expectation. This was followed in frequency by having the opportunity to apologize to the victim and, finally, to be able "to be done with it." Only one (1) out of ten (10) offenders indicated that they expected the mediation session with their victim to be less punishment than they would have otherwise received. Nearly half of the offenders, from the combined sites, stated that they were nervous about the pending mediation session with their victim. Six (6) out of ten (10) offenders indicated that they cared about what the victim thought of them and, similar to their victims, nine (9) out of ten (10) offenders believed that the mediation session would be helpful.

Voluntary Participation in Mediation

The question of whether or not victims and offenders actually participate voluntarily in mediation is crucial to the integrity of the victim offender mediation process. From the perspective of the young offender, it is important that they have ownership in the mediation process and outcome. Moreover, if they were coerced into mediation against their will, this anger could be reflected in their behavior in the meeting with their victim.

A major concern of the victim rights movement is the issue of choice, allowing victims various options to regain a sense of power and control in their lives. If the victim offender mediation process was imposed upon victims of crime, in a coercive manner, the experience itself could be victimizing.

While a very high proportion of both victims (91%) and offenders (81%) clearly felt that their participation in mediation was voluntary, victims of crime were even more likely to indicate their belief that they were not coerced into mediation. For victims, there were no significant differences between the three program sites.

An earlier study by Coates and Gehm (1985) found that many offenders did not experience their involvement in mediation as voluntary. Particularly because of the highly coercive nature of any justice system's interaction with the offender, one would expect that many offenders in mediation would feel coerced into it. Yet, eight (8) out of ten (10) offenders from the combined sites experienced their involvement in mediation as voluntary. There was, however, a significant difference found between program sites. The Minneapolis program site had the highest rating of voluntary participation for offenders (90%), while the Albuquerque program site had the lowest rating (71%).

Reasons for Non-participation in Mediation

For those victims who were referred to a victim offender mediation program, but chose to not participate, there were three major themes. The first theme focused upon the inconvenience of the mediation relative to the actual loss. This is reflected in such statements as "I didn't really have the time", or, "the loss was small...it just wasn't worth the trouble." A second theme related to the fact that a number of victims had already directly worked out a settlement with the offender. In these cases, mediation was obviously not necessary. The third theme centered on the

victim being too angry to meet the offender and/or disbelieving the offender's sincerity. "I really didn't want to see his face again; he would have just laughed." "I didn't want to see him because I would get mad." "This kid is so terrible and mean...flipping me off..I didn't want to ever see this jerk."

Offenders were far less clear in articulating the reasons they chose to not participate in mediation. The most frequent reasons focused upon their fear of facing the victim and their belief that facing the victim would not solve anything. "I just didn't think that being brought together with her could solve anything."

More extensive data related to the reasons for non-participation in mediation was obtained at the Minneapolis program site. For the 302 cases that were referred during 1991 but which did not enter mediation, the following reasons were identified:

Table 21
 Reasons for Non-Participation in Mediation
 Minneapolis Program Site - 1991

| Reason | N | % |
|--|-----|------|
| Victim unwilling to meet | 64 | 21% |
| Offender unwilling to meet | 17 | 6% |
| Couldn't find victim | 18 | 6% |
| Couldn't find offender | 19 | 6% |
| Situation already resolved | 100 | 33% |
| Restitution agreement was mediated indirectly with no direct V/O contact | 70 | 23% |
| Other | 14 | 5% |
| Total | 302 | 100% |

Chapter 5

IMMEDIATE OUTCOMES

- *Total of 1,131 mediations held at the four programs during 1990-1991.*
- *95 % rate of successfully negotiating restitution agreements*
- *Mediation had a significant effect on reducing victim's anxiety and sense of vulnerability.*

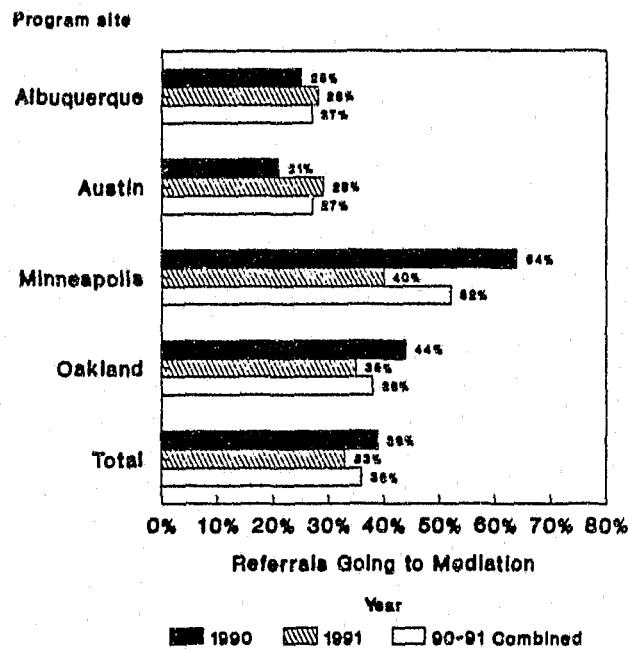
The victim offender mediation process results in a number of different outcomes for both parties. In this chapter, immediate outcomes, such as the number of mediations held and the type and frequency of restitution agreements negotiated, will be presented. First, data will be presented for calendar year 1990 and 1991 separately. Then data will be presented for the combined two year period representing calendar years 1990 and 1991. The following chapters will address quality of justice outcomes (client satisfaction and perceptions of fairness) and mid-range outcomes (restitution completion and recidivism 12 months after the mediation).

The first outcome to be examined is that of mediation itself. In other words, of those cases referred to the victim offender mediation program how many actually result in a face-to-face mediation session? It is important to begin at this point since other potential material, emotional or informational benefits of mediation cannot occur unless the parties actually meet. It is frequently mentioned in the broader field of victim offender mediation that approximately 50-60 % of referred cases end up in a mediation session. We will report on a far broader range of "getting them to the table"

rates, based on a two year period at four program sites in different geographical regions of the U.S..

As can be seen in Figure 8, the proportion of referrals to victim offender mediation that resulted in a mediation session ranged from a rate of 21% in Austin (TX) during 1990 to 64% in Minneapolis (MN) during 1990. There was a smaller range during 1991, with a low of 28% in Albuquerque to a high of 40% in Minneapolis. For the combined two year period, the range was from 27% in Albuquerque and Austin to 52% in Minnesota. The average rate for all four sites combined was 39% in 1990, 33% in 1991 and 36% for the combined two year period.

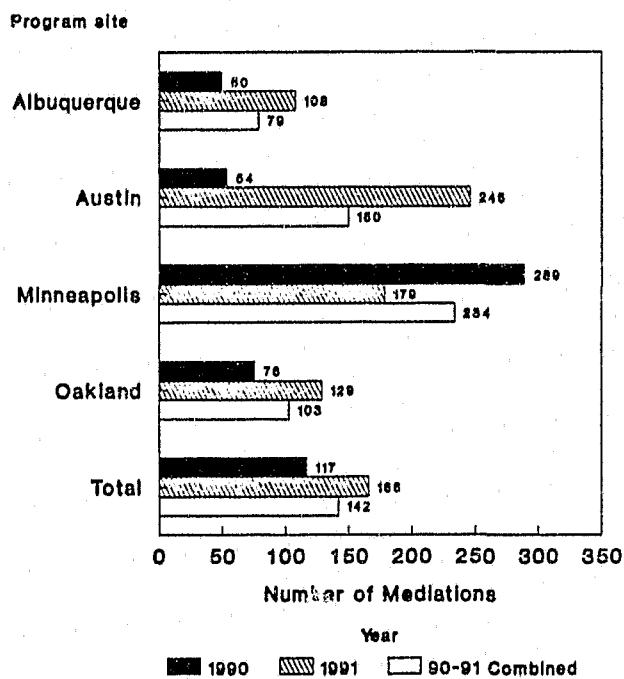
Figure 8
Proportion of Referrals
That Result in a Mediation Session



While the rates of referrals to mediation that result in a mediation session are lower in this study, with the exception of the Minneapolis program site, a possible explanation may be found in the manner in which the referral process has changed over the years. In the early years of victim offender mediation programs, including the three primary sites in this study, a list of criteria was provided to probation staff and mediation program staff waited for cases to be referred. This relatively passive procedure resulted in fewer cases being referred and much more selective cases being referred (i.e. those most likely to agree to mediation). In more recent years, all of the three primary research sites negotiated and implemented far more assertive referral

procedures. This resulted in mediation staff receiving a much larger number of cases. The proportion of this much larger number of cases referred to victim offender mediation that resulted in mediation, however, obviously decreased.

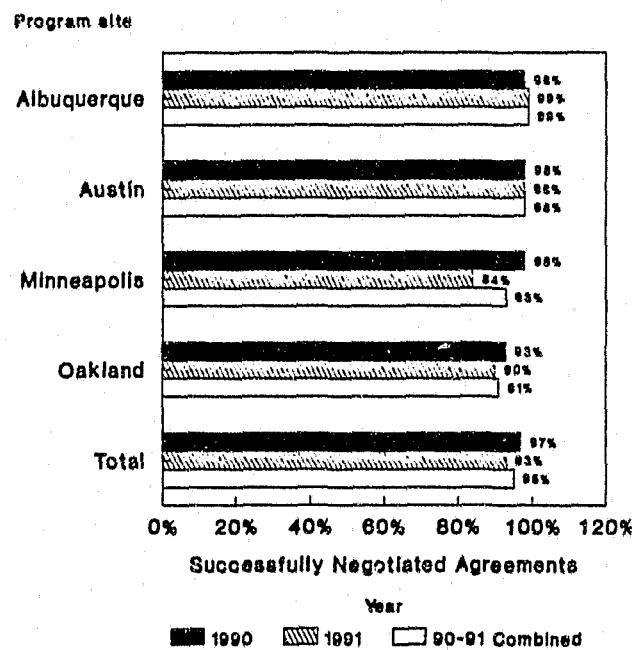
Figure 9
Number of Mediations Per Site



The number of mediations held at the combined four program sites increased by 42% from 1990 (117 mediations) to 1991 (166 mediations). As Figure 9 indicates, during 1990 the number of mediations at individual program sites ranged from 50 in Albuquerque to 289 in Minneapolis. While the number of mediations increased during 1991, with the exception of the Minneapolis program site, the difference in the number of mediations across program sites was smaller, ranging from a low of 108 in

Albuquerque to a high of 246 in Austin. The number of mediations in Minneapolis decreased 38% from 1990 to 1991. All other sites had large increases from 1990 to 1991 in the number of mediations held, ranging from a 70% increase in Oakland, a 116% increase in Albuquerque and a 192% increase in Austin.

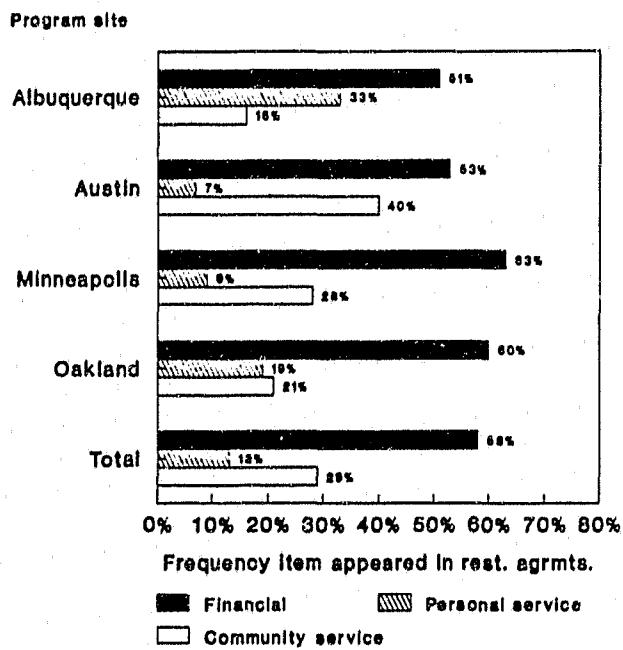
Figure 10
**Successfully Negotiated
Restitution Agreements**



The most obvious immediate outcome for those victims and offenders who chose to participate in mediation, as noted in Figure 10, is the highly probable successful negotiation of a restitution agreement, ranging from 90% in Oakland during 1991 to 99% in Albuquerque during 1991. For the combined two year period of 1990 and 1991, the rate of successfully negotiated restitution agreements at the end of the

mediation session for all four sites together was 95%. This represented a rate of 99% in Albuquerque, 98% in Austin, 93% in Minneapolis and 91% in Oakland.

Figure 11
Frequency in Which Type of Restitution
Appears in Restitution Agreements

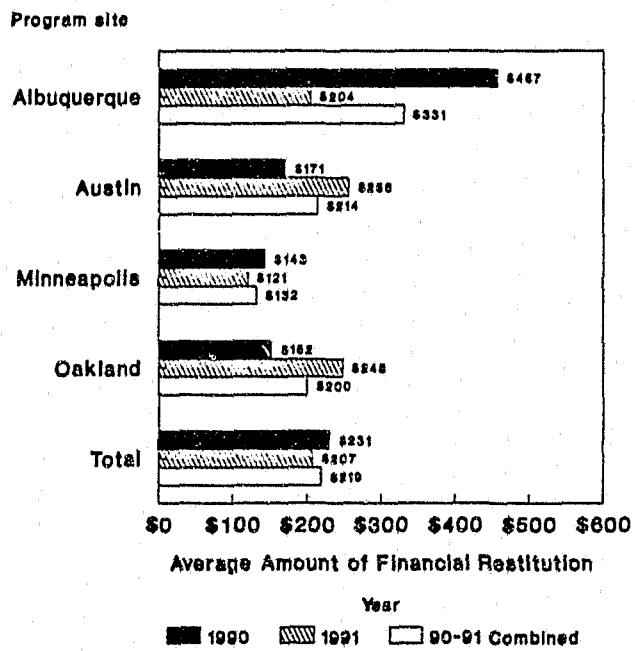


(Calendar Years 1990-91)

These agreements consisted of a variety of elements, as noted in Figure 11. Most (58%) focus upon payment of financial restitution by the offender to the victim, however, it is not unusual for agreements to include personal service (13%) for the victim or community service (29%), both of which are likely to result from conversion of a specific dollar amount of loss into hours of work, usually at an approximate minimum wage rate. Some restitution agreements simply require an apology by the offender to their victim. At all of the four programs financial restitution was clearly

of a specific dollar amount of loss into hours of work, usually at an approximate minimum wage rate. Some restitution agreements simply require an apology by the offender to their victim. At all of the four programs financial restitution was clearly the main form of restitution that was negotiated and established during the mediation session between the victim and offender.

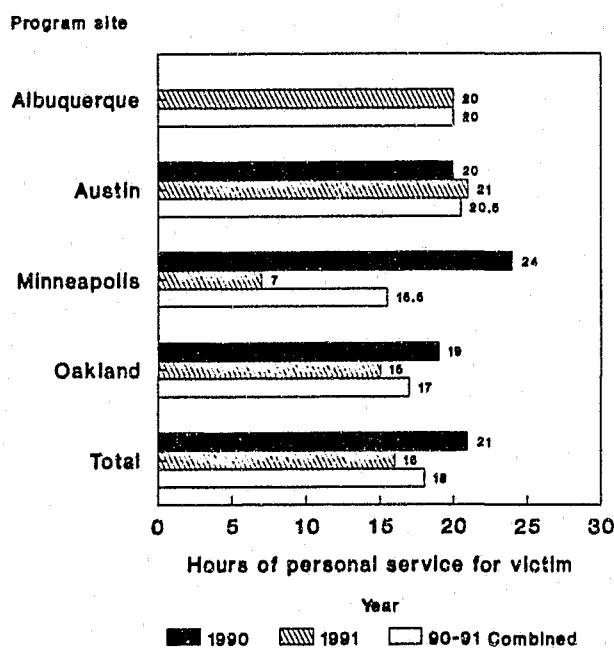
Figure 12
Average Amount of Financial Restitution Per Negotiated Agreement



The average amount of financial restitution established in mediated agreements varied considerably at different program sites during 1990, ranging from \$143 in Minneapolis to \$457 in Albuquerque (Figure 12). During 1991 there was a smaller

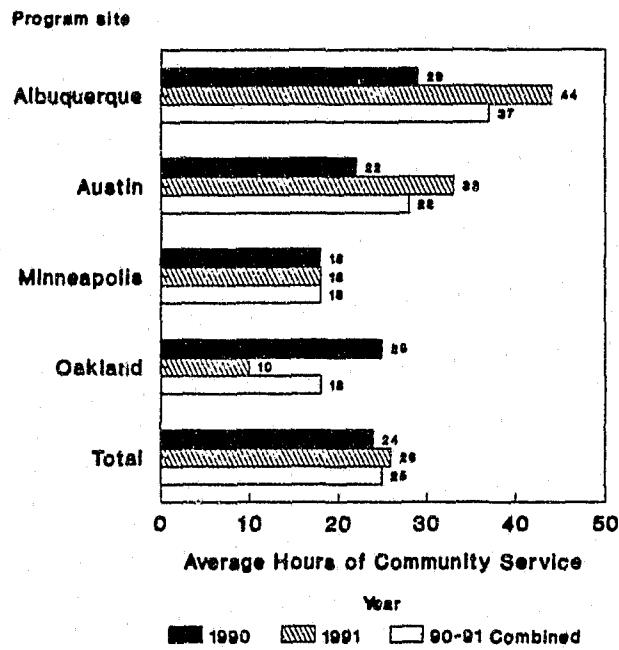
agreement across all program sides was \$219.

Figure 13
Average Amount of Personal Service
Restitution Per Negotiated Agreement



The average number of personal service hours to be performed by the offender for the victim was in the range of 15-20 hours at all sites during both years, with the exception of Minneapolis in 1991 which had an average of only 7 hours of personal service for those restitution agreements that contained the element of personal service. Across all sites, the average was 21 hours of personal service during 1990, 16 hours during 1991 and 19 hours for the combined two year period.

