

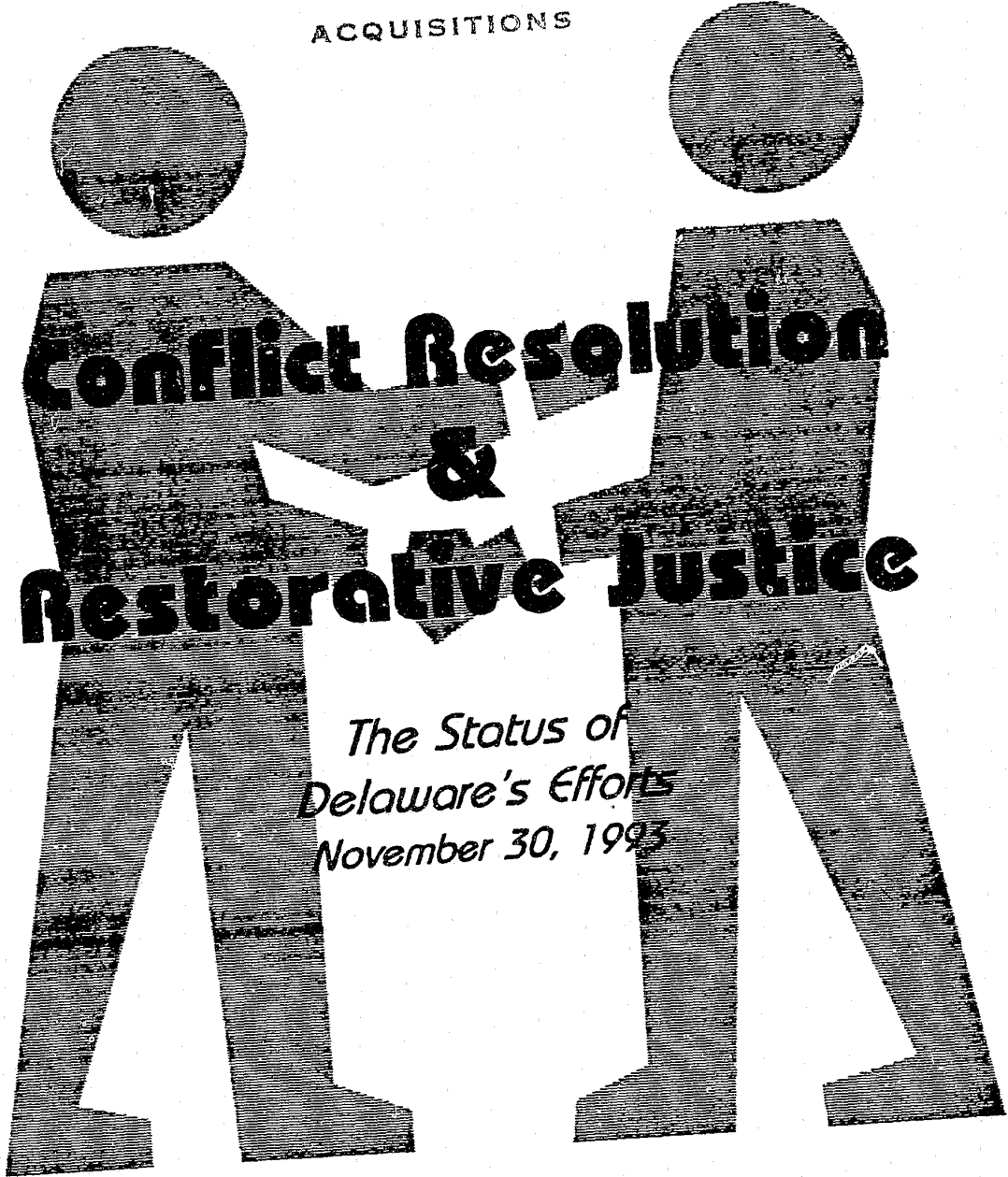
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Conflict Resolution & Restorative Justice

*The Status of
Delaware's Efforts
November 30, 1993*

Sentencing Accountability Commission

Criminal Justice Council

153375

**U.S. Department of Justice
National Institute of Justice**

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Conflict Resolution and Restorative Justice

The criminal justice system is too often expected to solve all of society's complex problems, when in fact it is prompted to action only after a crime has been committed, after the damage has been done. Further, our system of jurisprudence is geared very much toward the offender and the offense, with significant attention to due process and punishment issues. Somehow "justice" and "punishment" have almost become synonymous. Left largely out of the equation is the victim or the community which has been harmed.

