

OPENING THE “BLACK BOX”:
A NATURALISTIC CASE STUDY OF RESTORATIVE JUSTICE

BY

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in partial fulfillment of the requirements for the degree of
Doctor of Philosophy.

Chairperson

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TABLE OF CONTENTS

TABLE OF CONTENTS	iv
LIST OF TABLES	xi
LIST OF FIGURES	xii
ACKNOWLEDGEMENTS	xiii
ABSTRACT	xv
CHAPTER 1: INTRODUCTION	1
Primary Issues	5
Problem Statement	11
Purpose of the Study	14
Summary	15
CHAPTER 2: LITERATURE REVIEW	17
The Meaning and Context of Restorative Justice	17
<i>Defining Restorative Justice</i>	17
<i>A Brief History of Restorative Justice</i>	21
<i>Practicing Restorative Justice: VOM, FGC, and Healing Circle</i>	26
<i>Current Social Policies that Affect Restorative Justice in the</i> <i>United States</i>	30
<i>Restorative Justice and Reintegrative Shaming Theory</i>	32
Empirical Literature	35
<i>Quantitative Designs</i>	35
<i>Mixed Methods Designs</i>	41
<i>Qualitative Designs</i>	46
<i>Research Implications</i>	50
<i>The Restorative Outcomes</i>	51
<i>The Restorative Justice Process</i>	53
<i>Methodological Issues in Current Research Studies</i>	54
CHAPTER 3: METHODOLOGY	58
Rationale for Design: Qualitative Research Method	59
<i>Designing Naturalistic Case Study</i>	61
Restatement of Research Questions	64
Definition of Key Concepts	65
<i>The Participants</i>	65
<i>VOM</i>	66
<i>The Process</i>	66
<i>Restorative Justice</i>	67

<i>Restorative Outcome</i>	67
<i>Internal/External Factors Prompt/Impede the Restorative Justice</i>	
<i>Program</i>	67
Methods for Data Collection	68
<i>Data Sources</i>	68
<i>Settings</i>	71
<i>Purposeful Sampling</i>	74
<i>Human Subjects Protection</i>	77
Methods for Data Analysis	78
Trustworthiness	80
<i>Credibility</i>	80
<i>Transferability</i>	82
<i>Dependability</i>	82
<i>Confirmability</i>	83

CHAPTER 4: FINDINGS, THE FOUR CASES – ONE STORY AT A TIME -84

The Four Cases: One Story at a Time	85
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CHAPTER 4.1: THE DEPARTMENT STORE CASE -----88

Participants and Their Stories	88
<i>The Chronology: From Incident to VOM</i>	89
<i>The Incident</i>	90
<i>The Views on the Incident</i>	91
<i>The Views on Each Other</i>	92
<i>The Continuing Impact of the Incidents: Juvenile Offender</i>	
<i>and Parent</i>	94
<i>The Continuing Impact of the Incident: Victim</i>	95
Victim Offender Mediation: The Process	97
<i>Immediate Intervention Program (IIP)</i>	98
<i>Preparing for the VOM: Preparation for the Participants</i>	98
<i>The Victim</i>	99
<i>The Offender and Parent</i>	99
<i>Participants' Motivations to Participate in VOM</i>	100
<i>Participants' Expectations for VOM</i>	101
<i>Looking Inside of the VOM</i>	102
<i>The Atmosphere</i>	103
<i>Parental Involvement</i>	103
<i>Mediators/Their Attitudes and Roles</i>	104
Delivering Apology	112
<i>Community Service</i>	112
<i>The Letter of Apology</i>	115
Decision-Making Process	117
<i>The Caucus</i>	117
<i>Focus of the Conversation</i>	118

<i>The Contract</i>	119
The Impact of the VOM	121
<i>Accountability</i>	121
<i>The Benefits</i>	122
<i>A Learning Opportunity for the Juvenile Offender</i>	122
<i>A Second Chance for the Juvenile Offender</i>	124
<i>An Opportunity to Apologize/to receive an Apology</i>	125
<i>An Empowering Experience for the Participants</i>	125
<i>An Opportunity to Move on (A Sense of Closure)</i>	126
Case Summary and Lessons Learned	126
<i>What Went Well</i>	127
<i>What Could Be Done Differently?</i>	127
<i>Suggestions from Participants</i>	129

CHAPTER 4.2: THE MAILBOX BASHING CASE -----131

Participants and Their Stories	131
<i>The Chronology: The Paths from Incident to VOM</i>	131
<i>The Incident</i>	133
<i>The Views on the Incident</i>	134
<i>The Views on Each Other</i>	135
<i>The Continuing Impact of the Crime: The Victims</i>	136
<i>The Continuing Impact of the Incident: Juvenile Offender and Parents</i>	140
Victim Offender Mediation: The Process	142
<i>Immediate Intervention Program (IIP)</i>	142
<i>Preparing the VOM</i>	143
<i>Preparation for the Victims</i>	143
<i>Preparation for the Offenders and Parents</i>	144
<i>Participants' Motivations to Participate in VOM</i>	145
<i>Participants' Expectations for VOM</i>	147
<i>Looking Inside of the VOM</i>	148
<i>The Atmosphere</i>	148
<i>Parental Involvement</i>	149
<i>Mediators/Their Attitudes and Roles</i>	150
Delivering Apology	157
<i>Community Service</i>	157
<i>The Letter of Apology</i>	158
Decision-Making Process	160
<i>The Caucus</i>	160
The Contract	161
The Impact of the VOM	162
<i>Accountability</i>	163
<i>The Benefits</i>	164
<i>An Opportunity to See Different Aspects of the Crime</i>	165

<i>An Opportunity to Have a Better Understanding about Each Other</i>	166
<i>An Opportunity to Expand the Impact to Community</i>	167
<i>A Learning Opportunity for the Juvenile Offenders</i>	168
<i>A Second Chance for the Juveniles</i>	169
<i>An Opportunity to Move on (A Sense of Closure)</i>	170
<i>An Empowering Experience for the Participants</i>	170
Case Summary and Lessons Learned	172
<i>What Went Well</i>	172
<i>What Could Be Done Differently?</i>	173
<i>Suggestions from Participants</i>	175
CHAPTER 4.3: THE CAR CASE	177
Participants and Their Stories	177
<i>The Chronology: The Paths from Incident to VOM</i>	177
<i>The Incident</i>	179
<i>The Views on the Incident</i>	179
<i>The Impact of the Incident: Juvenile Offenders/Parents</i>	182
<i>The Continuing Impact of the Incident: Victims</i>	184
<i>The Views on Each Other</i>	186
Victim Offender Mediation: The Process	189
<i>Immediate Intervention Program (IIP)</i>	189
<i>Preparing for the VOM</i>	190
<i>Preparation for the Victims</i>	190
<i>Preparation for the Offenders and Parents</i>	192
<i>Participants' Motivations to Participate in VOM</i>	193
<i>The Victims</i>	193
<i>The Offenders and Parents</i>	195
<i>The Mediators</i>	196
<i>Participants' Expectations for VOM</i>	196
<i>Looking Inside of the VOM</i>	197
<i>The Atmosphere</i>	197
<i>Parental Involvement</i>	199
<i>Mediators/Their Attitudes and Roles</i>	200
Delivering the Apology	204
<i>Community Service</i>	204
<i>The Letter of Apology</i>	206
Decision-Making Process	209
<i>The Caucus</i>	209
<i>The Contract</i>	209
The Impact of the VOM	211
<i>Accountability</i>	212
<i>The Benefits</i>	215
<i>A Learning Opportunity for the Juvenile Offenders</i>	215

<i>A Second Chance for the Juvenile Offenders</i>	-----218
<i>An Opportunity to Put a Human Face on It:</i>	
<i>Seeing Different Aspects of the Crime</i>	-----219
<i>An Opportunity for a Better Understanding of Each Other</i>	-----221
<i>An Empowering Experience for the Participants</i>	-----223
<i>An Opportunity for the Victims to Ask Questions</i>	-----224
<i>An Opportunity to Move on (A Sense of Closure)</i>	-----225
<i>An Efficient Process for Victims</i>	-----226
Case Summary and Lessons Learned	-----227
<i>What Went Well</i>	-----227
<i>What Could Be Done Differently?</i>	-----228
<i>Suggestions from Participants</i>	-----230
CHAPTER 4.4: THE INVOLUNTARY MANSLAUGHTER CASE	-----232
Participants and Their Stories	-----232
<i>The Chronology: The Paths from Incident to the VOM</i>	-----233
<i>The Incident</i>	-----234
<i>The Views on the Incident</i>	-----234
<i>The Continuing Impact of the Incident: Juvenile</i>	
<i>Offende and Parent</i>	-----236
<i>The Continuing Impact of the Incident: Victims</i>	-----237
<i>The Views on Each Other</i>	-----242
Victim Offender Mediation: The Process	-----246
<i>Preparing the VOM</i>	-----246
<i>Preparation for the Offenders/Parents</i>	-----246
<i>Preparation for the Victims</i>	-----249
<i>Preparation for the Mediators</i>	-----251
<i>Participants' Motivations to Participate in VOM</i>	-----253
<i>Participants' Expectations for VOM</i>	-----255
<i>Looking Inside of the VOM</i>	-----256
<i>The Atmosphere</i>	-----257
<i>Parental Involvement</i>	-----258
<i>Mediators/Their Attitudes and Roles</i>	-----260
Delivering Apology	-----263
<i>The Letter of Apology</i>	-----263
The Impact of the VOM	-----265
<i>Accountability</i>	-----265
<i>The Benefits</i>	-----266
<i>An Opportunity to Move on (A Sense of Closure)</i>	-----267
<i>An Empowering Experience for the Participants</i>	-----269
<i>An Opportunity for a Better Understanding of Each Other</i>	-----271
<i>An Opportunity to Help the Offender's Reintegration</i>	-----272
<i>An Opportunity for the Victims to Ask Questions</i>	-----273

Case Summary and Lessons Learned -----	275
<i>What Went Well</i> -----	276
<i>What Could Be Done Differently?</i> -----	277
<i>Suggestions from Participants</i> -----	278
CHAPTER 5: FINDINGS, ACROSS THE CASES -----	280
The Four Cases -----	280
<i>The Chronology: From the Incident to the VOM</i> -----	280
<i>The Incident</i> -----	282
<i>The Views on the Incident</i> -----	282
<i>The Continuing Impact of the Incident: Juvenile Offender and Parent</i> -----	282
<i>The Continuing Impact of the Incident: Victim</i> -----	283
<i>The Views on Each Other</i> -----	283
Victim Offender Mediation: The Process -----	284
<i>Immediate Intervention Program (IIP)</i> -----	284
<i>Preparing the VOM</i> -----	284
<i>Preparation for the Victims</i> -----	284
<i>Preparation for the Offender and Parent</i> -----	284
<i>Participants' Motivations/Expectations to Participate in VOM</i> ----	285
<i>Looking Inside of the VOM</i> -----	291
<i>The Atmosphere</i> -----	291
<i>Parental Involvement</i> -----	291
<i>Mediators/Their Attitudes and Roles</i> -----	292
Delivering Apology -----	296
<i>Community Service</i> -----	296
<i>The Letter of Apology</i> -----	297
Decision-Making Process -----	297
<i>The Caucus</i> -----	297
<i>The Contract</i> -----	299
The Impact of the VOM -----	300
<i>Accountability</i> -----	300
<i>The Benefits</i> -----	301
Lessons Learned -----	311
<i>Suggestions from Participants</i> -----	315
CHAPTER 6: DISCUSSIONS, IMPLICATIONS, AND CONCLUSION -----	317
Summary of Key Findings -----	317
Discussions: Connecting the Findings to the Literature -----	323
<i>Apology, Forgiveness, and VOM</i> -----	326
<i>Restorative Justice Process, Transformative Dialogue, and Social Construction</i> -----	333
<i>Social Constructionism</i> -----	333
<i>Truth Seeking vs. Seeking Healing</i> -----	336

<i>Transformative Restorative Justice Dialogue: Putting a Human Face on Crimes</i> -----	340
<i>Moving Toward Restorative Justice</i> -----	345
<i>Lost in Translation: “Fast Food” Restorative Justice</i> -----	345
<i>A Need for Victim-Sensitive Restorative Justice</i> -----	349
<i>Compatibility with Social Work Values and Applicability of Social Work Practice</i> -----	353
Implications -----	355
<i>Implications for Social Work Education and Practice</i> -----	355
<i>Implications for Social Policy</i> -----	357
<i>Implications for Research</i> -----	361
Limitations of the Study -----	362
Conclusion -----	363

REFERENCES -----368

APPENDICES

Appendix A: IRB Approval -----	379
Appendix B: Informed Consent Form for Minors (an example) -----	380
Appendix C: The Guided Questionnaire for Minors (an example) -----	384
Appendix D: Audit Trail -----	386

LIST OF TABLES

Table 2.1 <i>Retributive vs. Restorative Justice</i> -----	19
Table 2.2 <i>Common Characteristics of Restorative Justice Programs</i> -----	27
Table 2.3 <i>Restorative Justice Empirical Research Studies</i> -----	49
Table 3.1 <i>The Variation of the VOM Project</i> -----	72
Table 4.1 <i>Demographics: The Department Store Case</i> -----	88
Table 4.2 <i>Demographics: The Mailbox Bashing Case</i> -----	131
Table 4.3 <i>Demographics: The Car Case</i> -----	177
Table 4.4 <i>Demographics: The Involuntary Manslaughter Case</i> -----	233
Table 5.1 <i>Participants' Motivations/Expectations to Participate in VOM</i> -----	291
Table 6.1 <i>Applying Characteristics of Restorative Justice to the VOM</i> -----	324
Table 6.2 <i>The Participants and Their Multiple Realities</i> -----	341

LIST OF FIGURES

<i>Figure 3.1. A case</i>	63
<i>Figure 3.2. Data sources and collection</i>	69
<i>Figure 4-1. Two steps of illustrating findings</i>	84
<i>Figure 4-2. The severity of the cases: Situating the cases in a continuum</i>	86
<i>Figure 4-3. The referral sources s to VOM</i>	87
<i>Figure 4.1.1. The chronology of the department store case</i>	90
<i>Figure 4.1.2. The seating of the department store case</i>	102
<i>Figure 4.2.1. The chronology of the mailbox bashing case</i>	133
<i>Figure 4.2.2. The seating of the mailbox bashing case</i>	148
<i>Figure 4.3.1. The chronology of the car case</i>	179
<i>Figure 4.3.2. The seating of the mailbox bashing case</i>	197
<i>Figure 4.4.1. The chronology of the involuntary manslaughter case</i>	234
<i>Figure 4.4.2. The seating of the involuntary manslaughter case</i>	257
<i>Figure 5.1. The chronology of the cases: from the incident to the VOM</i>	281
<i>Figure 5.2. The benefits of the VOMs</i>	311
<i>Figure 5.3. A flow-chart of lessons learned</i>	315
<i>Figure 6.1. The loop of transformative restorative justice dialogue</i>	343

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ABSTRACT

OPENING THE “BLACK BOX”:

A NATURALISTIC CASE STUDY OF RESTORATIVE JUSTICE

To develop an in-depth understanding of restorative justice process, this study examined multiple perspectives of the participants’ experiences of a Victim Offender Mediation (VOM) program operating in a Midwestern city. The primary data source was 34 face-to-face interviews conducted with 37 participants including adult crime victims, juvenile offenders and their parents, and service providers involving mediators and referral sources.

Findings highlight that VOM helped participants put a face on crimes, which led them to acquire the unseen impact of the crimes. In general, the participants, including the victims, overwhelmingly indicated having had positive experiences. However, findings also indicated some insensitive approaches toward the victims, which reflect the offender-focused mind-set of the practitioners.

This study brings forth the detailed and rich stories from an insider’s perspective on restorative justice, helping us to take a closer look at what is aptly referred to as the “black box” of restorative justice.

Key Words: Restorative justice, victim offender mediation, naturalistic case study

CHAPTER 1: INTRODUCTION

Can the ends justify the means? I embarked on my journey to study this simple but not easy to answer question. It may take a life time investment for me to answer the question because this question examines one's values and ethics regarding the corresponding issues. Then, what if the concern is about how to punish, guide and re-integrate juvenile offenders? What if the concern is about how to help victims of crime regain their power and restore their lives from the impact of the crime?

I still remember the sheer surprise that I felt after watching the Academy Award winning film, "Scared Straight," a documentary about the experience of juvenile offenders being imprisoned for several hours. In retrospect, I realize that my quest for alternative juvenile justice approaches that are congruent with my social work values and ethics began at that point.

The film is about a juvenile justice program in which 17 juvenile offenders were ordered to spend several hours inside a maximum security prison as a punishment for their delinquent behaviors. The film portrays the inmates, known as the most dangerous criminals of the facility, giving the juvenile offenders an education on the dreadful details of prison life. The inmates shared these details with the juveniles in an "in-your-face" manner. The juveniles, including several female offenders, looked absolutely scared. It contrasted with their cocky attitudes when they first entered the facility. The film maker says, "Without a doubt, the teenagers' experience that day changed the course of their lives forever." The question to ask is, however, 'in what ways?' The film follows up the 17 teenagers twenty years later.

Surprisingly, all except one have lived “straight” lives without falling deeper into the justice system. The success of the program can be easily championed especially when it comes to recidivism, the prime measure of successful juvenile justice programs.

However, some fundamental issues in the program were shown in the film. When the interviewer visited the teenagers as adults in their late thirties, along with the former inmates, the juvenile offenders appeared shocked to see them again twenty years later, even though most of them were able to manage and maintain their emotions and composure. The interviewer asked them if they still remembered the number, given to them by the inmates in order to be recognized in the facility. To my surprise, most of them still remembered their given numbers twenty years later. Some of them still experienced nightmares about their two-hour encounter. I could not help but wonder whether they might also be “Scared Straight” and “Scared Spirited” – that somehow, the human spirit had to be affected by all of what was endured by these juveniles.

Can the ends justify the means? In this case, the ends would be helping the juvenile offenders stay out of trouble and the means to achieve the ends or goals would be scaring them so that they do not even think about committing a crime again. I believe that the program was excellent for the inmates in that it allowed them to become educators. It enabled the inmates to teach juvenile offenders to stay out of trouble using a tool primarily drawn from their previous experiences. I believe that the insightful experiences for the inmates must have been empowering, as the film portrayed some of them becoming productive and successful citizens again.

However, I disagree with the idea of scaring and threatening juvenile offenders as an approach to deter crime. This, in my opinion, is a misplaced goal which serves only to alienate the offender from having a productive role in the process of remediation and healing. Historically, social workers have not embraced these approaches to helping juveniles stay out of trouble, but rather, have favored methods that, while holding juveniles accountable for their crimes, also recognize the importance of strengths-based, client-centered models that show respect for the offender and all parties involved. Given the paradigm shift in the state of juvenile justice and corrections towards more retributive and punitive models, it is not surprising that the social work profession has moved away from involvement in the criminal justice systems.

Reamer (2004) argues that the social work profession has not consistently been involved in criminal justice, even though the profession has been committed to social justice. For example, according to him, the social work profession was intensely involved in and influential in the criminal justice field when it was inaugurated, especially with respect to juvenile justice. Tracing the history of juvenile justice in the early years of social work, Reamer notes that there was an emerging consensus that misbehaving children should be saved and not punished. However, along with the paradigm shift as described above, the social work profession's involvement in the criminal justice system has declined and it appears that social work no longer holds a major role in the criminal justice field. For example, not many social workers are employed in criminal justice. Gibelman and Schervish (1993)

found that only 1.2 % of National Association of Social Workers [NASW] members were employed in jobs related to the justice system. While Needleman (1997) laments that the juvenile justice system has failed to deliver on its promise from humanitarian points of view, Reamer (2004) declares that the social work profession has largely abandoned criminal justice. Gumz (2004) notes this largely results from the fact that the fit between the values and missions of the social work profession and the justice system have lost their alignment with each other. Gumz also observes that, even today, many social workers are complaining that their training, education, and goals are neither appreciated nor supported by colleagues whose orientations are more closely aligned with law enforcement and public safety. Furthermore, courses on corrections have not been emphasized in social work education. However, the importance of care and assistance for juvenile offenders and their families calls social workers' attention to the criminal justice system once more.

Brownell and Roberts (2002) argue that a punitive ideology in criminal justice is still pervasive throughout American society. In fact, we live in an era in which public opinion dictates that society should be getting tough with young criminals. But, is there any juvenile justice approach that serves the ends with justifiable means by embracing social work's humanitarian point of view, such as the dignity and worth of the person and the importance of human relationships?; If so, then perhaps social workers can go back to the justice field without sacrificing their values in order to serve victims, juvenile offenders and their families. Such an approach may also allow community members to participate in the process, and thus feel safer in their

community. This study begins with these personal concerns and a belief in the ripple effects of small changes. It explores the various experiences of the participants who participated in a restorative justice approach manifested by a form of a Victim Offender Mediation program in search of an alternative to the retributive justice approach.

Primary Issues

The General Assembly of the United Nations defines “victims” as “persons who, individually or collectively, have suffered harm, including physical or mental injury, emotional suffering, economic loss or substantial impairment of their fundamental rights, through acts or omissions that are violations of national criminal laws or of internationally recognized norms relating to human rights” (United Nations Office for Drug Control and Crime Prevention [UNODCCP], 1999, p. iii). Each year victims of crime suffer tremendous human and financial losses (The Office of Juvenile Justice and Delinquency Prevention [OJJDP], 1998). The impacts of victimization include not only physical injuries and financial costs, but also negative psychological impacts such as shock, fear, anger, helplessness, powerlessness, vulnerability, disbelief and guilt, to name a few (Bradshaw & Umbreit, 2003; Zehr, 1990).

To gain a better understanding of the experiences, perspectives, and needs of crime victims, Zehr (2001) interviewed 39 victims of crime. The victims’ voices in the study remind us that an encounter with violence is a devastating experience that affects all areas of one’s life by causing a sense of disorder and isolation, a feeling of

being out of control, cut off from others, and range of emotions. Zehr notes the core trauma of victimization is disorder, disempowerment, and disconnection. Then, maybe what we need to do is to help victims experience “order, empowerment, and connection” again. In concluding, he writes,

Victims’ voices should be heard, in all their diversity and complexity, even when they are difficult to hear, even when we are uncomfortable with their positions. We need to hear these voices if we are to have a real dialogue about crime and justice. We need to hear these voices if we are to do justice. (p. 197)

Studies indicate that there are several core needs victims have that are often unmet in the current criminal justice systems (UNODCCP, 1999; Wemmers, 2002; Zehr, 2002). Some of them include: 1) a need to show respect for victims’ dignity, privacy and personal safety; 2) a need for information; 3) a need for compensation including the real value of restitution as well as the symbolic value of compensation such as apology; 4) a need for participation in the processes by which their cases are handled; 5) a need for protection; 6) a need for recovering their sense of security or empowerment; and 7) victims also have emotional needs. In order to “move on” or cope with suffering, validation and support from others often contributes to the healing process for victims. Consequently, assisting victims in coping with the aftermath of victimization is significant based on their needs.

However, according to a number of scholarly texts (OJJDP, 1998; Shichor & Sechrest, 1998; UNODCCP, 1999; United Nations Office on Drugs and Crime [UNODC], 2006; Zehr, 1990, 2002), few efforts have been made for preventing crimes as well as assisting, protecting and empowering victims. Many victims face

insensitive treatment in the criminal justice system. There seems to exist a consensus among scholars that the current criminal justice systems' processes and procedures often do not take into account the perspective of the victim. Therefore, victims have little input into the resolution of their own cases and rarely feel heard. Furthermore, victims often receive no restitution or expression of remorse from the offender in the traditional criminal justice system.

In contrast, the criminal justice system focuses mainly on the punishment of offenders. Accordingly, one of the challenges facing criminal justice organizations is the ever-increasing rise in expenditures for incarceration (Elsner, 2006; Lemley, 2001). In particular, Elsner expresses his concern that the United States, with only five percent of the global population, has a quarter of the entire world's prisoners, numbering over two million people. In fact, according to the Bureau of Justice Statistics (BJS), U.S. federal, state, and local prison systems incarcerated nearly 2.2 million persons at year-end 2005. This means that there were an estimated 491 prison inmates per 100,000 U.S. residents in 2005, up from 411 at year end 1995. These figures highlight the ever-increasing number of adults in the correctional system, whereas according to BJS, serious violent crime levels, violent crime rates, and firearm-related crime have declined since 1993.