Figure 14
Average Amount of Community Service Restitution Per Negotiated Agreement



Community service represented the least frequent form of restitution to be included in the mediated agreements. During 1990, as noted in Figure 14, the average number of hours of community service per agreement ranged from 18 hours in Minneapolis to 29 hours in Albuquerque. During 1991, the range of community service hours across sites was a low of 10 hours in Oakland to a high of 44 hours in Albuquerque. For the combined two year period of 1990 and 1991, the average number of community service hours per restitution agreement across all sites was 25 hours.

Table 22 provides a summary of the immediate outcomes that occurred across all four

program sites during the combined two year period of 1990 and 1991.

Table 22
Immediate Outcomes
(Two Year Period, 1990-91)

| Variable | Albuqu | Austin | Mnpls | Oaklnd | Total |
|--|----------|----------|----------|----------|---------|
| 1.Number of mediations | 158 | 300 | 468 | 205 | 1,131 |
| 2.Successfully negotiated restitution agreements | 99% | 98% | 93% | 91% | 95% |
| 3.Agreements with: | | | | | |
| a.Financial restitution | 82 | 171 | 239 | 111 | 603 |
| b.Personal service | 57 | 21 | 31 | 36 | 145 |
| c.Community service | 29 | 130 | 107 | 39 | 305 |
| 4.Total financial rest. | \$23,542 | \$41,536 | \$32,301 | \$23,227 | 120,606 |
| 5.Average financial rest. | \$287 | \$243 | \$135 | \$209 | \$200 |
| 6.Total personal serv/hrs | 1,028 | 439 | 508 | 585 | 2,560 |
| 7.Average personal serv. | 18 hrs | 21 hrs | 16 hrs | 16 hrs | 18 hrs |
| 8.Total community serv/hr | 1,073 | 4,064 | 1,937 | 588 | 7,662 |
| 9.Average community serv. | 37 hrs | 31 hrs | 18 hrs | 15 hrs | 25 hrs |

Restitution contracts are not the only immediate outcome of the mediation program. And participants, after going through mediation, often indicate other more important outcomes had occurred to them by participation. Table 23 depicts two outcomes which underscore the importance of a face-to-face mediation. Crime victims from all of the sites combined were significantly less upset about the crime and less fearful of being re-victimized by the same offender after they were able to meet their offender

in mediation. These findings held true at individual sites, with the exception of Albuquerque (feeling upset about the crime) and Oakland (afraid of being revictimized).

Table 23
Emotional Impact of Mediation on Victim

| Combined Sites | Pre-Mediation % | Post-Mediation % | P Value |
|---|--------------------|---------------------|------------|
| | N | N | |
| Upset about crime | 67% (155) | 49% (162) | p=.0001* |
| Afraid of being revic- timized by offender | 23% (154) | 10% (166) | p=.003* |

* Finding of significant difference

Chapter 6

MEDIATION OBSERVATIONS: CASE EXAMPLES & ANALYSIS

In order to more thoroughly understand how the mediation process actually works, the study conducted observations of mediation sessions at each of the three primary program sites in Albuquerque, Minneapolis and Oakland. Particularly since so much of the mediation process is based upon verbal and non-verbal communication skills, observing a sample of mediation sessions was critical. A total of twenty-eight (28) observations were conducted across the three sites. Fourteen (14) observations were conducted at the Minneapolis site, twelve (12) at the Albuquerque site, and two (2) at the Oakland site. Research Assistants used an observation protocol to guide them in viewing all mediation sessions.

Four (4) composite observations of mediation sessions will be presented, in order to display a range of case examples involved in the victim offender mediation process. A qualitative analysis of the observations will then be presented, including a number of dangers and pitfalls.

Composite Observations of Mediation Sessions

Case Example #1: "In The Yard Again"

The following mediation meeting took place in a pleasant room in a neighborhood church. None of the participants are members of this particular church.

The offender, Brian, is a 15-year old white male. He is charged with battery. The victim, Sarah, is a 14-year old white female. She was struck in the leg by a pellet fired by the offender from his air rifle. The offender is accompanied by his mother; the

victim has present her mother and step-father.

The offender is hesitant and avoids making eye contact with anyone. He finally finds a spot on the floor at which to stare. The victim anxiously fiddles with her hands.

After the introductions, the mediator explains the ground rules for the meeting as well as her role as mediator. She invites both sides to be respectful and open to telling their stories. The mediator invites Sarah to begin.

"I was in my own yard working in the garden. I was bent over weeding when I felt a sharp sting in my right leg. Some blood was oozing from my leg." The victim seems to lose concentration and is close to tears.

The mediator elicits more of Sarah's story. "What did you do then?"

"I turned around and saw him and his friend running toward his house. He had a gun in his hand. I thought, my God, he shot me!" And I started screaming."

"What happened then?"

The victim's mother responds. "I heard the screams and dashed out of the house to see what was wrong. A little blood was coming from her wound, but she was screaming almost beyond control. I got her into the house where we washed the wound. I felt a tiny hard lump and found the pellet but could not get it out."

"I called the police," chimed in the victim's stepfather, "and we took her to the trauma center at the hospital. Medical staff calmed her down and very simply removed the pellet. We then went home with still a very frightened girl on our hands. It was a helluva thing to happen; we had just moved in the weekend before."

"Brian, why don't you tell us what happened that morning?" asked the mediator.

Without glancing up, Brian responds, "Well, me and my friend were in the backyard shooting around. I didn't really aim at her. I didn't really think the gun could shoot that far."

"You didn't really want to hurt me."

"No, I didn't think we could hit you even if I tried."

"Didn't you hear me yell?"

"Yeah."

"Well, then, why did you run away?"

"We were scared. Real scared. Thought maybe we had really hurt you."

Silence ensues. Victim and offender seem to feel that they have little to add.

The Step-father of the victim points out to the offender that things could have been worse. "You could have put out an eye; you could have blinded her."

"I know. I know. That's why we were so scared," the offender moans. "I'm sorry it happened. It was stupid."

Both mothers are visibly moved by Brian's comments.

The mediator moves the discussion toward possible restitution. "I am sure that your apology is appreciated, Brian, but how else might you begin to repay Sarah and her family for the pain and suffering that they went through because of you?"

"I don't know."

Turning to Sarah's parents the mediator asks, "How much were the hospital bills?"

"Ah, \$750 with a \$300 deductible," Sarah's mother replies. "If he could repay the deductible," the victim's step-father suggests, "we could call it even."

"Can you do that?" asks the mediator. The offender nods. The mediator continues. "With your paper route job, you could pay \$50 a month for six months. Is that OK with you?"

"Yeah, I can do that."

"Is that OK with every one else?" He looks around as all nod agreement.

As the mediator begins to fill out a contract form, the offender's mother says, "I think that \$50 a month is fair, but I don't think it is enough given what we are trying to do here and given the amount of personal trauma that Brian caused Sarah and her family. I think he should have to do something more personal."

The mediator looks at Brian. "Do you have any ideas?"

"He could do my homework for a month," says Sarah with a relaxed smile.

"No, that won't be needed," chuckles Sarah's mother, "but some help with the yard would certainly be appreciated. And we do want to be good neighbors."

As the mediator writes up the contract there is some side discussion. The offender's mother talks about how embarrassing all of this has been and how she has punished Brian. "There is no more air rifle, ever."

All parties sign the contract. The mediator thanks everyone for coming and for being so cooperative. The families go out together, and the last comment heard was that of the offender's mother. "Now maybe I can go out in the yard again and look across the

fence."

Case Example #2: "Which Car?"

This mediation took place in a small meeting room at a local community center. The mediator, James, is at the head of the table. Edward, the 15-year old offender is on the left of James. The offender is slumped in his chair trying to appear at ease. Alice, the 25-year old black victim is across from Edward. She appears confident with her hands folded neatly in her lap. Edward, along with other friends, is charged with stealing Alice's car.

The mediator begins: "Before we start I want to go over some ground rules. Each of you will have an opportunity to tell your story of events as you experienced them. I want you to be respectful, listen, and not use abusive language. Express your feelings. We will then try to work out some kind of an agreement. If you cannot come to an agreement, that is OK, but hopefully you will. As you know I am not on the staff at the court, but any agreement which you make here will be sent to the court. Are there any questions?"

"If there are no questions, who would like to start?"

The offender shrugs.

After a few brief moments, the victim says, "I can start."

"I had a frantic day at the office and stopped at the grocery store so I wouldn't have to go out later. When I got home, I parked at the curb as usual. Normally I lock the car each time I carry a load up to the apartment. Apparently, I forgot. As I was putting away items in the freezer, a friend knocked on the door."

She said, "I heard noises inside but didn't expect to find you here."

"Why not?" I asked.

"Because of your car. Did someone drive you home?"

"Of course not, I parked it right out front."

"The hell you did. It ain't out there now."

"What!" I pushed past my friend to look out the window. I was shocked. "It wasn't there. I still don't see how they could have stolen it so quickly. But they did."

The mediator asks, "How did you feel at that time?"

"Shocked. Dumb. Invaded. At a loss of what to do. I thought maybe they would just

take the car for a ride and drop it back."

"When did you see the car next?"

"It was about four weeks later when the police called."

"Why don't you tell Edward what you saw when you went down to the garage? Tell him how you felt."

Looking directly across the table at Edward, Alice responds. "It was a damn mess. The trunk lid was gone. The inside was carved up. Hardly any of the upholstery was together. The shifter was missing. Windshield broken. Two tires gone, the other two smashed. I was told many of the parts under the hood were gone; I didn't look. The car was totalled."

"How did you feel when you saw it?" the mediator asks again.

"Helpless. What was I going to do?" Then looking right at Edward, Alice says, "And I thought to myself what little bastard would do such a thing. And how I would like to get my hands on him. Ripping off my car was one thing-ripping it up was another."

Edward has come to attention. "Which one was it?"

"How many others were there?" Alice asks. "It was the 1985 yellow Subaru."

"Did it have two side mirrors?"

"No."

"Were there clothes in the back?"

"Yeah, there was a clown suit that my little boy had worn to a party the week before."

"OK, I remember your car. It wasn't all that much of a car, but it was unlocked."

"Why would you want my car anyway?"

Edward responds, "It was something to do. Me and my friends we were walking by. Someone always checks the cars out as we go. Yours was the first one that was unlocked. We took it for a ride. One of my friends wanted to leave it in the woods where he could go back and lift parts. So we had a party in the car. We had picked up some booze and ate some of the food left in the car. A couple guys got a little wild with their knives. But I don't know about the missing parts. That must of happened later."

"Why did it take so long to find the car?" Alice wants to know.

"I don't know. He must of hid it good in the brush. Or maybe the cops didn't look too

hard."

The mediator asks Alice, "How do you feel now?"

"Relieved to be getting this thing done. Still upset that my car was ripped off."

"How do you feel Edward?" James asks.

"OK. Glad there is no jail."

"Anything else?" asks the mediator. Victim and offender shake their heads. "Then we are ready to see whether you can come to some agreement about restitution."

"Alice, what was the extend of your financial loss?"

"Well, the car was totalled. It was valued at \$3000. I had a \$500 deductible. The insurance paid \$2500 so I am out \$500."

"How much would you like in restitution?"

"Well, I would like to get my \$500 back. I think it is only fair. After all, I had to suffer all the hassles besides the loss of the car itself."

"What about you, Edward?" the mediator asks. "What's fair from your point of view?"

"You want to know what I think is fair?"

"Yeah."

Alice is watching Edward intently.

"Sure she deserves her money back," says Edward looking directly at Alice. "That's only fair." He turns and addresses James. "Since there were four of us, can it be split four ways?"

Alice also turns to the mediator. "That's what I was expecting."

"OK. If that's agreeable to each of you, I think that is fine," responds Edward. "While I begin to draw up the contract, Edward why don't you tell Alice how you will be able to pay her back. She may want to know that you will not have to steal in order to pay her back."

Both offender and victim chuckle.

Edward explains, "I work at a place like this. A community center. I do all kinds of jobs. I get paid \$4 an hour. I get to keep one dollar the other three go to you."

"What seems like a reasonable target date, Edward?" the mediator wants to know.

"How about two months. If I put in 8-10 hours a week, that should do it shouldn't."

"Yeah, that ought to work. Two months from today. Is that OK with you Alice?"

Alice nods in agreement.

"OK, if you will both look this over and sign at the bottom. I will send this contract to Edward's probation officer."

Both sign the document.

"I want to thank each of you for being here and for participating," the mediator concludes.

Edward nods.

Alice comments with a sigh of relief. "I'm just glad it's over."

Case Example #3: "Valued Valuables"

The following mediation occurred in the kitchen of the victim's home at the victim's request. Present were the offender, a 16-year old white male charged with burglary, the middle-aged, white home owners, and the mediator.

After the participants have gathered around the table with the offender sitting across from the victims, the mediator, Sandy, begins.

"I want to thank each of you for being willing to meet. As I have said to each of you before I am a trained community volunteer, I am not employed by the court system. I will, however, report to the court the outcome of this meeting.

As we look back on the events of last July 16, we will begin by considering what each of you experienced that evening, what you felt then and now, and if possible we will see if there is some way for Joe to repay you, Mr. and Mrs. Johnson. A restitution contract will be drawn up only if you can agree to something satisfactory. I am not here to impose a contract on you, and I will not do so.

Please be open with your feelings. Feel free to ask questions of each other. I do expect you to be civil with one another. My role is to help keep things moving a bit, if need be, and to be a resource for each of you. Are there any questions?

If not, who would like to begin?"

"I'll go ahead," replies Mr. Johnson.

"We went out to dinner and a movie afterward. We got back here around 11:30 p.m. I knew something was wrong right away. I could sense it. We usually leave that light on over the sink when we go out at night. It wasn't on. I told Vera to wait at the door. My heart was pounding something terrific as I turned on the kitchen lights and then the hall lights. The kitchen was OK. But from the light off the hallway I could see a chair turned over in the living room.

I stopped and listened, but didn't hear a thing. Thought about calling the police, but couldn't wait that long. I turned all the lights on I could find. It seemed clear that whoever had been there had left, but they certainly left a mess. That was as terrified as I had been since the war."

As Mr. Johnson pauses, Mrs. Johnson picks up their story. "Once it seemed safe, I followed Paul into the living room. I just sat on the floor and cried. My peruvian vase lay shattered upon the hearth. That vase had been given to me by my grandmother who had received it from her grandfather who had spent most of his life sailing the great ships. Who would do such a thing? I could better understand it if they had taken it...but to smash it to smithereens just didn't make sense."

Saying this, Mrs. Johnson looks sharply at Joe. "And it still doesn't," her voice shaking. "Why did you do it?" she weeps. "Why did you have to smash it?"

"We didn't know what we were doing," responds Joe in a halting fashion. "We didn't know it would mean so much to anyone...I'm sorry, we didn't know."

Collecting himself, Joe begins to tell of his experience that evening. "Art, Jill and me were riding around. We had picked up a few six packs and had downed most of them when Jill said, 'Let's have some fun! I know a house that's got some of those fancy foreign rugs. They're probably worth a lot. It would be easy to get them.' She had been in the house recently responding to an ad."

"Well, we found the house, drove by slowly. Nothing was happening. There was a little light coming from the kitchen, but that was it. We got out, walked around the house until we found a bathroom window open. There was no problem getting in.

Then we made our way into the living room to see the rugs. There were two of them. Not very big. As I rolled up the rugs, Jill and Art started dancing on the bare floor. I wanted to get out of there, but they kept on making like they were slow dancing to music. They became silly, probably too much booze, and started throwing pillows around. Next thing, Art, grabs the vase and tosses it to Jill and Jill tosses it back, but Art makes no attempt to catch it. It knocks against the fireplace and smashes. It shouldn't of happened. That's not why we were there. I'm sorry, but that's how it was."

Seeing his wife in tears, Mr. Johnson responds. Raising his voice he asks, "Do you do this often-breaking into peoples houses to have fun?

"Not often."

"No..."

"How many others have there been?"

"I don't know."

Turning to the mediator, "You didn't tell us we were dealing with an expert."

"Joe hasn't been arrested for burglary before. What he is saying to you is news to me."

"Well, I don't know. How are we suppose to make sense out of something that doesn't make sense in the first place?" grumbles Mr. Johnson.

Mrs. Johnson, looking directly at Joe, asks in a steady, strong voice, "What do you think we should do young man?"

"I don't know. You got the rugs back already. I can't bring the vase back. What do you want me to do?"

"No, you can't bring the vase back. It's gone. And I can see in your eyes that you share some of our sadness for that. One thing you can do is to help us feel more secure in this house. I haven't had a restful night's sleep since the house was broken into. I want you to show us how to keep burglars out."

"OK, I can do that."

"The girl will pay our insurance deductible on the vase and I want her to do that alone since she broke our trust. We will never place another ad in any paper."

"But somehow you must do more than help make our house secure, you must take pride in something of value to you, of something that you helped create," says Mrs. Johnson reflectively.

"I think I have it," looking at her husband. She begins to smile, turning back to Joe she says "We are redecorating our children's chapel at church. All the work is being done by volunteers. I want you to help. It will be hard, dirty work-scraping, tearing up old carpet and laying down new, and painting. Once completed, there will be something to be proud of. Will you help?"

"How long will this take? When would I do it?"

"I guess no one knows for sure how long it will take. Probably three to four months. Work will be done mainly on Saturdays with maybe an evening or two now and then. How about four hours a week?"

Joe nods in agreement.

"But you must stay until the chapel is completed. And as far as the others are concerned you're just a young friend who has agreed to help us. They don't need to know anymore than that. OK."

"OK."

"Is that OK with you, Mr. Johnson?" asks the mediator.

"If it's OK with Vera it's OK with me. She's always too damn soft-hearted. I guess she's not going to change now. Who knows, it may do him some good. It will at least keep him busy some."

"Good enough. I will begin to write up this agreement in the form of a contract. Is next Saturday OK for the security check and then starting work on the chapel the following Saturday?"

"It's OK with me" says Joe.

"That's good for us," says Mr. Johnson. "Ten o'clock sharp. At the front door. You don't have to come through the window."

As the mediator makes out a contract Mrs. Johnson asks, "Joe, have you been in a chapel much?"

"No, not much."