The agencies of justice have begun to respond to the challenge; to try to better meet the expectations of the public; to derail conflicts before they escalate; all toward the goal of reducing crime and more fairly and efficiently dispensing justice. The term "conflict resolution" has been applied to most of these initiatives, which will be described more fully on the pages following.

These efforts have begun to overlap with another emerging philosophy - "restorative justice" - which has been in place in some jurisdictions as an adjunct to the retributive model. In the restorative model, the victim is the paramount concern and the process geared to making the victim whole, using the offender as the vehicle where possible. Typically a trained mediator will meet with a victim first, then the offender. If a victim desires a personal meeting, that is arranged by the mediator, and the victim is able to get questions answered that the current process does not allow. The offender is forced to face the individual and consider the consequences of the crime, and acknowledge the personal impact and the effect on the community. In jurisdictions where this operates, victims are more satisfied with justice and more likely to receive restitution.

The restorative justice model is not for all cases - certainly non-remorseful career criminals would be inappropriate for the process - but it is a promising new direction that should be explored in earnest and attempted in Delaware's communities.

As Delaware moves to develop more fully the various efforts at conflict resolution and to infuse a restorative view to our policies, it is important to assess where we are and where we are headed. This document will provide that overview, and serve as a proposed broad plan to move forward on these fronts.

The tables found on pages 3 and 4 of this document provide an overview of existing efforts and identified gaps.

The table on page 3 identifies existing efforts and gaps by county and program type. The programs have been divided into 4 categories: Community Based programs which generally deal with conflicts prior to any involvement of the criminal justice system; Police Involved programs which involve an officer either mediating a dispute at the scene of an incident, or referring disputants into an existing mediation program as an alternative to filing charges; Court Related Programs which operate under the auspices of the court or as an alternative means of processing a case; and, Corrections Based programs which involve mediating disputes between inmates, inmates and guards, or victim impact panels and post conviction Victim Offender Reconciliation Programs (VORP). Many of the existing efforts cut across a several different program categories.

The table on page 4 displays basically the same information in a different fashion. In addition to dividing programs into the 4 different categories which were used in Table 1, Table 2 divides the programs even further into 4 different program types: Training and Public Education Efforts; Improvement of Basic Skills and Enhanced System Capabilities; System Processes; and, Programs. The table makes a distinction between those efforts which are Operational/Existing; Planned or In Development; and, those which have been suggested as possible future options. The symbols (\oplus) next to each program grouping are filled in to show the amount of progress which subjectively has been made in that area.

The pages which follow the two tables contain summary information on some of the major existing efforts, giving more detail about the programs included within the tables.

When reviewing the tables contained in this report, it should be noted that while efforts were made to include as many programs as possible in this document, so many new programs are being started independent of the efforts of the Criminal Justice Council and the Criminal Justice System as a whole, some programs may have been inadvertently omitted. If we become aware of these programs, we will include them in our next draft.