This number, however, does not include the more than 100,000 estimated juvenile offenders held in juvenile facilities and lockups (Elsner, 2006). According to the U.S. Department of Justice, juveniles accounted for 17% of all arrests in the U.S. in 2004. Consistent with the philosophy of treatment of adult offenders, public

opinion dictates that they want to “get tough” with young criminals by prosecuting them as adults and subjecting them to stiff prison sentences (Treger & Allen, 1997, p. 25). Zehr (1990) argues that prison has become the normal response to crime even to the juvenile offenders.

The change of focus in the juvenile justice system in the United States shows the influence of the retributive or punitive justice paradigm. According to Butts and Mears (2001), the juvenile justice system in the United States has experienced numerous changes which were mainly designed to increase the ability of juvenile courts to punish youthful offenders and to transfer them to adult court. The changes in policy in juvenile justice focused on increasing incarceration and making the system to be more like the adult system. This has come to be known as “the get-tough movement of the 1980s and 1990s” (p. 170).

This perspective lies in direct contrast to the first separate juvenile court that emerged in Chicago in 1899 (Butts & Mears, 2001). According to Butts and Mears, the goal in the juvenile system at that time was to increase the rehabilitative potential of the courts, to protect vulnerable children from adult prisoners, and to save young people from the stigma of criminal conviction. Reamer (2004) also notes that during this same time period there was an emerging consensus that misbehaving children ought to be saved and not punished. By the 1960s, according to Reamer, the traditional model of juvenile justice focusing on rehabilitation began to be substituted with punishment.

Rogers (1989) argues that the long-standing belief in the powers of imprisonment leads to punitive reactions to crimes. According to Rogers, these beliefs, based on several myths of imprisonment as a solution, have several fundamental weaknesses: 1) Almost every one of those entering prison eventually return to society; 2) incarceration has not shown to be successful in restoring offenders as “law-abiding citizens.” Studies show that almost two-third (67.5%) of those who leave prison will be rearrested, while more than half of those released from prison return to prison after three years (Langan & Levin, 2002; cited in Jacobson, 2005, p. 28). Studies also indicate that punitive sanctions for offenders, including juvenile delinquents, do not reduce the crime rate (Arrigo & Schehr, 1998; Butts & Mears, 2001; Jacobson, 2005; MacKenzie, 2000; Tonry & Petersilia, 1999).

In particular, Cullen and Gendreau (2000) and MacKenzie (2000) suggest that interventions based on retributive assumptions for juvenile offenders, such as boot camps and simple incarceration, have not been shown to be effective. Rather, findings indicate that these interventions may actually increase recidivism. Specifically, MacKenzie, based on a meta-analysis of punitive approaches for juvenile delinquents, argues that programs emphasizing specific deterrence that attempt to scare offenders away from criminal activity such as “shock probation” and “Scared Straight” were not effective in reducing the recidivism rate of offenders. Similarly, Tonry and Petersilia (1999) also argue that it is not likely that young offenders would learn nonviolent patterns of behavior while they are in prison. It is because, as Albrecht (cited in Tonry & Petersilia, 1999, p. 5) describes, “Prisons are schools of crime,” in

which younger and less experienced prisoners are socialized into antisocial and oppositional attitudes, which resulted in them exiting the prison more likely to commit crimes than when they entered it.

The criminal justice system and its philosophy of holding offenders accountable by imposing punishment, takes away the opportunity for offenders to understand the consequences of their actions on victims and therefore, to act on their responsibility by addressing victims' needs (UNODC, 2006; Zehr, 1990). In addition, large percentages of children arrested and adjudicated for criminal delinquent behavior also have histories of victimization that play a part in the trajectory that leads to their offenses (White, S., 2001). Juvenile victims of crime and child maltreatment are also present among juvenile offenders. For example, Lauritsen, Sampson, and Laub (1991) reported, based on data from a national youth survey, that almost half (45%) of delinquent youth had experienced previous assaults or threatening circumstances, compared to 12% of non-delinquent youth. In a similar sense, Zehr (1990) notes that many offenders have experienced abuse as children. According to him, in many cases, crime is a cry for help for them. Therefore, punishment is not necessarily the answer for many offenders.

In short, the criminal justice process has traditionally responded to an offender by humiliating and demeaning the person while discounting the victim's voice in the process (OJJDP, 1998; Zehr, 1990). Accordingly, during the last few decades there have been calls for alternative responses to expand victims' rights and for

community-based alternatives to incarceration (Drowns & Hess, 2000; Roberts, 1997; Sarri, 1995; UNODC, 2006; UNODCCP, 1999).

Problem Statement

Restorative justice has re-emerged in response to dissatisfaction and frustration with the traditional criminal justice system, (Zehr, 1990, 2002). Specifically, the theory and practice of restorative justice has been expanded and widely recognized within the field of justice studies over the past three decades in order to better meet the needs of crime victims and offenders (Braithwaite, 2002; Lemley, 2001; UNODC, 2006). Recently, restorative justice programs have grown extensively throughout North America, Europe, Australia, and New Zealand (Boyack, Bowen, & Marshall, 2004; Braithwaite & Mugford, 1994; Morris & Maxwell, 1993; Umbreit & Coates, 2000). However, it should be acknowledged that the increasing popularity of restorative justice within justice fields is still very limited when compared to the influence of traditional justice approaches.

Although restorative justice has been one of the mechanisms for dealing with conflict since ancient times (Weitekamp, 1999), its modern counterparts such as Victim Offender Mediation (VOM), Family Group Conference (FGC), and healing circles have been developed relatively recently and their proliferation has happened also in a relatively short period of time. Along the same line, restorative justice has only begun to be studied in the recent past (UNODC, 2006). Therefore, as Morris (2002) once said, we may need more time to translate the critical values of restorative justice paradigm into meaningful modern day justice practice.

To promote restorative justice in the justice field as well as within social work, UNODCCP (1999) argues that more research and evaluations should be conducted. Although the results of research and evaluation should guide further policy and program development in restorative justice, as described previously, they have been conducted only in recent years (UNODC, 2006). While studies indicate that restorative justice is promising for redressing the harm experienced by victims by providing participant satisfaction in the process and high completion rates of restitution (Umbreit, Coates, & Roberts, 2001; Umbreit, Coates, & Vos, 2002; Umbreit, Vos, & Coates, 2005), several issues also emerged from research and evaluation studies.

First of all, restorative justice is not only an outcome but it is also a process. However, the existing studies mainly focus on outcomes with quantitative data of restorative justice programs, in particular on recidivism. What happens in the *process* remain to be studied, as relatively little attention has been given to the issue of process through qualitative methods. While the theoretical literature on restorative justice emphasizes its procedural aspects such as restoring interpersonal relationships and healing emotional injuries and the empowerment of victims, research has failed to provide an in-depth understanding about how those aspects are delivered or how they are occurring in the programs. Umbreit, Coates, and Vos (2002) even argue that the process of restorative justice is now a “black box” because what constitutes service delivery has not been shown to outsiders. In this respect, an in-depth understanding of local practice is critical because developing modern day restorative

justice practice should not only involve sharing knowledge of outcomes, but also an examination of the process of the practice.

Second, according to several social work scholars such as Umbreit (1994), Reamer (2004), and Gumz (2004), restorative justice has received very little attention in the social work literature. Except for a few social work advocates, in particular Mark S. Umbreit, a social work professor at the University of Minnesota, it is a fairly recent phenomenon for social work scholars to call attention to restorative justice. Scholars who have called for attention to restorative justice in recent years see its compatibility with social work values (Gumz, 2004; Judah & Bryant, 2004; Reamer, 2004). For example, restorative justice shares a number of values with social work's humanitarian points of view, such as the dignity and worth of the person and the importance of human relationship. In addition, its strong emphasis on the empowerment of victims and families as well as the use of a less punitive approach has begun to appeal to social workers (Braithwaite, 2002).

While the congruence of restorative justice with social work values provides an important rationale for social workers to apply restorative justice to their practice and to renew their participation in the justice system, there still remain concerns about the successful application of restorative justice in social work. These concerns are mainly due to the lack of social work participation in building its practice models. Therefore, there is a need for social workers to draw on insights from restorative justice practices and for them to research ways to successfully apply restorative

justice practices in the social work field. Conversely, more social workers need to be involved in the juvenile justice systems.

Sarri (2000) argues the need for social workers and the social work profession to become more involved in planning, designing and implementing effective crime prevention policies and programs. Similarly Umbreit (1995) and Reamer (2004) urge social workers to be supportive and central to the restorative justice movement. Given the importance of care and assistance for victims and juvenile offenders and their families, whose needs often go unmet, *the Code of Ethics* (NASW, 1999) clearly provides a rationale for the need for more social workers to participate in restorative justice movements: “Social workers *should act to expand choice and opportunity for all people, with special regard for vulnerable, disadvantaged, oppressed, and exploited people and groups* [italics added]” (Standard 6.04[b]).

Purpose of the Study

As the previous discussion suggests, it is important for researchers to gain a deeper understanding of juvenile justice programs and the service delivery process by involving the participants and listening to their voices in research. The purpose of this study was to provide an in-depth understanding of the experiences of participants in a restorative justice program, which was designed to provide needed qualitative data, particularly regarding the process and delivery of the VOM.

Restorative justice is based on the belief that the parties affected by the conflict need to be actively involved in resolving and mitigating the negative consequences of it. It is also based on a belief to return to local decision-making and

community building (UNODC, 2006). Therefore, it is important in implementing restorative justice to let people know ‘what is going on at a local level in terms of delivering a restorative justice program.’ In so doing, this study used a naturalistic case study approach to restorative justice on a local level where face-to-face interviews were conducted with crime victims, juvenile offenders, their families, and service providers including mediators and referral sources. The study is naturalistic in two senses. First, it explores the experiences of restorative justice participants in their natural life settings. Second, it adapts the naturalistic constructivist research methodology of Lincoln and Guba (1985). This will be explained further in the methodology chapter.

The primary research questions this study addressed were: 1) how does restorative justice work within a Victim Offender Mediation (VOM) in a city in the Midwestern United States? And 2) what are the experiences of the participants in a restorative justice program regarding its process and outcomes?

Summary

Chapter 1 has discussed the primary issues related to the unmet needs of crime victims and juvenile offenders. It also has provided the rationale for the study. The central focus of the study was to develop an in-depth understanding about how a restorative justice program is delivered through the views of the participants.

Chapter 2 presents a more detailed discussion regarding social work involvement in the criminal and juvenile justice systems, a historical perspective on restorative justice, the theoretical framework of restorative justice, a review of

empirical research on restorative justice, and the conceptual framework that supports and guides the intent of the study.

Chapter 3 discusses in detail the methodological issues of the qualitative study including the rationale for qualitative research, the design of the study, the restated research questions, definition of key concepts, the methods of data collection, and data analysis.

Chapter 4 deals with the findings from each case that yielded insight into the natures of the various experiences of the participants of the VOM program.

Chapter 5 presents the findings from across the cases that generated insight into the patterns of the VOM practice.

Chapter 6 discusses the findings and concludes the study with implications for social work.

CHAPTER 2: LITERATURE REVIEW

This chapter is comprised of two main sections. The first section focuses on literature about the definition, history, and context of restorative justice. The second section is devoted to a discussion on empirical studies in restorative justice which are comprised of quantitative, mixed-methods, and qualitative studies.

The Meaning and Context of Restorative Justice

This section defines restorative justice, traces its history, and summarizes its application in practice and policy. Finally, theories that contribute to restorative justice and guide the current study will be presented.

Defining Restorative Justice

Miller and Blacker (2000) observe that restorative justice has become many different ideas to different people. Some people think of restorative justice as only reparation by giving cash to the victims or affected community members. However, although reparation has been emphasized in restorative justice, it is only a part of restorative justice. Restorative justice proponents argue that programs that only put an emphasis on reparation are not restorative justice programs. Therefore, there is a need to define restorative justice.

Niemeyer and Shichor (1996) find it convenient to contrast restorative justice with retributive justice because they share the least common attributes. The retributive justice or traditional justice philosophy that emphasizes punishment and stigma has dominated the criminal justice professions. In retributive justice, when a crime happens, the state defines itself as the victim and takes an active role to amend

crime generally through perpetrators' incarceration, deterrence, and retribution (Lemley, 2001; Zehr, 1990). The punishment is most often inflicted through imprisonment, while interpersonal relationships are seen as irrelevant and ignored (Bazemore & Umbreit, 2004; Judah & Bryant, 2004; Van Ness, 2004; Weitekamp, 1999). In this way, retributive justice encourages offenders to focus on themselves rather than on their victims and the community. Therefore, the real victim is ignored in the process and, consequently, crime becomes a violation of the state rather than of the victims. While in the retributive justice process, the individual victim is placed in a very passive role with little input, severe punishment such as incarceration is imposed on offenders to deter or prevent future crime (Umbreit, 1995). Zehr (2002, p. 21) argues that the central questions of this paradigm are "What laws have been broken?" "Who did it?" And, "What do they deserve?"

In contrast, restorative justice has provided a momentum to shift the retributive paradigm (Zehr, 2002). The restorative justice paradigm considers victims as human beings rather than just seeing them as objects. It also recognizes the centrality of the interpersonal dimension and therefore, the relationships among people are important (Zehr, 1990). In this paradigm, crime is viewed as a violation of people and relationships. It presumes that the offender has primary responsibility to make things right in ways not only by reparation but also by repairing relationships. In particular, when appropriate, the relationship is restored between victim and offender (UNODC, 2006). In this case, justice involves the victim, the offender, and the community in searching for solutions that promote healing and reconciliation

among people (Van Ness, 2004). Accordingly, as Van Ness describes, when a crime occurs, a restorative response focuses on the harm to victims, to communities, and to those who commit the crimes. Therefore, the nature of the process is participatory. The restorative process seeks to maximize information, dialogue, and mutual agreement between victims, offenders, and communities (Lemley, 2001). In short, restorative justice focuses on restoring interpersonal relationships, healing injuries, and giving opportunities to offenders to be responsible for their wrongdoings by placing both the victim and offender in active and interpersonal problem-solving roles (Braithwaite, 2002; Zehr, 2002). Zehr argues that retributive justice could lead to cycles of vengeance and violence, whereas a restorative response can lead to cycles of balance and harmony. By emphasizing the vision of interconnectedness, Zehr (2002) writes,

We are all connected to each other and to the larger world through a web of relationships. When this web is disrupted, we are all affected. The primary elements of restorative justice – harm and need, obligation, and participation – derive from this vision. (p. 35)

In restorative justice, the victim is seen as a person who was most directly harmed by the offense. Therefore, Zehr (2002, p. 21) argues that the central questions of this paradigm should be “Who has been hurt?” “What are their needs?” And “Whose obligations are these?” TABLE 2.1 contrasts retributive and restorative justice paradigms.

TABLE 2.1

Retributive vs. Restorative Justice

Retributive Justice	Restorative Justice
Crime is: A violation of the law and the state	Crime is: A violation of people and relationships
Violations create guilt.	Violations create obligations.
Justice requires: The state to determine blame (guilt) and impose pain (punishment)	Justice involves: Victims, offenders, and community members in an effort to put things right
The process is: Adversarial, authoritarian, technical, and impersonal	The process is: Participatory, maximizing information, dialogue, and mutual agreement
Central focus is on: Offenders getting what they deserve.	Central focus is on: Victim needs and offender responsibility for repairing harm.
Outcomes are: Pain, suffering of offenders	Outcomes are: Making things right by identifying needs and obligations, healing, problem-solving
Time orientation is: Oriented to past	Time orientation is: Oriented to future
Role of professional is being: Passive for victims and offenders	Role of professional is being: Active for victims, offenders, and community
Three essential questions are: What laws have been broken? Who did it? What do they deserve?	Three essential questions are: Who has been hurt? What are their needs? Whose obligations are these?

Note. Adapted from Bazemore and Umbreit (2004), Williams-Hayes (2002) and Zehr (2002, p. 21).

Although the above discussion has provided the distinctive characteristics of restorative justice contrasted with retributive justice, it is not easy to ascertain whether specific processes are truly restorative because there are a number of variations when it comes to defining restorative justice. The considerable variability exists because restorative justice is an evolving concept, which is interpreted and implemented differently in various communities and countries (Boyack, Bowen, & Marshall, 2004; UNODC, 2006). For example, a recent national survey identified a total of 773 programs in the United States which fell under the rubric of restorative justice (Bazemore & Schiff, 2005). Those programs include four different models of restorative justice such as Victim Offender Mediation (VOM), Family Group Conferencing (FGC), healing circles or sentencing circles, and community boards.

These programs will be addressed later when I discuss restorative justice in practice. In addition to the different practice models, each model differs from each other by factors such as position of programs in relation to the criminal justice system, formality, community involvement, and involvement of victims, and so on (UNODC, 2006).

Despite the variability in restorative justice programs, there is some consensus regarding definitions of restorative justice. For example, the Ministry of Justice and the Restorative Justice Network in New Zealand has adopted the statement drafted by Boyack, Bowen, and Marshall (2004, pp. 268-275). In 2002, the United Nations Economic and Social Council also encouraged member states to draw on principles from *Basic Principles on the Use of Restorative Justice Programs in Criminal Matters* (UNODC, 2006, pp.99-102). Taken together, restorative justice, as a working definition, can be defined as a collaborative approach to conflict or to problem solving. In the process, the victim, the offender, and where appropriate, any other individuals or community members affected by a crime participate together to deal with its aftermath by restoring the dignity and well-being of the participants. It is done generally with the help of a facilitator in a safe and controlled environment. In short, restorative justice programs use restorative processes and seek to achieve restorative outcomes.

A Brief History of Restorative Justice

Restorative justice has been one of the mechanisms for dealing with conflict since ancient times. Almost all societies in the ancient world reflected the use of

restorative justice in some form such as restitution or compensation (Braithwaite, 1999; Johnstone, 2002; Van Ness, 1993; Weitekamp, 1999; Zehr, 1990). For example, in reviewing the historical background of restorative justice, Weitekamp (1999) notes that when a crime occurred in many ancient societies, restitution to victims and their kin frequently took precedence over taking action against the offender because the re-establishment of peace in society was of the utmost interest. In these traditional justice systems, the impact of victimization was softened and the informal social network such as family, village, and tribe assisted the victim in recovery (UNODCCP, 1999). However, according to Johnstone (2002), these older ideas of restitution to victims by offenders to make up for a wrong became increasingly marginalized over time.

Braithwaite (2002) traces the restorative justice traditions in the ancient Arab, Greek, and Roman civilizations. After the fall of Rome, the traditions were transmitted to the Germanic people in the form of public assemblies. The Norman Conquest led to a decisive move away from the restorative justice traditions in many European countries. From that period on, crime became construed as a matter of fault to and felony against the king, instead of a wrong done to another person, in order to subjugate the people of the monarchies. The change was caused neither by humanitarian concerns nor by an inevitable response to the needs for greater social stability (Johnstone, 2002). Rather, the state's motive for the appropriation of the people's conflicts was greed for money and power. According to Braithwaite (1999), punitive power was utilized to display political power.

The current system is an outgrowth of the historical emergence of the state as the dominant power, in which crime is perceived as an act against the state (Niemeyer & Shichor, 1996). The state's control of criminal justice resulted in the needs of victims being neglected (Weitekamp, 1999). Specifically, the history of the current justice systems traced by UNODCCP (1999) shows how the retributive justice system has become the dominant justice paradigm. With the increasing complexity of society and the evolution of systems of justice, the state has gradually assumed a dominant role in the justice process. The state began defining specific forms of behavior as crimes against the state rather than violations of the victims' rights. While the state ultimately took over the responsibility for the investigation of the offense by prosecuting the suspect, adjudicating and enforcing the sentencing decision, the victim's opportunity for direct participation was diminished. Although it was often the victim who reported the offense to the authorities, subsequent decisions came to be made more with the interests of the state and the community in mind than those of the victim. Therefore, other than affording the satisfaction of seeing the offender punished, the sanctions had little relevance to the victim.

The above discussion shows that retributive justice systems provided by the state have become a central leverage for handling conflicts among people. As mentioned in the introduction, it has not been ideal from the points of view of most victims. From that time on, a crime was considered an offense against the state, and restorative justice and restitution to the victim played an insignificant role in the administration of criminal law and justice (Harding, 1982; Schafer, 1970). The

separate body of civil law had to be pursued for the victim's claim, but it was not always financially feasible to bring a civil action against the offender (Weitekamp, 1999). Weitekamp traces that during the 17th century in Europe, despite the increasing interest in reforming the offender that was matched by the decreasing concern for the victim, some legal philosophers and reformers such as Sir Thomas More began to once again argue the importance of restitution and compensation.

There were a number of International Prison Congress meetings, in which the discussion of restitution and compensation took place, in the late 19th and early 20th centuries (Jacobs, 1975). In particular, restorative justice and restitution were discussed exhaustively at the Congress in Brussels in 1900. Proponents of restorative justice such as Braithwaite (1996, 1999) and Zehr (1990) agree that the most influential texts of the modern restorative tradition have been Albert Eglash's *Beyond Restitution: Creative Restitution* (1975) and Nils Christie's *Conflicts as Property* (1977). Eglash described restorative justice as an alternative to retributive justice, but admitted his proposition was still offender-oriented. Christie provided an opportunity to revisit the assumptions of the criminal justice system in which professions monopolized the handling of conflicts so that victims of crime lost their rights to participate in the process. In addition, in *The Victim's Perspective on American Criminal Justice*, Stookey (1975) also called for the American criminal justice system to be more concerned with victims. Finally, in *Restitution in Criminal Justice* Hudson and Galaway (1975) rediscovered the victim and the ideas of compensation,

restitution, and other forms of handling and solving conflicts that are known collectively today as restorative justice (cited in Weitekamp, 1999).

The first VOM experiment was held in 1974 in Kitchener, Ontario, Canada. Another experiment took place in Elkhart, Indiana, in 1977 (Braithwaite, 2002; Zehr, 2002). According to Zehr (2002), these modern developments of restorative justice programs are partly based on a Mennonite tradition. The Mennonite people applied their faith and peace perspective to the criminal justice process. Zehr also articulates that the modern development of restorative justice owes a debt to the Native people of North America and New Zealand. In addition to VOM, many types of restorative justice programs such as FGC of Maori people in New Zealand and the healing circles of Canadian First Nations people have had wide influence (Weitekamp, 1999; Zehr, 1990). According to Braithwaite (2002), those different labels in various countries gradually fell under the label of “restorative justice” based on the widespread interest and consensus amongst North American proponents such as Burt Galaway, Gordon Bazemore, Howard Zehr, Joe Hudson, and Mark Umbreit, to name a few.

Recently, a growing number of states in the United States have modified their constitutions to respect the interests of crime victims (Lightfoot & Umbreit, 2004). The following discussion in this section focuses on international movements in restorative justice. However, given their relevance to this study, the social policies that affect the development of restorative justice in the United States will be discussed separately in another section.

The European Union and the United Nations also have passed resolutions in support of restorative justice (Lightfoot & Umbreit, 2004). In particular, the United Nations encourages member states to recognize the importance of restorative justice and to develop further restorative justice policies, procedures and programs (UNODC, 2006). For example, the developments of restorative justice in New Zealand set the standards for many countries. In the 1990s, the New Zealand idea of family group conferences (FGC) spread to many countries including Australia, the United States, and Canada (Braithwaite, 2002). In New Zealand, the Children, Young Persons and Their Families Act, enacted in 1989, played an important role in setting a comprehensive set of general principles in a statutory form which governed both state intervention in the lives of children and young persons, and the management of youth justice (Morris & Maxwell, 1993). The Act addressed a number of innovative features including the involvement of victims, and group consensus decision-making. Accordingly, three important Acts were enacted including the Sentencing Act, the Parole Act, and the Victims' Right Act of 2002 in New Zealand (Boyack, Bowen, & Marshall, 2004). Their most important feature was that they all explicitly mentioned restorative justice and encouraged restorative justice processes for state agencies.