"He's probably been in other people's houses, uninvited, more often than that," quips Mr. Johnson eliciting soft laughter from everyone around the table.

The mediator invites each person to sign the document and thanks the Johnsons for allowing the meeting to take place in their home. Everyone rises seemingly not knowing quite what to do. Mr. Johnson finally reaches for Joe's hand and shakes it. "Good luck, kid. You better be on time Saturday morning."

Case Example #4: "Wanted: A Good Time"

Present for the following mediation were David and Maria Sanchez, owners of the Triangle J Grocery and General Store; Frederico Angeles, a seventeen year old, who along with others is charged with breaking and entering, burglary and theft; and Jane Jenson, mediator. The mediation takes place in the basement of a local church.

Mr. and Mrs. Sanchez arrive first. Maria carries in several folders clearly containing bills, insurance forms and other forms of documentation. David is quite grim. They greet the mediator and are ushered into the mediation room. The mediator's materials are at the head of the table. Mr. and Mrs. Sanchez sit on the side of the table to Jane's left. There is very little casual conversation as they await the arrival of

Frederico. The mood is tense.

About ten minutes later, Frederico arrives. He is neat in appearance and smiles quite naturally. He apologizes for being late saying something about traffic. Frederico sits across from Mr. and Mrs. Sanchez on the mediator's right. He acknowledges the store owners with a nod and a smile. They, in turn, stare directly at Frederico while ignoring his presence.

Jane introduces the participants. Mr. and Mrs. Sanchez continue to disregard Frederico.

Jane begins to explain the mediation process. "On January 20, 1991, Frederico and three of his friends broke into the Sanchez store and stole several items. Today, because of your willingness, as well as the desire of the court, we have come together to discuss what Frederico can do to make amends and for each of you to go on with your lives."

"We will go back to try to understand what happened on that night. Each of you will have an opportunity to talk about your feelings, then and now. And we will look at the Sanchez's losses and see if Frederico can do anything to replace any of those losses."

"There are some important ground rules that I want to remind you. I want you to talk to each other. I am here to help you talk to one another. I am not here to judge or take sides. However, I will not let things get out of hand. You may express your own feelings as fully as possible. But you will not be allowed to badger or abuse one another. If that were to persist, then this meeting would have to be stopped."

"While I am not an officer of the court, I am required to write a report describing this meeting and any agreements which may come out of it for the court. The court has responsibility for supervising any agreement reached here."

"Do any of you have any questions before we begin?"

"If there are no questions, who would like to begin by telling us about your experiences the morning of January 20?"

Immediately, Mr. Sanchez says, "Let him start. If it weren't for him and his kind none of us would have to be here."

Jane turns to Frederico and says, "Would you be willing to begin Frederico by telling us what happened that night?"

"Sure," says Frederico as he slouches a bit. "Me and my friends were partying. We ran out of beer. Sammy says, 'Lets go get some beer.' We all got in the car and started driving. It was about 1 a.m. in the morning. Everything was closed. Sammy says, 'No problem. I know a place we can get into easy.'"

"In a few minutes we were in the parking lot behind the 'J.' We all knew the place. Everybody knows the 'J.' We get snacks there and meet people there." With a smile he adds, "The parking lot behind the store is a good place to mess around with girls. Usually you don't get hassled there."

"Anyway, Sammy had noticed before a broken window in the store room and knew it would be an easy thing to get into the building. We broke out the remaining jagged glass and climbed through the window. We were only after beer. All we wanted was a good time."

"When we got in, Sammy and I ran to the cooler and picked up several six packs of beer and grabbed some chips and started out of there. But something happened. The two other guys we were with went wild. Rather than getting some beer and going, they started tipping over shelves. They tried to pry open the cash register. That didn't make any sense. I knew there wouldn't be any money in it."

"Sammy and I tried to get them out, but they got real mad because they couldn't find any money. They kept rummaging around tipping things over as they went. They finally found two guns and that seemed to slow them down. We kept telling them that we had to get the hell out of there. We had been there too long. Finally, we left and they followed."

"The way you tell it sounds like you didn't do a thing," retorts Mr. Sanchez. "I don't believe you at all. You're no angel."

With a shaking voice, Frederico responds. "No, I'm no angel. But I didn't mess up your store either. I stole some beer, I admit that. But I didn't steal any guns and I didn't trash the place - that's kids stuff."

Before her husband could speak again, Maria jumps in. "If your telling the truth, why didn't you stop the others - they wrecked the place."

"We couldn't. They wouldn't listen until they tired out."

"Were they on anything?" asks Mr. Sanchez.

"Yeah, we had been drinking and some uppers and stuff were passed around. I don't know how much they had. But they really went wild. I'm sorry about that. I didn't want that to happen."

"You should have thought of that before you broke into the store," said Mr. Sanchez. Frederico nods.

After considerable silence, Jane asks Frederico to explain how he was caught.

"As soon as we got in the car and away from the store we opened the beer. Unfortunately, Sammy ran a stop sign and a cop stopped us. We were taken to detention and later released."

"You didn't tell the police about our store?" asks Mr. Sanchez.

"No. I didn't figure the cops needed any help. We couldn't do much about it by then anyway. Later in the morning two cops came by. They had found out about the store and went to talk to Sammy about it. He cracked, so we all got hauled in again."

"How did you feel when you were arrested?" asks Jane.

"I didn't feel good. I wished we could have got out of there before the place was wrecked. I wished we had just gone home when we ran out of beer. I knew this was going to mean trouble."

"Mr. and Mrs. Sanchez, would either of you or both of you like to tell Frederico what you found that morning as you went to open the store? How did you feel about what you saw?"

"It was a damn mess. I wanted to kill someone," says Mr. Sanchez.

"When I saw all the stuff thrown about and broken, I saw all the hours of sweat and tears that we put in the store parade before my eyes. You can't know the emptiness we felt. It looked like mad animals were fighting in our store." "Why? Why? Why?" Mrs. Sanchez whispers as she quietly sobs.

Frederico appears somewhat shaken by the woman across from him. "It wasn't supposed to happen that way. We'll help make things right, somehow."

"Even if you really wanted to there's no way you can make things the same. We lost too much." Reaching for the folder, Mr. Sanchez notes, "We lost \$9000 in destroyed inventory. Another \$5500 in structural damage - damage to freezers, shelving, light fixtures, cash registers and so on. And you actually stole less than \$50 worth of goods plus the guns valued at \$250. That's a total of \$14,800. Do you have that kind of money?...I didn't think so," he adds as he sees the shock on Frederico's face.

"How are you operating the store now, Mr. Sanchez?" Jane asks.

"Just barely. The insurance was slow and then they only paid \$3500 of the structural damage and \$2000 of the inventory loss. The guns were returned. We have rebuilt some of the shelving, but we cannot afford to replace all the inventory. We still owe bills on much of the destroyed inventory besides trying to replace it with something we can sell." Shaking his head Mr. Sanchez adds, "I don't know. We may not survive."

Frederico has been listening without his usual smile. Jane turns to him and says, "What do you think? Is there anything you can do to help these people recover their losses?"

"Get off it!" snaps Mr. Sanchez. "You are as responsible as anybody else. You went

along with the break-in and stealing the beer. Things just got out of control. You might want to choose your friends better in the future. But now what are you going to do?"

"We came here thinking that you would want to help undo a wrong," interjects Mrs. Sanchez. "You look like a young man who wants to have fun, but you don't look like a bad man. It was important for me to see you. Now I remember you from before. You have been in our store many times. Why don't you help us? That store is our whole life and we may lose it."

"What can I do? I'm no magician."

While every one seems at the point of throwing up their hands, Jane intercedes. "Well, lets look at this problem a little piece at a time. The two who caused most of the damage have admitted to it and are in jail. Sammy and Frederico have this opportunity to work out something else. It would probably take years for them to raise \$9000, which would probably be too late for you. Are there other ways which they can help, particularly Frederico? Is there anything you need besides money?"

Mr. Sanchez responds by saying, "We could certainly use some labor. There is a lot of shelving and storage bins to be rebuilt yet. And we could use help with stocking because we had to lay off two of our three employees. We couldn't afford to keep them in the face of our losses. Maybe we could get some help."

"We could sure use the help. My husband is putting in too many hours. It's not good for him."

"How much did you pay the employees who were laid off?" Jane asks.

"\$5 per hour," says Mr. Sanchez.

Jane looks at Frederico and asks, "Frederico, do you have any ideas?"

"Yeah, I could work for them part time, but I already have a part-time job."

"What hours do you work?"

"3 - 7 in the evening five days a week."

"Could you work mornings or Saturdays?"

"Yeah."

"Would that be helpful, Mr. Sanchez?"

"Sure, but how do we know we can trust him?"

"If I screw this up I go to jail; I'm not going to jail," says Frederico with commitment.

"OK."

Jane begins to pull things together. "For Frederico to pay off his share of the outstanding portion of \$9000, a sum of \$2250, he would need to work for you 22 weeks or about six months at 20 hours a week at \$5 per hour."

"That's a long time," gasps Frederico. "What if I could get a full-time job three months from now? Could I pay the rest of it off?"

"Mr. Sanchez shrugs and says, "Sounds alright to me. We just want to get paid back. If he can get a better job and pay us back quicker, all the better."

"Very good. I'll write this up in a contract." Jane adds, "I appreciate everyone being willing to hang in there until you could come up with a workable agreement."

After some moments of silence and small talk while Jane writes up the contract, Jane presents the contract to them identifying the various points agreed to.

Mr. Sanchez, looking at Frederico asks, "When can you begin?"

"How about next Monday morning?"

"That'll be OK. Be at the store at 8 a.m. and I'll get you started. I think you know where the store is."

"Yeah," Frederico smiles.

The participants stand and thank Jane who shakes hands with each of them.

A Qualitative Look at Victim Offender Mediation: Dangers and Pitfalls

Detailed observations of actual victim-offender mediation cases reveal, for the most part, what one would expect given the rhetoric of victim-offender mediation and training materials. One can readily see the movement through the stages of mediation from introductions, to discussion of facts surrounding the events, to discussion of feelings and getting questions answered, to identifying losses and negotiating restitution contracts, to bringing closure to the mediation session itself.

The composite observation cases appearing provide an opportunity for the reader to see and to experience the process in mediation cases. The reader will look at these cases and think, "Why didn't the mediator do this or that?" Certainly, different mediators would have varied some in their handling of these cases. These cases are not meant to be pristine, "this the way to do it" cases. We hope that they closely approximate real life cases, where the ideal is seldom attainable. Also, individual mediator variation, to a certain extent, is to be anticipated. Even though these victim-offender mediation programs are supported by fairly extensive training and supervision, there is no expectation nor desire to simply create mediator clones.

Although the patterns we see through the observations generally mirror expectations as presented through training, acceptable variations reflecting the personalities of individual mediators is quite evident. It is apparent that some dangers loom which threaten the process of victim-offender mediation.

The Presence of Parents. More and more, it seems, we are seeing parents involved in the victim-offender mediation whether the child is the victim or the offender. That parents have the right to be present seems clear; that they can have a positive influence is also clear.

The presence of parents, however, can pose some tricky situations for mediators. Key to personalizing and humanizing an approach to justice is that the offender take responsibility for his or her actions. Parents can, at times, plead with a child not to say "I did it," or other parents may attempt to bully the child into saying "I did it" to help

teach him or her a lesson. Parents can be very helpful in supporting their child while allowing the child to be responsible. They can help clarify situations, make useful suggestions for alternative restitution plans, and demonstrate their continuing care for the child. Parents can appear to be simply buying off the victim by saying, "Just tell us what you want and we'll write you a check. We don't want any more hassle."

Perhaps more attention should be placed on helping parents be present while empowering their youngsters to take responsibility. When the mediator meets with parents before the mediation meeting, considerable emphasis could be placed on discussing constructive roles for parents. Just as in other elements of training, one can role play how to regain some sense of balance after a parent has made a bold effort to take control of the process. For example,

Victim's father: "I think this little shit should pay \$500-twice the value of the bike he stole. After all, we're keeping him out of jail."

Mediator: "Mr. Jones, we appreciate you and your daughter being willing to participate. But as I said earlier, we will not tolerate verbally abusing either the victim or the offender. And I cannot sit here and let you get twice the value of the stolen bike-the court would not go along with that anyway. Andy (offender) do you want to continue trying to reach an agreement?"

"Yeah."

"Amanda, do you want to try to reach an agreement?"

"Yes."

"Mr. Jones, do we have your assurance that you will not again attempt to verbally abuse Andy so that we can come to an agreement which seems fair to everyone? If not, we will have to conclude that no agreement can be reached."

In this situation, the mediator clearly takes control to cool things down, but then gives

control back to the participants, beginning with the offender, to see if continuing this is desirable. By re-establishing the ground rules, the mediator is also re-establishing balance of power within the setting. This is a very important factor to keep in mind. We do not want the victim-offender process to be one in which the victim is re-victimized, or in which the offender is victimized, either.

A major benefit of having parents present is the opportunity for all involved to discover that parents of the victim and parents of the offender are often victims themselves. The composite observation, "In the Yard Again," demonstrates this well as the mother of the victim leaves the mediation exclaiming "Now maybe I can go out in the yard again and look across the fence."

Co-mediators: Who's In Charge? Numerous situations arise where a co-mediator brings needed additional resources to a mediation in which one mediator simply would not be as desirable. Co-mediation is used sometimes to achieve gender, ethnic, or racial balance with the offender and victim. Co-mediation is used sometimes because the number of offenders and/or victims present for mediation can be overwhelming. A co-mediation is sometimes desirable if the nature of the offense is particularly sensitive and complex.

The presence of more than one mediator also creates its own set of dangers. There may be no apparent agreement on strategy in a particular mediation. Mediators may be played off against each other to the point that mediation is needed to settle their

differences. Confusion as to who is in charge poses a problem for the participants. This confusion can be an advantage as it may be less easy to form an alliance with both mediators. Such confusion can be a real disadvantage if a participant does not know who to rely on or cannot trust being safe. Taking risks in a safe environment is difficult enough; taking risks in an uncertain environment may not be worth doing.

To avoid confusion, without making an issue of it, the mediators need to decide who is taking the lead and who will help facilitate and clarify. If the mediators are clear then the participants will likely be clear without being told. With such clarity, attempts at playing one mediator off against the other are greatly minimized and confusion is reduced for everyone.

Using Silence or Who Will Blink First. Too often observers note, "If only he could trust silence." "Mediator fills dead time with the sound of her voice." "Because of mediator talking too much, no one has time to think."

While many mediators use silence very effectively, being comfortable with silence and using silence to advance the mediation process remains a problem for others. As suggested above, some folks need time to think-to think out responses, to think through options. Often new information is provided if the mediator is willing to move at a slower pace. Silence provides a kind of structured stress, if you will, encouraging participants to take responsibility for the mediation. It fails to be an effective tool, however, if the mediator is the one consistently succumbing to the structured stress of silence. Silence doesn't necessarily mean no one has anything to say; it may simply

mean that no one is ready to say anything, yet.

Use of silence, perhaps, should be stressed more in training and supervision. Both the "why" (silence can be important to the process) and the "how" (waiting long enough without letting silence kill the process entirely) can be realized. Role plays could be developed to teach this skill. Audio tapes and video tapes of others doing mediation could be critiqued. And audio tapes and video tapes of the trainee doing mediation could be reviewed in this training process. Until the mediator can use silence effectively, the mediator will too often lose control of the mediation process and be too easily manipulated by a shrewd offender or victim.

Lost Opportunities. There is a disturbing quality, at times, in the observation of a deadly kind of routinization setting in the mediation process. There is a sort of methodical, mechanical tone about the process. The nub of this quality seems to be expectations regarding restitution.

It appears that for some, restitution is the name of this game. "Let's hurry through this feeling stuff and get to the real question, 'How much money am I going to get back?'" Not an unimportant question, yet not the only important question for victim-offender mediation.

More disturbing than the single focus of restitution for either victim or offender is the single focus of restitution for the mediator. For some, there seems to be a rush to get to this part of the mediation. It typically may be easier to handle and less potentially

volatile. This may be the area in which there are more intangible rewards of gratitude for the mediator.

On several occasions, mediators either did not hear or chose to ignore suggestions of non-monetary restitution. The composite cases, "Valued Valuable" and "In the Yard Again" contain suggestions by the victim and offender's mother, respectively, which although not identical to real life cases, were very similar. In each instance, in the real life case, the suggestions were ignored.

Perhaps, for some, the focus on a "dollar figure both parties can live with" has made it very difficult to see and hear alternatives or additional ways in which restitution can be packaged. It is being open to creative opportunities which offers much for humanizing and personalizing the justice process. Doing yard work, painting a community center, or working as a cross-walk attendant are also ways of "paying back," "making right," which encourage the offender and the victim to see real people in the making of and in the resolving of conflict or crime.

We have identified four areas of potential dangers and pitfalls for the victim-offender mediation process which are apparent from observations of actual cases. While the bulk of the mediations seem to fit the expected patterns and outcomes, there is reason to be concerned about the dangers discussed above. The dangers cited above, if unchecked, could over time require yet a new reform, a new program scheme, to humanize and personalize the victim-offender mediation process.

Chapter 7

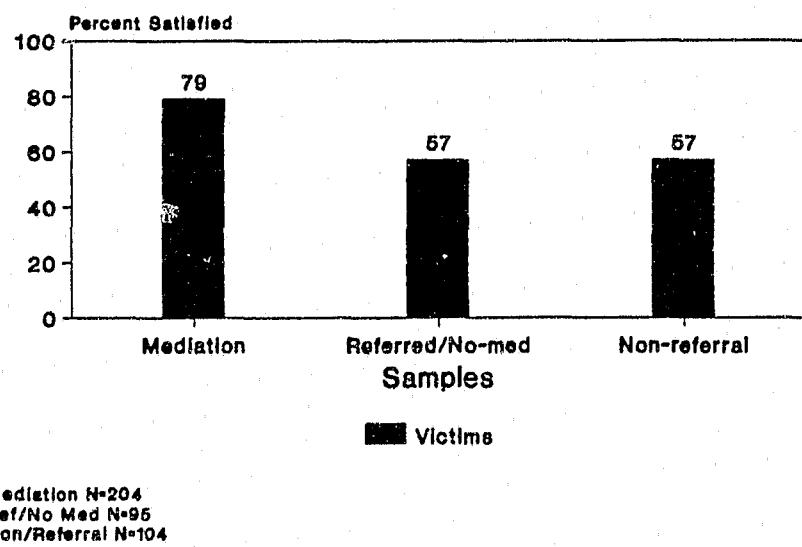
CLIENT SATISFACTION WITH MEDIATION

- *Mediation had a significant impact on increasing victim satisfaction with juvenile justice system.*
- *90% of victims were satisfied with mediation outcome.*
- *91 % of offenders satisfied with mediation outcome.*

The data that emerged from all of the four program sites in this study indicates high levels of participant satisfaction with the victim offender mediation process. It is clear that from a consumer perspective, these mediation programs receive high marks. Such high levels of client satisfaction are consistent with other prior research related to victim offender mediation, as well as the larger field of mediation in other settings.