TABLE 1. Conflict Resolution/Restorative Justice Efforts and Gaps

	COUNTY	COMMUNITY (Pre-system involvement)	POLICE INVOLVEMENT	COURT RELATED	CORRECTIONS BASED
EXISTING EFFORTS	NC	<ul style="list-style-type: none"> ◆ Brandywine School District ◆ NOVA TA/Training proj. for Weed & Seed ◆ YMCA Res. Center ◆ AVP Program 	<ul style="list-style-type: none"> ◆ Academy/Inservice Training for officers ⇒ ⇒ May include some⇒ 	<ul style="list-style-type: none"> ◆ VORP (Family Ct.) ◆ Restitution Orders ◆ Comm. Serv. Orders ⇒ ⇒ VORP Skills trng. ◆ Wilmington Citizen Dispute Center 	<ul style="list-style-type: none"> ◆ DOC Lifeskills grant ◆ AVP Program ◆ Occasional Victim Impact Panels ◆ Community Service
	K	<ul style="list-style-type: none"> ◆ KC Community Justice Centers ⇒ ⇒ ⇒ ⇒ ⇒ ⇒ ⇒ ⇒ ◆ TA - Al Wengerd (Indiana) ◆ Smyrna Schools training 2 trainers ◆ YMCA Resource Cen. School programs 	<ul style="list-style-type: none"> ⇒ ⇒ ⇒ ⇒ ⇒ ⇒ ⇒ ⇒ ⇒ ⇒ ⇒ ⇒ ⇒ ⇒ ◆ Academy/Inservice Training for officers 	<ul style="list-style-type: none"> ⇒ ⇒ ⇒ ⇒ ⇒ ⇒ ⇒ ⇒ ◆ Restitution Orders ◆ Comm. Serv. Orders 	<ul style="list-style-type: none"> ◆ DOC Lifeskills grant ◆ AVP Program ◆ Occasional Victim Impact Panels ◆ Community Service
	S	<ul style="list-style-type: none"> ◆ Seaford School District ◆ YMCA Resource Cen. School programs 	<ul style="list-style-type: none"> ◆ Academy/Inservice Training for officers 	<ul style="list-style-type: none"> ◆ Restitution Orders ◆ Comm. Serv. Orders 	<ul style="list-style-type: none"> ◆ DOC Lifeskills grant ◆ AVP Program ◆ Occasional Victim Impact Panels ◆ Community Service
GAPS	NC	◆		◆ VORP In Adult Courts	
	K	◆		◆ VORP In all Courts	
	S	◆		◆ VORP In all Courts	
	STATE	<ul style="list-style-type: none"> ◆ Statewide coord. ⇒ ⇒ ⇒ ◆ Multidisciplinary ⇒ ⇒ ⇒ ⇒ ◆ Statewide public ⇒ ⇒ ⇒ ◆ Legislation for funding 	<ul style="list-style-type: none"> ⇒ of all efforts relating⇒ ⇒ training for trainers ⇒ ⇒ education and⇒ ⇒ ⇒ ⇒ ⇒ ⇒ ⇒ ⇒ ⇒ ⇒ ⇒ ⇒ ⇒ ⇒ ⇒ ⇒ 	<ul style="list-style-type: none"> ⇒ to conflict resolution ⇒ ⇒ ⇒ ⇒ ⇒ ⇒ ⇒ ⇒ ⇒ ⇒ ⇒ ⇒ ⇒ awareness efforts ⇒ ⇒ ⇒ ⇒ ⇒ ⇒ ⇒ ⇒ ⇒ ⇒ ⇒ ⇒ ⇒ 	<ul style="list-style-type: none"> ⇒ & restorative justice. ⇒ ⇒ ⇒ ⇒ ⇒ ⇒ ⇒ ⇒ ⇒ ⇒ ⇒ ⇒ ⇒ ⇒ ⇒ ⇒ ⇒ ⇒ ⇒ ⇒ ⇒ ⇒ ⇒ ⇒