Practicing Restorative Justice: VOM, FGC, and Healing Circle

Restorative justice encompasses a wide range of practices directed toward offenders and crime victims. Although there is no single right way to implement restorative justice in practice (OJJDP, 1998; Zehr, 2002), the most documented and broadly used expressions of restorative justice are VOM, FGC, and the healing circle

(Lightfoot & Umbreit, 2004; Umbreit, 1998). VOM is the form of restorative justice that has gained the widest support and popularity in the United States, whereas the other two modalities are relatively new. However, it is important to note that those addressed modalities are only some of several expressions of restorative justice philosophy and theory.

According to Umbreit, Coates, and Vos (2002), the distinctions between and within the three modalities are becoming less clear. For example, a recent national survey (Bazemore & Schiff, 2005) reports that most staff members in restorative justice programs are trained in multiple practices and there is a trend towards using all three, or combinations of the three modalities, within one organization. The common attributes of the restorative justice programs such as VOM, FGC, and healing circle can be identified as shown in TABLE 2.2.

TABLE 2.2

Common Characteristics of Restorative Justice Programs

Victims are provided an opportunity:	Offenders are provided an opportunity:
To be involved directly in resolving the situation	To be involved directly in resolving the situation
To address the consequences of the offense	To acknowledge responsibility for the offense
To receive answers to their questions about the crime and the offender	To provide answers to victim's questions about the crime express about the offense
To express themselves about the impact of the offense	To understand the impact on the victim
To receive monetary restitution or symbolic reparation including an apology	To make amends or restitution/reparation (an apology)
To restore, when appropriate, a relationship with the offender	To restore their relationships with the victim, when appropriate
To reach closure	To reach closure

Note. Adapted from UNODC (2006), *Handbook on Restorative Justice Programmes*

Currently, the most typical operational implementation of restorative justice in the U.S. is VOM (Lemley, 2001). VOM brings a victim and an offender together with a mediator to obtain answers and make amends for the harm inflicted on the victim. The VOM process is intended to support victims in their healing process by providing a safe and controlled setting to meet and speak with offenders on a strictly voluntary basis. It provides an opportunity for both parties to work on a mutually acceptable plan that addresses the harm caused by the crime. In addition, it is also intended to allow offenders to learn about the impact of the crime on the victim, and take direct responsibility for their behavior (Bazemore & Umbreit, 2003). Bazemore and Umbreit note important considerations in implementing VOM. First of all and most importantly, the VOM process should be sensitive to the needs of the victim. Second, the participation of the victim and offender should be voluntary. And finally, they emphasized several tasks of mediators such as conducting in-person pre-mediation sessions with both parties to clarify the issues to be resolved, making follow-up contacts, and monitoring any agreement reached.

Family group conferencing, also known as FGC, rooted in the justice or dispute resolution traditions of the Maori people, has been widely accepted in New Zealand and Australia (Morris & Maxwell, 1993). According to Bazemore and Umbreit (2003), the acceptance and growth of the program in the United States is not as extensive as VOM. Accordingly, although the numbers of FGC are increasing, little research has been done in the United States (Lemley, 2001). Regarding the formality, in addition to victim and offender, FGC brings family members, friends,

and key supports of both to the table (OJJDP, 1998). In addition to the goals of VOM, Bazemore and Umbreit (2003) note that the process of FGC provides an opportunity for the participants to make amends and shape the offender's future behavior by engaging the collective responsibility of the offender's support system. As emphasized in implementing VOM, the voluntary nature of participation by all involved in the conference is important.

Another form of restorative justice practice is called the "healing circle." It is also referred to as "circle sentencing" or "peacemaking circles", which are rooted in the traditional sanctioning and healing practices of First Nations' cultures in North America (Bazemore & Umbreit, 2003; Lemley, 2001; Schiff, 1998). While circle sentencing has been developed most extensively in Canadian communities, the number of programs is also increasing in the United States. The healing circle practice brings together not only the victim, offender, and family members but also a number of community members such as justice and social service personnel, and interested community residents. In addition to the goals of VOM and FGC, the process, intended to find constructive resolutions for crimes, puts an emphasis on building a sense of community and promoting community values. Bazemore and Umbreit (2003) emphasize the support that the program should provide for establishing linkages with other agencies and community representatives, and providing appropriate training for all staff. However, as with FGC, little research has been conducted for empirical verification in the U. S. (Lemley, 2001).

In summary, while the VOM model is dominant in the U.S., the FGC is dominant in Australia and New Zealand, and healing circles are influential in Canada. Although both FGC and healing circles have been practiced in the United States, the numbers of the programs and the evaluations of them are considerably small compared to VOM.

Current Social Policies that Affect Restorative Justice in the United States

Although victims have often been marginalized in the justice process (Butts & Mears, 2001), there also have been movements to improve victims' rights at the policy level. Since the late 1970's, interest in restorative justice has grown among policymakers (Umbreit, 1998). The American Bar Association (ABA) has recommended that local, state, and federal agencies take steps to incorporate restorative justice programs into the criminal justice process. The endorsement and recommendation by the ABA includes the use of restorative justice processes for violent as well as nonviolent crimes under the proper conditions (Bazemore & Umbreit, 2003; Umbreit & Coates, 2000). Umbreit (1998) noted that the National Organization for Victim Assistance also endorsed restorative justice in their monograph. In 1996, U. S. Department of Justice held its first national conference on restorative justice to bring together policy makers and practitioners from throughout the U. S. (Umbreit, 1998).

As of 1998, a dozen states had restorative justice legislation, another half dozen had reviewed bills that would change their juvenile justice codes, and numerous states and local jurisdictions had adopted restorative justice policies

(OJJDP, 1998). In 2004, 29 states have victim-offender mediation or victim-offender-mediation-type statutory authority (Lightfoot & Umbreit, 2004). However, the levels of VOM provisions are different in various states. For example, while some are extremely comprehensive with details on how to run their program, other states have a simple reference to VOM within a long list of sentencing alternatives (Umbreit, Lightfoot, & Fier, 2001). In particular, the states of Kansas, Delaware, Indiana, Montana, Nebraska, Oregon, and Tennessee have state statutes or codes that detail comprehensive guidelines for a VOM program or programs within these states, (Lightfoot & Umbreit, 2004). For example, the state of Kansas has detailed requirements for mediators involved in VOM, including a 16-hour training program that “must include conflict resolution techniques, neutrality, agreement writing, ethics, role playing, communication skills, evaluation of cases, and the laws governing mediation. Initial training must be done in a continuous manner within a 120-day period” (Kan Sup. Ct. Rule 902).

None of the states require victims to participate in VOM, although eight states have statutes where a judge may require the offender to participate in VOM (Lightfoot & Umbreit, 2004). For example, Kansas’s Juvenile Justice Code states, “The court may order the juvenile offender and the parents of the juvenile offender to participate in mediation as the court directs” (K.S.A. 38-1663). However, in Kansas VOM is restricted only to first-time offenders. Lightfoot and Umbreit (2004) describe that while no state has a “blanket requirement” (p. 432) of VOM participation by offenders, nine states have specific language mandating that participation in VOM

must be voluntary for the offender as well as the victim. As the above social policies show, the statutory provisions on VOM in various states are on a continuum, from minimum to comprehensive descriptions with details (Umbreit, Lightfoot, & Fier, 2001). Therefore, it is difficult to conclude whether provisions provide supports or barriers for promoting VOM.

Although there has been some criticism that the constitutional amendments in various states do not yet provide an effective guarantee for victims (UNODCCP, 1999), according to Lightfoot and Umbreit (2004), the existence of specific provisions for VOM in state codes has played an important role in terms of providing a safeguard for victims' rights by providing a structure for how to implement VOM. While no literature presently reveals what impact the existence of the state statutes or codes on VOM has had for enhancing victims' rights and improving offenders' accountability, it is clear that at least the statutes or codes have established a mechanism or an important rationale in which victim-centered practices and policies such as VOM can be provided in communities.

Restorative Justice and Reintegrative Shaming Theory

The theory of reintegrative shaming proposed by Braithwaite in *Crime, Shame and Reintegration* (1989) has acquired wide recognition among restorative justice proponents. While challenging to labeling theory, which explains why deviance should be a product of social control, Braithwaite argues, "Once a person is stigmatized with a deviant label, a self-fulfilling prophecy unfolds as others respond to the offender as deviant" (p. 18). Instead, to be effective against crime, according to

Braithwaite, societies not only should be intolerant of crimes, but also must be “both “spiteful and forgiving” (p. 21). Braithwaite (1999) argues that disapproval of the offender can be communicated within a continuum of respect.

Braithwaite (1989) notes, “Shaming runs the risk of counter-productivity when it shades into stigmatization (p. 55).” Leibrich (1996) identifies three kinds of shame: 1) public humiliation, 2) personal disgrace, and 3) private remorse. According to Leibrich, reintegrative shaming is likely to be most effective when it results in personal disgrace and private remorse rather than only humiliating publicly. In a similar sense, Braithwaite (1989) notes that reintegrative shaming is a different kind of labeling, in which an important task is to turn the stigmatization with labels into reintegrative shaming. In this case, an important difference has to be made between reintegrative shaming and stigmatization. Two types of shaming exist on a continuum: the reintegrative form is on one end and the stigmatizing form is on the other end (Makkai & Braithwaite, 1994). Whereas stigmatization, the underlying assumption of retributive approaches in traditional justice systems, creates outcasts in a disrespectful and humiliating way, reintegrative shaming works in a way that respects the person as essentially good but demonstrates strong disapproval of the evil act (Braithwaite, 1996).

In an attempt to explain why restorative justice can prevent crime more effectively than retributive justice, Braithwaite (1989) asserts that the core claims of retributive justice that focus only on stigmatization or disrespectful shaming of offenders make crime worse because it outcasts the offenders from the communities

rather than reintegrating them back into communities. He argues the importance of social disapproval by people in relationships with the offenders when reintegrating:

Reintegrative shaming is superior to stigmatization because it minimizes risks of pushing those shamed into criminal subcultures, and because *social disapproval is more effective when embedded in relationships overwhelmingly characterized by social approval* [italics added]. (p. 68)

It is because, according to Braithwaite (1989), “Repute in the eyes of close acquaintances matters more to people than the opinions or actions of criminal justice officials” (p. 69).

In the following, Makkai and Braithwaite (1994, p. 362) explain the different aspects between reintegrative shaming and stigmatization. Reintegrative shaming involves: 1) disapproval while sustaining a relationship of respect; 2) ceremonies to certify deviance terminated by ceremonies to decertify deviance; 3) disapproval of the wrong doing without labeling the person; and 4) not allowing deviance to become stigmatized. Meanwhile, stigmatization involves: 1) disrespectful disapproval usually by humiliating; 2) ceremonies to certify deviance not terminated by ceremonies to decertify deviance; 3) labeling not only the deed but also the person; and 4) allowing deviance to become stigmatized.

The reintegrative shaming theory provides a foundation for restorative justice that respects fundamental human rights while disapproving of the wrong doings and re-integrating offenders into the society. Many experiments in practicing FGC in New Zealand and Australia have been conducted based on these assumptions. In reintegrative ceremony, Braithwaite and Mugford (1994) write,

Identities are in a social crucible. The vision that an offender holds of himself as a ‘tough guy’ or that victims have of him as a ‘mindless hooligan’ are *challenged, altered, and recreated* [italics added] (for example, as a ‘good lad who has strayed into bad ways’). (p. 141)

In line with Braithwaite and Mugford’s (1994) discussion, then, it is possible to create new identities through a reintegrative ceremony such as VOM by exchanging reintegrative shaming through communal discourse among participants including victims, offenders, and mediators.

Empirical Literature

In this section, empirical research studies on restorative justice programs will be reviewed. In order to more effectively discuss the methodological issues in the empirical studies, the empirical research will be reviewed and classified into three categories based on research design: quantitative, mixed methods, and qualitative. While quantitative and mixed methods designs are dominant, a relatively small number of qualitative studies have been found regarding restorative justice programs. Implications of the research will be discussed.

Quantitative Designs

Umbreit (1994) evaluated a VOM program in Minnesota. By using a quasi-experimental design involving 441 crime victims and juvenile offenders, the study included pre- and post mediation interviews involving two comparison groups. Post-mediation data were analyzed through use of two comparison groups: Group 1 (G1) involved a referred but no mediation participation group, Group 2 (G2) involved a non-referral group. Regarding immediate program outcomes, of the cases that resulted in a face-to-face mediation session, 93% concluded with a successfully

negotiated restitution agreement including financial as well as non-monetary forms of restitution such as community service and personal service restitution to the victim. Findings indicated that the mediation process had a significant impact on victims' feelings. For example, they were less upset and fearful. Although the mediation process had a significant impact on crime victim satisfaction (85% vs. G1-64%, G2-60%), the difference in client satisfaction among offenders was not statistically significant (85% vs. G1- 80%, G2- 77%). Regarding client perception of fairness, the same pattern occurred. While victims who participated in a mediation session were significantly more likely to express a perception of fairness related to how their cases were handled by the juvenile justice system (89% vs. G1-54%, G2-63%), the differences among offender groups were not significant (90% vs. G1-81%, G2-74%). For restitution and its completion rates, offenders who participated in VOM were able to complete their restitution obligation more successfully than the comparison group (77% vs. 55%). However, in regards to recidivism within one-year period following the mediation, although the offenders from the mediation had committed fewer crimes (22%) than the comparison group (34%), it was not statistically significant.

Niemeyer and Shichor (1996) conducted an exploratory program evaluation of a victim offender reconciliation program in Orange County, California. Of all cases (N=222), 48% reached a written agreement through VOM, and 40% were closed without reaching an agreement. The findings indicated that where there was a joint meeting between victim and offender, an agreement involving community service and monetary compensation was reached in 99% of the cases. Of all cases in which

agreement was reached, 96.8% of the contracts were completed or were current. The findings indicated that while most victims and offenders chose to meet face-to-face with the other party, victims were mostly likely to agree to meet their offender in minor personal crimes (79%) followed by serious property crimes, and minor property crimes (74%). To assess the recidivism rate, a systematic random sample was selected. The comparison group was comprised of all juveniles who were referred to the program but did not participate. While the participants in VOM showed a somewhat higher level of recidivism (28%) than juveniles in the comparison group (23%), the difference was not statistically significant.

To identify the factors contributing to victim satisfaction in VOM, two studies were conducted across sites in Albuquerque, New Mexico, Minneapolis, Minnesota, Oakland, California, and Austin, Texas (Bradshaw & Umbreit, 1998). While the juvenile court referred 280 victims for mediation to four victim-offender mediation program sites, the sample included 215 victims who participated in victim-offender mediation. In order of relative importance, attitude toward the mediator, fairness of the restitution agreement, and meeting the offender accounted for 42% of the variance in satisfaction with VOM. The Winnipeg (Umbreit & Bradshaw, 1999) study also produced a similar result. The variables including attitude toward the mediator, fairness of restitution agreement, and importance of meeting the offender accounted for 41% of the variance in satisfaction with mediation.

In 2001, Umbreit, Coates, and Vos reviewed 38 evaluation reports on VOM. The same authors (Umbreit, Coates, & Vos, 2002) expanded their analysis to review a

total of 63 research studies of restorative justice, including 46 VOM, 13 FGC, and four peacemaking circle studies. In 2005, Umbreit, Vos, and Coates also reviewed a total of 85 studies, including 53 VOM, 22 FGC, five peacemaking circles, and two studies of other dialogue programs. Since there is considerable overlap among these three studies in terms of original sources, common themes will be outlined in a combined manner. The main themes of the analysis were client satisfaction, fairness, restitution, and recidivism. Overall, in VOM programs, the vast majority of studies, showed consistently high satisfaction (80-90%) with the process and with the resulting agreement from both victims and offenders. In particular, where comparison groups were studied, those victims and offenders going through mediation were more satisfied with the criminal justice system than those going through traditional court prosecution. The authors also found that the vast majority of VOM participants (over 80%) believed that the process was fair to both sides and agreed with the resulting agreement. Regarding restitution, including apology, monetary restitution, and other material compensation, of those cases in VOM that reached a meeting, typically 90% or more generated agreements and approximately 80% to 90% of the contracts were reported as completed. Lastly, when it came to recidivism, the results were mixed overall. In summary, while acknowledging the other benefits of restorative justice, in particular making the justice system more humane, the authors concluded that restorative justice programs are at least as viable as traditional approaches when it comes to recidivism reduction (Umbreit, Coates, & Vos, 2001, 2002; Umbreit, Vos, & Coates, 2005).

A recent national survey provides a broader sense of the perspectives on restorative justice from informants or practitioners, and the current status of restorative justice programs in terms of “what’s going on out there” (Bazemore & Schiff, 2005, p. 104). The findings indicate that currently there are more than 700 restorative justice programs in the United States. The researchers found that although a variety of models are represented nationally, the VOM model is still dominating the field. However, they also found a trend that most restorative justice practitioners are trained in multiple restorative justice practices. Subsequently, there emerged another trend toward integrating multiple practices within one organization, but most staff still tended to stick to one practice model. This study also found that most programs are located in private agencies and they are staffed mostly by volunteers. While the referrals most likely come from the justice system, the most common charges are minor assault, property damage and personal theft. Regarding the characteristics of the participants and the process, the findings indicated that the average number of participants in restorative justice programs overall is about seven, while the average number of participants in VOM programs is about 5.4. Lastly, the practitioners reported that, when restorative justice fails, they refer the offenders who failed to complete the process to the traditional justice system such as court or probation for action.

Two meta-analysis studies were located for the literature review. The first study was conducted on a total of 41 studies (Williams-Hayes, 2002). Five important variables were identified as potential predictors of the magnitude of effect sizes found

in this meta-analysis: 1) The type of justice, 2) the age of the offenders, 3) the methodological quality of the studies, 4) the length of time that researchers followed offenders in order to assess recidivism, and 5) the location. In summary, there were three significant findings. First, after controlling for all included explanatory variables, victims participating in VOM reported feeling less fearful of re-victimization than victims in comparison groups. Second, both victims and offenders in restorative justice programs were more likely to report feeling satisfied with the justice process than participants in comparison groups, but neither victims nor offenders who participated in VOM reported greater levels of satisfaction with the justice outcome than participants in comparison groups. Lastly, participants in VOM were more likely to negotiate and complete restitution contracts when compared to comparison groups. However, offenders in VOM were not less likely to re-offend than comparison group participants. In this case, the length of follow-up was significantly associated with whether or not offenders were reported to have re-offended.

The second meta-analysis study was conducted by Bonta, Jesseman, Ruge, and Cormier (2006). A total of 39 restorative justice studies were reviewed with three inclusion criteria: 1) There had to be a comparison group; 2) post-program recidivism data had to be reported in a way that permitted the calculation of an effect size; and 3) the assessment of recidivism had to be based on a longitudinal research design. The study indicated that restorative justice interventions were associated with significant reductions in recidivism, though it was relatively small ($\phi = 0.07$). Interestingly, they found that the more recent the studies, the larger the effects that were produced.

The authors assume that this is because the rationales and models for the programs are more clearly formulated in the recent studies. In addition, the findings indicated that restorative justice programs that were contextualized within the traditional criminal justice sanctions showed less effect on recidivism than did their counterparts that were delivered outside of the sanctioning process within a non-coercive environment. Finally, while interventions seemed to be effective with low-risk offenders, the analysis indicated the restorative justice programs were not showing reductions in recidivism for higher risk offenders.

Mixed Methods Designs

In one of the early studies, Umbreit (1989) conducted 50 face-to-face interviews with victims of burglary by juvenile offenders in Hennepin County, Minnesota, to understand the meaning of fairness attributed by crime victims. Both qualitative and quantitative data were collected. The findings indicated that participation by crime victims in the criminal justice process was a major element of fairness. Specifically, the victims' desire to participate in the justice process focused upon the need to let the offender know how the crime affected them as people, as well as to have direct input into shaping a portion of the offenders' punishment. Victims who were referred to the program and participated in a mediation session with their offender were more likely to have experienced fairness (80%) than victims who were referred to the program but chose not to enter mediation (38%).

A cross-sectional survey was conducted by using the juvenile restitution program profiles and directory (Hughes & Schneider, 1989). Responses were

received from representatives of 240 organizations with seventy-nine indicating a VOM component. Professionals indicated that holding the offender accountable was the most important mediation goal, followed by providing restitution. However, punishing the offender was rated as relatively unimportant. In most programs, violent offenses, offenders showing no remorse or denying involvement, and overly angry victims were excluded in the target population. Professionals identified that mediators should have good listening skills, commitment to mediation philosophy, and patience. They also indicated that support of juvenile court judges was very important, along with assistance from community groups in the form of volunteer mediators, funding, staff, or training.

Umbreit (1991) conducted a study of post-mediation interviews by using a mixed method design with a sample of 51 victims and 66 juvenile offenders in Minnesota. Victims 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 or an apology for their losses. While most of the victims indicated a high level of satisfaction, several of them expressed their anxiety before the meeting and their initial tension in the mediation session. Offenders were also satisfied with the program. Telling the victims what happened, working out a mutually acceptable restitution, paying back the victim and apologizing to the victim were important issues to 90% of offenders.

To measure victim and offender satisfaction in the process of VOM in Albuquerque, Umbreit (1993) conducted a study using a quasi-experimental design

involving pre-and-post mediation interviews with two comparison groups. A total of 206 interviews were conducted. Both quantitative and qualitative data were collected. While a large proportion of offenders were Hispanic, the participation rate (27%) in VOM was significantly lower than the national average (40-60%). Most of the victims (89%) indicated a high level of satisfaction with the program. Offenders (89%) were also satisfied with the program. Telling the victims what happened, working out a mutually acceptable restitution, and paying back and apologizing to the victim were important issues to 90% of offenders. Victims in the mediation group (57%) were more likely to be satisfied with how the system handled their case than the two comparison groups, “referred but no mediation” and “non-referral group,” 42% for those who were referred but did not participate in the mediation group and 46% for the non-referral to mediation group.

Umbreit and Coates (1992, 1993) conducted two studies to compare the impact of restorative justice programs in Albuquerque, New Mexico, Minneapolis, Minnesota, Oakland, California, and Austin, Texas. Client satisfaction and perceptions of fairness were examined through the use of pre- and post-mediation interviews. Post-mediation data were analyzed through the use of two comparison groups as discussed earlier. The findings indicated that victims who participated in a face-to-face mediation session with their juvenile offenders were significantly more likely to be satisfied and experience fairness about how their cases were handled by the juvenile justice system than similar victims who did not participate in mediation. As well, juvenile offenders who participated in VOM were significantly more likely

to have experienced fairness about how their cases were handled by the juvenile justice system than similar offenders who did not participate in mediation. Regarding the restitution plan, juvenile offenders who negotiated it in VOM with victims were significantly more likely to successfully complete their restitution obligation than the comparison groups. Although a lower recidivism rate was reported (18% in VOM vs. 27% in a comparison group), it was not statistically significant. This study also provided some qualitative findings. In regards to the mediator's tasks, victims considered leadership as the most important aspect, followed by "made us feel comfortable," "helped us with a restitution plan" and "allowed us to talk." For offenders, the ability to make them feel comfortable was important. They also ranked "allowed us to talk," "helped us with the restitution plan," and "the mediator was a good listener" as important tasks for the mediators.

The study Umbreit (1995) conducted in Oakland, California to evaluate a VOM program also indicated very similar findings through a similar study design. Findings indicated that the most immediate outcome was the highly successful negotiation of restitution agreements consisting of payment of financial restitution, personal service for the victim or community services. Some restitution agreements simply required an apology to victims. Consistent with previous studies, victims were significantly less upset after the mediations. Although the mediation sample showed more satisfaction than comparison groups, the differences were not statistically significant. While victims in mediation were more likely to indicate that they experienced fairness in the manner in which the justice system handled their case than

victims who were not in mediation, these differences were also not significant. The mediation process was significantly more likely to result in a perception by juvenile offenders that their case was handled fairly by the juvenile justice system. Consistent with previous studies, the difference in recidivism (15% in VOM vs. 19% in a comparison group) was not statistically significant.

In 1998, Umbreit, Coates, and Roberts conducted a comparative study to explain the differences in VOM among different countries. Drawn upon data from 1,681 interviews with crime victims and offenders at program sites in four cities in the United States, four Provinces in Canada, and two cities in England, the article was the first attempt in terms of a cross-national study of VOM in North America and Europe. Eighty percent of the victims and offenders in the U.S. and Canadian programs indicated that they experienced fairness, compared to 59% of victims in the two English programs. However, it was indicated that high levels of client satisfaction with the mediation process and outcome were consistently found from the studies throughout North America and England. While criticism of the mediation process did emerge at each site, this was typically related to one of the following isolated problems: 1) Lack of preparation; 2) the quality of the mediator; 3) attitude of the offender; and 4) the lack of follow-up.