Victim involvement in a face-to-face mediation session with their offender had a significant impact on increasing their satisfaction with how the juvenile justice system responded to their case, as compared to those victims who were referred to mediation but did not participate (comparison group #1) or similar victims who were never referred to mediation (comparison group #2). While 79 % of victims in the mediation group indicated satisfaction, 57 % in the "referred but no mediation" group and only 57% of victims in the "non-referral to mediation" indicated satisfaction. These findings are significant at the .05 level.

Figure 15
Victim Satisfaction: Combined Sites
(Case Processing by Justice System)



When asked what they found to be the most satisfying about the face-to-face mediation session with their offender, victims expressed a number of themes. A victim in Albuquerque states that it was important for her "to find out what happened, to hear his story about why he did it and how he did it." This greater sense of satisfaction is reflected in statements by victims at the other programs such as "it gave us a chance to see each other face to face and to resolve what happened" or "it reduced my fear as a victim because I was able to see that they were young people" or "I feel good about it because it worked out well, because I think the kid finally realized the impact of what happened and that's not what he wants to do with himself."

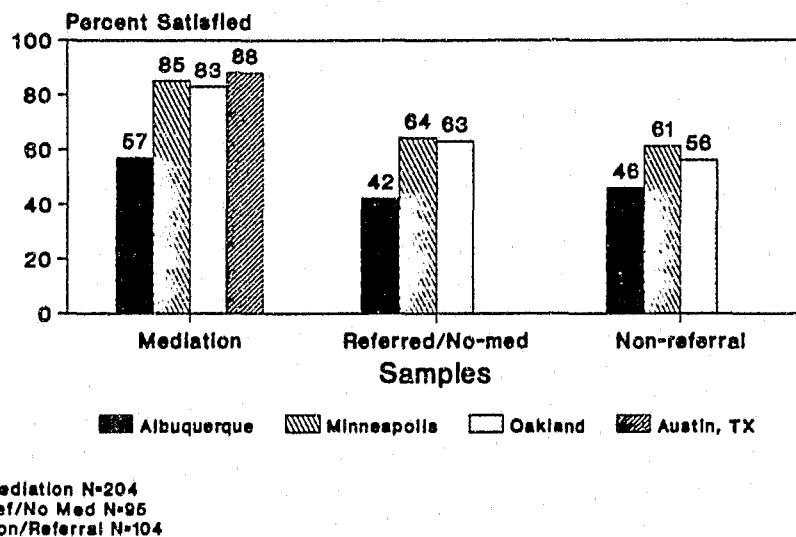
A victim in Minneapolis stated that "mediation provided a quicker way and a community based solution to the problem." "It made me feel less like a victim, but still a victim...it made me feel better about the incident. Frequently the victim's satisfaction was directly related to the mediator. "The mediator was very competent and experienced with this type of thing...when they left we were all happy." "The mediators were most helpful and sensitive to our needs."

The small portion of victims who were not satisfied with the mediation process often made comments like "the kids got off a little too easy" or "the mediator was more concerned with the offender than with the victim" or "I was led to believe that I had to go through the program to get my money."

At each of the individual program sites, mediation had a considerable impact upon increasing victim satisfaction with the justice system (Figure 16). This impact was found to be statistically significant for both comparison groups at the Minneapolis site, although only for comparison group #1 (referred but no mediation) at the Oakland site.

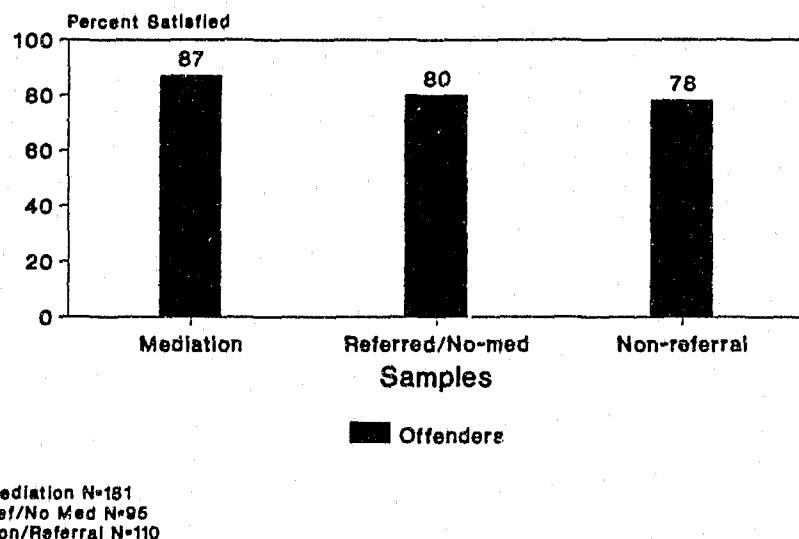
As noted in Figure 16, 85-88% of victims at all of the mediation sites except Albuquerque indicated their satisfaction with how their case was handled by the juvenile justice system, including mediation. In Albuquerque, only 57% of victims indicated they were satisfied. Victims in the two comparison groups in Albuquerque also indicated considerably lower satisfaction levels (42-46 %) than victims in the two comparison groups at the remaining two sites (56-63 %).

Figure 16
Victim Satisfaction by Program Site
(Case Processing by Justice System)



Nearly eight (8) out of ten (10) offenders in all three groups (Figure 17) indicated that they were satisfied with how the system handled their case. While 87% of offenders in mediation indicated they were satisfied, compared with 80% of the "referred but no mediation" offender group and 78% of the "non-referral to mediation" offender group, these differences are not statistically significant. For offenders, therefore, participation in mediation appears to not have significantly increased their satisfaction with how the juvenile justice system handled their case.

Figure 17
Offender Satisfaction: Combined Sites
(Case Processing by Justice System)



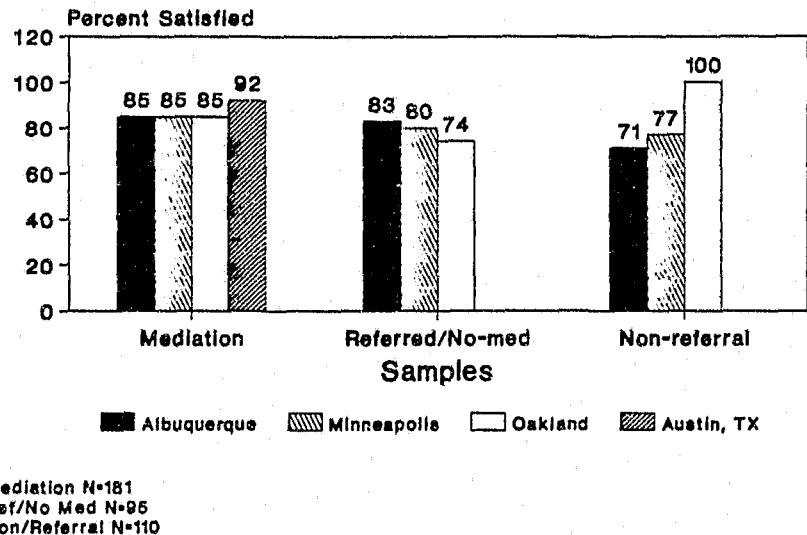
Satisfaction with the mediation process is captured in the following comments by juvenile offenders at the various program sites. An offender in Minneapolis states that the most satisfying thing about mediation was "I guess just to see the person, the victim and a chance to talk to him and make up for what I did." Another added, "that I could tell the victim about what happened." From the Albuquerque program, offender satisfaction was expressed by such comments as "talking to everyone got it out of my system" and "it was quickly taken care of." At the Oakland program, an offender states "mediation allowed me to get the crime off my head and to tell the victim I was sorry."

Some offenders were not, however, satisfied with how they were treated by the

mediation program. Some did not like the idea of "having to go talk to those people." Several believed that they were getting "ripped off." This is well expressed by an offender in Albuquerque who stated "the guy was trying to cheat me...he was coming up with all these lists of items he claimed I took."

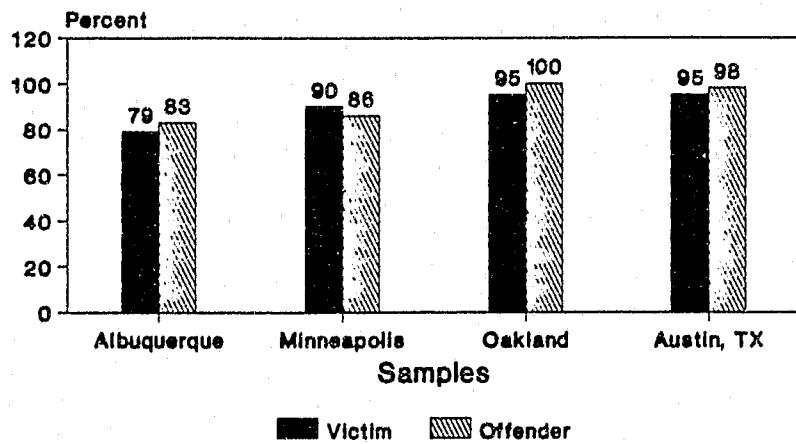
When examining how satisfied juvenile offenders were with the various mediation programs, it was found that offenders were quite consistently satisfied with the mediation process in all four cities. No individual site, however, indicated that mediation had a significant impact upon increasing their satisfaction with the justice system (Figure 18), when compared to either similar offenders who were referred to mediation, but did not participate or to a matched sample of offenders from the same jurisdiction that were never referred to mediation. While the mediation program was rated high by offenders, the other interventions offered by the local juvenile court were also rated high.

Figure 18
Offender Satisfaction by Program Site
(Case Processing by Justice System)



Juvenile offenders and their victims were quite satisfied with the actual outcome of the mediation session, which was nearly always a written restitution agreement. Nine (9) out of ten (10) victims and offenders at all of the sites combined were satisfied. A frequent theme among offenders is expressed by the statement "it was helpful to see the victim as a person and to have a chance to talk with them and make up for what I did." As Figure 19 indicates, there were slight differences found between individual sites, with the most notable difference seen in a lower rate of satisfaction with the mediation outcome at the Albuquerque program site.

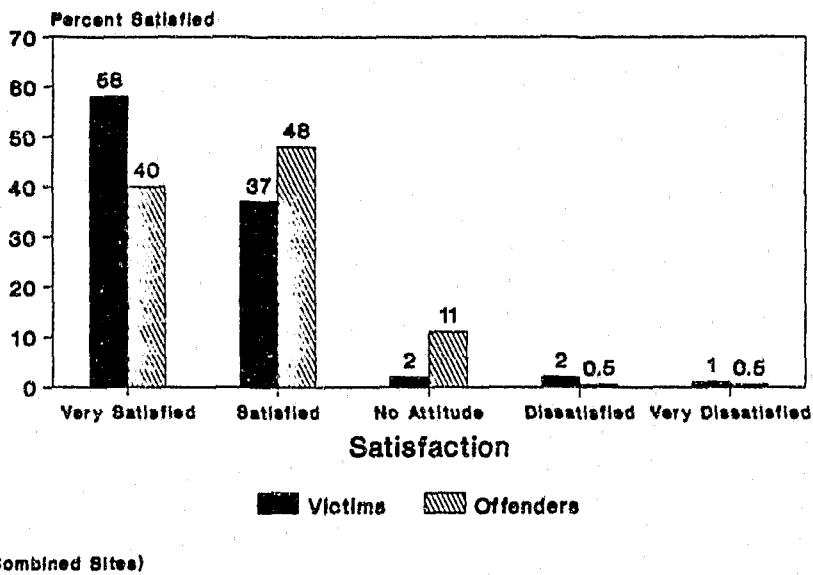
Figure 19
Satisfaction With Mediation Outcome
(By Program Site)



Albuquerque: Vic N=42, Off N=42
 Minneapolis: Vic N=80, Off N=58
 CA: Vic N=42, Off N=34 TX: Vic=40, Off=45

The high level of client satisfaction was not only directed toward the outcome of the mediation session or how their case was handled by the juvenile justice system. Both victims and offenders were also quite satisfied with their specific mediator. As Figure 20 indicates, 58% of victims (combined sites) were "very satisfied" and 37% were "satisfied" with their mediator, representing a total of 95% satisfaction with the mediator's performance. For offenders (combined sites), 40% were "very satisfied" and 37% were "satisfied" with their mediator, for a total satisfaction rating of 87%.

Figure 20
Participant Satisfaction With Mediator



In regard to their mediator's performance, victims (combined sites) identified the following most important mediator tasks:

1. Mediator provided leadership
2. Mediator made us feel comfortable
3. Mediator helped us with restitution plan
4. Mediator allowed us (V/O) to talk

Juvenile offenders identified the following most important mediator tasks:

1. Mediator made us feel comfortable
2. Mediator allowed us (V/O) to talk
3. Mediator helped us with restitution plan
4. Mediator was a good listener

Chapter 8

CLIENT PERCEPTIONS OF FAIRNESS

- Victims who participate in a mediation session with their offender are significantly more likely to have experienced fairness in the justice system, than similar victims who were not in mediation.
- 83 % of victims in mediation experienced fairness in the manner in which their case was handled by the justice system.
- 89 % of offenders in mediation experienced fairness in the manner in which their case was handled by the justice system.
- Nearly all victims and offenders indicated that their mediator was fair.

The process of mediating conflict between crime victims and offenders is deeply rooted in the concept of offering an intervention which is perceived as fair to both parties. Examining both the meaning of fairness to victims and offenders in mediation and whether or not it was experienced was an important component of this cross-site study. This chapter will report on the primary concerns of victims and offenders related to fairness, the degree to which participants experienced fairness in the manner in which the juvenile justice system responded to their case and the degree to which victims and offenders thought the mediator and the mediation outcome was fair to one or both parties.

Thoughts About Fairness

When crime victims who participated in mediation were asked to rank their most important concerns related to fairness in the justice system, they identified "to help

for the offender" as the primary concern, consistent with a prior study (Umbreit, 1988). This was followed by "to pay back the victim for their losses" and "to receive an apology from the offender." The primary victim concern related "to help for the offender" is well expressed by a victim in Oakland. "The only thing I want to see is that these kids receive some counseling or other type of help. I don't want to see them go to juvenile hall or prison. In counseling, the offenders would at least learn something from this."

The importance of offenders being held accountable, through compensating the victim, is captured in the comments of a victim in Minneapolis. "I don't think fairness means punishment. It means restitution and responsibility. I want to give him an opportunity to make right what he's wronged. And to do this in a way that is not degrading or humiliating or vengeful, but in a way he can feel good about himself, take responsibility and correct the things he damaged."

Juvenile offenders in mediation indicated that "to pay back the victim for their losses" was their most important concern related to fairness in the justice system. The importance of this theme was captured well by an offender in Oakland who said "fairness means having a chance to work it out and pay back the victim...I feel terrible about what I did." Other concerns related to fairness were "to personally make things right", followed by "to apologize to the victim." An offender in St. Paul (MN), "when you do something wrong, then you have to make it right."

Figure 21
Ranking of Thoughts About Fairness

CRIME VICTIMS IN MEDIATION

1. Help for the offender
2. Pay back victim for losses
3. Receive apology from offender

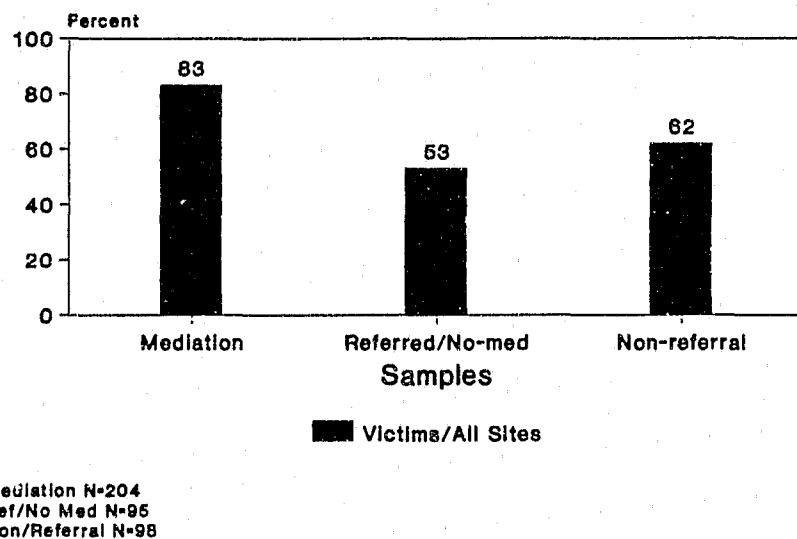
JUVENILE OFFENDERS IN MEDIATION

1. Pay back victim for losses
2. Personally "make things right"
3. Offer apology to victim

Experience of Fairness Within Justice System

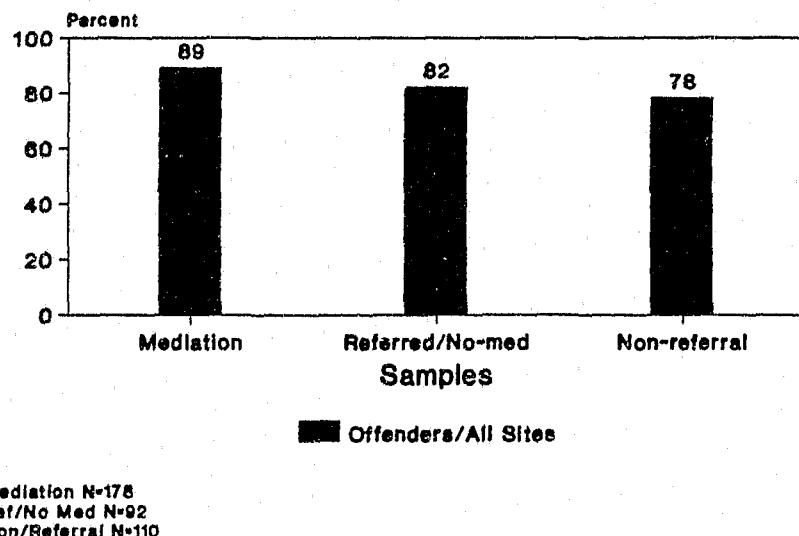
The data that emerged from this analysis, based on aggregated data from all three sites, indicates that the mediation process was significantly more likely to result in a perception by victims that cases were handled fairly by the juvenile justice system. As Figure 22 indicates, 83% of victims in the mediation group stated they experienced fairness in the processing of their case, compared to only 53% in the "referred but no mediation" group and 62% in the "non-referral to mediation" group.