PROGRAM AREA	COMMUNITY (Pre-system)	POLICE INVOLVEMENT	COURT RELATED	CORRECTIONS BASED
TRAINING/PUBLIC EDUCATION	<ul style="list-style-type: none"> ◆ SMYRNA SCHLS. TRN 2 TRNRS ◆ AVP PROGRAM ◆ NOVA TA/training ◆ TA - Al Wengerd ◆ <i>Multidisciplinary trng for trnrs</i> ◆ <i>Public awareness campaign</i> 	<ul style="list-style-type: none"> ◆ ACADEMY/INSERV. TRNG FOR OFFICERS ◆ NOVA TA/training ◆ <i>Multidisciplinary trng for trnrs</i> ◆ <i>Public awareness campaign</i> 	<ul style="list-style-type: none"> ◆ NOVA TA/training ◆ <i>Multidisciplinary trng for trnrs</i> ◆ <i>Public awareness campaign</i> 	<ul style="list-style-type: none"> ◆ AVP PROGRAM ◆ DOC LIFESKILLS GRANT ◆ <i>Multidisciplinary trng for trnrs</i> ◆ <i>Public awareness campaign</i>
BASIC SKILLS/ ENHANCED CAPABILITIES	<ul style="list-style-type: none"> ◆ <i>Statewide Coordination</i> ◆ <i>Legis. for funding</i> 	<ul style="list-style-type: none"> ◆ <i>Statewide Coordination</i> ◆ <i>Legis. for funding</i> 	<ul style="list-style-type: none"> ◆ Collect & disburse restitution ◆ <i>Statewide Coordination</i> ◆ <i>Legis. for funding</i> 	<ul style="list-style-type: none"> ◆ <i>Statewide Coordination</i> ◆ <i>Legis. for funding</i>
PROCESS	<ul style="list-style-type: none"> ◆ Colonial Trng. process 	<ul style="list-style-type: none"> ◆ Officer application of skills on job ◆ Officers refer to existing programs 	<ul style="list-style-type: none"> ◆ RESTITUTION ORDERS ◆ COMMUNITY SERV. ORDERS (Expan. planned) ◆ Cnt. Collect. Unit 	<ul style="list-style-type: none"> ◆ SUPERVISE COMM. SERV.
PROGRAMS	<ul style="list-style-type: none"> ◆ BRANDYWINE SCHOOL DIST. ◆ SEAFORD SCHOOL DIST. ◆ YMCA RES. CTR. ◆ KC Community Just. Ctr. 	<ul style="list-style-type: none"> ◆ KC Community Just. Ctr. 	<ul style="list-style-type: none"> ◆ VORP (NCC F CT) ◆ Expand VORP to all other courts ◆ KC Community Just. Ctr. ◆ Wilm. Citizen Dispute Center 	<ul style="list-style-type: none"> ◆ VICT. IMPACT PANELS

KEY

BOLD CAPS - OPERATIONAL/EXISTING
Normal - Planned/in Development
Italic - Suggestions/Options

TABLE 2. Conflict Resolution/Restorative Justice Progress Indicators

Training/Public Education Programs

Nova TA/Training Project - The Criminal Justice Council, working in conjunction with the U.S. Attorney's Office was awarded a technical assistance and training grant from the National Organization for Victim Assistance. The purpose of the project is to assist community members and service providers in the Weed & Seed target areas to provide a better and more coordinated response to crime victims. It is possible that some of the workshops could include some Victim Offender Reconciliation Program (VORP) skills training. It is anticipated that the actual workshops will take place in the spring of 1994.

TA - Al Wengerd - The Kent County Community Justice Center Planning Committee has arranged to receive technical assistance through the National Institute of Corrections. Al Wengerd, an expert in conflict resolution programming will be in Delaware for three days (December 7-9, 1993) to provide assistance with our planning efforts, particularly as they relate to the formation of the Kent County Community Justice Center.

Academy/Inservice Training for Police Officers - Many of the state's police academies and departments are providing their recruits and officers with conflict resolution skills training. Many are making use of the training available through the Delaware Council on Crime and Justice (DCCJ), however, some are using other private contractors to provide this training. The purpose of this type of training is to give officers some on scene skills that they may be able to use to resolve a situation before it escalates.

AVP Program - The Alternatives to Violence Project (AVP) is a training project through which participants learn skills in conflict resolution, problem solving, leadership, non-violence, cooperation, and communication. The program offers 3 levels of training: Basic, Advanced, and Training for Trainers. Although the program was originally developed for prison inmates, it soon became evident that the program could be valuable to the general public as well. The AVP program in Delaware currently provides workshops in many of Delaware's correctional facilities, and to a number of community based groups and organizations.

DOC Lifeskills Grant - The Life Skills Program is a 4 month instructional program for Delaware inmates. It includes three components: Violence Reduction, Applied Skills, and Academics. Each component is made up of instruction and exercises in interrelated subtopics. One of the subtopics of the Violence Reduction component is conflict resolution.