Umbreit and Greenwood (1999) conducted a national survey of VOM in the United States. By using a snowball sampling method using the existing program staff or resource people, as well as lists from actual and potential programs, extensive phone surveys were conducted. This study was largely exploratory. A total of 289

programs were identified in the survey. With descriptive and numerical data on the programs such as type of agency and case referrals, several important themes emerged from the qualitative answers. For example, mediators stated that facilitating a dialogue between the victim and offender is their most important task, followed by making the parties feel comfortable and safe, and assisting the parties in negotiating a restitution plan. In addition, they indicated that the most important elements of victim sensitivity are the style and attitude of the mediator, including listening patiently, empathizing, not pressuring or pushing, and allowing sufficient time. Program staff members indicated difficulties in working with conservative juvenile justice systems, not having support at the top, and working in a rural setting. In describing the issue of the relative isolation from other programs, they expressed the need for more opportunities for connection and cooperation. While there was considerable agreement on the training format, professionals pointed out the importance of role-plays, and challenging issues in working in a cross-cultural context or diversity issues. A need for follow-up procedures was indicated as well.

Qualitative Designs

Umbreit and Vos (2000) conducted a case study that explored the self-reported experience of two offenders in murder cases and three family members of the two murdered victims. The first case involved three counts of murder and one count of abduction, rape, and attempted murder. The second case involved two counts of murder and one of attempted murder. All three family members wished to meet with the offenders during the trial proceedings. They wanted to know why the

incident happened and to let the offenders know the impact of the incident on the families. A family member indicated that the VOM was a healing journey for her and helped her share her forgiveness with the offender. In describing their reasons for agreeing to meet with family members, both offenders referred to a process of self-examination in the context of a healing journey and their religious faith as part of living on death row. The five participants described the experience as powerful and healing, and they were relieved and renewed. While all three victims reported that their negative feelings had greatly diminished, particularly their anger, the offenders said they were grateful to be able to help the family members begin to heal.

The first exploratory study for healing circles was conducted by Coates, Umbreit, and Vos in 2003. This study focuses on the peace making circles work within the community and schools of South Saint Paul. A total of 73 interviews were conducted and 13 circles were observed. The findings indicated that the circle process was explicitly value-driven by emphasizing the importance of respectful listening. It was important for participants that everyone had an opportunity to speak. Several skills for circle keepers were identified: 1) Being focused and organized; 2) remaining non-judgmental and open minded; 3) good listening; 4) being caring and emphatic; and 5) being respectful, patient, calm, and understanding. Over 40% of the participants indicated that it was important for them to see offenders being responsible as well as being held accountable.

Szmania (2005) analyzed offenders' communication in VOM based on the assumption that restorative justice programs are often described as victim-sensitive.

Because of the strong focus on victims, offenders' needs have often overlooked. The author analyzed the offenders' opening statements in five VOM cases that the author acquired from a video archive of mediation cases. The cases involved crimes of severe violence. The emerged topics included offenders' communication about the difficult nature of the setting, discussion about how the offenders viewed themselves since the crime occurred, offenders' explicit apologies to the victims' family members, and offenders' responses to forgiveness, if forgiveness was granted or discussed. An expression of apology was another central feature of offenders' opening statements. In apologies, they acknowledged the effect of the crime on the victim's family, and recognized that the apology would not change past events. While four out of five victims granted forgiveness in their opening statements, often offenders reacted in surprise.

A case study was conducted using observations and open-ended interviews with victims' families, offenders in death row, and mediators in a VOM program in Texas (White, L. 2001). The author presents several themes that emerged from the research including 'the power of story' and 'VOM as transformative learning.' In specific, the author found that story telling is the essence of the healing process. For all parties, the telling and retelling of their stories provides the way to the development of the relationships, the self-reflection, and the way to embrace the pain of the act that brought the parties together. In regards to transformative learning, the author found that each of the participants in this process found new perspectives and new ways to operate in the world.

Research Implications

Taken together, the findings from a variety of studies clearly show that restorative justice programs are likely to provide an opportunity for crime victims to have their voices heard as well as to receive restitution. Offenders in restorative justice programs were provided with the opportunity to acknowledge responsibility for their behavior (UNODC, 2006). Studies indicate little or no differences among restorative justice programs by showing high satisfaction rates, high rates of experiencing fairness, and restitution completion rates. When control groups were involved, those rates were higher in restorative justice programs than their counterparts.

Findings from several studies indicate that factors such as attitude toward the mediator, fairness of the restitution agreement, and meeting the offender directly were important in terms of accounting the overall satisfaction. Several important skills for mediators were also identified. In addition to good communication skills such as good listening and being focused and organized, showing care and respect for the participants was important to those participated in restorative justice programs. More recent findings report that restorative justice programs seem to be associated with reductions in recidivism, particularly in those programs delivered in recent years, within a non-coercive environment, and to lower risk offenders. In this section, themes that emerged from the review of the empirical studies will be presented. The findings were comprised of three important themes: 1) The restorative outcomes; 2) the restorative process; and 3) methodological issues in current research studies.

The Restorative Outcomes

Taken together, restorative justice programs have provided a number of benefits. Overall, restorative justice practice models have demonstrated the possibilities of humanizing the criminal and juvenile justice system (Coates, Umbreit, & Vos, 2003; Umbreit & Vos 2000). Where comparison groups were studied, victims who participated in restorative justice programs were significantly more likely to be satisfied than those going through traditional court prosecution. The high satisfaction and reparation rate in restorative justice programs, in particular in VOM, highlight the importance of the participatory nature of the programs. Juvenile offenders who participated in the restorative justice programs were significantly more likely to report having experienced fairness in their cases and more likely to successfully complete their restitution obligation than the comparison groups. They were also able to receive answers to important questions they had as well as restitution. Where crime victims and offenders participated in restorative processes, the rates of agreement and compliance with agreements by the offenders are very high. Both crime victims and offenders rate restorative processes as more fair and satisfying than the conventional criminal justice system. Offenders who have participated in a restorative process have higher rates of compliance with agreements.

In particular, restorative justice programs have shown a tremendous impact on victims' empowerment. For example, victims participating in the programs are more likely to report that they feel less fearful of re-victimization and they view the process as a journey of healing. Zehr (2002) argues that the involvement in their own cases in

the justice process can be an important way to return a sense of empowerment to victims. In particular, studies suggest that restorative justice programs have a more positive effect on the sense of closure among victims and their feelings of well-being than the people who were not given the opportunity to participate in restorative justice (UNODC, 2006). Saleebey (2006) notes that empowerment is the intent and the process of assisting individuals, groups, families, and communities to discover and expand the resources and tools within and around them. In this sense, the empowering aspects of the restorative justice programs for victims are consistent with the empowerment practice in social work.

Despite the positive impact of restorative justice programs and emerging findings that indicate a positive direction, in particular with lower risk offenders, programs delivered within a non-coercive environment, and in recent programs, the reduction of recidivism in restorative justice remains unclear. However, some evidence indicates that restorative processes can sometimes reduce both the frequency and the severity of re-offending (UNODC, 2006). In addition, preliminary findings suggest that VOM can be used in cases involving victims of murders and offenders on death row.

However, some evidence indicates a negative impact on victims involved in restorative justice programs, such as fear in victims resulting from their participation. Some victims claim that they felt pressured to participate. It might suggest that restorative justice is not for everyone. Therefore, it is important to find ways to

reduce the risk of secondary victimization while allowing victims to take advantage of the benefits of restorative justice programs.

The Restorative Justice Process

In this section, the quality of the restorative justice process from the previously discussed studies will be reviewed. The quality of the restorative justice process is important because, if not properly conducted, restorative justice can even re-victimize victims (Bazemore & Schiff, 2005). The findings clearly show that the primary focus of restorative justice programs is to provide an opportunity for victim and offender to talk directly to each other. Restorative justice programs allowed victims and offenders more opportunities to participate in the process than did traditional criminal justice programs. Many crime victims and offenders participated in a restorative program if they were given the opportunity to do so. This reveals the dialogue-driven, victim-sensitive, and voluntary nature of restorative justice programs (OJJDP, 1998). Restorative justice programs provided an opportunity to victims in which their voices were heard. They also received reparation, including monetary restitution, an apology, and additional information about the crime from their offenders. Many victims reported that receiving restitution is less important than meeting the offenders. Meeting the offender provided a symbolic opportunity for victims to get over the harm of the crimes. Victims voluntarily participated in restorative justice programs, providing the opportunity to express the impact of crime upon their lives. In the restorative programs offenders were also allowed to talk about the incident. Restorative justice programs provided offenders the opportunity to

acknowledge responsibility for their behavior (UNODC, 2006). They were able to come up with a mutually acceptable restitution plan to repay the victim.

However, while some authors (Bazemore & Umbreit, 2003) put an emphasis on 'victim speaks first' by giving choices and encouragement to describe the offense and participate actively in restorative justice programs, findings indicate that in many programs, offenders speak first. In addition, there were few studies that addressed the availability of opportunities to assist in the reintegration of the offender in the family as well as the community. However, the limited findings might have been based on the design of the inquiry that intended to derive more information from VOM, the dominant model in the United States, rather than FGC and circles which include more community involvement in the process.

Methodological Issues in Current Research Studies

The research findings, however, should be taken cautiously as a result of several methodological issues that need to be discussed. Clearly, the rigor of research designs is one of the major concerns. Studies even within the restorative justice camp (Bradshaw & Umbreit, 1998; Umbreit & Bradshaw, 1999) identify the issues related to methodological vulnerability such as the lack of standardized measures of satisfaction, and the vulnerability to inflate client reports on levels of satisfaction that undermine the ability to interpret the data reported in VOM studies. In particular, a quasi-experimental research design that has failed to draw causal inferences has been used in many studies. In addition to the lack of probability sampling issues in many studies, most of the studies utilized a cross-sectional study design; therefore, the long-

term effect of intervention was rarely assessed. At the same time, when qualitative research methods were employed, in particular in studies with mixed methods designs, there has not always been clarity in terms of the effort to secure the trustworthiness of inquiry for qualitative studies to be believable to an audience. Concurrently, although many studies included aspects of qualitative research in their designs, the findings of these studies tend to be rather anecdotal and seem to fail to develop an in-depth understanding of the outcomes and processes of restorative justice. Therefore, the methodological issues in qualitative studies, as also in quantitative studies, reviewed here often undermine the confidence in them. In the following chapter, methodological issues and design of the current study will be discussed more in detail from a qualitative research perspective.

In addition, few studies informed readers about the restorative justice model with a detailed description. Bazemore and Schiff (2005) report that among the 39 included studies, only 31.1% of the studies provided a detailed description of the restorative justice model. Restorative justice is not only an outcome but it is also a process. However, most empirical studies focus mainly on outcomes of restorative justice programs. While the theoretical literature on restorative justice emphasizes its procedural aspects such as restoring interpersonal relationships and healing the injuries of victims, it seems that empirical research has failed to develop an in-depth understanding about how the system works. One study notes that the process of restorative justice is now “a black box” because the context of service delivery has not been shown to outsiders (Umbreit, Coates, & Vos, 2002). Therefore, it is

important for researchers to describe the programs and the process of service delivery in detail from the insiders' perspectives. In future studies, the criteria suggested by UNODC (2006, p. 16) would be useful in terms of describing the program in a detailed manner by providing an opportunity for readers to assess the programs as well as capturing the context of the programs. The variations in each model are 1) position of programs in relation to the criminal justice system, 2) formality, 3) position of program in relation to the use of punishment, 4) arbitration involved, 5) involvement of legal counsel, 6) involvement of criminal justice officials, 7) community involvement, 8) involvement of victim, 9) provision of victim assistance, 10) program delivery mechanism, 11) focus on offender rehabilitation, and 12) focus on reparation. These variations will be discussed later to illustrate the research site in the following chapter.

In conclusion, although the research findings indicated high levels of perceived fairness or procedural justice, it was relatively less clear in terms of providing the evidence of restorative outcomes. Daly (2006) argues that achieving fairness is easier than producing restorative outcomes because fairness can be measured largely by the behavior of the professionals being polite, listening, and being respectful, whereas restorative outcomes emerge in the relationships among participants. It can be said that the trend in current research studies rather focuses on measuring procedural fairness rather than restorative outcomes. Therefore, in future studies, the relationships among participants should be examined. In addition, there is a need to understand the process in which restorative outcomes are taking place. More

qualitative research focusing on the restorative justice process is needed to gain this understanding.

CHAPTER 3: METHODOLOGY

As discussed earlier, studies on restorative justice provide not only a theoretical framework but also suggest that restorative justice programs hold a considerable potential to more effectively address and repair the harm done by criminal offenses (UNODC, 2006). However, while the theoretical literature on restorative justice emphasizes its procedural aspects, such as restoring interpersonal relationships and healing the emotional injuries of victims, research has not been successful to develop an in-depth understanding regarding how restorative justice works in practice.

As described earlier, Umbreit, Coates, and Vos (2002) argue that the process of restorative justice is now “a black box” because the context of service delivery has not been shown to outsiders. In addition, the lack of effort to listen to the voices of the participants of restorative justice programs and, accordingly, the lack of participants’ perspectives in empirical literature is particularly pertinent to this issue. In other words, not only the experiences of victims, juvenile offenders, and their families in restorative justice programs remain little heard, but also only a few studies have included information gained directly from service providers, including the mediators’ and referral sources’ perspectives. In short, while the consumers’ perspectives gained from victims and offenders and their families should be more reflected in empirical research studies, service providers’ experiences in restorative justice programs also need to be studied. In so doing, it is important for researchers to describe the programs and the process of service delivery in a detailed manner from the insiders’ perspectives.

To develop an in-depth understanding of restorative justice in practice, this study attempted to reflect multiple perspectives of participants on their experiences with a restorative justice program, in particular within a victim offender mediation program. The study followed the traditions of qualitative research. In the following section, the rationale for choosing a qualitative research method will be discussed.

Rationale for Design: Qualitative Research Method

Social work scholars such as Hartman (1994) and Weick (1987) argued that qualitative research is appropriate to gain a more complete and holistic view of clients. In particular, according to Weick, conventional research methods that are predominantly practiced in quantitative ways were not always successful in understanding the clients' complex systems. Creswell (1998) defines qualitative research as,

An inquiry process of understanding based on distinct methodological traditions of inquiry that explore a social or human problem. The qualitative researcher builds *a complex, holistic picture, analyzes words, reports detailed views of informants, and conducts the study in a natural setting* [italics added]. (p. 15)

To take a reader into the multiple dimensions of a problem and to display its complexity, Creswell (1998), as described above, emphasized attaining a complex and holistic picture, whereas Denzin and Lincoln (1994) put an emphasis on the interpretive and naturalistic approach. In short, as Patton (2002) describes, there seem to exist some fundamental assumptions when it comes to qualitative methodologies including a holistic view, an inductive approach, and naturalistic inquiry.

In addition, Creswell (1998, pp. 17-18) offers some guidance for determining whether a strong rationale exists for choosing a qualitative approach in research design. Those include 1) the nature of the research question, 2) the exploratory nature of the topic, 3) the need to present a detailed view of the topic, and 4) to study individuals in their natural setting.

Restorative justice is a multi-layered social phenomenon because it involves a complex system of players. Therefore, realities in restorative justice are multiple and constructed (Zehr, 2002). In this sense, a qualitative research design fit well with the purpose of this study, which was to provide an in-depth understanding of the process of restorative justice in practice.

In specific, this study sought to understand the multiple ways that the participants of a restorative justice program construct their experiences in restorative justice. The participants included victims, offenders and their parents, and service providers, such as mediators and referral sources. The research questions were broad, and the answers depended on the interpretation of the experiences of the participants in restorative justice programs. Therefore, the questions were best answered through a qualitative research design. In addition, a qualitative research design allowed the voice of the participants to be heard in rich and detailed descriptions of their experiences of restorative justice. The paucity of qualitative studies on the restorative justice process, as described in Chapter 2, provided another rationale for choosing a qualitative research design. As Creswell (2003) describes, a qualitative study is useful when there has been little exploration of a given topic. However, there are a variety of

particular paradigms that may shape specific qualitative methods. In the next section, the paradigm and methods used for this study are introduced.

Designing Naturalistic Case Study

Lincoln and Guba (1985) have discussed four different paradigms for inquiry encompassing positivism, post-positivism, critical theory, and constructivism. In positivism it is believed that there exists an objective and value-free reality that can be known and found. In post-positivism, it is believed that a value-free reality that cannot be fully understood or apprehended may exist. Critical theory denotes a set of several alternative paradigms including neo-Marxism, feminism, materialism, and participatory inquiry. In these, it is believed that although an objective reality may exist, it is very difficult to fully comprehend because of the subjectivity of experience.

In Lincoln and Guba's view (1985), a constructivist believes that objective reality does not exist so that there are no objective and value-free facts. Instead, realities are multiple and are based on socially and culturally constructed experiences. In particular, in *Naturalistic Inquiry*, Lincoln and Guba (1985) described this as the naturalistic paradigm. That is, as opposed to the positivist paradigm, in the naturalist paradigm, there exist multiple and constructed realities. In this paradigm, the relationship of knower to known is inseparable. In addition, it is believed that only time and context bound working hypotheses are possible in regard to the possibility of generalization. Regarding the possibility of causal linkages, a naturalist believes that it is impossible to distinguish causes from effects because all entities are shaped

in mutually simultaneous ways. Therefore, inquiry is inevitably value bound in this paradigm.

The nature of the naturalistic inquiry process is emergent rather than tightly pre-figured because several aspects would emerge during the study (Creswell, 2003; Lincoln & Guba, 1985). For instance, Creswell (2003) notes that specific research questions, sample size, and the data collection process might change as doors open or close for data collection. As discussed earlier, restorative justice involves a complex system of players resulting in some possible changes in certain aspects of the study, as Creswell advised above. As will be discussed later, the nature of this study design emerged with the unfolding of the project.

In addition to the naturalistic inquiry process, this study also followed the tradition of qualitative case studies. According to Stake (2005), a number of cases can be studied jointly in order to investigate a phenomenon or population. Stake named it as “multiple case study or collective case study” (p. 445). While each case is a complex entity located in a situation embedded in a number of contexts, it also has sub-dimensions or domains. In other words, each case has its own contexts but it also may have understandable relationships with other cases. Stake notes, “Qualitative case study calls for the examination of these complexities” (p. 449).

To give depth to the research, this study included face-to-face interviews with participants of each case as well as observation of the mediation process in its natural setting. The details of experiences of the participants that I was not able to see were obtained by interviewing the participants (Stake, 2005). Given the importance of

providing a detailed description of the process of VOM, a case study design fit the goals of this inquiry. In line with Stake (2005), a case in this study was defined as a complex entity operating within a number of contexts, as Figure 3.1 portrays.

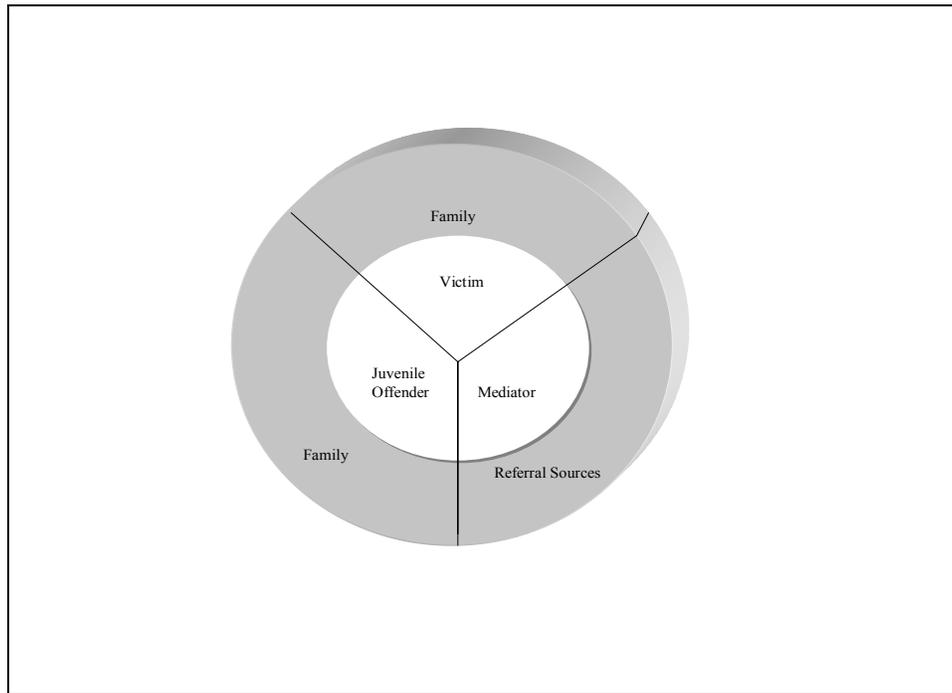


Figure 3.1. A case

Taken together, this naturalistic case study design was useful to examine the complexities in the interface of each participant in the VOM. This study design provided not only the characteristics and context of the program, but also the experiences of the participants with their own voices. It was critical for me to capture the uniqueness of each case as well as the commonalities, explained earlier by Stake (2005), as understandable relationships among cases. Consequently, the naturalistic case study was chosen because issues of process were particularly well addressed by this type of qualitative case study.

Restatement of Research Questions

This study aimed to develop an in-depth understanding of the experiences of the participants of VOM, a restorative justice program. In this section, the research questions that I presented in Chapter 1 are revisited and expanded based on the review of literature and methodological considerations provided in Chapter 2 and Chapter 3 respectively. While choosing a VOM program from among the types of restorative justice programs, the primary research questions this study addressed were as follows. How does restorative justice work within a Victim Offender Mediation (VOM) in a city in the Midwestern United States? And 2) what are the experiences of the participants in a restorative justice program regarding its process and outcomes? The following sub-questions provided additional guidance to the research. However, given the emergent characteristics of the naturalistic inquiry, it is also important to acknowledge that the questions were continually revised as the study unfolded in the field (Creswell, 1998):

1. What are the experiences of the participants (e.g., victims, juvenile offenders and their parents, mediators, and referral sources) in the process of the VOM program?
 - a. What are the needs and concerns of the participants in the VOM program?
 - b. What are their motivations for participating in the VOM?
 - c. What are their perceptions of the process in which their cases were handled?
 - d. What are the participants' experiences in terms of interacting with each other, in particular between victims and offenders?
2. What are the participants' experiences with the restorative outcome of the restorative justice program?
 - a. What are their perceptions of the restorative justice outcomes?
 - b. What are their experiences with the outcomes?
 - c. In what way do they describe the outcomes?

- d. What are the internal/external factors that prompt the restorative justice program to produce restorative outcomes?
- e. What are the internal/external factors that impede the restorative justice program to produce restorative outcomes?

Definition of Key Concepts

The research questions for this study include six key concepts including 1) the participants, 2) VOM, 3) the process, 4) restorative justice, 5) the restorative outcome, and 6) the internal/external factors that prompt/impede the restorative justice program.

The Participants

Restorative justice is multi-layered and it involves a complex system of players. In this sense, the participants included victims, juvenile offenders, their families, mediators, and referral sources. The victims were defined as people who were harmed directly and indirectly as a result of a crime(s). They were all adults. The juvenile offenders were defined as juveniles who committed a crime(s) and were then referred to the VOM project. The nature of the crimes was various, ranging from misdemeanor to felony. In relation to mediators, there were two types of mediators: one type was professional mediators with established certification who coordinate the mediations; the other type was volunteer mediators with established certification who usually get involved in the mediation process as co-mediators in an effort to contribute to their communities. Both types of mediators were expected to facilitate the VOM process in a fair and impartial manner (UNODC, 2006). The referral sources were the other players who also construct the multiple realities of the VOM program. The referral sources in this research were defined as someone who held a stake in the VOM program by initiating, supporting, and referring participants to the

program. Two referral sources participated: 1) The Immediate Intervention Program; and 2) a probation officer.