Figure 22
Victim Perception of Fairness: Combined
(Case Processing by Justice System)



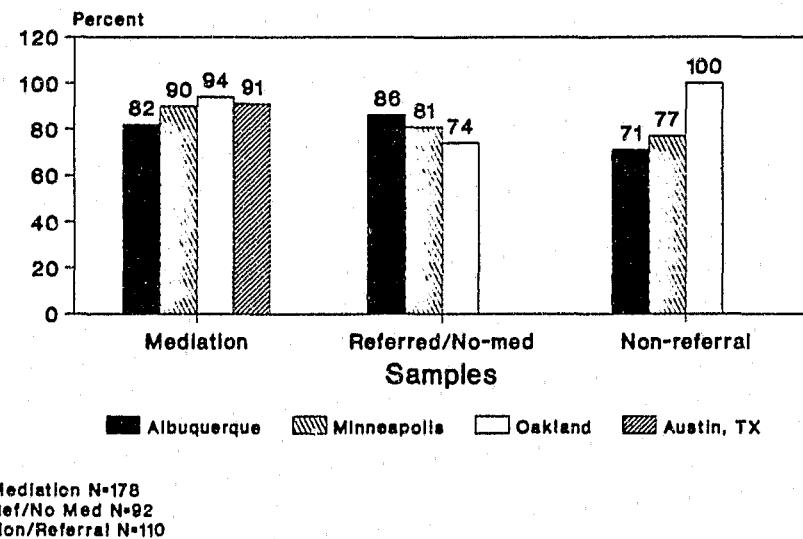
When compared to similar offenders who were never referred to the mediation program, juveniles who met their victim in mediation were also significantly more likely to indicate that they experienced fairness in the processing of their case by the juvenile justice system. Figure 23 indicates that for offenders in mediation, 89% indicated they experienced fairness, compared to 78% in the "non-referral to mediation" group. When compared to other juveniles who were referred to the mediation program but who did not participate, however, no statistically significant difference was found in their experience of fairness in the processing of their case by the system.

Figure 23
Offender Perception of Fairness:Combined
(Case Processing by Justice System)



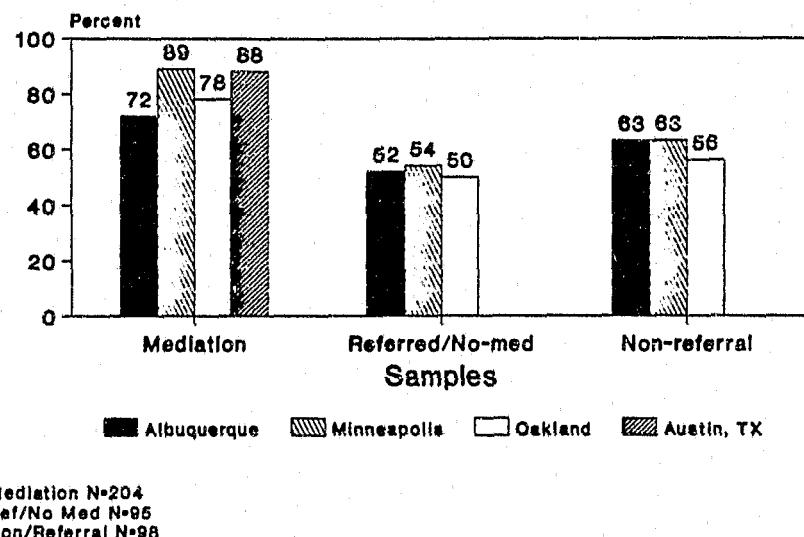
When the data on perceptions of fairness is examined within program sites, rather than aggregate data from combined sites, no significant differences are found among offenders.

Figure 24
Offender Perception of Fairness By Site
(Case Processing by Justice System)



As noted in Figure 25, however, victims in mediation were considerably more likely to have experienced fairness at all three primary sites. Significant differences were found at the Albuquerque site (between mediation sample and referred/no mediation sample) and the Minneapolis site (between mediation sample and both comparison groups).

Figure 25
Victim Perception of Fairness By Site
(Case Processing by Justice System)

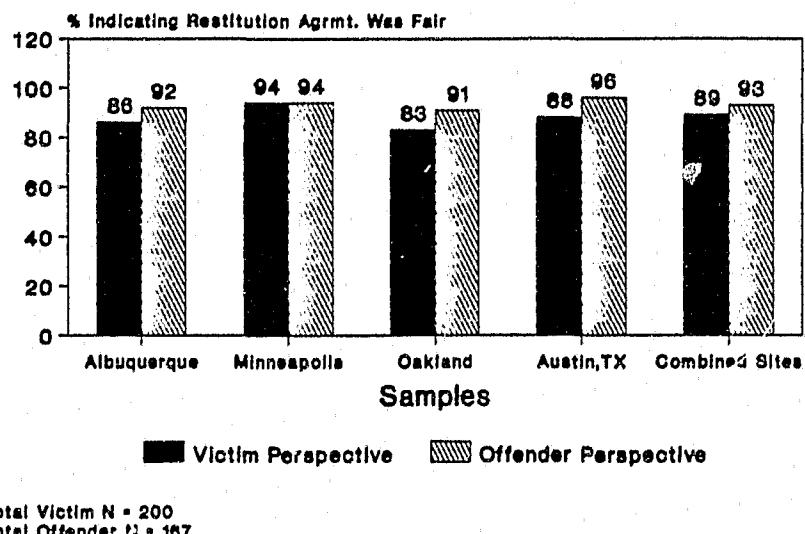


For both victims and offenders at all of the three primary program sites, neither gender or race was related to their experience of fairness in the manner in which the justice system responded to their case.

Experience of Fairness Within Mediation Process

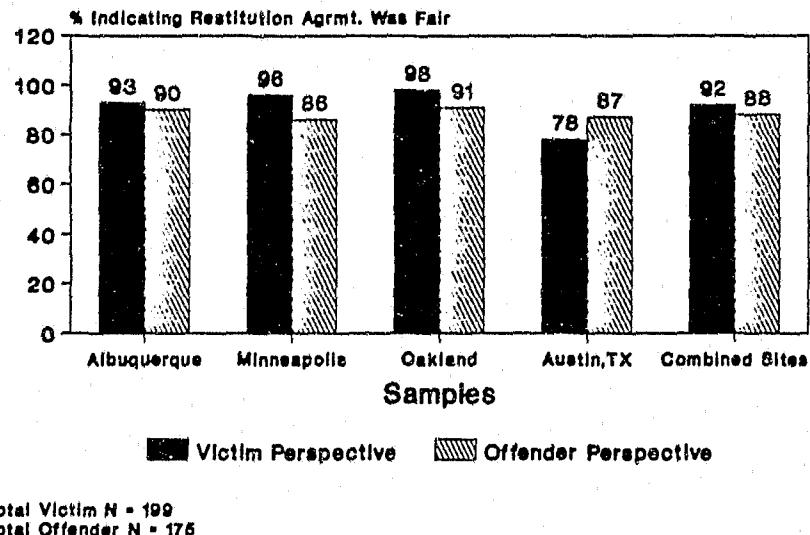
Participants in mediation overwhelmingly felt that the negotiated restitution agreement was fair to the victim. As indicated in Figure 26, nearly nine (9) out of ten (10) victims thought the restitution agreement was fair to them, while 93% of offenders also believed the agreement was fair to the victim.

Figure 26
Fairness of Restitution Agreement
To The Victim In Mediation



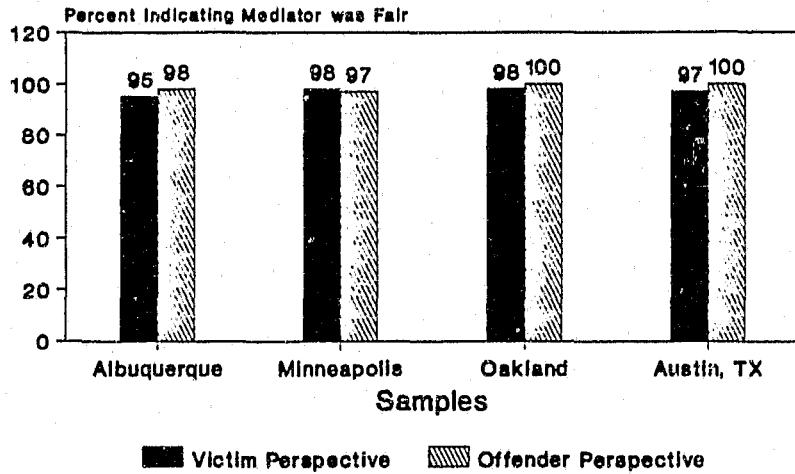
The restitution agreements that were negotiated in a face-to-face mediation session between the victim and offender were also perceived as fair to the offender. Figure 27 indicates that nine (9) out of ten (10) victims thought the agreement was fair to the offender, while 88 % of offenders thought it was fair to them.

Figure 27
Fairness of Restitution Agreement
To The Offender in Mediation



The role of the mediator can have a critical impact upon whether or not participants experience the mediation process as fair. It is clear that more than nine out of ten (10) victims and offenders felt the mediator was fair. As noted in Figure 28, there were no major differences between program sites.

Figure 28
Fairness of Mediator



Albuquerque: Vic N=40, Off N=41
Minneapolis: Vic N=80, Off N=58
CA: Vic N=42, Off N=36 TX: Vic=38, Off=48

The strong participant perspective that mediators were fair is expressed by the following statements from a number of victims and offenders at the various programs. "She tried to be fair with both of us...she was patient (victim in Albuquerque)." "The mediator was not biased, she was not judgemental (victim in Minneapolis)." "He listened to everyone during the meeting (offender in Minneapolis)." "They (the co-mediators) were open minded and helped us to suggest a compromise to the victim when there was a stalemate (offender in Oakland)."

For those relatively few victims who indicated that the mediator was not fair, the most likely reason was that "she took sides with the offender" or "he seemed more like an advocate for the kid."

The few offenders who felt the mediator was not fair indicated that the mediator seemed to talk primarily with the victim, "she seemed kind of one sided to the victim."

Chapter 9

MID-RANGE OUTCOMES: RESTITUTION COMPLETION AND RECIDIVISM

- *Victims are significantly more likely to actually receive restitution if they participate in a mediation session with their offender.*
- *Juvenile offenders are held more accountable for successful completion of their restitution obligation through victim offender mediation programs.*
- *Juvenile offenders in victim offender mediation programs committed considerably fewer crimes than a matched sample of similar offenders not in mediation.*
- *This finding of lower recidivism, however, was not statistically significant.*

Restitution Completion

An important outcome of the victim offender mediation process is a written restitution plan that was negotiated by the victim and offender. For the combined sites, 95 % of mediations (as noted in Chapter 5) result in a successfully negotiated restitution agreement that is considered fair to both parties.

The importance of victims being compensated for their losses through some form of restitution (i.e. financial, personal service to victim or community service) is highlighted in the following statements. "Getting paid back was real important because I was in a very bad financial situation at the time." "The money was not important, but it was very important that the offender worked off the time, and that she had done something that was of benefit to me." "He owes me that."

Restitution is increasingly being required of juvenile offenders in many courts throughout the U.S. The more important issue, however, is whether or not restitution is actually completed by the offender. For victims to have their expectations raised by court ordered restitution, yet to later never receive compensation by the offender, could lead to a "second victimization" experience.

In order to examine the issue of successful restitution completion by juvenile offenders, court data related to actual completion of restitution was analyzed at the Minneapolis and Albuquerque program sites. Data was not available at the Austin and Oakland program sites, because of limited resources and the manner in which such data was reported and stored by the local juvenile court.

The comparison groups for this analysis represented a sample of similar offenders from the same jurisdiction who were matched with the offenders in mediation on the variables of age, race, sex, offense and amount of restitution (within \$100). In Hennepin County (Minneapolis area), only post-adjudication mediation cases, and their matched comparison group, were examined. Data was not available in the court records on restitution completion for pre-adjudication diversion cases. In Albuquerque, both pre and post adjudication mediation cases, and their matched comparison group, were examined.

While the Center for Victim Offender Mediation in Minneapolis serves both Hennepin (Minneapolis area) and Ramsey (St.Paul area) counties, the vast majority

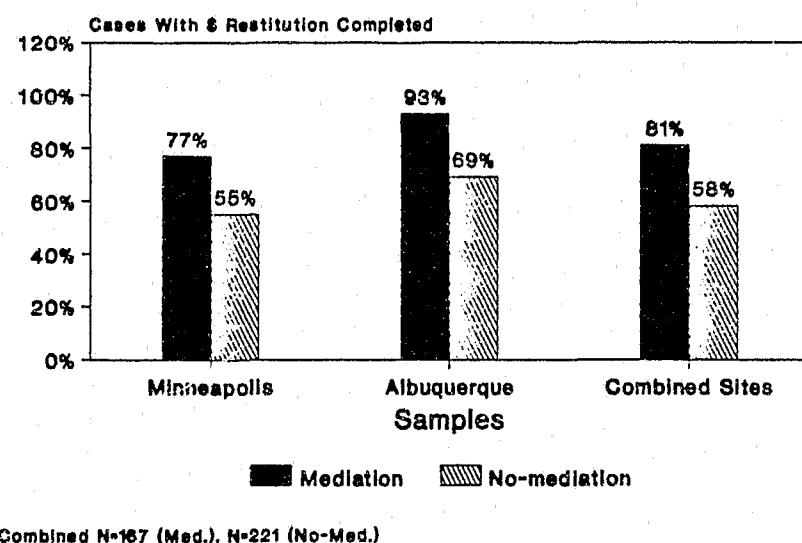
of cases are from Hennepin county. The analysis of restitution completion focused exclusively on Hennepin county. In addition to matching the comparison group sample along the above mentioned variables, the Hennepin county analysis of restitution completion also controlled for time, by measuring restitution completion by either the mediation sample or the comparison group within a year period. This was not possible at the Albuquerque site.

The unit of measurement in Hennepin county was that of "restitution agreements" rather than simply the offender, who may have had several restitution agreements since multiple victims were involved. By examining completion of each victim-offender agreement, even if the same offender is involved in several agreements, it was believed that a more accurate analysis could occur. For example, if one offender had negotiated three different restitution agreements with three different victims, failure to pay all but \$10 of one of the agreements would be measured as non-completion if the unit of measurement is the offender, even though he successfully completed two other restitution agreements. On the other hand, if the unit of measurement is the restitution agreement, this offender would have registered one non-completion and two successfully completed restitution obligations. Use of the restitution agreement as the unit of measurement only occurred at the Minneapolis site for Hennepin county data on post-adjudication cases.

In both Albuquerque and Minneapolis there were highly structured court administered restitution programs for all those juvenile offenders with a restitution responsibility, with the exception of a smaller group who were referred to the local

victim offender mediation program. This is important in that a more informal process of judges periodically ordering restitution, without the presence of a structured program and staff to monitor completion, would likely result in far less successful completion of restitution than found in the court administered programs from which the comparison group samples were drawn.

Figure 29
Restitution Completion
(Mediation and Matched Comparison Group)



As Figure 29 indicates, offenders who negotiated restitution agreements with their victims through a process of mediation were significantly more likely to actually complete their restitution obligation than similar offenders who were ordered by the court to pay a set amount of restitution. At the Minneapolis site (Hennepin County),

77% of juvenile offenders in the victim offender mediation program successfully completed their restitution obligation, compared to only 55% of similar offenders (matched sample) in the court administered restitution program which did not include a mediation session with the victim. In Albuquerque, 93% of the juvenile offenders in the victim offender mediation program successfully completed their restitution obligation to the victim, compared to 69% of similar offenders (matched sample) who were in the court administered restitution program involving no mediation.

When the Albuquerque and Minneapolis program sites are combined, 81% those offenders in the victim offender mediation program successfully completed restitution, compared to 58% of similar offenders who did not negotiate a restitution plan directly with their victim through the mediation process. All of these differences, both at the individual sites and combined sites, are statistically significant. This significantly higher rate of restitution completion may well be related to a greater sense of "ownership" of the restitution responsibility that is experienced by offenders in mediation. It may also be related to the fact that the actual restitution amount and form is likely to be more realistic as a result of the direct face-to-face negotiation between the parties.

Table 24
Restitution Completion by Offenders
(Percent of Restitution Completed)

| Sample | Minneap. | | Albuq. | | Total | |
|---|----------|-------|---------|------|----------|-------|
| | % | N | % | N | % | N |
| Mediation Sample (experimental group) | 77% | (125) | 93% | (42) | 81% | (167) |
| Non-referral Matched Sample (comparison group) | 55% | (179) | 69% | (42) | 58% | (221) |
| Probability of chance | p=.0001* | | p=.005* | | p=.0001* | |

* Finding of significant difference

NOTE: The Minn. sample was based upon total restitution agreements, after offenders were matched.