Basic Skills and Enhanced Capabilities

This section of table 2 focuses on some possible suggestions for enhancing the capabilities of the existing system so that it can take full advantage of the opportunities available through the Conflict Resolution/Restorative Justice Model.

There are 2 major considerations. The first of these would be the need for statewide coordination of programming efforts in this area so that duplication can be kept to a minimum and maximum effectiveness can be achieved. The second consideration would be to look at possible funding resources. In other jurisdictions, the use of Conflict Resolution and/or Restorative Justice programming has been legislated with funding allocated in conjunction with the legislation.

To date, there has been very little progress in this area. There is currently an effort underway to improve the way in which restitution is collected and disbursed. One of the reasons for non-payment of many restitution orders has been identified as a lack of primary responsibility for collection. While the courts, and in some cases probation officers, do make some efforts to require, or at least encourage payment, all concerned personnel have other duties carrying higher priorities. To deal with this aspect of the problem, a supervisor has been funded in the Administrative Office of the Courts, with a directive to design, staff, train, and supervise a program that will be directly responsible for the collection of court-ordered assessments. It is estimated that initiation of this program will at least double the funds collected, resulting in better service to victims in the area of financial restoration.

Process

Restitution Orders - Since 1982, Judges have been required to assess restitution against offenders in property crimes in order to restore victims. While the amount of restitution ordered, and collected, has increased several hundredfold, many orders go unpaid due to long periods of incarceration, inability of the offender to pay within the structure of current procedures, or the simple avoidance of payment by offenders who are not motivated to pay-up. Still the law does require the judges to consider ordering restitution and the payments to the victims are given priority over any payment of fines and court costs.

Community Service - A frequently used sanction for probationers, particularly minor offenders is Community Service. This option requires the offender to serve a designated time, usually measured in hours, by working at a local site. Government agencies and non-profit community agencies may serve as the sites. The offender is required to report to a designated supervisor and reports are returned to Probation and Parole regarding the amount of time served on a weekly basis. While many hours of useful work are performed, and such service meets with the approval of a majority of Delaware residents, there are occasionally some problems in finding sufficient host agencies and transportation of the offender to the work site, particularly in the southern counties. Additional problems may arise in record keeping and in continued violations being written against offenders who fail to report as directed or who do not perform the assigned chores adequately.

Programs

School District Programs - Several school districts in the state have begun to implement conflict resolution programs. These programs may include a variety of elements such as: Peer Mediation, Curriculum on how to avoid and resolve conflicts, and teacher student mediation. Some districts have implemented programs on a district wide basis, while others are leaving program implementation decisions up to individual schools.

YMCA Resource Center Programs - The YMCA Resource Center offers conflict resolution training to schools and community organizations. Training can be provided for students, teachers/administrators, and parents. Many schools have chosen to use the YMCA Resource Center Program in lieu of developing their own separate program.

VORP (NCC Family Court) - The Delaware Council on Crime and Justice is currently operating a pilot Victim Offender Reconciliation Program (VORP) in the New Castle County Family Court. This program works with pretrial youth who are charged with minor criminal offenses. A meeting is set up between the youth and the victim of the criminal offense. The purpose of the meeting is to have the youth come face to face with the individual who suffered the consequences of his/her actions and to reach some agreement on the reparations to be made.

Victim Impact Panels - A victim impact panel consists of victims who speak to offenders about the impact that their victimization has had on their lives. The offenders addressed by these victims may have been convicted of a similar offense, but as a rule, are not the actual offender(s) of the victims on the panel. The most prevalent of these programs in Delaware are done through MADD and DelADD. Additionally, DCJ has made arrangements for individual victims to address specific groups of inmates (i.e. the pre-release class).

Kent County Community Justice Center - A working committee has been formed in Kent County which is designing a pilot program to work in cooperation with the police, prosecution, defense and court using a coalition of community based, non-profit agencies. In addition to victim offender mediation, the center would also deal with conflict resolution in the community, helping to resolve those issues or disagreements before they become criminal offenses.

Summary and Conclusions

Clearly, many efforts have already been made, and several others are underway. Restorative Justice holds out the hope that the victim and the community can be made whole, using the offender as a vehicle to accomplish those aims. The results in other jurisdictions are promising.