VOM

The Victim Offender Mediation, also known as VOM, is one of the practice models of restorative justice. VOM has gained the widest support and popularity in the United States. In general, individual victims and individual offenders are brought together with a community mediator in VOM. However, in this study, multiple victims, multiple offenders, and multiple mediators were brought together. In VOM, the involved parties are not disputants because an offender has to admit a criminal offense before the mediation and a victim has to be the one who has clearly been victimized. Therefore, in the process the issue of guilt or innocence should not be mediated (Bradshaw & Umbreit, 1998).

The Process

The process was defined as any process in which the victim and the offender, and where appropriate, any other individuals or community members affected by a crime, participate together to actively resolve matters arising from the crime (UNODC, 2006). In specific, in a narrow sense, the process of VOM included a four-phase process (Bradshaw & Umbreit, 1998): Intake, preparation, mediation, and follow-up. Additionally, in a broader sense, the entire procedure extends from the initiation phase of a VOM program to the direct mediation phase. Therefore, it included the involvement of a complex system of players in the process, such as the participants, as defined previously.

Restorative Justice

In this study, restorative justice was defined as a collaborative approach to conflict or to problem solving. In the process, the victim, the offender, and where appropriate, any other individuals or community members affected by a crime participate together to deal with its aftermath by restoring the dignity and well-being of the participants. In general, it is done with the help of a facilitator in a safe and controlled environment (UNODC, 2006). Restorative justice focuses on restoring interpersonal relationships, healing injuries, and giving opportunities to offenders to be responsible for their wrongdoings by placing both the victim and offender in active and interpersonal problem-solving roles (Braithwaite, 2002; Zehr, 2002).

Restorative Outcome

Restorative outcome refers to an agreement reached as a result of a restorative process. It often includes responses such as apology, restitution and community service, aimed at meeting the individual and collective needs and responsibilities of the parties and achieving the reintegration of the victim and the offender (UNODC, 2006, p. 100).

Internal/External Factors Prompt/Impede the Restorative Justice Program

In general, the operation of VOM programs is influenced by internal as well as external factors. In this study, the internal and external factors that prompt or impede VOM programs in their efforts for restoration were drawn from the empirical research. Internal factors, related to the program itself, included the quality of mediators, including the number of mediators, their experiences in VOM, their

perspectives on the role, and training. In addition, literature indicated that the goal of the program and support from the top can also play an important role in delivering VOM. The existence of follow-up was also included. The external factors included local resources, values, cultures, supports of juvenile court judges, assistance from community groups, the relationship with the juvenile justice system, and funding.

Methods for Data Collection

Data Sources

According to Creswell (1998), an important step in the data collection process is to find people or places to study and to gain access and establish rapport so that participants will provide good data. This process is closely interrelated with determining a strategy for purposeful sampling and the most appropriate data collection approaches. In the process, qualitative researchers emphasize improving the human instrument rather than establishing the reliability and validity of the instrument (Rodwell, 1998). Given that, I, the researcher, was the primary data-gathering instrument in this study.

The primary source of data was interviews with the participants in a VOM program. The interviews were conducted during the fall, winter, and spring months of 2007 to 2008. However, consultations with the key informant and unofficial observations had continued since November of 2006. Although the observations that I made were not directly included in the current study, it should be acknowledged that the insights I gained shaped my interest in the program and, consequently, the design

of the study. In other words, my role as an observer of the program for a period of time would have added a degree of subjectivity to the study.

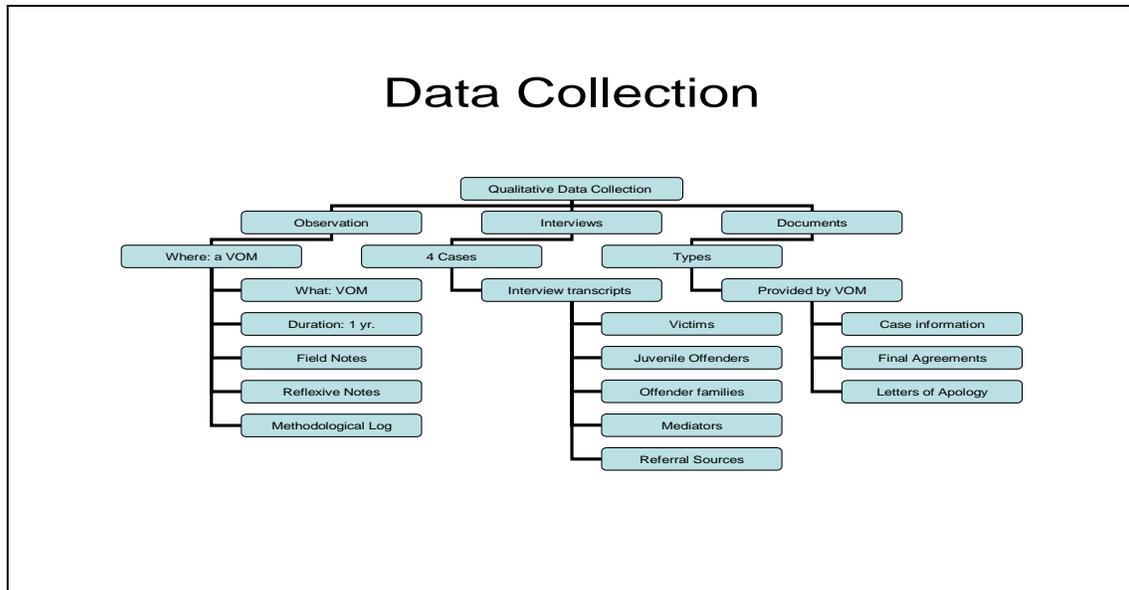


Figure 3.2. Data sources and collection

The data collection began with semi-structured interviews with the participants by using interview guides (see **Appendix C**) and observations throughout the two phases. Field notes were taken during the interviews and observations. The method of keeping field notes will be discussed in a detailed manner later. All the interviews were audio recorded and transcribed verbatim. At first, the research questions were asked. The focus of the interview was to acquire the information from the participants in an attempt to answer the semi-structured questions. Preliminary data analysis in this phase indicated that the depth and breadth of understanding were acquired from the first 34 interviews with 37 individuals. In cases where some gaps in understanding were found, additional short interviews were conducted for further understanding. A preliminary case study report was written after completing the

interviews for the four cases. In addition, data were collected through the observations of VOM that took place in its natural setting where the participants' experiences occurred and the meanings were created. A program coordinator, who played the role of my informant, also provided each case file for the four chosen cases.

Then, as the interview process progresses to the second phase, even though a member check was conducted at the end of each interview, a comprehensive member check was conducted with most of the participants to confirm that the data was constructed in a way that matched how the participants interpreted their experiences. However, it should be noted that some participants were not available for the comprehensive member check due to various reasons, such as moving or loss of contact. Besides checking the accuracy of the interpretation, the comprehensive member check also provided some valuable information regarding "what's going on" in the post-VOM lives of the participants.

In addition to the transcriptions of the interviews, Rodwell (1998) suggests keeping field notes, a reflexive journal, and a methodological log. Given the fit of this study to the naturalistic inquiry, I closely followed her suggestions as well as constructivist social work research in the tradition of Lincoln and Guba (1985). Data from interviews and observations were recorded in field notes throughout the research process. The field notes included key information about 'what's going on in VOM', in particular, on the process. Field notes also contained facts on the demographic information of the participants, the time, place, and date of the interview and observation. A reflexive journal was a diary of the researcher's journey through the

research. It focused on the researcher's role in the emergent nature of the research design such as personal reactions, analysis, and other interpretive work. Based on the emergent design, a methodological log kept information in regard to methodological decisions and their justifications. In addition to interviews, this study also included observation. However, because of the confidential nature of mediation, especially in regards to the involvement of juvenile offenders, interactions with participants were done with caution. Based on the scope and goal of the study, the focus for the observation was given to the experiences of the participants in the mediation setting.

Settings

I gained entry to the setting, including access to case records, through the auspices of the coordinators of the program. Several settings were used for purposes of observations and interviewing. The office of the VOM program provided the initial setting, where I interviewed the chosen participants. An additional setting was the homes of the victims and the juvenile offender participants and their families, when they agreed to it and when I considered it to be desirable for my research. Given the nature of the involuntary manslaughter case, the interviews with the juvenile offender and a parent were conducted at the Project office. However, in general, interviews and observations were held where the participants felt the most comfortable and safe.

For a better understanding of the research site, the program coordinator and the researcher checked separately the below Table 3.1, which was developed by the UNODC (2006), and came to a consensus. The mark in the boxes indicates the characteristics of the VOM project.

Table 3.1
The Variation of the VOM Project

Variations	The Victim Offender Mediation Project		
Relation to the criminal justice system	Outside of the system as an alternative to formal response	Part of formal diversion program	Integrated into the justice system's response
		√	
Degree of formality	Very informal	Somewhat informal	Very formal
		√	
The use of punishment	The process takes place in addition to punishment	Punishment is one of the outcomes of the process	The process and its outcome are a substitute to punishment
		√	
Degree that arbitration is used	Does not involve any arbitration	Involves an element of arbitration	It is essentially a process of arbitration
	√		
Involvement of legal counsel	No legal counsel involved	Role of legal counsel limited	Legal counsel involved
	√		
Involvement of criminal justice officials	None	Limited involvement	Operated by criminal justice officials
	√		
Degree of community involvement	Full participation	Only family or limited community involvement	No community involvement
		√	
Degree of victim involvement	Central participant	One of many participants/Indirect involvement including surrogate victim	Little or no involvement
		√	
Provision of victim assistance	No or little assistance provided	Provision of some assistance	Primary focus on victim assistance
		√	
Program delivery mechanism	By independent NGOs and voluntary sector	By voluntary sector with funding from government agency	By government agency
		√	
Focus on offender rehabilitation	Almost none	One of many aspects of the process	Main focus on offender rehabilitation and recidivism prevention
		√	
Focus on reparation	Central and essential focus on reparation	Reparative measures are included in the outcomes, but mostly incidentally	Limited focus on reparation for the victim
		√	

Note. Adapted from UNODC (2006, p. 16).

The characteristics of the VOM program were placed along a number of continuums. The specific characteristics of the program (UNODC, 2006) are indicated as follows: 1) The program is a part of formal diversion program; 2) the degree of formality is somewhat informal; 3) punishment is one of the outcomes of the process; 4) the program does not involve any arbitration; 5) the program does not involve any legal counsel; 6) the program does not involve any criminal justice officials; 7) the program involves only family or limited community; 8) the victim is one of many participants in the program; 9) the program provides some victim assistance; 10) the program operates in a voluntary sector with a partial funding from a government agency; 11) offender rehabilitation is one of many aspects of the process; and 12) the reparative measures are included in the outcomes, but mostly incidentally.

According to the *Project Fact Sheet*, the Victim Offender Mediation Project (VOMP) was proposed in 1999, based on a legislative directive in 1997, which mandated each judicial district to develop a comprehensive strategic plan to submit to the Juvenile Justice Authority. The fact sheet states:

Victim Offender Mediation: A face to face meeting will occur between a victim and offender. A trained mediator will contact the victim and request their voluntary participation. The victim and offender will negotiate restitution, performance of community service and other possible means to provide reparation to the victim for the damage that occurred as a result of the alleged offense.

The above statement emphasizes the fact that the VOM is based on restorative justice.

The fact sheet also explains that the case referrals are from several sources such as 1) the courts as a result of sentencing from the judge, 2) the offender's court services

officer, and 3) an Intermediate Intervention Program, based on the recommendation of the District Attorney as part of a diversion program. The mission of statement of the VOMP reads:

...is a restorative justice based initiative that promotes and administers an effective community based service for victims, offender and the...community. This service strengthens community safety, provides support and restitution for victims, aids in restoration for offenders and promotes reconciliation among victims, offenders and the community.

Along with the mission statement, there are four identified goals for the VOM: 1) Assist juvenile offenders with accepting accountability for their offenses and to provide an opportunity for victims to receive answers to their questions; 2) create a restorative justice presence in the county; 3) help families with their immediate crisis/problems and to learn effective ways of dealing with conflict resolution; and 4) create awareness of the availability and effectiveness of parent-adolescent mediation in resolving family conflict.

Purposeful Sampling

In qualitative inquiry, the sample size is dependent upon what the research seeks to explore, the purpose of inquiry, what will be useful, what will have credibility, and what can be done with the available time and resources (Patton, 2002). Patton describes this “purposeful sampling” (p. 230). Although the rules for sampling in qualitative research are not cut and dried, according to Patton, qualitative inquiry commonly focuses on in-depth interviews with relatively small samples selected purposefully.

In line with Patton (2002), the underlying principle of sampling is to select information-rich cases that allow the researcher and the readers to learn a great deal about the importance of restorative justice programs. Therefore, the cases in a VOM should be opportunities to study the phenomenon (Stake, 2005), restorative justice, in this respect. Stake describes that the criteria for choosing cases in case studies are 1) the cases should lead to better understanding about the process and 2) the cases should offer opportunities to learn by providing information on what is common and what is significant about the cases. Keeping the criteria in mind, the importance of maximizing the variability in the perspectives of the participants (Lincoln & Guba, 1985), this study utilized a purposeful sampling method which included typical case sampling and critical case sampling. Patton (2002) explains that the typical case sampling allows the researcher to illustrate what is typical. Meanwhile, the use of critical case sampling will permit an opportunity to maximize the application of information to other cases. For example, the crimes of juvenile offenders in VOM programs are commonly misdemeanors, but a critical case might be a case involving violent crimes. The critical case sampling can also be useful where resources are limited. Consequently, this purposeful sampling allowed me to keep balance and variety among cases while maximizing the opportunity to learn from the cases (Stake, 2005).

Lincoln and Guba (1985) also recommend that the size of the sample should be determined by informational considerations. That is, in the case when the purpose of the study is to maximize information, the sampling ends when there is no new

relevant data discovered from new sampled cases. Adequacy is achieved when the researcher has obtained enough data so that the previously collected data are confirmed and understood (Denzin & Lincoln, 1998; Rudestam & Newton, 2001).

Stake (2005) describes that case study researchers face a strategic decision regarding how much and how long the complexities of the case should be studied. According to him, each researcher has to make choices. For the purpose of this study, a case was defined as a particular victim offender mediation session which was comprised of a victim(s), a juvenile offender(s) and his/her family member(s), a mediator(s), and a referral source (s). The following describes the case selection process that I explained and requested of the informant.

In regards to the process and criteria for selection, (the person) will provide information to the potential participants when the first contact takes place for the mediation. Since the offenders are juveniles under 18, their parents or guardians' permission for the possible contact when the mediation was done will be secured. If the permissions from the both parties have been secured, (the person) will keep the information but he would not share it with me. Meanwhile, I, without knowing which cases will be interviewed, will keep doing the observations at the research setting. After having done the victim-offender mediation, (the person) will provide information on the possible participants to me. The information will include case information, contact number, and signed informed consent form. The information that (the person) will provide me would be more than 5 cases, at least 10 cases. Therefore, (the person) would not know which cases will be participated in the project. In this way, the confidentiality and privacy of the possible participants will be protected.

The opportunity to learn about the victim-offender mediation, and, in particular, about its process and outcomes from victims and offenders' points of view is of primary importance. In other words, to achieve the purpose of the research, (the person) will provide information on the critical cases that involve juvenile offenders, juvenile victims, and their parents/guardians in the process. Severe crimes are preferred to less severe ones. If racial diversity can be secured, it would be preferred. If diversity in mediators can be secured, it also would be preferred. Based on the information, I will contact the possible

participants and if they are still interested in participating, I will schedule the interviews.

After completing the proposal of this study, the dissertation committee and I agreed to choose three to five cases for the study. After conducting 34 interviews with 37 participants, including three interviews that occurred with two participants at the same time, the saturation of the information was indicated, and I decided to stop the interview process. Consequently, 37 participants were recruited for the interviews.

In addition, I created a local panel of experts for further consultation. The members of the panel who are familiar with mediation helped me through each stage of the research. The roles that they played were to help me refine the interview guides, provide insights about the tentative views, and checks and balances throughout the research process.

Human Subjects Protection

Case study researchers are interested in personal views and circumstances (Stake, 2005). There exists an obligation to protect the participants. While keeping good manners and following social work code of ethics, an approval (see **Appendix A**) from The University of Kansas Institutional Review Board (IRB) was sought prior to participant recruitment. Each participant signed a consent form before an interview took place. In the signed consent forms, the participants were informed that their identity would be confidential and that their participation in the interview was voluntary. The confidentiality of the study participants was preserved by deleting identifying information and replacing names with pseudonyms. In addition, issues of

observation and reporting were discussed in advance with the participants of the current inquiry.

In line with Stake (2005), in order to minimize risks to the participants, in particular, to juvenile offenders, great caution was exercised during the research. The efforts to minimize risks included two consultations with an IRB staff member. The discussion with the staff included various ways to protect the privacy of the participants. In particular, for juvenile offenders, it was advised to obtain the parent/guardian's permission for the interviews. In order to minimize any adverse effects on victims, additional information on resources for assistance, such as community mental health centers, was provided in the informed consent form. The audio tapes, transcripts, field notes, and reflexive logs were secured in a locked place. Finally, to compensate the participants' time and effort, a \$10 honorarium was provided, excepting the professional service providers.

Methods for Data Analysis

Qualitative analysis converts data collected from the inquiry process into findings (Patton, 2002). In particular, Rodwell (1998) emphasizes that data analysis should be an ongoing process from the first contact in the field to the final report. However, unlike in quantitative research designs, there exists no generally accepted guideline or consensus for how to display data and summarize the results in qualitative studies (Creswell, 1998; Lincoln & Guba, 1985). According to Lincoln and Guba, this is because qualitative inquiry commonly involves inductive analysis focusing on discovering patterns, themes, and categories in one's data rather than

deductive analysis where the data is analyzed according to an existing framework. This, as Patton (2002) notes, means that findings emerge from the data and through the analyst's interactions with the data. In this sense, inductive data analysis was appropriate given that the purpose of this research was to develop an in-depth understanding from the data rather than to test a hypothesis.

To organize the data for the first stage, I created the data by making verbatim transcriptions from the audiotapes and notes taken during the interviews. However, as expected, the data was voluminous and I needed to develop a good data storage system. Creswell (1998) states that computer programs help with this phase of analysis. ATLAS.ti was used to store and analyze the collected data. Besides managing the data effectively, using ATLAS.ti also provided several advantages, including expediting the process of coding, enabling the retrieval of data easily and organizing an audit trail (Weitzman, 2003).

This study closely and consistently followed data analysis methods suggested by Lincoln and Guba (1985) and Rodwell (1998) for constant comparison analysis, which include unitizing, coding, and identifying relevant themes, or categorizing. First, the data analysis process began with unitizing and coding at the same time by using ATLAS.ti. All interviews were unitized and prepared for data analysis before moving to the next step. Units were a word or several paragraphs and served as the basis for defining categories. Units were the smallest possible piece of information about something that could stand by itself by being interpretable in the absence of any additional information, as Lincoln and Guba (1985) suggested. Units were found in

the interview transcripts, interview notes, field notes, and documents placed in the ATLAS.ti program. Then, each unit was assigned a code that allowed tracking of the original data source. I tried to keep the code as simple and understandable as possible not only for me but also for the auditor. A comprehensive code list was developed. And finally, when all data were unitized and coded, each was compared with all other data units to identify relevant categories, sub-categories and themes. By using the Query function in ATLAS.ti, each code was compared with each other in many ways. When new information did not contribute to the emergence of additional viable categories and themes, I stopped collecting and processing data.

Trustworthiness

Rodwell (1998) notes that the standards of good qualitative research with a naturalistic approach consider the trustworthiness of the research product as well as the authenticity of the research process. While Lincoln and Guba (1985) provide a set of criteria to evaluate trustworthiness including credibility, dependability, confirmability, and transferability, Rodwell (1998, p. 110) also concurs that the demonstration of elements of trustworthiness serves the purpose of authenticity. Therefore, in the following, I focus more on the trustworthiness of this study in explaining research rigor.

Credibility

Credibility refers to a criterion regarding the degree of confidence in the accuracy of the findings. Prolonged engagement, persistent observation, triangulation, peer debriefing, and member checking were designed and followed, contributing to

the credibility of the study. For a prolonged engagement, I have contacted and consulted with informants and two project coordinators at the VOM program. While consulting with the informants during the study, I also conducted consistent observations and discussions with other mediators. In doing so, it was possible for me to learn the organizations' culture and to build trust.

Triangulation refers to soliciting data from multiple and different sources to attain a full understanding of the reality in construction (Rodwell, 1998; Rudestam & Newton, 2001). It was accomplished through the use of multiple sources of data including face-to-face interviews, field notes, persistent observation at the site, and a review of documents such as case records.

Throughout the process of the study, I also reported to the dissertation chair and the methodologist for the purpose of peer debriefing. The professors asked critical questions during the study process and provided feedback and advice about the deconstruction and reconstruction of the data.

Member check refers to an activity to promote rigor of the study by asking participants to confirm the accuracy of the reflection of their reality (Lincoln & Guba, 1985; Rodwell, 1998). At the end of each interview, a member check was conducted to ensure the researcher that the information provided by the participants in the interviews was accurate from their point of view. Rodwell (1998) notes it as convergent validation with research participants. The comprehensive member checks were conducted with the participants in their natural settings, such as homes and interview offices when the study report became available to share with them. The

comprehensive member checks provided an opportunity for the participants to directly check the accuracy and credibility of the information reconstructed from my understanding of the participant's experiences in the study report.

Transferability

Transferability is regarded as the degree of applicability of the findings of a research study to other contexts or other participants. Lincoln and Guba (1985) recommend researchers provide 'a thick description' to enable someone interested in making a transfer to reach a conclusion about whether transfers can be contemplated as a possibility. The detailed descriptions were derived from the transcribed interviews, observations, formal documents and field notes. In particular, the context of VOM was provided in a detailed manner. It is expected to enhance the ability of other researchers to determine if any part of these findings may be transferable to their places of study.

Dependability

Dependability addresses the methodological stability of the study (Rodwell, 1998). Dependability refers to the extent that all procedures employed during the research process fall within the expectations of the chosen research practices. In addition to a methodological log, it is expected that a good audit trail (see Appendix D) can enhance the dependability of the results when the same or another researcher attempts to replicate a similar study.

The methodologist on the dissertation committee provided ongoing consultations regarding methodology. For a dependability audit, all materials

collected and utilized during the course of the study, including the transcripts of the interviews, coding and category sets, the methodological log, preliminary findings, and member check were discussed with and reviewed by the methodologist.

Confirmability

Confirmability refers to the extent to which the results are linked to the data (Rodwell, 1998). The major technique for establishing confirmability is the confirmability audit (Lincoln & Guba, 1985). An audit trail provides a means to reproduce a study and verify the findings. The dissertation committee chair and methodologist had a role as the confirmability auditor to verify that the interpretations and conclusions in the study report provided by me were tied to the raw data that I obtained from the participants. In order to assist the two committee members in performing the role of a confirmability auditor, I provided all raw data including the transcripts of the interviews, unitized data by using ATLAS.ti, and decision rules for categorizing data as well as a section of the report with an audit trail.

CHAPTER 4: FINDINGS, THE FOUR CASES – ONE STORY AT A TIME

To develop an in-depth understanding of the restorative justice process, this study examined multiple perspectives of the participants' experiences of a Victim Offender Mediation (VOM) program operating in a city in the Midwest. The findings presented here are based on the 34 face-to-face interviews conducted with 37 participants including eight juvenile offenders, eight offenders' parents, eight victims, 10 mediators, and three referral sources from four completed VOM cases, as well as observations of the program over a one year period. Figure 4-1 illustrates the framework for analysis. The four cases presented in this study illustrated many different layers of participants' various experiences, despite the fact that they were all involved in a similar VOM process. Each case in this study was a complex entity operating within a number of contexts (Stake, 2005).