A previous study by Schneider and Schneider (1984) found that victims of crime were more likely to receive restitution from juvenile offenders who were involved in a structured "programmatic" restitution program, rather than an "ad-hoc" restitution program of the court. Prior to this cross-site analysis of victim offender mediation, no study has ever examined the impact of face-to-face mediation on successful completion of restitution. The finding that mediation has a significant impact is critical. At a time when concern for serving the needs of crime victims continues to grow, the fact that victim offender mediation can significantly increase the likelihood of victims being compensated, in some form, for their losses has very important implications for juvenile justice policy makers and those concerned with serving victims of crime.

The following tables provide additional data related to the Minneapolis site which represented the far larger sample and at which more extensive data was available. Characteristics of the mediation and matched sample in Hennepin county are first presented. This is followed by presenting the total dollars of restitution completed by both samples and the average (mean) amount of restitution for both samples.

Table 25
Characteristics of Minneapolis Mediation
Sample (N=87) & Matched Comparison Sample (N=87)

| Characteristic | | Occurrence | Percent |
|----------------|--------------------|------------|---------|
| AGE | Mean age of 16 | | 100% |
| GENDER | Female | 9 | 10% |
| | Male | 78 | 90% |
| RACE | White | 73 | 84% |
| | Black | 7 | 8% |
| | Native American | 5 | 6% |
| | Asian | 2 | 2% |
| CHARGE | Burglary | 35 | 40 |
| | Damage to Property | 16 | 19 |
| | Theft | 12 | 14 |
| | UUMV | 11 | 13 |
| | Forgery | 3 | 4 |
| | Assault | 2 | 2 |
| | Stolen Property | 2 | 2 |
| | Tampering | 2 | 2 |
| | Arson | 1 | 1 |
| | Hit and Run | 1 | 1 |
| | Negligent Fires | 1 | 1 |
| | Robbery | 1 | 1 |

Table 26
Dollar Completion of Restitution Within 1 Year

| | Mediation Sample | | No-Medn. Sample | |
|-------------------------------------|------------------|------|-----------------|------|
| | \$ | % | \$ | % |
| Complete | \$20,225 | 80% | \$13,244 | 53% |
| Incomplete | \$5,072 | 20% | \$11,828 | 47% |
| Total Obligation | \$25,297 | 100% | \$25,072 | 100% |
| Mean | \$290.77 | | \$288.18 | |
| Standard Deviation | 266.32 | | 263.74 | |
| Coefficient of Relative Variance | .9159 | | .9152 | |

Recidivism

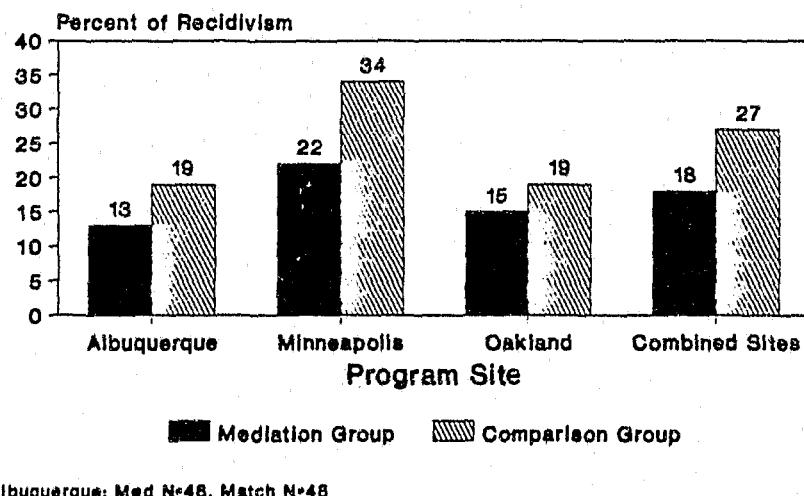
Victim offender mediation programs often are asked about whether or not they have an impact upon reducing further criminal behavior (recidivism) by those offenders participating in mediation. The issue of recidivism was examined at all of the three initial sites.

Recidivism was defined as commission of a new criminal offense within a one year period in which there was an admission of guilt and a response by the justice system, even if the disposition hearing occurred outside the one year time frame. For offenders in mediation, the time frame was one year from the date of the mediation session. For the comparison group, the time frame was one year from the court disposition for the offense that was matched with the mediation sample. Status offenses, probation violations and charges that were dismissed were not included as

"recidivism."

The comparison group at each site consisted of similar offenders from the same jurisdiction who were matched with offenders in mediation, along the variables of age, sex, race, offense and restitution amount.

Figure 30
Recidivism Analysis
The Impact of Victim Offender Mediation



As Figure 30 indicates, juvenile offenders in the three mediation programs committed considerably fewer additional crimes, within a one year period following the mediation, than similar offenders in the court administered restitution program. They were also tended to commit crimes that were less serious than the offense of referral to the mediation program, as indicated in Table 27. For those offenders in the victim offender mediation programs who committed subsequent crimes, 41%

were involved in less serious crimes, while on 12% of the matched comparison group who committed subsequent crimes were involved in less serious crimes.

Table 27
Seriousness of Recidivism

| | Albuquerque Med. | Minneapolis Match | Oakland Med. | Oakland Match | Total Med. | Total Mtch | | |
|------------------------------|---------------------|----------------------|-----------------|------------------|---------------|---------------|-----|-----|
| Total Recidivism | 6 | 9 | 19 | 29 | 4 | 5 | 29 | 43 |
| a. More serious offense | 1 | 5 | 8 | 10 | 2 | 3 | 11 | 18 |
| b. Less serious offense | 4 | 0 | 6 | 5 | 2 | 0 | 12 | 5 |
| c. Same level of seriousness | 1 | 4 | 5 | 14 | 0 | 2 | 6 | 20 |
| Total N | 48 | 48 | 85 | 85 | 27 | 27 | 160 | 160 |
| Recidivism rate | 13% | 19% | 22% | 34% | 15% | 19% | 18% | 27% |

While it is important to know that the victim offender mediation process appears to have had an effect on suppressing further criminal behavior, the finding is not, however, statistically significant. Even though the difference between the mediation samples and the comparison group samples was approaching significance, and missed by very little, the possibility that this apparent effect of mediation upon reducing recidivism occurred by chance cannot be ruled out.

This marginal but non-significant reduction of recidivism is consistent with two

English studies of victim offender mediation (Dignan, 1991; Marshall and Merry, 1990). Only one study in the U.S. is known (Schneider, 1986) to have found a significant impact of mediation upon offender recidivism. The program in that study, however, did not employ the same type of procedures used by the programs described in this cross-site analysis of victim offender mediation. A number of other studies (Butts and Snyder, 1991; Schneider, 1986; Schneider & Schneider, 1984) have found that juvenile offenders involved in a structured restitution program had lower recidivism rates than either offenders with no restitution obligation or offenders in a non-structured "ad-hoc" restitution program of the court.

It is important to realize that the comparison group samples in this recidivism analysis consisted of a matched sample of offenders who were involved in a structured restitution program. In fact, the largest comparison group was drawn from Hennepin County (Minneapolis area), a highly structured, well managed and adequately staffed restitution program that has received a considerable amount of national recognition over the years. Had the comparison group samples for this cross-site analysis of victim offender mediation consisted of similar offenders who were not in a structured restitution program or who did not even have a restitution obligation it is quite likely that a significant impact on reducing recidivism would have been found.

For some, a finding of a marginal but non-significant impact of the mediation process upon reducing offender recidivism may come as a disappointment. For others, including the authors, it comes as no surprise. Rather, such a finding is consistent with recidivism studies related to other community justice alternative programs. It

could be argued that it is rather naive to think that a time-limited intervention such as mediation by itself (perhaps 4-8 hours per case) would be likely to have a dramatic effect on altering criminal and delinquent behavior in which many other factors related to family life, education, chemical abuse and available opportunities for treatment and growth are known to be major contributing factors.

A major limitation of recidivism as an outcome measure is its "all or nothing" nature. For example, if an offender in mediation does not recidivate, the program receives credit for this "success." In reality, it is quite possible that the program had little positive impact but that the offender had a supportive family and a group of peers that kept him or her out of trouble. On the other hand, if the offender in mediation does commit another crime, the program is credited with a "failure." The mediation intervention may, however, have been the most positive thing that occurred for the offender in response to his or her criminal behavior, but lack of family support and a gang of friends with criminal tendencies drew the offender back into crime. The point is that criminal and delinquent behavior is far more complex than suggested by such a dichotomous measure as recidivism. Many other things are going on in the life of a juvenile offender than simply the program he or she is involved in. Ideally it would be preferable to measure the impact of a number of interventions (i.e. family counseling, educational assistance, job training and mediation) on reducing future criminal behavior. Such a measure, although more complex and costly, would be likely to offer a more accurate assessment of how recidivism can be reduced.

We would argue that the most important and realistic criteria related to recidivism

and mediation is not that of reduction of criminal behavior, as desirable as that is. Rather, the most important criteria is whether offenders in a victim offender mediation program recidivate at no higher levels than similar offenders in other programs or court interventions. As documented in this report, there are numerous other benefits of the victim offender mediation process, for both parties. If these benefits occur, with no additional risk of higher rates of criminal behavior, we would argue that, on balance, these programs are quite effective. This is particularly seen in the significant impact of mediation upon successful completion of restitution and upon reducing the fear and anxiety of crime victims.

Chapter 10

COST IMPLICATIONS OF VICTIM OFFENDER MEDIATION PROGRAMS

- *Average unit cost of a case referral was \$233.*
- *Average unit cost of a mediation case was \$678.*

The annual cost of operating the three primary programs examined in this study, during 1991, ranged from \$31,530 in Albuquerque to \$127,176 in Oakland. By far the largest single cost item was that of personnel, representing a range of 69% of the budget in Albuquerque to 72% in Minnesota and Oakland. The average amount of staff at these programs was 2.8 FTE.

The unit cost of a referral to these programs during 1991 ranged from \$81 in Albuquerque to \$346 in Oakland. For those cases referred to the program which later participated in a mediation session, the unit cost of a mediation ranged from \$292 in Minneapolis to \$986 in Oakland.

All of these three programs operated as a unit within a larger private non-profit agency which provided many different types of support and financial assistance. This relationship appeared to be crucial both during the initial development of each program and during subsequent years when there were period gaps in the flow of revenue to directly support the victim offender mediation program. As Table 28 indicates, the cost implications of operating these three programs differed considerably.

Table 28
Cost of Victim Offender Mediation Programs
(Based on 1991 Expenses)

| Item | Albu. | Minn. | Oakld. | Total |
|------------------------|--------|---------|---------|---------|
| Personnel Cost | 21,753 | 88,493 | 91,884 | 202,130 |
| Number of staff | 1.5FTE | 3.5FTE | 3.5FTE | 8.5 FTE |
| Other Program Costs | 9,777 | 34,873 | 35,322 | 79,972 |
| Total Annual Cost | 31,530 | 123,366 | 127,176 | 282,072 |
| Annual Cases Referred | 391 | 453 | 368 | 1,212 |
| Unit Cost of Referral | \$81 | \$272 | \$346 | \$233 |
| Annual Cases Mediated | 108 | 179 | 129 | 416 |
| Unit Cost of Mediation | \$292 | \$689 | \$986 | \$678 |

The following Tables provide a more detailed description of program costs at each site, for 1990 and 1991 separately. These Tables are based on actual expenses and are particularly helpful in identifying the range of specific cost items such as staff positions, rent, phone, printing, etc., as well as indirect expenses related to administrative overhead. The amount of indirect costs at the various program sites ranged from a low of 8.7% of direct program expenses in Minneapolis to a high of 31% in Albuquerque. It is important to realize, however, that "indirect costs" are defined differently at the program sites. For example, in Minneapolis certain indirect type of expenses, such as a portion of the salary of some support staff, are listed as direct program expenses, whereas at the other two sites this is not the case.

Table 29
Minneapolis Program Costs

| | 1990 | 1991 |
|---------------------------------------|------------------|------------------|
| Personnel Costs | | |
| 1. Program Director | .80 FTE | .65 FTE |
| 2. Staff Mediators | 1.63 FTE | 2.30 FTE |
| 3. Secretary | .40 FTE | .40 FTE |
| 4. Other support staff | .21 FTE | .20 FTE |
| Total Full time equivalent | 3.04 FTE | 3.55 FTE |
| Total salary costs | <u>\$68,190</u> | <u>\$76,275</u> |
| Total Fringe benefits/taxes | <u>\$10,667</u> | <u>\$12,218</u> |
| Sub-total for Personnel | <u>\$78,857</u> | <u>\$88,493</u> |
| Other Operating Costs | | |
| Rent | \$9,195 | \$9,326 |
| Supplies | 1,288 | 1,140 |
| Phone | 1,530 | 2,158 |
| Postage | 475 | 394 |
| Printing | 1,103 | 545 |
| Conferences | 3,238 | 2,911 |
| Miscellaneous | <u>2,270</u> | <u>2,467</u> |
| Sub-total other operating | <u>\$19,099</u> | <u>\$18,941</u> |
| Travel Costs | <u>3,311</u> | <u>\$4,093</u> |
| Any other direct costs | | |
| Depreciation | \$1,987 | \$1,788 |
| Total Direct Costs | <u>\$103,254</u> | <u>\$113,315</u> |
| Indirect Costs (8.7% and 8.9%) | <u>8,962</u> | <u>10,051</u> |
| TOTAL EXPENSES | <u>\$112,216</u> | <u>\$123,366</u> |

Table 30
Oakland Program Costs

| | <u>1990</u> | <u>1991</u> |
|--|-----------------|------------------|
| Personnel Costs | | |
| 1. Program Director | .90 FTE | .90 FTE |
| 2. Sr. Case Coordinator | 1.00 FTE | 1.00 FTE |
| 3. Training Coordinator | | .60 FTE |
| 4. Project Organizer (VISTA type volunteer) | 1.00 FTE | 1.00 FTE |
| Total full time equivalent | 2.90 FTE | 3.50 FTE |
| Total salary costs | <u>\$58,028</u> | <u>\$74,678</u> |
| Total Fringe benefits/taxes | <u>\$13,346</u> | <u>\$17,176</u> |
| Sub-total for Personnel | <u>\$71,374</u> | <u>\$91,854</u> |
| Other Operating Costs | | |
| Rent | \$4,680 | \$4,933 |
| Supplies | 600 | 800 |
| Phone | 250 | 250 |
| Postage | 700 | 900 |
| Printing | 1,000 | 1,350 |
| Sub-total other operating | <u>\$7,230</u> | <u>\$8,233</u> |
| Travel Costs | <u>\$1,000</u> | <u>\$1,500</u> |
| Training of Mediators | <u>\$500</u> | <u>\$3,000</u> |
| Total Direct Costs | <u>\$80,104</u> | <u>\$104,587</u> |
| Indirect Costs (21%) | <u>\$17,222</u> | <u>\$22,584</u> |
| TOTAL EXPENSES | <u>\$97,326</u> | <u>\$127,176</u> |

Table 31
Albuquerque Program Costs

| | <u>1990</u> 7/1 to 12/31 | <u>1991</u> 1/1 to 6/30 |
|-------------------------------|-----------------------------|----------------------------|
| Personnel Costs | | |
| 1. Program Director | 1.00 FTE | 1.00 FTE |
| 2. Program Assistant | .50 FTE | .50 FTE |
| Total full time equivalent | 1.50 FTE | 1.50 FTE |
| Total salary costs | \$9,935 | \$10,676 |
| Total Fringe benefits/taxes | \$612 | \$530 |
| Sub-total for Personnel | \$10,547 | \$11,206 |
| Other Operating Costs | | |
| Rent | \$91 | \$90 |
| Supplies | 176 | 175 |
| Phone | 211 | 211 |
| Postage | 108 | 108 |
| Printing | 136 | 136 |
| Sub-total other operating | \$722 | \$720 |
| Travel Costs | \$161 | \$150 |
| Volunteer Costs | | |
| Training | \$98 | \$120 |
| Mileage reimbursed | 80 | 95 |
| Sub-total of volunteer costs | \$178 | \$215 |
| Any other direct costs | | |
| Accounting | \$94 | \$94 |
| Total Direct Costs | \$11,702 | \$12,385 |
| Indirect Costs (31%) | 3,721 | 3,721 |
| TOTAL EXPENSES | \$15,424 | \$16,106 |

Chapter 11

CONCLUSIONS AND IMPLICATIONS

Conclusions

An enormous amount of both quantitative and qualitative data has been collected from a total of 1,153 interviews with crime victims and juvenile offenders in three states, review of program and court records, interviews with court officials and program staff, and observation of 28 mediation sessions. The conclusions that emerged from analysis of these many data sources are first identified below. While these conclusions cannot be generalized to represent all victim offender mediation programs, they do provide important insight into this growing international field of justice reform.

1. Victim offender mediation results in very high levels of client satisfaction (victims, 79%; offenders, 87%) and perceptions of fairness (victims, 83%; offenders, 89%) with the mediation process for both victims and offenders. This is consistent with a number of previous studies (Coates & Gehm, 1985; Digman, 1991; Marshall & Merry, 1990; Umbreit, 1988,1990,1991).
2. The importance among victims and offenders of meeting each other and interacting through the mediation process is documented quantitatively in this study, whereas prior research (Coates & Gehm, 1985) provided qualitative data related to this issue.
3. The victim offender mediation process has a strong effect in humanizing the justice system response to crime, for both victims and juvenile offenders. This is consistent with the findings of prior studies (Coates & Gehm, 1985; Marshall & Merry, 1990; Umbreit, 1991).
4. The process of victim offender mediation has a more significant differential effect upon crime victims (when examining comparison groups), even though both victims and offenders indicate very high levels of satisfaction and perceptions of fairness with mediation.

5. Victim offender mediation makes a significant contribution to reducing fear and anxiety among crime victims. Prior to mediation, nearly 25% of victims were afraid of being victimized again by the same offender. After mediation, only 10% were afraid of being revictimized.
6. Juvenile offenders seem to not perceive victim offender mediation to be a significantly less demanding response to their criminal behavior than other options available to the court. The use of mediation is consistent with the concern to hold young offenders accountable for their criminal behavior (Bazemore, 1990, 1992; Schneider, 1985; Schneider & Schram, 1986).
7. The specific location and sponsorship of the program had no major impact upon the high degree of client satisfaction and perceptions of fairness with the mediation process, for either victims or offenders.
8. Victim offender mediation has strong support from Court officials, both Judges and probation staff, and is increasingly becoming institutionalized into the juvenile court system.
9. Mediation is perceived to be voluntary by the vast majority of juvenile offenders who participated in it. Programs in this study appear to have done a better job of presenting VOM as a voluntary choice to the offender (81% of offenders) than indicated in prior research (Coates & Gehm, 1985).
10. Mediation is perceived to be voluntary by the vast majority of victims who participated in it. Although 93% of victims felt they voluntarily chose to participate in mediation, a small number of victims (7%) felt that they were coerced into participating in the victim offender mediation program. Whether this perception of coercion was a function of the program staff, mediators, court related officials or even parents (of juvenile victims) is unclear.
11. Considerably fewer and less serious additional crimes were committed within a one year period by juvenile offenders in victim offender mediation programs, when compared to similar offenders who did not participate in mediation. Consistent with two recent English studies (Marshal & Merry, 1990; Digman, 1991), this important finding, however, is not statistically significant because of the size of program samples.
12. Victim offender mediation has a significant impact on the likelihood of offenders successfully completing their restitution obligation (81%) to the victim, when compared to similar offenders who completed their restitution (58%) in a court administered program

without mediation.

13. There is a small, but important, amount of data from this study which suggests the danger of the victim offender mediation process becoming too routine, in such a way that it too could be experienced by some as dehumanizing.
14. As the field of victim offender mediation expands and becomes more institutionalized, a danger exists that VOM will alter its model to accommodate the dominant system of retributive justice, rather than influencing the present system to alter its model to incorporate a more restorative vision of justice upon which victim offender mediation is based.

Implications

A number of implications for both justice policy and direct practice are offered, based upon the conclusions that emerged from this extensive two and one half year multi-site study of victim offender mediation.

Policy Implications

- Wider public policy consideration should be given to increasing the availability of victim offender mediation services, perhaps even as a basic right for those victims of crime who would find it helpful, assuming the offender agrees to such a meeting and a credible victim offender mediation program is available to both parties.
- Victim offender mediation should be more consistently integrated into the large national network of court sponsored restitution programs. There is strong evidence that victims of crime are more likely to actually be compensated if the restitution plan is negotiated by the offender and victim.
- Mediating conflict between interested crime victims and their offenders should receive far more attention from the large network of victim advocacy groups throughout the U.S.. There is strong evidence that a victim's sense of vulnerability and anxiety can be reduced following a direct mediation session with their offender.

Program Implications

- Training of mediators should be enhanced to insure that an appropriate non-directive style of mediation is used. This style includes the ability to make use of silence during

mediation sessions and to avoid missing opportunities to encourage either victim or offender to address issues that are important to them. Emphasis should be placed on demonstrated skill competency rather than simply completing a set number of hours of mediation training.

- New written and video training resources should be developed to highlight the importance of a non-directive style of mediation. Specific examples of how to avoid "missing opportunities" for greater emotional closure for the victim and offender should be provided.
- Additional attention should be given to insuring that participation in mediation is voluntary for both parties. This should include training of case developers and mediators to inform both parties of all available options prior to their choice of mediation.
- Programs should routinely have victims and offenders sign a "consent to participate in mediation" form, prior to the actual mediation session, which clearly explains mediation, states the voluntary nature of mediation and identifies other options that are available to the parties.
- The appropriate role of parents in the mediation process involving juvenile offenders needs additional clarification. Rather than either a policy of including or not including parents in the actual mediation session, programs should develop policies that identify for whom and under what specific circumstances parents should be allowed in the entire mediation session.
- New written and video training resources should be developed to provide program staff and mediators assistance in identifying which cases and under what circumstances parental involvement in the mediation is desirable. The manner in which parents are allowed to be in the mediation session, including additional ground rules, should be incorporated into these mediator training resources.
- Case referral criteria in victim offender mediation programs should include both offenders with prior convictions and cases involving more serious offenses, such as residential burglary, robbery, aggravated assaults and negligent homicide.
- Programs should develop an on-going system for collecting client satisfaction and other related data that is helpful for maintaining high quality control. This should include collecting data related to the participants perception of voluntary participation and the role and effectiveness of the mediator. A program evaluation kit made available through this study could be helpful with such an effort.

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APPENDIX A

Program Evaluation Kit

**Program Evaluation Kit:
Victim Offender Mediation Programs**

Prepared by:

**Mark S. Umbreit, Ph.D.
Principal Investigator
Citizens Council Mediation Services
Minnesota Citizens Council on Crime & Justice
822 South Third St.
Minneapolis, MN 55415**

**School of Social Work
University of Minnesota
400 Ford Hall
Minneapolis, Minnesota 55455
U.S.A.**

July, 1992

This Program Evaluation Kit was made possible by a grant from the State Justice Institute in Alexandria, Virginia to the Minnesota Citizens Council on Crime and Justice in Minneapolis. The Minnesota Citizens Council on Crime & Justice contracted with the University of Minnesota for the services of the Principal Investigator.

Use of the questionnaires should give credit in the following manner:

The questionnaires used by our program are based on those initially prepared by Dr. Mark Umbreit at the School of Social Work at the University of Minnesota in Minneapolis. Dr. Umbreit served as the Principal Investigator for the Citizens Council Mediation Services in Minneapolis related to a study of victim offender mediation programs in four states. This research was funded by the State Justice Institute in Alexandria, Virginia. These questionnaires were adapted from the larger study conducted by Dr. Umbreit.

Program Evaluation Kit: Victim Offender Mediation Programs

Introduction

Victim offender mediation and reconciliation programs provide an opportunity for those who commit criminal offenses to meet face-to-face with the person they victimized, in the presence of a trained mediator. It is a conflict resolution process designed to be fair to both parties. The competency of the mediator is the most critical factor related to whether or not the parties have their informational, emotional and material needs met by the mediation process.

Consumer feedback about any type of service provision, including mediation, is an important element in maintaining quality control. Through a consistent and reliable system of receiving feedback from clients about their satisfaction with the mediation process and outcomes, important and helpful information can be obtained for program managers and mediators.

This Program Evaluation Kit is designed to be a self-administered system for routinely collecting client satisfaction as part of the ongoing operation of a victim offender mediation program. By "self-administered" we mean that this evaluation kit can be implemented by program staff and volunteers, without the need for a special program evaluation grant or connection with a researcher at a University or related institution. If used properly, the program evaluation system presented in this kit can be easily integrated into the on-going operation of the program and can actually offer

a good quality experience for previous participants in mediation, by asking for their feedback about how their case was handled.

The Program Evaluation Kit has been developed from the knowledge and experience gained from a two and one half year multi-state evaluation of victim offender mediation programs working with juvenile offenders and their victims. This research, represented the largest study of victim offender mediation in the U.S. and was completed during the summer of 1992. It was funded by a grant from the State Justice Institute in Alexandria, Virginia to the Minnesota Citizens Council on Crime & Justice in Minneapolis. The Citizens Council contracted with Dr. Mark Umbreit at the School of Social Work at the University of Minnesota to serve as Principal Investigator.

The questionnaires included in this Program Evaluation Kit represent a collapsed version of the larger instruments developed and administered by Dr. Umbreit and his staff in a total of 1,153 interviews with victims and offenders related to mediation programs in Albuquerque (NM), Austin (TX), Minneapolis (MN), and Oakland (CA). With slight modification, the enclosed questionnaires can be used for either juvenile or adult offenders.

Questionnaires

This Program Evaluation Kit includes the following questionnaires, for both mediation participants and a comparison group available to all mediation programs consisting of those victims and offenders referred to mediation but who do not

participate.

(Mediation Groups)

1. Victim post mediation questionnaire
2. Offender post mediation questionnaire

(Comparison Groups)

3. Victim referred but no mediation questionnaire
4. Offender referred but no mediation questionnaire

Answers to Important Questions

Who should conduct the interviews?

It is important that persons with a stake in the outcome of the mediation not do the interviewing. For example, the mediator in the case should not conduct the interview. The best arrangement is to have either a volunteer (who does not currently serve as a mediator) or a student intern conduct the interviews. Whoever does the interviewing should practice and role play their interviewing skills, under supervision, prior to doing the actual interviewing with victims and offenders.

How are interviews administered?

All of the questionnaires are designed to be administered over the phone during an interview which should take 15-30 minutes.

When should the post mediation interviews occur?

Post mediation interviews with victims and offenders should occur approximately two

months after the date of the mediation.

When should the comparison group interviews occur?

Interviews with victims and offenders who were referred to the program but who did not participate in mediation should be interviewed approximately two months after the date their case receives a disposition from the court or the date in which the mediation program refers the case back to the court. The main issue is that the two month period be measured from the same starting point in all cases.

Should a random sample of cases be selected for interviews?

Many victim offender mediation programs do not have a large enough base of case referrals to allow for random sampling of cases for interviews. In these programs, an availability sample should be used. This simply means that all available subjects are given the opportunity to be interviewed.

For those programs with a large and consistent base of case referrals, however, a systematic random sample is far more desirable. A systematic random sample simply means that you randomly select a starting point in a list of cases and then select every other case to be interviewed.

Do we have to conduct interviews with the comparison groups?

Interviewing those victims and offenders who were referred to the program but who did not participate in mediation will provide an important point of comparison. For example, a finding that 90% of victims in mediation are satisfied with the way their

case was handled by the justice system, including the mediation process, is impressive. Without a comparison group, we don't know if 90% of similar victims who did not participate in mediation were also satisfied with the way their case was handled by the justice system.

While it is clearly preferable to interview victims and offenders in both the mediation program and those who were referred but did not participate, this is not absolutely required. If your limited resources require fewer interviews, then simply interviewing those in mediation can occur. This is a weaker and less valid technique for evaluating the program, yet, data on program participants alone is better than no evaluative data at all.

It should be noted that a stronger comparison group would consist of offenders from the same jurisdiction who are matched with mediation offenders along the variables of age, sex, race, offense and prior convictions, as well as the victims of these matched offenders. This type of comparison group, however, is more difficult to obtain and would require the assistance of a person trained in research techniques and program evaluation.

What if I have additional questions that need to be asked?

There is absolutely no reason that you couldn't add a number of additional questions that relate to the needs of your specific program. In fact, this is encouraged. The more practical and relevant the system of program evaluation is, the more likely that you will make use of it as part of the on-going operation of the program.

POST-MEDIATION VICTIM INTERVIEW SCHEDULE

Program Site: _____

Program Case Number: _____

Interview Date: _____

Interviewer: _____

Age of victim: _____

Gender: _____

Race: _____

Mark Umbreit, Ph.D.
Principal Investigator
Citizens Council Mediation Services
Minnesota Citizens Council on Crime and Justice

School of Social Work
University of Minnesota

July, 1992

POST-MEDIATION VICTIM INTERVIEW SCHEDULE

I WOULD LIKE TO BEGIN BY ASKING YOU A FEW GENERAL QUESTIONS.

1. Did you know the offender before the crime occurred?

- a. yes b. no

1A. IF YES: How did you know the offender?

- a. friend
b. acquaintance
c. neighbor
d. other _____

2. Have you been a victim of a crime before?

- a. yes b. no

2A. IF YES: How many prior victimizations? _____
What kind of crime were they?

- a. crimes against property ____ (no.)
b. crimes against person ____ (no.)

3. Of the following possible effects of the crime on your life, which was the most important effect for you?

- a. a greater sense of fear
b. the loss of property
c. the damage to property
d. the hassle of dealing with police and court officials
e. a feeling of powerlessness

I WOULD NOW LIKE TO ASK YOU A FEW QUESTIONS ABOUT YOUR EXPERIENCE WITH THE JUSTICE SYSTEM IN THIS CASE.

4. How satisfied were you with the way the justice system handled your case?

- a. Very satisfied
b. Satisfied
c. Dissatisfied
d. Very dissatisfied

5. Do you believe that your opinion regarding the crime and offender was adequately considered in this case?

- a. yes b. no

6. Were you informed by the juvenile justice system as to the action taken regarding the offender in your case?

- a. yes b. no

7. Do you believe the offender was adequately held accountable for his/her behavior?

- a. yes b. no

8. Do you believe that victim offender mediation program should be a standard part of the criminal justice system and offered, on a voluntary basis, to all victims who would find it helpful?

- a. yes b. no

NOW I WOULD LIKE TO ASK A FEW QUESTIONS ABOUT THE VICTIM OFFENDER MEDIATION PROGRAM.

9. Do you feel that your being in the mediation program was your own choice?

- a. yes b. no

9A. IF YES: Why did you chose to participate in the victim offender mediation program?

- a. to get paid back for losses
- b. to let the offender know how I felt about the crime
- c. to receive answers to questions I had
- d. to help the offender
- e. to receive an apology
- f. other _____

10. Do you feel the mediator prepared you sufficiently for the meeting with your offender?

- a. yes b. no

10A. What was the most helpful in this preparation for mediation? (select one)

- a. being told what happens in mediation
- b. having someone listen to my story about what happened
- c. explaining what the possible benefits of mediation are
- d. other _____

10B. What was the least helpful in this preparation for mediation? (select one)

- a. not receiving enough information about mediation
- b. feeling that you had no choice about participation in mediation
- c. no one listened to your story about what happened or how you felt about it
- d. you never understood why mediation could be of benefit to you

11. Who was present at the mediation session?
(interviewer note: roles, not names)

- a. number of mediators _____
- b. number of victims _____
- c. number of people with victim _____
- d. number of offenders _____
- e. number of people with offender _____

12. How long did the mediation session last? _____

13. Would you say the tone of the meeting was generally

- a. friendly
- b. hostile
- c. other _____

14. Were you surprised by anything that occurred in the mediation session?

- a. yes b. no

14A. IF YES: By what?

- a. it went better than you expected
b. it was worse than you expected
c. the offender seemed sincere
d. the offender was so arrogant
e. other _____

NOW I WOULD LIKE TO ASK YOU SOME QUESTIONS ABOUT YOUR EXPERIENCE IN THE MEETING WITH THE OFFENDER. FOR EACH OF THE FOLLOWING ITEMS, PLEASE TELL ME WHETHER THE ITEM IS VERY IMPORTANT, IMPORTANT, UNIMPORTANT, OR VERY UNIMPORTANT.

15. To receive answers to questions you would like to ask the offender.

- a. Very important
b. Important
c. Unimportant
d. Very unimportant

15A. What are your thoughts about this?

16. To tell the offender how the crime affected you.

- a. Very important
b. Important
c. Unimportant
d. Very unimportant

16A. Why do you say that?

17. To get paid back for your losses by the offender.

- a. Very important
- b. Important
- c. Unimportant
- d. Very unimportant

17A. Please tell me more about this?

18. That the offender gets some counseling or other type of help.

- a. Very important
- b. Important
- c. Unimportant
- d. Very unimportant

18A. Why is that?

19. To have the offender committed to a correctional institution.

- a. Very important
- b. Important
- c. Unimportant
- d. Very unimportant

19A. Could you tell me more about this?

20. To have the offender say he or she is sorry.

- a. Very important
- b. Important
- c. Unimportant
- d. Very unimportant

20A. Did the offender seem to be sorry about the way he hurt you?

- a. yes
- b. no

20B. Did the offender offer an apology?

- a. yes
- b. no

21. To have the opportunity to negotiate a pay back agreement with the offender that was acceptable to both of you.

- a. Very important
- b. Important
- c. Unimportant
- d. Very unimportant

21A. Why is that?

I WOULD LIKE TO ASK YOU SOME ADDITIONAL QUESTIONS ABOUT THE MEETING WITH THE OFFENDER AND ITS OUTCOME.

22. Was a pay back agreement negotiated during the mediation session with the offender?

- a. yes
- b. no

22A. IF YES: What was agreed upon?

- a. amount of money _____
- b. amount of work _____
- c. other _____

23. Was the restitution agreement fair to you?

- a. yes
- b. no

23A. Could you tell me more about this?

24. Was the restitution agreement fair to the offender?

- a. yes
- b. no

24A. Why do you say that?

25. Was it helpful to meet the offender?

- a. Not at all helpful
- b. Somewhat helpful
- c. Very helpful

25A. Why?

26. Which of the following choices best describes your attitude toward the offender at this point in time?

- a. Very positive
- b. Positive
- c. Mixed: positive and negative
- d. Negative
- e. Very negative

27. Are you afraid the offender will commit another crime against you?

- a. yes
- b. no

28. How do you now feel about the crime committed against you?

- a. Very upset
- b. Somewhat upset
- c. Not upset

29. How likely is it do you think that the offender will commit another crime against somebody?

- a. Very likely
- b. Likely
- c. Unlikely
- d. Very unlikely

30. Which of these choices best describes your attitude about the mediation session with your offender:

- a. Very positive
- b. Positive
- c. Mixed; positive and negative
- d. Negative
- e. Very negative

30A. What are your thoughts about this?

31. Who did most of the talking during the mediation session? (roles, not names)

- a. the mediator
- b. yourself, as the victim
- c. the offender

32. Of the following items, please rank the three most important tasks of the mediator, with #1 being the most important?

rank

- a. providing leadership in the meeting
- b. making me and the offender feel comfortable and safe
- c. taking charge and doing most of the talking
- d. allowing plenty of time for me to talk directly with the offender
- e. being a good listener
- f. helping us formulate the restitution agreement
- g. other _____

33. Do you believe the mediator was fair?

- a. yes
- b. no

33A. IF NO: In what way was he or she unfair?

34. Which of these choices best describes your attitude about the mediator who worked with you and the offender:

- a. Very satisfied
- b. Satisfied
- c. No attitude
- d. Dissatisfied
- e. Very dissatisfied

34A. Could you explain your answer?

35. If you had it to do over again, would you again chose to meet the offender with a mediator?

- a. yes b. no

35A. What are your thoughts about this?

36. Would you recommend victim offender mediation to other victims of crime?

- a. yes b. no

36A. Could you explain your answer?