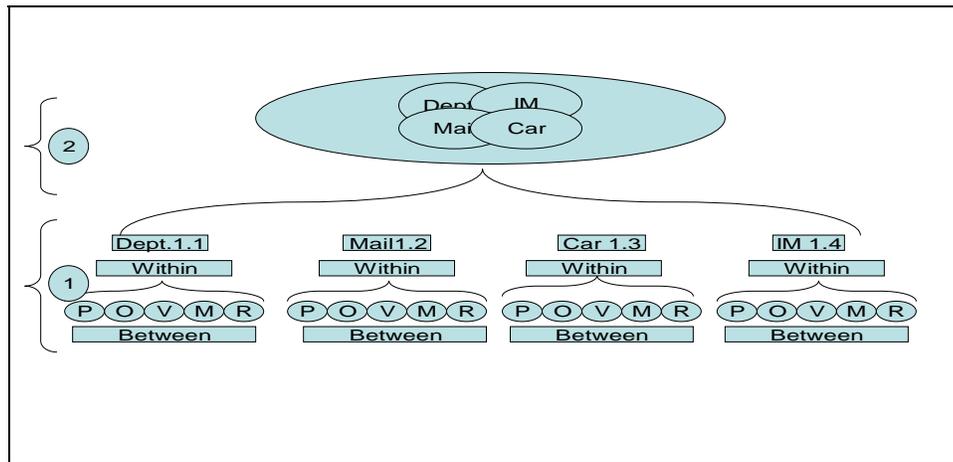


Figure 4-1. Two steps of illustrating findings. In the figure, several acronyms were used: 1) P-parent, 2) O-juvenile offender, 3) V-victim, 4) M-mediator, and 5) R-referral source. While Dept means the Department Store Case, Mail represents the Mailbox Bashing Case, Car depicts the Car Case, and IM presents the Involuntary Manslaughter Case.

In presenting the findings, this chapter begins with an introduction of the four cases especially regarding the severity of each case and the handling of referrals to the VOM. The analysis of each case, which represents the bottom half in Figure 4-1, is presented in two ways to present the uniqueness of each story.

Figure 4-1 also illustrates the interplay of inductive and deductive reasoning of the constant comparison analysis that I followed throughout the study. This part specifically focuses on the uniqueness of their experiences in their own VOM context. The perceptions of each participant within a case is contrasted and compared to examine the differences and similarities of their own respective views. In the first section, I describe the participants and their stories to give readers familiarity with each case. In particular, the chronology of each case from the incident to the VOM is provided to help readers understand the paths taken by the participants of each case. Most importantly, the first section is an attempt to let the voices of the participants take center stage. The second section deals with the process of the VOM, especially what happened during the session. Then, finally, I describe the impact of the VOM in the third section, especially regarding accountability and the benefits of the VOM process from the participants' perspectives. Then, the discussion proceeds from the level of each case to the upper level, which is shown as #2 in the upper half of Figure 4-1 to examine what will be the focus of Chapter 5, the differences and similarities across the cases.

The Four Cases: One Story at a Time

The four cases include one involving theft, two concerning criminal damage and one regarding involuntary manslaughter. To distinguish each case, I assigned a name to each case: 1) The Department Store case, which represents a misdemeanor theft; 2) the Mailbox Bashing case, which portrays eight misdemeanor criminal damages; 3) the Car case, which characterizes criminal damage, including three felony criminal damages and four misdemeanor criminal damages; and 4) the Involuntary Manslaughter case, which depicts a felony charge.

The cases can be placed on a continuum, as seen in Figure 4-2, based on the severity of each case, which ranges from misdemeanor to felony. While the Department Store case and the Mailbox Bashing case represent misdemeanor crimes, the Involuntary Manslaughter case characterizes felony, and the Car case is placed in the middle on a continuum by including both misdemeanor and felony.

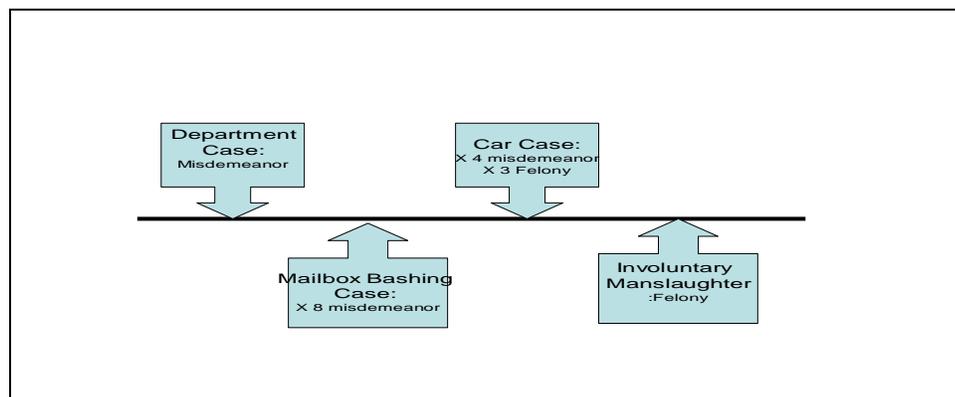


Figure 4-2. The severity of the cases: Situating the cases in a continuum

The four cases can also be seen in terms of the ways they were referred to the VOM. When those cases are seen in a chronological way, especially from the incident to the VOM process, a general observation can be made. That is, when an incident

occurs, the juvenile offender(s) is contacted by the police and is sent to the Juvenile Intake Center for further assessment and corresponding referral. As illustrated in Figure 4-3, all cases except the Involuntary Manslaughter case, were placed in a diversion program, which is also known as the Immediate Intervention Program (IIP) in the research area, following the decision made by the District Attorney's Office (DA). They are all pre-charge cases. Then, the IIP makes a referral for the juvenile offenders to the VOM program when a crime involves a victim(s) as well as restitution. This was the situation for three cases of this study. In contrast, the Involuntary Manslaughter case was sent to the VOM by the juvenile's probation officer, consulting with the DA, with an intention of helping both the juvenile offender's re-integration to the community and providing the victim's family members some closure.

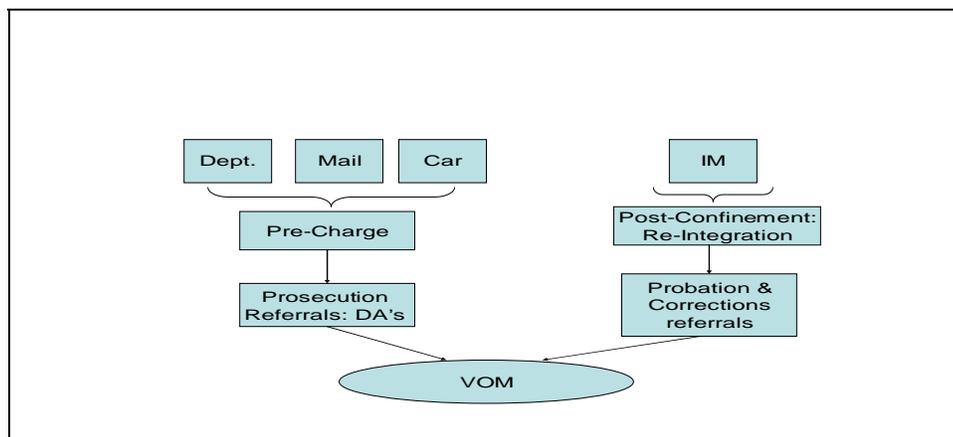


Figure 4-3. The referral sources to VOM

CHAPTER 4.1: THE DEPARTMENT STORE CASE

Participants and Their Stories

This section describes the participants and their stories. First, I illustrate the chronology of the paths that the participants took from the incident to the VOM based on the documents provided by the VOM and the IIP. Next, I describe the incident based on the participants' perspectives of what really happened and the continuous impact of the incident. Then, I depict the victimization experiences of the victims.

Mary, a 16 year-old Caucasian female, participated in the victim-offender mediation (VOM) with her father in November, 2007. The crime was theft, a misdemeanor, which occurred in August, 2007, at a major department store in the city.

Table 4.1

Demographics: The Department Store Case

	Name	Sex (Race)	Age	Interview Place
Victim	Mr. K	Male (Caucasian)	30s	Office
Juvenile Offender	Mary	Female (Caucasian)	16	Home
Parent	Mary's father	Male (Caucasian)	40s	Home
Mediators	Gale	Male (Caucasian)	40s	Library
	Sean	Male (Caucasian)	40s	Restaurant
Referral Source	Robin	Female (Caucasian)	30s	Office
	Tanya	Female (Caucasian)	30s	Office

Note. All names are pseudonyms.

The Intake and Assessment Summary, which took place the next day after the incident, reports that Mary gave her employee discount to friends when they shopped at the store. The discounts amounted to \$600. The summary also reported that Mary

was sexually abused by her grandfather between ages 9-13 years old. The grandfather was currently serving prison time for his crime at the time of the interview. Mary has been seeing a therapist for her sexual abuse and the sessions have been paid for through a crime victim's support group. The report illustrates that Mary and her father were informed about the IIP and left the intake interview.

The Chronology: From Incident to VOM

The case was referred to the VOM from the IIP in October, 2007, about 50 days after the occurrence of the crime. Rob, a coordinator at the VOM, sent out a letter informing Mary and her parents about the VOM program three days later. A part of the letter read:

The key elements of the Project and restorative justice are to help juvenile offenders gain insights into the human impact of their offense, hold offenders accountable for their actions, and restore peace in the community...how they can repair the harm caused.

The letter also emphasized that Mary was ordered to participate in the mediation process and a failure to participate in the process could jeopardize her diversion status.

On the same day, Rob also sent out a letter to the victim who was a representative of the department store, informing him of the VOM program. The letter described: 1) The case was referred to the VOM project as a pre-filed case, meaning the county's District Attorney had referred the juvenile offender to a diversion program; 2) the VOM process is to provide an opportunity for victims and offenders to talk directly to each other, which allows victims to express the full

impact of the offense upon their lives and to receive answers to important questions they have; and 3) the service is strictly voluntary for the victim.

Two weeks after the referral, Rob conducted a 30-minute intake interview with Mary and her father at the VOM office. The intake took place approximately two months after the occurrence of the crime. While the intake with Mary and her father took place before the VOM, the intake for the victim occurred on the day of the VOM. The victim was directed to come early to the session so that the coordinator could explain the process.

The VOM took place in November, 2007, 10 days after the intake with Mary. Consequently, it took approximately 72 days from the incident to the VOM. Mary and her father, the victim, and four mediators participated in the session. All of them signed an agreement at the end of the VOM, which indicates a successful completion of the VOM.

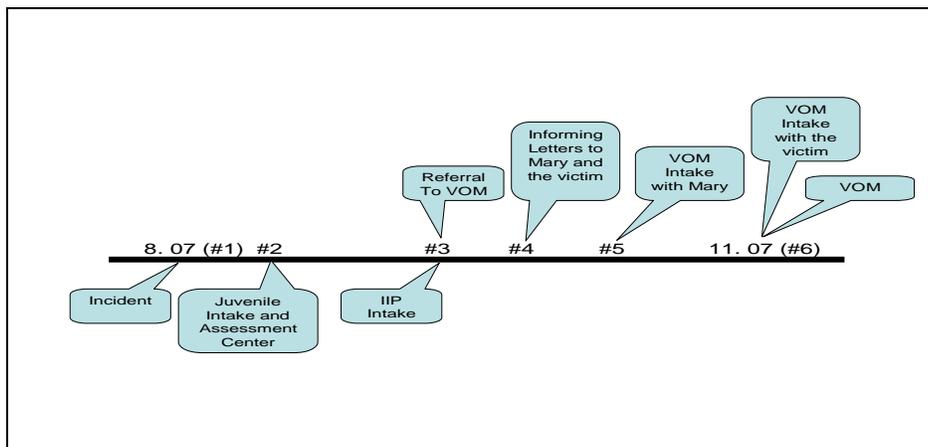


Figure 4.1.1. The chronology of the department store case

The Incident

This section aims to provide the background of the incident through the

different and similar perspectives of the participants on the incident. In so doing, I incorporated the following four subsections: 1) The view on the incident; 2) The views on each other; 3) The continuing impacts of the incident for juvenile offender and parent; and 4) The continuing impacts of the incident for the victim.

The Views on the Incident

This section describes the different and similar perspectives on the incident from the various positions of the participants in the VOM, such as being an offender, parent, victim, and mediator, which usually creates unique views in VOM.

After setting the stage with an introduction, a mediator asked Mary what caused her to attend the VOM. While Mary explained that she had provided unauthorized employee discounts to friends and colleagues at the department store in hopes of maintaining friendships, she emphasized that she was sexually abused by her grandfather when she was young. She indicated that, since then, she has been suffering from a trust issue with people. She described that she was used again by her friends and would not be able to trust people again because of this incident.

However, Mr. K, the victim, believed that Mary's explanation of the incident was an excuse. He noted, "Her perception of what happened is different than my perception. My perception is she did it, herself. Her perception is, she did it because of" (P11:25). Mr. K expressed that the sexual abuse, which Mary emphasized as an underlying reason for what she did, was a mere justification.

In contrast, Mary's father believed that Mary was a victim again, rather than an offender. He said, "She was a victim from them, her so-called friends. But, they

aren't actually her friends. They were just out for what they could get...They were using Mary's discount" (P10:27). It is important to point out that Mary was seeing a therapist at the time of the interview, and the therapy was supported by a crime victim's support group. The father also emphasized that the employee discount issue at the department store is rather a systematic problem because it happens all the time.

In the following, the mediators shared their perspectives on the incident. First, Gale noted,

[T]his was a girl who was actually starved for attention...it seemed very important to her to gain the trust of other people, and she chose to use her privilege for that employee discount to try to gain friendships, and again, in the end, was hurt in her effort to try to extend trust to other people. (P12:4)

Second, Sean perceived the incident as a "Typical stupid thing" that a lot of teenagers do (P13:8). Sean continued to say,

[I]t wasn't anything out of the ordinary as compared to other cases that I've been involved with in the past. It was just more or less, just you know, somebody made a mistake...she made a bad decision and ended up getting caught. (P13:9)

The Views on Each Other

The Victim: The Definition. Although the father saw Mary as a victim being used by her friends, he also acknowledged that Mary was the offender in this case, as did the other participants. Unlike the various perceptions of the incident, the participants agreed who was the offender. However, their viewpoints differed again when it came to "victim," as seen in the following examples.

Mary believed the company was the victim that she harmed directly. But, she also mentioned that Mr. K was one of the people affected by her behavior to some

extent because he works at the company. In a similar way, Mary's father also mentioned, "It (the victim) was the company...I think he (Mr. K) did a good job of representing the company" (P10:21). These views that Mr. K was a partial victim who represented the company were confirmed by Mr. K himself. He said, "I'm not the actual victim, but it did affect me" (P11:22). However, Mr. K added, "I probably felt more like a participant, a participant in the (VOM) process" (P11:22). Then, he shared his experience in the VOM.

They (mediators) did explain the process. You are playing the victim...I knew kind of that they wanted me to portray that victimness to the individual that was there, but beyond that, I don't know if I was treated as a victim. (P11:22)

During the interview, I was curious about Mr. K's intention in using the words 'play' and 'portray,' I asked him for clarification. His response was that the mediators thought of him as a volunteer to the VOM rather than a "victim." It becomes clear when Sean, a mediator, shared his perspective, in which he did not see Mr. K as a victim.

I don't perceive him (Mr. K) as a victim. With the cases I've been involved with...there's actually a person that...something stolen from or got hurt or whatever the case may be. That's, to me, a true victim...this representative from the department store...nothing was really stolen from him.

In contrast, Gale, another mediator, shared a different understanding:

[H]e (Mr. K) is a victim because she (Mary) stole from the store, which might affect the salary of the whole corporation. If he represents a company, then he is the company. A diplomat represents a country and he/she should be treated as the country. That's the rule.

The Juvenile Offender and Parent. In the interview, Mr. K tried to remember what he heard from Mary, which he regarded as an excuse, at the VOM. Although it

was an issue that Mary and her father presented consistently in the VOM, Mr. K did not remember the person who sexually abused Mary until I reminded him. Mr. K noted,

It sounds like her grandparents did some terrible, horrible things to her, and I hope they're punished for it, but you know, there's some point in time when you become an adult, and you're going to go out and work, and you have to get past that. (P11:12)

While Mr. K perceived Mary's comment about the incident of sexual abuse as an excuse, the father expressed that it was not easy for them to share Mary's experience at the VOM. He said, "[W]e don't just go out announcing that kind of stuff, you know what I mean?"

The Continuing Impact of the Incidents: Juvenile Offender and Parent

Mary and her father expressed some difficulties because of the continuing impacts of the two incidents, the previous sexual abuse and the current one. In particular, as discussed earlier, Mary and her father shared some thoughts on Mary's victimization experience as the backdrop of the incident that resulted in her participation in the VOM. Since it was an important issue for them at the VOM, I share their perspectives on the sexual abuse incident in the following.

The father said, "She has some trust issues with her grandpa. Actually, she got her a** chewed all the way home." The father expressed some guilty feelings and issues in his relationship with his father. He said, "It's not a good thing, not a good thing at all. He (the grandfather) almost died. I wanted him bad." The father emphasized that it took a while for Mary to realize that it was not her fault and to let go of the underlying anger.

Mary discussed how the event has affected her, especially in relation to trusting people she knows:

It's hard for people to get my trust, but when they do, like, I want to think that they're not going to abuse it, because they do know, like, my background a little bit, I've had a really bad time trusting people, and this (the current incident) didn't help at all, especially when I got fired, and they didn't care. (P41:6)

What Mary said was that the incident and the feeling that she was used again would not help her trust people in future. From her point of view, the previous victimization experience was related to the current incident at her work and she again would not be trusting people. Mary also commented about the difficulty in being labeled an offender.

It sucks. I have never been in trouble, you know...I'm the youngest, and I was always the innocent one, and actually being labeled as an offender, it kind of sucked, you know. It's just like, wow, I really did do that. (P41:7)

The father, however, expressed that he still trusts Mary, even though "it slacked a little bit more than it was" (P10:25).

Losing her job was another difficulty that Mary had to go through as a consequence of the incident, which also affected her father financially. The father's description in the following demonstrates that Mary's mistake became another responsibility that he had to endure.

We live in a mobile home. I'm not saying I'm poor by any sense of the word, but I ain't got money just falling out of every orifice I have, so I mean, right now, I'm on disability for my diabetes. So, right now I have no money until the social security kicks in, so.

The Continuing Impact of the Incident: Victim

Victimization: The Impact. In the following, Mr. K explained the impact of

the incident to him as well as to the company and the community:

She stole from the store. It steals from my paycheck and from the paychecks of everybody in this building...the other associates in the building that are losing money, that lose the privilege of an associate discount...We can't hire as many people. What it does, it could possibly raise prices...The community is going to have to pay more on the goods and services that they buy. (P11:20)

In the above, Mr. K expressed the financial impacts of the incident to the whole community. He also shared a different aspect of the impacts that the company has to suffer. Mary and her father appreciated this viewpoint and it provided them a new understanding of the impact: "I think I told her in there, she was a good employee. She gave real good customer service...So, it did hurt that we lost that."

Victim Needs. Based on the victimization experience, Mr. K shared some needs as a victim. First, he mentioned that it would have been better if Mary tried to take responsibility. In particular, Mr. K compared the experience with Mary to one with two other juvenile offenders who committed a similar crime at the same store a year earlier, who were showing more remorse than Mary, according to Mr. K. He believed that Mary's effort to take responsibility was not enough due to his previous experience. In addition, Mary did not complete her community service by the time of the VOM and Mr. K interpreted it as her not taking responsibility.

Second, Mr. K remembered that Mary's father had arrived late to the VOM, leading Mr. K to think that his time was not being respected. He indicated that the father's tardiness had "soured" him from the beginning.

I left the store when I was scheduled off, and I did it on my time...one of the things that frustrated me initially, was, that I was going there on my time. I showed up early...we had to wait, you know, forty five minutes for her dad,

and that just says to me that, okay, if you're truly sorry, and you want to do this process, have the courtesy and respect to be on time. (P11:15)

Third, Mr. K spoke about a need to hear a genuine apology not only from Mary but also from the father. Mr. K said, "If that was my daughter, I would have came up to me and said, I am so sorry for what my daughter did. Never, never once from the man" (P11:23). Additionally, in comparison with Mr. K's previous experience with VOM, he did not see Mary's attitude as being genuine towards him as the victim. When I asked Mr. K if his previous experience might have affected his feelings about the incident with Mary, he answered:

With the first girl...she was remorseful for it from that point and even through the mediation. With Mary, she wouldn't admit to it. It took a while for her to be, I'm going to say, somewhat honest, because she wasn't completely honest with us...So, even in the process of going in as the victim, I didn't have that remorsefulness from her already.

Victim Offender Mediation: The Process

"We probably need to do a better job of our game plan, and treat it like we're going to a super bowl every single time." (P12:31) - Gale

To provide the in-depth understanding on the process of the VOM, this section incorporates five different sub-sections including 1) Immediate Intervention Program, 2) Preparing for the VOM, 3) Participants' Motivations to Participate in VOM, 4) Participants' Expectations for VOM, and 5) Looking Inside of the VOM. In particular, the last sub-section, Looking Inside of the VOM, includes another five aspects such as the atmosphere of the VOM, the scope of the conversation, the focus of the conversation, the parental involvement, and the mediators' attitudes and their roles in the VOM.

Immediate Intervention Program (IIP)

Mary's case was referred from the IIP, a diversion program operating under the DA's office in the particular county. According to Robin, the referral source on this case, when the criteria are met, especially where there is a victim(s) and restitution involved, the IIP refers juvenile offenders to the VOM.

Mary thought she was sent to the diversion rather than the juvenile court because she never offended before and she was willing to do just about anything to make up for her crime. She considered the diversion program to be a "second chance."

In the IIP contract, Mary agreed to follow the following directions to complete the diversion program successfully:

1. Not commit any felony or misdemeanor crimes
2. Report to the IIP Case Manger any contacts with law enforcement
3. Attend school as expected with no unexcused absences or suspension
4. Abide by the reasonable rules of the home (curfew, chores, etc.)

Additional requirements that Mary agreed upon were: 1) Complete 10 hours of community work; 2) complete victim offender mediation; 3) complete an essay stating how this incident has affected her life and the changes that will be made to prevent this from happening again; and 4) meet with the IIP case manager as directed.

As described above, the participation in the VOM was one of the criteria that Mary had to meet to complete the diversion program. The reason that Mary wanted the opportunity to complete the diversion program was: "I am not a problem child. I did mess up and I want to correct my life."

Preparing for the VOM: Preparation for the Participants

Upon receiving the referral, Rob, the coordinator of the VOM, began preparations for the VOM. In this section, the focus is given to the preparation process for the participants, including the victim, the offender, and parent.

The Victim

As a victim, Mr. K had received a letter informing him of the upcoming VOM. He also received a phone call from Rob, who provided information on his participation. This phone call also served the function of preparation for him as a victim. In the following, Mr. K commented on the phone call that he received from the program coordinator: “[H]e (Rob) called me and explained what the program was, and it’s kind of a second chance for these kids. They don’t get off the hook scott free, but it’s a second chance” (P47:48). Besides this phone call, Mr. K was also encouraged to arrive at the VOM earlier to fill out the victim participation application on the day of the VOM.

The Offender and Parent

Unlike Mr. K, Mary and her father had to meet Rob for a 30-minute intake session. Mary shared her experience at the intake for the VOM:

(We) went in and talked to Rob, and he told me that this is what we do. We sit down, and you have to write a letter saying the apology, what you did...then you’ll have to sit down with the department store themselves and talk to them, which was actually Mr. K, but that’s what my understanding after, that’s how we figured out what the VOM program was about. (P47:44)

Mary recalled a situation where Rob informed her that the VOM would not be an easy process for her:

Rob told me, you know, hey, it’s going to be hard. They’re going to be tough on you, and you know. He’s like, they want you to understand that what you

did was wrong, so they're going to be a little hard on you, and so, it kind of makes you understand that you did what you did. You got in trouble for it, but we're going to give you another chance. (P34:74)

Mary's father stated that he did not know that Mr. K would participate in the process until he and Mary attended the intake session described in the above statement by Mary. Her father noted that he was a little concerned about the victim's participation because Mary had to meet him again and to explain her actions (P47:47).

Participants' Motivations to Participate in VOM

"You know, I want to live in a community with honest people, so if we can catch her at sixteen, seventeen, eighteen, teach her the way to be an honest person, it's only going to benefit me later on." (P36:58) – Mr. K

This section describes the participants' motivations in participating in the VOM. It needs to be recognized that motivation is slightly different from expectation. While motivation in this section refers to the "why" they wanted to participate in the VOM, expectation is more about "what" they wanted to achieve through the VOM.

To Mary and her father, it was important to keep Mary's record clean. In particular, Mary's father recalled the meeting with the IIP case managers, which reflects his motivation to make a decision to attend the VOM:

They said that you can do this one of two ways...if they (the department) press full charges, she could go to jail, or we can offer her this diversion thing...and then they started explaining all...that sounds like a lot more work than just going to jail for ten days or fifteen days or whatever they would sentence her...but in the end, she won't have anything on her record, so she'll still have a clean slate, so to speak. (P10:14)

To Mr. K, his participation was an effort for him to help young people to be productive citizens. He said, "They're young kids. We all make mistakes, and

hopefully, they can learn from that mistake and go on and be productive citizens in the future” (P11:5). From the process, Mr. K wanted Mary to realize “it’s her. She controls her own destiny, and she can’t blame it on things that happened in the past” (P11:12). In addition, Mr. K also commented that his previous experience with the VOM program helped him decide to participate again in the process.

I did one a year ago, similar situation...with two different girls doing the exact same thing. And, it was a good program....the one girl particularly...was very embarrassed, and so this was a good program for her...I felt good after the experience. (P46:39)

As opposed to the above participants, to Sean, a mediator, his participation was a more random choice: “[T]here is no particular reason. It was just a matter of him (Rob) sending out a message about, you know, is anybody available on this certain date, and I was available” (P13:7).

Participants’ Expectations for VOM

To Mr. K, Mary’s attitude, from the time when she was caught to the day of the VOM, was not as genuine as the other girls who Mr. K caught a year ago committing the same kind of crime. Mr. K indicated that Mary’s lack of honesty led him to have different expectations at the VOM with Mary. He said, “So, yeah, when I showed up to the mediation, my expectations were different for the two girls. First girl, I already knew that she was 100% honest with me...But, Mary wasn’t the same way.”

Mary’s father stated, “My expectation of it (the VOM) was that she learn something from it, naturally...consequences for your actions, to be remorseful for it. And, not take lightly what she done” (P10:42).

As a mediator, Sean shared his expectation in general:

Any time you go into mediation...your goal is that...the person who did whatever crime it was, I hope that they learn something from the whole situation. I hope that they show remorse, and I hope that they...to look at the big picture in the future. (P13:10)

He added, “With victims, I think that you ultimately want to get to a situation where the victim feels comfortable with the apology and outcome of whatever the offender says and does” (P13:11).

As a case manager at the IIP, another referral source for this case, Tanya shared her expectation of the VOM: “I think it goes back to explaining to her the consequences that by doing this, you hurt this person and this person and this person, and eventually, society, because of the prices” (P33:25).

Looking Inside of the VOM

This section is to provide a snap shot of the VOM session. Below, Figure 4.1.2 depicts the seating of the VOM. While Mary (JO-juvenile offender) and her father (P-parent) sat side by side, the victim (V-victim) and three mediators (M-mediator) sat across from the offender side. Rob (C-coordinator) sat right next to me, as represented R (researcher).

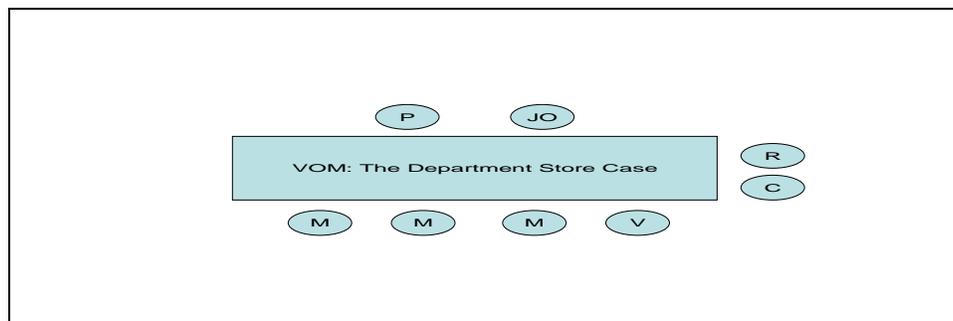


Figure 4.1.2. The seating of the department store case

The Atmosphere

When I met Mary at her house, she looked very different from the person I saw at the VOM. At her home, she looked relaxed and comfortable, which led me to ask her what it was like to be at the VOM. She repeatedly said, “Pretty nerve racking.” In particular, according to Mary, having Mr. K at the VOM made her more nervous. She said, “[I]t was kind of nervous watching him just kind of look at me like, you know, I did take from his company” (P9:5). She also felt,

It was kind of like everybody’s coming after me...it wasn’t really threatening, but it was just kind of like everybody’s looking at me, and everybody’s seeing what I’m going to say. It was kind of all that whole deal, so. (P9:29)

The father stated that the VOM experience was threatening neither to him nor to Mary. The father commented that although he thought that his role at the VOM was to protect his daughter, he did not feel that he needed to step in to defend Mary, which resulted in his infrequent involvement in the conversation at the VOM. The following excerpt illustrates the atmosphere of the VOM from the father’s point of view:

I thought it was alright. I mean, he (Mr. K) didn’t say a whole lot, but...they didn’t act mad at her or anything like that over the deal. I thought it was a good deal. I mean, that way, he got to explain his side of it. She got to explain her side of it. Everybody was happy. (P48:49)

Parental Involvement

Since Mary was a juvenile, her parent was required to attend the VOM and in this case, it was her father. Mary noted that her parents wanted her to go through the VOM process:

They (the parents) wanted me to go through it. They wanted me to understand

that I did do something wrong... They said, you know, we can't save you. You did what you did. You made a choice as a young adult to do what you did. (P9:48)

Regarding her father's involvement at the VOM, Mary described that her father was encouraged to engage in the VOM. However, his involvement at the VOM was not active. During the interview, the father agreed that he did not participate much in the process. However, he also pointed out that his active involvement in the process was not often necessary, mainly because Mr. K treated Mary right. The father saw his role in the VOM as a supporter for his daughter: "To be there to support her, and be there for her in case something happens or help her if she needed some help with something" (P10:37). The father also understood that the VOM was more between Mary and the victim.

However, Gale, a mediator, viewed the situation little bit differently. Gale observed that the program has not encouraged parents to actively participate in the process; however, he has become more comfortable in trying to draw parents into the process. Gale recalled the situation in the following:

I do remember that he (the father) seemed to almost want to hide, like he wasn't really buying into the process, and I didn't feel that he was showing that he was in his daughter's court. It was almost as if he was trying to be neutral in all ways. (P12:26)

Sean, another mediator of the case, interpreted the situation somewhat differently than Gale. Sean said, "I think we always give the parents opportunity...I would assume that we gave him that opportunity...if he chose to not say a whole lot, then I guess that was his decision" (P13:28).

Mediators/Their Attitudes and Roles

“They treated me as a person instead of an offender.” (P34:70) – Mary

During the interviews, the participants often talked about the roles and attitudes of the mediators at the particular VOM, reflecting the importance of them.

Keeping Things under Control. Mary shared her opinions on how she saw the mediators. While feeling safe by being able to say anything she wanted to say, she also felt that the mediators kept things under control so that the atmosphere of the VOM would be calm and nice. Mary mentioned:

Well, the whole fact that it was kept on a calm level, and nobody got loud with anybody, nobody raised their voices and if somebody, like, if Mr. K had something to say, he said it, and then we’d talk about it, and so I knew that if I had something to say, and we could talk about it, you know. (P34:72)

Being Neutral. It was not surprising that Mary acknowledged that she was very nervous at the VOM. Especially, according to her, she speculated in advance that Mr. K would be mean and nasty towards her, as would the mediators. However, it turned out that none of them were mean to her. In particular, Mary appreciated that the mediators were not biased:

They weren’t towards Mr. K just because I was the offender. You know, they weren’t towards the victim. They were just there to make me understand what I did and how I did it, and why it was wrong, and so, that’s what kind of helped. (P34:77)

Being Respectful. Mary had worried that the mediators were going to hate her. She also thought, “They’re going to tell me that I’m a piece of crap” (P34:77). However, contrary to her expectation, Mary felt that she was treated like a person. Mary was particularly appreciative of the respect she received from the mediators. She added:

If they would have been like, I'm better than you because I've never offended, then that would have made it worse. They didn't look down on me, because I did offend... They treated me as a person instead of an offender. You know, just because I did offend doesn't, does not make me an offender. I'm still a person, you know, and I still have feelings. (P34:70)

Facilitating Conversation. While Mary attested that the attitudes of the mediators were important to conduct their roles or tasks such as keeping things under control, the other aspects of the mediators' role, from Mary's point of view, converged on facilitating conversation among the participants. Mary recalled one particular activity:

I remember... that I got up and had to write on the board who it affected, you know, like along the lines of who I thought it affected... I wrote it affected being in the community, my parents, it affected me, it affected the department store... stuff like that. (P34:60)

Sean explained the activity that Mary described above:

One of the questions we always ask is who did this affect?... it gives the juveniles an opportunity to really think about what this whole action did, but at the same time, some kids can just rattle stuff off, and then some kids you kind of just, boy, just have to just pull, you know, because they just don't, just don't see the big picture of this, so, and in her situation. (P34:109)

Mary confidently said, "You can definitely tell they've (the mediators) done this more than once" (P34:68). Mary especially appreciated that the mediators were able to help her understand the questions. She said,

If you asked them, like, hey, I don't understand, they elaborated on it, and they let you know the whole question, like, they let you understand it. They explained it to you where you could understand it. (P34:68)

Understanding the questions was important to Mary based on her perception: "You have to get more in depth to get more out of the person" (P39:32). Therefore, Mary

was more appreciative that the mediators were able to help her learn something from the process by asking questions tailored for her. She explained,

Each case is way different, you know. They (the mediators) can have somebody who did something completely different than what I did, but they adapt to things really quick, and they do take time to ask the questions, and they take time to think of the questions themselves...they're not just throwing the same questions out there to each person. (P39:31)

Limiting the Scope (Range) of the Conversation. This section describes the scope of the conversation, which also informs what happened at the meeting. Gale observed that, in general, for crime against property, there is not as much emotional connection. However, he noted that for this case, “(Although) this seemed like a crime against a big company, it was really, the essence of it was, you know, another violation of trust” (P12:27).

As Gale said, the VOM involved an emotional aspect mostly from the juvenile offender. Mary’s disclosure about the previous experience with her grandfather created a dilemma for the mediators. According to Gale, Mr. K did not have any knowledge of the sexual abuse in Mary’s past. In particular, when it came to the mediators’ role of keeping the conversation focused, Mary’s sudden revelation was challenging to the mediators, especially given that the mediators were there to help the participants decide the scope of the dialogue between the offender side and the victim, who considered the previous incident an excuse. Gale noted,

I would hope that it wouldn’t sound that restrictive, but in the same sense, I think we need to sort of keep a cautious eye as mediators about trying to not let other things lead into the central issue that brought us sort of together, and certainly the representative (Mr. K) from the store doesn’t have a vested interest in talking about the violations and the need for trust. (P12:28)

I asked Gale, based on my observation of the case, why the mediators did not ask any further questions or follow through when Mary talked about her sexual abuse experience at the VOM. Gale answered:

We, the mediators that reviewed the documentation before we went in wondered why that was included in the information that was shared with us... I would not have been, felt comfortable bringing that up without a trained psychologist present, perhaps, because that might have called for people with professional background that weren't there, present there. And, I'd hate to feel that I created a circumstance in the mediation that caused negative consequences outside the mediation as people went back to their, their daily lives. (P12:27)

In retrospect, Gale shared his opinion on what would have been better:

She (Mary) seemed to have come out of her shell in trying to gain, almost do anything, to gain some respect and friendships and close friendships, and then, when she was violated again, we should have talked about how that doesn't mean you give up, you know...I think it, perhaps, would have been good for us, and maybe, maybe we need to consider just taking a caucus for the mediators to, perhaps, rethink a strategy. (P12:27)

Gale suggested the above strategy based on his philosophy as follows:

To share some of the reasoning that sort of went into that never justifies a wrong doing, but it certainly helps substantiate the criminal intent or the other pain or harm that caused an unhealthy environment from the beginning...I think, you know, in this case where we knew there was another circumstance that caused her (Mary) to really want to do anything she could to gain trust, it kind of helped us understand what she needed to do is make better choices about how she invested in developing trusting relationships. (P12:29)

Sean had a little bit different point of view regarding the mediators' response to Mary's disclosure of sexual abuse:

We're told when we're mediating, you're supposed to stick to the subject matter...there's a lot of questions you may want to know the answer to...And, in that particular situation, a lot of the questions I was thinking of, it was just for me. You know, it wasn't that I felt this was really going to enlighten anybody. (P13:36)

While Sean stated that the scope of the conversation is limited to the incident the participants bring to the table, he noted that not many mediators are capable of handling those issues, as Gale also pointed out. Sean said,

[W]e're all just Joe every day people off the street. I mean, some of us have different backgrounds and might have different education levels and stuff like that as far as therapy or stuff like that, but, you know, very few people there are probably equipped to deal with some of the issues that hit. (P13:38)

Sean summed up, "You have to keep to the task at hand...we're only allotted an hour to an hour and a half to get these things...that we have to follow...that's what you're going to, have to kind of keep focus on" (P34:120).

Coaching. In this VOM program, mediators usually have an opportunity to review a case file before the VOM begins. However, Gale indicated that he generally wants to know as little as he can about a case and its circumstance so that he does not draw his own conclusion beforehand (P34:38). According to him, this method has allowed him to be fair and open. Gale, however, stated that, for this case, it was helpful for him to know a little bit of her background because Mary evidenced some pain associated with her past and her mixed emotions about being able to trust people.

It helped me a little bit understand some of her behaviors and attitudes (at the VOM), and then from that standpoint it, perhaps, allowed me to do a little more coaching instead of just purely being a mediator to talk about the importance of trusting other people, but being mindful of making sure that you're not going to break rules or violate laws. (P34:83)

Gale's coaching role was manifested in the excerpt below:

[I]t seemed that she was helpless, and frustrated, and I think my coaching role is to give her encouragement to continue to try to establish trusting relationships with people, but try not to do it for possessions, but to do it on a relationship basis. (P34:84)

Sean also shared a similar opinion putting more emphasis on ‘asking’ instead of ‘telling.’ He said, “I don’t think it’s the mediator’s role to just start instructing her on how to trust people” (P34:113). Sean elaborated his observation below:

We’re taught...that you want the individuals to think of everything their selves. You don’t want to just say “pick up that glass of water out there.” You want them to come up with the idea to pick up the glass of water themselves, and I’ve seen myself do it, and I’ve seen other people at the mediation...And, so they basically just force feed the juvenile into thinking about that, and speaking for myself, I know I’ve done...a couple of occasions doing it...But, I do try to be aware...I try to ask from them instead of tell. (P34:112)

Empathetic Listening. Gale noted that his approach at VOM is more as “seeking first to understand” by listening for feelings. This is especially important for him as a way to initiate conversation. He commented:

I try to approach mediation as a way to initiate conversation from each of the people that allows enough feelings to come forth so that the other parties involved, hopefully, will listen for feeling. (P34:87)

As with listening for feeling, allowing enough time for the feeling to surface for participants at VOM is important for Gale. He explained,

I think that’s (allowing enough time for the feeling to surface) part of the validation of the human component, and allowing people to perhaps separate the act from the person, and an act in the past versus an intention of behavior in the future. So, from that standpoint, I like to have enough attention on what’s happened in the past and where were the feelings associated with that and try to understand from the offender and their parents and other people who were harmed, try to make sure that they understand the impact outside of the scope of the people that they recognized in the heat of the act that caused the offense. (P34:91)

A Need for Creating Victim-Sensitive Environment. I asked Gale about my observation that Mary did not make eye contact with Mr. K, which will be re-visited later. Gale noted the seating arrangement (see Figure 4.1.2):

It's an oblong table. If it were a circular table, you know, it might be easier to direct focus...I think it's our responsibility to set up the mechanics that would most effectively encourage the right behaviors...maybe we need to change that posture some, and those two people stand to make it a little more formal and a little more direct, and maybe even suggest that there be some eye contact during the reading, because that's a very important part of the process, and especially in this case where we had some validation of each person's contributions. (P34:92)

According to Gale, creating the environment more appropriately is also related to ensuring that the victims truly have a restorative experience. He said,

[M]aybe there's something that we can do to nurture that final face to face apology, because, and, and I think the incentive for the offender would be to be able to see in the eyes of the victim, perhaps, that they're hearing some remorse and some true apology, and then, then we could look to the victim to say, you know, how did that apology letter sound to you. (P34:93)

Collaborating with Other Mediators. In this particular VOM, four different mediators participated so that they had to work together. In the following, Gale shared his experience in working with other mediators.

Because of my background (education), I think I have the ability to fluctuate my style, where mediators that I've worked with before that come from a litigation background seem to be driven to find the quickest way, the quickest path to the solution, and so then choose to caucus immediately, and then try to figure out where everybody's bargaining chips are and view their role as expediting closure to the appropriate resolution. (P34:91)

Although it is not always easy for Sean to work with other mediators, he also pointed out that there are positive aspects in cooperating with them. He particularly appreciated the opportunity to work with the other mediators, perhaps with different backgrounds because of the different perspectives that they bring into the VOM.

The neat thing that I like about mediation is that having different people there, is I've never been to a mediation that I felt like I just know everything...so having all the different people there, because everybody's mind's going a little

bit different. You're kind of learning and thinking about different things.
(P34:110)

Gale noted the importance of the mediators' roles in a figurative way: "We probably need to do a better job of our game plan, and treat it like we're going to a super bowl every single time." Gale's statement highlights the importance of sharing views on goals among mediators to cooperate with each other. He suggested,

We should sit down and say, what's our goal? Let's take a look at this circumstance. What do we want our outcome to be?...So, we've got some goals, and we just don't play off of both circumstances (P34:102).

Delivering Apology

This section is comprised of two sub-sections including community service and letter of apology. It describes the delivery of the apology from the juvenile offender to the victim. While the community service was geared toward apologizing to the community, the letter of apology was more individual.

Community Service

As part of her agreement, Mary completed ten hours of community service at a community volunteer center. I asked Mary how she perceived the assigned community service, which was seemingly not directly related to the company, as the victim. Mary emphasized that, since the department store is a part of the community, and in that sense, her community service was a way of helping the department store (P9:39).

Mary was very satisfied with her community service experience. In the following she shared how it was possible for her:

[I]t wasn't easy out. I'm not trying to say it was the easy way out, but it did

help out a lot, because then I got, you know, then it proves to the community that I am sorry, that I am going to pay for what I did by helping you guys out, so that what keeps me, you know, pretty satisfied with that. (P9:40)

In a very similar sense, Mr. K, the victim participant, said, “If she goes out and serves the community, sure, that works for me.” He noted,

The fact that she did something for someone in the community, that person, at some point in time, either has or will probably shop at the store. So, that does help our store in a round about way. (P11:32)

To Mary’s father, it was not an easy experience because he was not able to make contact with the person who was in charge of community service at the D.A.’s office. Therefore, the father had to phone the case manager at the IIP to discuss the situation.

She (Mary) was supposed to have already done that. I said, we’ve tried to get a hold of this lady. Couldn’t get a hold of her, so she (the case manager) just said to call down to a community volunteer center or some place like that, and set up something with them, and that’s what I ended up doing. I ended up calling them, and then they took care of her community service for her. (P10:47)

In fact, because of the difficulty for Mary and her father to reach the person in charge of the community service, Mary was not able to complete her community service before the VOM, which created some negative feelings for Mr. K. as follows:

I guess I would have felt better had she (Mary) done the community service and different things prior to the meeting, but she had some scheduling issues, so it’s kind of like, I’m going to do this, not, I have done this...It was not the same warm fuzzy feeling that I had from the first one (his previous VOM experience)... You know, I have no idea if it has been or not. (P11:9)

Mr. K expressed his concern that he would not know if Mary would complete the community service or not unless there would be a follow-up report from the VOM, which currently the program does not provide. More importantly, the failure to

complete the community service at the time of the VOM caused Mr. K to believe that Mary was not remorseful enough.

The mediators, however, recalled the situation slightly differently. Sean recalled thinking that Mr. K was not being happy with the community service.

In that particular case, I don't think he (Mr. K) was (happy)...because I remember...he was kind of disappointed...I seem to remember him questioning why she didn't receive more repercussions, and so I think he was a little disappointed there wasn't more to it than what she received. (P13:13)

Sean strongly stated that he had different opinions from Mr. K.

I think he (Mr. K) was probably a little miffed at that. Maybe he thinks that maybe she should have suffered stronger repercussions, and unfortunately, you know, that's not his (Mr. K) decision. I mean, she (Mary) got caught. They (the department store) did their part and they called the police and the whole nine yards, and then from there, you know, it was up to the city or county, and then they did their part. (P13:18)

The above narrative illustrates Sean's position of not considering Mr. K a victim at the VOM. According to Sean, the decision on the severity of the punishment was up to the city or county, or in other words, the DA's office.

The father's previous narrative demonstrated that the selection of the site, the community volunteer center, for the community service was rather random. In other words, the community service was just given rather than planned or including the juvenile's or/and mediators' input. In the following, Gale expressed his concern on the related issue regarding community service and the practice at the VOM.

I've read articles about the difference between doing community service where the person's in isolation, say, sorting clothes at the Goodwill Store, versus serving at a soup kitchen where you actually see the despair of other people and recognize your connection to community. If what we're trying to do is restore community, then we need to evaluate how the time spent is achieving that goal, and I think there's another opportunity to educate the

people that are helping us identify to the offenders what kinds of things they need to do to heal community. (P12:25)

The Letter of Apology

The letter of apology was a primary tool used for delivering an apology to the victim. Mary described that it was not easy for her to come up with the letter. She explained the process of writing the letter:

It was really hard...I think I re-wrote probably, like, six or seven copies of that letter with different things, and finally, when I wrote the last copy, I handed it to one of my teachers, because she was helping me through the whole situation. I handed it to her and I said, read this. Please tell me it sounds good. And, she read it. She was like, I think this sounds really good. (P9:32)

I asked Mary about the experience of reading the letter in front of Mr. K. She began her answer with, "I dreaded that the whole night." As it was for Mary, most juveniles express their difficulties in reading the letter by showing either gestures or even verbally saying, "Do I really have to?" Mary also shared her experience below:

I read really fast, and I slur my words together because I get really nervous, and so I just made sure I had to slow down, say everything very slowly and make sure it flowed together instead of being like, flying through the letter, and being like, okay, I'm done. (P9:30)

I asked Mary about my observation that she did not make eye contact with Mr. K while reading the letter to him:

Mary: Because it was hard to look at him when I was reading it...it was really hard to read it in general, but it would probably have been better if I read it more towards him instead of towards the mediators, because they were just there to keep things under control...

Interviewer: How did you get the idea that it might have been better to read it toward him?

Mary: Well, because he was actually representing the store...it probably would have been more sincere if it was to him...instead of directed towards the mediators. (P9:31)

Nonetheless, according to Mary, the process of writing and reading the letter of apology was helpful for her to be able to apologize to the victim. Mary described:

It was good to say that...I'm sorry, be able to tell the victim that I am sorry. I don't ever expect to do this again, you know. It did help, but then again, it was hard to face him face to face, to be with him, knowing that I took from him, you know. (P9:47)

Mary's father also noted, "She was truly sorry about the whole thing because like I said, it did affect her, it affected her work, it affected her money situation, all the above" (P10:36). In particular, the father emphasized the sincerity of her words in the letter: "I think she meant every word she said. I was kind of embarrassed for her because she shouldn't have had, she shouldn't have been in that predicament to begin with, and she knew better" (P10:29).

However, Mary's sincerity was not delivered well to the victim. Mr. K recalled the situation as following:

With, this time, even during the interviewing process that we did here in the store, she (Mary) was only as truthful as she wanted to be to move on, and then even with the mediation, I felt that a lot of what we heard was lip service, you know. Yeah. I'm sorry, and I did this. She had a lot of excuses...She never really took ownership of it, and when I asked her about, I said, well, it sounds like, you know, you didn't do anything wrong. You were forced into it. She says, "Oh, no. I know that I did it, and that it's me." But I didn't, I just didn't believe it. It didn't sound genuine to me. (P11:7)

Nevertheless, the letter was accepted by the mediators, not by Mr. K. Although Mr. K expressed his concerns during the caucus about Mary not being truthful and honest, Mr. K noted that he never felt that there was an option for him to say, "No. I don't accept this" (P11:24). More importantly, the mediators did not ask him whether he would accept the apology or not in the decision-making process.