37. When you left the mediation session with your offender, how satisfied were you about the outcome of the meeting?

- a. Very satisfied
b. Satisfied
c. Dissatisfied
d. Very dissatisfied

38. What three things did you find the most satisfying about the victim offender mediation experience?

1. _____
2. _____
3. _____

39. What three things did you find least satisfying about the victim offender mediation experience?

1. _____
2. _____
3. _____

THE FOLLOWING REPRESENT STATEMENTS THAT ARE SOMETIMES MADE BY VICTIMS WHO PARTICIPATE IN VICTIM OFFENDER MEDIATION. PLEASE INDICATE WHETHER YOU STRONGLY AGREE, AGREE, DISAGREE OR STRONGLY DISAGREE WITH EACH STATEMENT.

| | strong agree | agree | dis- agree | strngly disagre |
|--|-----------------|-------|---------------|--------------------|
| 40. Victim offender mediation allowed me to express my feelings about being victimized. | | | | |
| 41. Victim offender mediation allowed me to participate more fully in the criminal justice process | | | | |
| 42. The offender was not sincere in his/her participation. | | | | |
| 43. I have a better understanding of why the crime was committed against me. | | | | |
| 44. The offender participated only because he/she was trying to stay out of jail. | | | | |
| 45. Participation in victim offender mediation made the criminal justice process more responsive to my needs as a human being. | | | | |

46. As a result of your participation in victim offender mediation, have any of your attitudes about crime or the juvenile justice system changed?

a. yes b. no

46A. IF YES: What attitudes and why?

47. Of the following items, please rank the three most important concerns you have related to fairness in the justice system, with #1 being the most important?

rank

- a. punishment of the offender
- b. paying back the victim
- c. help for the offender
- d. active participation by the victim in the juvenile justice system
- e. expression of apology by the offender
- f. other _____

48. Given your understanding of fairness, did you experience fairness within the justice system in your case?

- a. yes
- b. no

49. Is there anything else you would like to say about the mediation session with your offender or how your case was handled?

THANK YOU VERY MUCH FOR YOUR WILLINGNESS TO PARTICIPATE IN THIS PROGRAM EVALUATION.

REFERRED BUT NO MEDIATION VICTIM INTERVIEW SCHEDULE

Program Site: _____

Program Case Number: _____

Interview Date: _____

Interviewer: _____

Age of victim: _____

Gender: _____

Race: _____

Mark Umbreit, Ph.D.
Principal Investigator
Citizens Council Mediation Services
Minnesota Citizens Council on Crime and Justice

School of Social Work
University of Minnesota

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REFERRED BUT NO MEDIATION VICTIM INTERVIEW SCHEDULE

I WOULD FIRST LIKE TO ASK YOU A FEW QUESTIONS ABOUT YOUR EXPERIENCE WITH THE JUSTICE SYSTEM IN THIS CASE.

1. How satisfied were you with the way the justice system handled your case?
 - a. Very satisfied
 - b. Satisfied
 - c. Dissatisfied
 - d. Very dissatisfied
2. Do you believe that your opinion regarding the crime and offender was adequately considered in this case?
 - a. yes
 - b. no
3. Were you informed by the juvenile justice system as to the action taken regarding the offender in your case?
 - a. yes
 - b. no
4. Do you believe the offender was adequately held accountable for his/her behavior?
 - a. yes
 - b. no
5. Do you believe that victim offender mediation program should be a standard part of the criminal justice system and offered, on a voluntary basis, to all victims who would find it helpful?
 - a. yes
 - b. no
6. Clearly victim offender mediation is not something everyone wants to participate in. Can you tell me why you chose not to participate?
7. Is there anything that might have made it easier or more tempting to participate in the victim offender mediation program?

FOR EACH OF THE FOLLOWING ITEMS, PLEASE TELL ME WHETHER THE ITEM IS VERY IMPORTANT, IMPORTANT, UNIMPORTANT, OR VERY UNIMPORTANT.

8. To receive answers to questions you would like to ask the offender.

- a. Very important
- b. Important
- c. Unimportant
- d. Very unimportant

9. To tell the offender how the crime affected you.

- a. Very important
- b. Important
- c. Unimportant
- d. Very unimportant

10. To get paid back for your losses by the offender.

- a. Very important
- b. Important
- c. Unimportant
- d. Very unimportant

11. That the offender gets some counseling or other type of help.

- a. Very important
- b. Important
- c. Unimportant
- d. Very unimportant

12. To have the offender committed to a correctional institution.

- a. Very important
- b. Important
- c. Unimportant
- d. Very unimportant

13. To have the offender say he or she is sorry.

- a. Very important
- b. Important
- c. Unimportant
- d. Very unimportant

14. To have the opportunity to work out a pay back agreement with the offender that is acceptable to both of you.
- Very important
 - Important
 - Unimportant
 - Very unimportant
15. Do you think that a meeting with the offender might be helpful?
- Not at all helpful
 - Somewhat helpful
 - Very helpful
16. Which of the following choices best describes your attitude toward the offender at this point in time?
- Very positive
 - Positive
 - Mixed: positive and negative
 - Negative
 - Very negative
17. Which of the following choices best describes your attitude toward the idea of meeting your offender, even though you did not participate in the victim offender mediation program?
- Very positive
 - Positive
 - Mixed: positive and negative
 - Negative
 - Very negative
18. Are you afraid the offender will commit another crime against you?
- yes
 - no
19. How do you now feel about the crime committed against you?
- Very upset
 - Somewhat upset
 - Not upset

WE ARE ALMOST DONE, BUT BEFORE ENDING i WOULD LIKE TO ASK YOU A COUPLE QUESTIONS ABOUT FAIRNESS.

20. Of the following items, which is the most important to your thinking about fairness in the justice system?
- a. punishment of the offender
 - b. paying back the victim
 - c. help for the offender
 - d. active participation by the victim in the juvenile justice system
 - e. expression of apology by the offender
21. Given you understanding of fairness, did you experience fairness within the justice system in your case?
- a. yes
 - b. no

THIS COMPLETES OUR FORMAL INTERVIEW.

22. Is there anything else you would like to say about how the justice system handled your case?

THANK YOU VERY MUCH FOR PARTICIPATING IN THIS PROGRAM EVALUATION.

POST-MEDIATION OFFENDER INTERVIEW SCHEDULE

Program Site: _____

Program Case Number: _____

Interview Date: _____

Interviewer: _____

Age of offender: _____

Gender: _____

Race: _____

Offense: _____

Mark Umbreit, Ph.D.
Principal Investigator
Citizens Council Mediation Services
Minnesota Citizens Council on Crime and Justice

School of Social Work
University of Minnesota

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POST-MEDIATION OFFENDER INTERVIEW SCHEDULE

FIRST, I WOULD LIKE TO ASK YOU A COUPLE OF QUESTIONS ABOUT YOUR EXPERIENCE WITH THE JUSTICE SYSTEM IN THIS CASE.

1. How satisfied were you with the way the justice system handled your case?
 - a. Very satisfied
 - b. Satisfied
 - c. Dissatisfied
 - d. Very dissatisfied

2. Do you believe you were adequately held accountable for the crime you committed?
 - a. yes
 - b. no

NOW I WOULD LIKE TO ASK A FEW QUESTIONS ABOUT THE VICTIM OFFENDER MEDIATION PROGRAM.

3. Do you feel that your being in the mediation program was your own choice?
 - a. yes
 - b. no

- 3A. IF YES: Why did you chose to participate in the victim offender mediation program?
 - a. to pay back the victim for their losses
 - b. to let the victim know why I did it
 - c. to offer an apology
 - d. to take direct responsibility for making things right
 - f. other _____

4. Do you feel the mediator prepared you sufficiently for the meeting with your offender?
 - a. yes
 - b. no

4A. What was the most helpful in this preparation for mediation? (select one)

- a. being told what happens in mediation
- b. having someone listen to my story about what happened
- c. explaining what the possible benefits of mediation are
- d. other _____

4B. What was the least helpful in this preparation for mediation? (select one)

- a. not receiving enough information about mediation
- b. feeling that you had no choice about participation in mediation
- c. no one listened to your story about what happened or how you felt about it
- d. you never understood why mediation could be of benefit to you

5. Who was present at the mediation session?
(interviewer note: roles, not names)

- a. number of mediators _____
- b. number of victims _____
- c. number of people with victim _____
- d. number of offenders _____
- e. number of people with offender _____

6. How long did the mediation session last? _____

7. Would you say the tone of the meeting was generally

- a. friendly
- b. hostile
- c. other _____

7A. Could you tell me more about this?

8. Were you surprised by anything that occurred in the mediation session?

- a. yes
- b. no

8A. IF YES: By what?

- a. it went better than you expected
- b. it was worse than you expected
- c. the victim seemed to care about me
- d. the victim was so angry
- e. other _____

NOW I WOULD LIKE TO ASK YOU SOME QUESTIONS ABOUT YOUR EXPERIENCE IN THE MEETING WITH THE VICTIM. FOR EACH OF THE FOLLOWING ITEMS, PLEASE TELL ME WHETHER THE ITEM IS VERY IMPORTANT, IMPORTANT, UNIMPORTANT, OR VERY UNIMPORTANT.

9. To be able to tell the victim what happened.

- a. Very important
- b. Important
- c. Unimportant
- d. Very unimportant

9A. What are your thoughts about this?

10. To pay back the victim by paying them money or doing some work.

- a. Very important
- b. Important
- c. Unimportant
- d. Very unimportant

10A. Please tell me more about this?

11. To have the opportunity to work out a pay back agreement with the victim that was acceptable to both of you.

- a. Very important
- b. Important
- c. Unimportant
- d. Very unimportant

11A. What's your thinking behind this?

12. To be able to apologize to the victim for what you did.

- a. Very important
- b. Important
- c. Unimportant
- d. Very unimportant

12A. Did you apologize to your victim?

- a. yes
- b. no

12B. Could you tell me more about this?

I WOULD LIKE TO ASK YOU SOME ADDITIONAL QUESTIONS ABOUT THE MEETING WITH THE VICTIM AND ITS OUTCOME.

13. Was a pay back agreement negotiated during the mediation session with the victim?

- a. yes
- b. no

13A. IF YES: What was agreed upon?

- a. amount of money _____
- b. amount of work _____
- c. other _____

14. Was the restitution agreement fair to you?

- a. yes
- b. no

14A. Could you tell me more about this?

15. Was the restitution agreement fair to the victim?

- a. yes
- b. no

15A. Why do you say that?

16. Was it helpful to meet the victim?

- a. Not at all helpful
- b. Somewhat helpful
- c. Very helpful

16A. Why?

17. Do you feel better after having met with the victim?

- a. yes b. no

17A. What are your thoughts about this?

18. Which of the following choices best describes your attitude toward the victim at this point in time?

- a. Very positive
b. Positive
c. Mixed: positive and negative
d. Negative
e. Very negative

19. Do you think the victim has a better opinion of you after you met with each other?

- a. yes b. no

19A. Why is that?

20. How likely do you think it is that you will complete the agreement to pay back the victim?

- a. Very likely
b. Likely
c. Unlikely
d. Very unlikely

20A. Why do you say that?

21. How likely do you think it is that you will commit another crime?

- a. Very likely
b. Likely
c. Unlikely
d. Very unlikely

21A. Why do you say that?

22. Which of these choices best describes your attitude about the mediation session with your victim?

- a. Very positive
- b. Positive
- c. Mixed; positive and negative
- d. Negative
- e. Very negative

22A. What are your thoughts about this?

23. Who did most of the talking during the mediation session? (roles, not names)

- a. the mediator
- b. yourself, as the victim
- c. the offender

24. Of the following items, please rank the three most important tasks of the mediator, with #1 being the most important?

rank

- ____ a. providing leadership in the meeting
- ____ b. making me and the victim feel comfortable and safe
- ____ c. taking charge and doing most of the talking
- ____ d. allowing plenty of time for me to talk directly with the victim
- ____ e. being a good listener
- ____ f. helping us formulate the restitution agreement
- ____ g. other _____

25. Do you believe the mediator was fair?

- a. yes
- b. no

25A. IF NO: In what way was he or she unfair?

26. Which of these choices best describes your attitude about the mediator who worked with you and the victim:

- a. Very satisfied
- b. Satisfied
- c. No attitude
- d. Dissatisfied
- e. Very dissatisfied

26A. Could you explain your answer?

27. If you had it to do over again, would you again chose to meet the victim with a mediator?

- a. yes
- b. no

27A. What are your thoughts about this?

28. Would you recommend victim offender mediation to other friends that might get in trouble?

- a. yes
- b. no

28A. Could you explain your answer?

29. When you left the mediation session with your victim, how satisfied were you about the outcome of the meeting?

- a. Very satisfied
- b. Satisfied
- c. Dissatisfied
- d. Very dissatisfied

30. What three things did you find the most satisfying about the victim offender mediation experience?

1. _____
2. _____
3. _____

31. What three things did you find least satisfying about the victim offender mediation experience?

1. _____
2. _____
3. _____

THE FOLLOWING REPRESENT STATEMENTS THAT ARE SOMETIMES MADE BY OFFENDERS WHO PARTICIPATE IN VICTIM OFFENDER MEDIATION. PLEASE INDICATE WHETHER YOU STRONGLY AGREE, AGREE, DISAGREE OR STRONGLY DISAGREE WITH EACH STATEMENT.

| | strong agree | agree | dis- agree | strngly disagre |
|---|-----------------|-------|---------------|--------------------|
| 32. Too much pressure was put on me to do all the talking in the meeting. | | | | |
| 33. I felt I had no choice about participating in the mediation session with my victim. | | | | |
| 34. The victim was not sincere in his/her participation. | | | | |
| 35. I have a better understanding of how my behavior affected the victim. | | | | |
| 36. The victim participated only because he/she wanted the money back. | | | | |
| 37. Without the victim offender mediation program, I probably would have gone to jail. | | | | |

38. As a result of your participation in victim offender mediation, have any of your attitudes about crime or the juvenile justice system changed?

- a. yes b. no

38A. IF YES: What attitudes and why?

39. Of the following items, please rank the three most important concerns you have related to fairness in the justice system, with #1 being the most important?

rank

- a. punishment of the offender
- b. paying back the victim
- c. help for the offender
- d. the offender personally making things right
- e. the offender being able to apologize to the victim
- f. other _____

40. Given your understanding of fairness, did you experience fairness within the justice system in your case?

- a. yes
- b. no

41. Is there anything else you would like to say about the mediation session with your victim or how your case was handled?

THANK YOU VERY MUCH FOR YOUR WILLINGNESS TO PARTICIPATE IN THIS PROGRAM EVALUATION.

REFERRED BUT NO MEDIATION OFFENDER INTERVIEW SCHEDULE

Program Site: _____

Program Case Number: _____

Interview Date: _____

Interviewer: _____

Age of offender: _____

Gender: _____

Race: _____

Offense: _____

Mark Umbreit, Ph.D.
Principal Investigator
Citizens Council Mediation Services
Minnesota Citizens Council on Crime and Justice

School of Social Work
University of Minnesota

July, 1992

REFERRED BUT NO MEDIATION OFFENDER INTERVIEW SCHEDULE

FIRST, I WOULD LIKE TO ASK YOU A COUPLE OF QUESTIONS ABOUT YOUR EXPERIENCE WITH THE JUSTICE SYSTEM IN THIS CASE.

1. How satisfied were you with the way the justice system handled your case?
 - a. Very satisfied
 - b. Satisfied
 - c. Dissatisfied
 - d. Very dissatisfied
2. Do you believe you were adequately held accountable for the crime you committed?
 - a. yes
 - b. no

NOW I WOULD LIKE TO ASK A FEW QUESTIONS ABOUT THE VICTIM OFFENDER MEDIATION PROGRAM THAT YOU WERE REFERRED TO. VICTIM OFFENDER MEDIATION IS NOT SOMETHING EVERYONE WANTS TO PARTICIPATE IN.

3. Can you tell me why you did not participate in the victim offender mediation program?
4. Is there anything that might have made it easier or more tempting to participate in the victim offender mediation program?

FOR EACH OF THE FOLLOWING ITEMS, PLEASE TELL ME WHETHER THE ITEM IS VERY IMPORTANT, IMPORTANT, UNIMPORTANT, OR VERY UNIMPORTANT.

5. To be able to tell the victim what happened.
 - a. Very important
 - b. Important
 - c. Unimportant
 - d. Very unimportant

6. To pay back the victim by paying them money or doing some work.
- Very important
 - Important
 - Unimportant
 - Very unimportant
7. To have the opportunity to work out a pay back agreement with the victim that is acceptable to both of you.
- Very important
 - Important
 - Unimportant
 - Very unimportant
8. To be able to apologize to the victim for what you did.
- Very important
 - Important
 - Unimportant
 - Very unimportant
9. Do you think that a meeting with the victim might be helpful?
- Not at all helpful
 - Somewhat helpful
 - Very helpful
10. Would you feel nervous about meeting with the victim?
- yes
 - no
11. Which of the following choices best describes your attitude toward the victim at this point in time?
- Very positive
 - Positive
 - Mixed: positive and negative
 - Negative
 - Very negative

12. Which of the following choices best describes your attitude toward the idea of meeting your victim, even though you did not participate in the victim offender mediation program?

- a. Very positive
- b. Positive
- c. Mixed: positive and negative
- d. Negative
- e. Very negative

13. Do you care about what the victim thinks of you?

- a. yes
- b. no

WE ARE ALMOST DONE, BUT BEFORE ENDING I WOULD LIKE TO ASK YOU A COUPLE QUESTIONS ABOUT FAIRNESS.

14. Of the following items, which is the most important to your thinking about fairness in the justice system?

- a. punishment of the offender
- b. paying back the victim
- c. help for the offender
- d. the offender personally making things right
- e. the offender being able to apologize to the victim

15. Given your understanding of fairness, did you experience fairness within the justice system in your case?

- a. yes
- b. no

THIS COMPLETES OUR FORMAL INTERVIEW.

16. Is there anything else you would like to say about how your case was handled by the justice system?

THANK YOU VERY MUCH FOR PARTICIPATING IN THIS PROGRAM EVALUATION.