Decision-Making Process

The decision-making process is comprised of two sub-sections including the Caucus and the Contract, which usually occur at the end of the session.

The Caucus

The caucus is a procedure, where juvenile offenders and parents are directed to step out of the room to await the decision whether their apology would be accepted or not. Inside the room, mediators and victims discuss their opinions regarding the apology as well as a plan for next steps when the VOM resumes after the caucus. It is supposedly a process for victims to voice their concerns frankly because juvenile offenders and parents are not present in front of them. The following excerpt illustrates what happened inside the room from the victim's point of view. Mr. K described what he said during the caucus:

I think that's when I voiced my concerns that I didn't feel she was being truthful and honest, and about how, even when we interviewed her in the store before she was turned over, she wasn't truthful and honest with us, and then I also brought up how I thought that she was blaming her actions on others. (P11:24)

I asked Mr. K a question based on my observation at the VOM that the mediators decided to accept the apology without asking him whether he intended to accept the apology or not. Mr. K responded as below:

I guess with the process, I never felt like there was an option for me to say, no, I don't accept this...I guess that's the part of the process that I...was never explained. Is that an option? Like I said, you know, she gave a lip service. I don't think I have the option to say, no, I don't accept this. (P11:24)

Then, Mr. K made a suggestion to handle that kind of situation, "If there was an option to say no, (I would say) I don't think this is good enough. You don't mean it.

Let's come back in two weeks and do it again" (P11:24).

Focus of the Conversation

The protocol of the VOM program clearly recommends that mediators are not to return to past concerns after completing the caucus. From then on, the focus of the conversation is given to the 'now and future.'

After completing the caucus, the mediators invited Mary and her father into the room again. Gale initiated a dialogue by asking Mr. K whether he had a message for either Mary or her father. Although Mr. K was not directed to do it, he was able to point out Mary's strengths and her ability as a good sales person at the store without hesitation. In the following, Mr. K described what he said to Mary at the VOM: "She worked in the shoe department and very, very high customer service, and for just, you know, part time, young kid, she did a very good job. She did a better job than some of our older employees" (P11:27). I wondered how he was able to say the positive things about Mary at the caucus even though he was not satisfied with her attitude or the apology. Mr. K noted,

You know, this business that I do is a people business. I have to hire associates to do a good job...you have to recognize that in people if you want more of it, and even with Mary. There is good in you, and from what this program is, Mary made a mistake. Go on and do better. So, we can either focus on the crime and what she did, or we can focus on who she is and what she can do to go forward. (P11:27)

Mary described what it was like for her to hear to the positive statements from Mr. K at the VOM.

Honestly, I didn't think they'd say something like that. I mean, I knew I did do good at the store...It did make me feel a lot better. It made me feel like, okay, well, he doesn't think that I'm a piece of crap, you know. He doesn't

think that I'm a bad person, you know. He thinks that I am a good person.
(P9:50)

The father responded in a similar way: “[S]ee, that’s why I don’t understand why she did that in the first place...but it was good to hear that, yes, she was one of their top employees, and yes, she was doing good” (P10:48). Further, the positive comment led the father to be proud of Mary.

She was one of their top salesmen over there. And, for a sixteen year old kid to be whooping some of the bigger people there that’s been there a lot longer than she had, you know, that’s what, I mean, she does have a good work record. (P10:36)

Sean stated that the situation provided another insight to him as a mediator, who did not know or did not have much information about Mary, especially regarding her work. He noted,

I thought the victim gave some perspectives that we as the mediators wouldn’t have had privy to...I thought it was interesting how he talked about that she was a good employee...which is something had he not been there, none of us would have known that. (P13:6)

The Contract

“I think we’re sort of hand tied to allow those people to have input to what the final contract should be.” (P12:23) – Gale

The contract is the last procedure in which the participants agree on the restitution and community service and the timeline for completion as well as placing their signatures on the contract. Mary’s contract highlighted, “We accept the well written letter of apology and the youth will work hard to contact the IIP case manager to complete her 10 hours of community service.” No financial restitution was asked by the victim. The father saw the situation as following:

Maybe (it was) not quite so fair to them (the store), you know. They ended up, actually, taking it in the rear end on it, because they didn't get any of their money back. They lost money on the deal, I mean, you know. That gentleman (Mr. K) took time. I'm sure he wasn't on the clock that late at night, so he took time out of his day, you know. He was probably late for supper or whatever. (P46:38)

The contract provided Mr. K, as a victim, a different meaning.

I signed it. She signed it. And, with all of us signing it, I felt like I was taking ownership. I'm saying, yes, I accept your apology. More than just saying it, I'm signing it, and then for her to sign it and for her father to sign it, that was meaningful...When you sign your name to it, it's final. It's not just lip service anymore. *So, at least for myself I felt with that, okay, time to move forward. It's old news now* [italics added]. (P11:30)

The contract had another meaning for Gale, as a mediator. He noted that the final contract is one of the weaker components of the program. He stated, "Much of the final contract is dictated by the judge...This is a mediated dialogue because the contract is created before we have the verbal exchange" (P12:19). Gale emphasized that the already set components of the final contract do not allow the participants to give input on it. For example, in this case, as described previously, the victim was not happy with the fact that not only had Mary not done the community service, but also it was only 10 hours, an amount of hours commonly given to juvenile offenders. Gale saw the situation as an opportunity for the participants to talk about what is right taking a particular youth and his or her situation into account. Taking the community service as an example, Gale said:

I don't know that one number is always right on every offense, because if the two of them would have come to thirty hours, as a just compensation, then our job is to agree with them, and set a course to accomplish that goal. And, again, *I think we're sort of hand tied to allow those people to have input to what the final contract should be* [italics added]. (P12:21)

Accordingly, it led Gale to feel as follows:

I feel more of an administrator in taking a look at what the judge had ordered and then documenting how much of that had been completed, and then reminding the offender what their deadline is. So, that feels a little too structured. (P12:19)

The Impact of the VOM

This section deals with the impact of the VOM. It is comprised of two sections including accountability and the benefits of the VOM.

Accountability

Mr. K shared his view on the VOM by saying, “I think it’s going to be most beneficial to someone that recognizes that they made a mistake themselves” (P11:18). In so saying Mr. K believed that VOM was not an adequate approach for Mary because of her being not remorseful enough. He even mentioned, “Maybe, she’ll actually do them when she’s back in that situation again” (P11:25). To Mr. K, Mary was only held accountable to some degree. Mr. K noted that Mary is never going to be held ultimately accountable because she is a minor (P42:9).

Interestingly, the father also shared a similar opinion with Mr. K when it came to holding Mary accountable because, as he mentioned earlier, the company did not ask Mary for any restitution. On the contrary, according to the father, the company provided Mary a second chance. I was curious about the father’s point of view on his daughter’s case, which ended up having a VOM rather than going deeper into the juvenile justice system. My question was “What kind of difference would it have made if she were sent to a juvenile detention center instead of the diversion? He answered: “[I]t would have probably scared her more, for one thing. But, actually

putting her in jail and that should be something that needs to be done if they continue to make the same mistakes over and over and over” (P10:43).

To Mary the VOM was not an easy punishment to take. According to her, the VOM was a very shameful experience. Mary noted,

[Y]ou did offend something, or offend somebody, and then, that you have to face them (the victims) again...*having the shame, it's kind of like a shame thing, it hurt, you know, it hurts your pride, you know... Very shameful. Very* [italics added]. (P35:19)

While acknowledging that it was not easy for her to meet Mr. K at the VOM, Mary gave her word in the below: “I’ll never do it again, you know, something along lines like that” (P35:22).

The mediators agreed that Mary was held accountable. First, Gale shared his observation: “I think she (Mary) listened closely to the words he (Mr. K) spoke, and I don’t want to say it magnified, but it certainly helped her understand the scope of harm that was created by her action” (P12:15). Second, in retrospect Sean noted, “I think the girl showed remorse. I think that she learned something...I think she was a smart kid and I would be very surprised if she were in that situation again” (P39:42).

The Benefits

They ought to do this for more kids, instead of just throwing them to the wolves (P40:52) – the father

During the separate interviews, the participants shared the benefits of the program based on their personal experiences at the VOM.

A Learning Opportunity for the Juvenile Offender

Many participants expressed that the VOM had provided a learning opportunity for Mary. First of all, Mary herself noted, “It (VOM) helps you understand a lot of things” (P35:11). Mary appreciated that she has learned how to better pinpoint people. In the following, Mary describes how she felt betrayed by her friends due to their response when she was fired from her job:

Probably, I knew that they weren’t true friends, because they really didn’t care. The only thing they cared about was not getting the discount anymore...So, I kind of quit talking to them...I mean it’s not their fault...They were just like, “Man, that sucks. Can’t get a discount anymore!” (P35:9)

In the below excerpt, Mary shared her experience how the learning opportunity has actually helped her in her current job.

It’s helpful because...I do work at a hair cutting place...there is retail involved again, and you know, we have a lot of coupons and now I know that, who to trust...Not to trust people that are just like, hey, can you give me this, you know. I know that they’re not true, you know, so, that’s how it’s helping me now to trust people and be able to take out what each person’s about instead of not just about themselves. (P35:10)

As Mary described, the father also has observed that Mary does not trust her friends as much as she used to trust them. He noted, “When she meets somebody new, she doesn’t trust them as quick as what she used to” (P38:15).

In the following, her father noted that it was a better punishment for Mary to go through the VOM rather than serving the jail time because of the guidelines the VOM provided. He commented,

You’ve got to have some sort of guidelines to go by. I mean, if you mess up, you get this done, you know. So, that’s why I think that was better that she went, got to go through something like that instead of just slap her in jail, and then she gets out and she’s mad. Then, she goes, you know, then they go back to doing other, worse things that they learn in there, so. (P38:8)

To be remorseful for it. And, not take lightly what she done, you know. And, she learned all that better than I could have probably taught her. I mean, it's too bad she had to get into that situation to learn that little lesson, but now she knows for sure. (P38:12)

Mr. K told me that he would participate in the VOM again if another incident happens in future. I found his willingness to participate again very interesting because he was not really satisfied with the result of the VOM this time around compared to his first experience a year and a half ago. Although he thought that the VOM program would not work for everybody, Mr. K made a comment as follows:

I still think it's a valid program...these are young kids, and they're making dumb mistakes. And, it's small theft. It's not any major crime, and I think the program, for, I don't know, three out of four kids, will get through to them...I think it's a good program to help them turn their lives around. (P36:57)

A Second Chance for the Juvenile Offender

Mary described her overall experience in the VOM project as "pretty good" because the VOM kept her out of trouble in several ways: 1) Helping her understand it was wrong; 2) keeping her out of the juvenile detention; 3) not having a permanent record; and 4) not having her past actions influence her ability to get another job (P35:23).

[S]ince I did offend, it kept me out from getting into bigger trouble, because it made me understand that it is wrong, you know, to see what consequences could have been if you didn't get to go through the diversion program itself, or get to go through the mediation program. (P35:16)

Mary was appreciative that she was not getting into the bigger trouble by getting involved in the deeper juvenile justice system such as a juvenile detention center:

I could be sitting in juvey (a juvenile detention) right now, saying, why did I ever do this, you know... You're stuck in a place. You're enclosed with people that have done way worse things than you have, you know, so. (P35:17)

Having a second chance was also important to Mary's father. He believed that Mary was able to clean her act up the first time. The father mentioned several times that the VOM should be provided to other juvenile offenders more often rather than "just grabbing them and cuffing them up and throwing in jail."

An Opportunity to Apologize/to Receive an Apology

Although it was very difficult for Mary to meet Mr. K again at the VOM, it was also good for her to be able to apologize. She stated, "It was hard being there, but it did help, you know, say that I am sorry and kind of close that off by saying that I am sorry" (P35:22). In addition to reading the letter of apology, Mary emphasized during the interview with me that she had completed the community service. However, it should be recognized again that Mr. K did not know whether Mary had completed her community service or not at the time of the interview. Mary just suspected that he knew she had completed her hours.

The VOM also provided an opportunity for Mr. K to listen to an apology from Mary directly, which according to Mr. K, people usually do not get this opportunity through the court system (P36:63).

An Empowering Experience for the Participants

Mary talked about a moment that provided an empowering experience for her. Interestingly, it was the moment that Mr. K commented about the good things that Mary had done at the store, which was addressed earlier.

The VOM also provided an empowering experience for Mr. K.

[I]t (the VOM) does give me a voice...With this process, I get to address the perpetrator directly, and say what I feel, not go to court. So, from that aspect of it, you know, it does give me the opportunity to get that off my chest...hey, you stole from me. I can say that to her, and listen to her apology directly. You don't get that through the court system. (P36:63)

[T]he way that the program is designed is that we get together, and we have mediation. I appreciate the fact that I can ask questions at it, and challenge it...she kept telling us that every, other people made her do that, and I said, but you're the one who did it. I was able to challenge her to her face, which helped. (P11:19)

Signing the contract also had a special meaning for Mr. K by giving him a sense of ownership as described previously (P36:62). In addition, Mr. K described the personal satisfaction he gained from the process.

[T]here is some personal satisfaction in that...I want to see that person go on and do something better with their life, and you know, become a better citizen in the community and whatever else, raise their own children to not do that. (P36:64)

An Opportunity to Move on (A Sense of Closure)

Mr. K expressed that he felt a sense of closure as he signed the contract. As described previously, it was also closely related to an empowering moment for him, but it provided an opportunity for him to contemplate as follows: "So, at least for myself I felt with that (signing the contract), okay, time to move forward. It's old news now" (P36:62).

Mary also was able to feel the sense of closure. She noted, "It was hard being there, but it did help, you know, say that I am sorry and kind of close that off by saying that I am sorry" (P35:22).

Case Summary and Lessons Learned

This case has provided a unique story that involved a victim who served as a representative of a department store, and a juvenile offender who had been a past victim of sexual abuse.

What Went Well?

The participants of the VOM indicated that the program had a positive impact, especially on the juvenile offender. Notably, the victim's participation had a significant impact on the juvenile offender. The victim's acknowledgment of the offender's strengths as a good sales person at the department store was especially empowering for the youth. As a result of the VOM session, the juvenile obtained an increased awareness of other important aspects of the crime, and this resulted in positive behavioral changes on the part of the juvenile offender. For example, in her current job, she stated that she now feels like she knows whom she can trust. Specifically, she stated she is no longer providing coupons to her friends, even though her friends have continued to ask her to do this. This indicates a further need to develop a strengths-based approach in working with juvenile offenders.

The victim representative from the department store also expressed some benefits from his VOM involvement. In particular, he felt a sense of closure as well as empowerment through participation in the VOM. For example, the VOM provided opportunity for him to make a contribution to improving community well-being, giving him a sense of personal empowerment.

What Could Be Done Differently?

As noted earlier, there was some difficulty in defining the “victim” in this case due to the nature of the department store and a “representative” as a victim. This tended to de-personalize the victim role, but having a representative was the best choice in having a victim participant given the circumstances of the case. However, this resulted in the victim not being treated as a true “victim.” As the store representative (victim) indicated, he was treated as a volunteer whose role was to help in the VOM process. For example, the mediators’ view that the representative was a volunteer resulted in the victim’s inability to participate in the decision-making process as well as the offender’s unsatisfactory delivery of her apology. This process provides an insight for future practice on how to work with a surrogate victim(s) in order to foster a more victim-sensitive mind-set among service providers and the offenders. The victim also taught us that a victim-sensitive approach should begin with respect for the victims’ needs. For example, the victim stated that he became “sour” even before the VOM began because the father was late for the session.

During the VOM session, a problem was produced by the mediators’ lack of acknowledgement of the offender’s unexpected disclosure about her own victimization experience. Because the mediators did not respond to the offender’s disclosure about her past victimization, the department store representative, or “victim” in this case also minimized this event and the effect it had on the juvenile. One suggestion from the mediator to prevent this from happening again, was that a caucus with co-mediators be held immediately to ascertain how best to proceed.

It is important that mediators recognize the influence of each participant's past experience. In this case, the victim had a past experience with other offenders in a VOM session which tended to color his perspective. However, his previous involvement with a VOM and offenders was not acknowledged by the mediators. If the mediators had acknowledged the victim's previous VOM experience, they could have helped the victim to keep his past perceptions in check so they did not unduly cloud his judgement or views in looking at this offender. An adequate preparation for the victim might have been beneficial. In addition, adequate preparation of the mediators by attaining the past history of VOM involvement for each participant could have been useful in this situation.

Finally, a further aspect of this case that requires attention has to do with the delivery of the apology by the offender. While the juvenile offender and parent considered the apology to be sincere and truthful, the victim did not agree. He thought the juvenile offender was not remorseful enough, and that she might, if given the opportunity, commit a similar crime in the future. Since the apology is such an important aspect of VOM, the process of delivering an apology should be examined more closely.

Suggestions from Participants

Suggestions from the participants provide valuable information that can be useful to practitioners and policy makers. Although some of the suggestions were described earlier, it would be beneficial to re-iterate them.

- Parent

- The father expressed that he had a difficult time reaching the staff person who is in charge of community service at the DA's office. While pointing out the lack of resources, he described a need for additional funding for the office to provide more efficient service.
- Victim
 - The victim suggested a need for follow-up. Since the youth had not finished her community service prior to the VOM, the victim wished to know whether the youth had completed her responsibility to community service.
- Mediators
 - One mediator suggested changing the typical seating arrangements in the VOM in which the victim sits directly across from the mediators at an oblong table. Instead, the mediator suggested using a round table which might be easier for mediators to encourage the appropriate participation and behavior between offenders and victims, especially when a juvenile offender delivers an apology to a victim.
 - One mediator suggested to have more discretion regarding the final contract which he felt was too structured by the judge and the DA's office. One example related to community service where, according to the mediator, the victim thought that the already fixed community service hours did not make him feel that justice was served and more community service hours would have been appropriate.

CHAPTER 4.2: THE MAILBOX BASHING CASE

Participants and Their Stories

A 16 year-old Caucasian youth, Ryan, and two 17-year-old Caucasian youth, Josh and Kevin, were involved in inflicting criminal damage toward eight victims. Ryan and Josh are brothers. The incident occurred in September, 2007. A JIAC intake was conducted a month following the occurrence of the crime. According to the intake case summary, the three juveniles lost their football game and thought it would be fun to go hit mailboxes with a baseball bat, which is called mailbox baseball among youth. While Kevin drove a truck, Josh hit mailboxes in a neighborhood. Ryan was sitting in the back seat. None of them had court histories or prior intakes.

Table 4.2

Demographics: The Mailbox Bashing Case

	Name	Sex (Race)	Age	Interview Place
Victims	Mr. & Mrs. T	Husband & Wife (both Caucasian)	60s	Home
Juvenile Offenders	Josh	Male (Caucasian)	17	Home
	Ryan	Male (Caucasian)	16	Home
	Kevin	Male (Caucasian)	17	Home
Parents	Josh & Ryan's mother	Female (Caucasian)	40s	Home
	Josh & Ryan's step father	Male (Hispanic)	40s	Office
	Kevin's father	Male (Caucasian)	40s	Home
Mediators	Ann	Female (Caucasian)	40s	VOM
	Rob	Male (Caucasian)	60s	VOM
Referral Source	Robin	Female (Caucasian)	30s	Office
	Tanya	Female (Caucasian)	30s	Office

Note. All names are pseudonyms.

The Chronology: The Paths from Incident to VOM

The referral from JIAC to IIP occurred a day after the intake at the JIAC. The same day, the IIP case manager made a referral for the three youth to the VOM. The next day, the VOM coordinator sent a letter to Kevin and his parents informing them about the referral from the IIP to the VOM. The letter emphasized that failure to participate in the mediation process or missing appointments could jeopardize his diversion status. The same letter was sent to Josh and Ryan and their parents five days later, at end of October, 2007. The letters informing the eight victims about the VOM opportunity were also mailed the same day. The letter emphasized four main points: 1) Their cases were referred to the VOM as pre-filed cases; 2) the offenders will be held accountable for their actions; 3) the service is provided at no cost to them and is strictly voluntary; and 4) the anticipated impacts of their participation.

Ryan and Josh and their parents met the VOM coordinator for an intake about a week later in November. And the next day, Kevin and his parents had another intake with the coordinator. The VOM occurred about two weeks later in November, 2007, two months following the incident. The participants signed an agreement that was written at the VOM, which indicates a successful completion of the VOM. The amount of financial restitution to be paid was \$20 per youth. The contract included an unusual agreement, based on the victims' input: 'A personal commitment to be a positive role model, and take every opportunity to let peers know that what goes around comes around.'

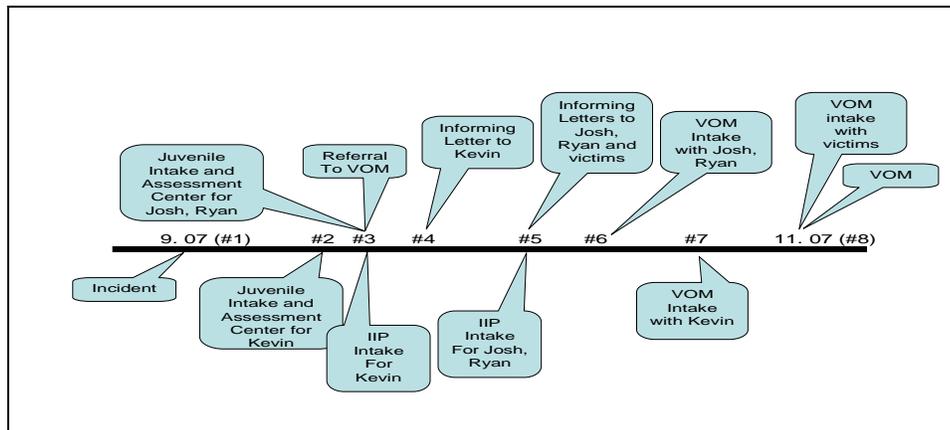


Figure 4.2.1. The chronology of the mailbox bashing case

The Incident

In the following, Josh, one of the juvenile offenders, shared the story of what happened from his perspective. He said:

[I]t was after our football game... I had a concussion and he (Kevin) got his knee messed up or something. So we had to sit out that game and it was a really close game and we lost... So we were all like kind of bummed out that we didn't get to play and looking for something fun to do... on the way home from the game, we saw some smashed mailbox... and some kids like were talking about how they had done it before, hitting mailboxes and how much fun it was and we really wanted to do something fun that night. (P19:17)

In the interview, Ryan sat right beside his elder brother, Josh, as he did at the VOM. I asked Ryan about his role in the crime. Ryan responded, "I just came along." Josh added, "He didn't really do it, he just tagged along. Guilty passenger" (P43:10).

Kevin's explanation of what happened both confirmed and incorporated a little more detail:

[W]e heard about it before, so we thought it sounded kind of fun... we got a bat and then I was the driver because I had a truck and my friends stood up in the bed of the truck, and we went around in the neighborhood, and you'd go kind of twenty miles or not real fast, but, and then they'd go up and hit it... we did this until about twelve o'clock, and we went back to her house and just

hung out, and then when I came home, I mean, the cops were around, and it was just kind of scary. (P43:15)

The Views on the Incident

As Josh and Ryan talked earlier, the youth related that they also decided to hit mailboxes because they had heard from their friends at school that it was so much fun to do. Kevin noted:

I remember we've heard people talk about it (mailbox baseball), and...the way they talked about it kind of made it a game...because they call it mailbox baseball...we heard about it, and you just kind of think about it, and we didn't have anything to do afterwards, and we thought that'd be a fun thing to do. (P43:16)

[Y]ou just hear it from people, and everybody's saying it's cool, so you want to be cool, and it's just the same thing. It's like peer pressure almost kind of...then hear it from people, and then you feel like doing it. (P43:17)

While the juvenile offenders emphasized that they did it because of their frustration, there were different opinions regarding why they did it. First of all, the father of the two brothers noted that they did it because they were bored. He strongly expressed his perspective on this matter: “[W]hen they said that we only did it because we were angry, we didn't play a football game. You have to call it what it is - they're full of crap. That's not why they did it. They did it because they were bored” (P44:39).

Mr. T, one of the victims, said he did not buy into the explanation of the juvenile offenders one bit. He said:

A football game is a game. You're going to win or you're going to lose. You don't go out and commit property damage just because you lost a football game...that is just such a disappointment to me that someone would confuse property damage and violating the law as an extension to your emotions over a football game. (P43:26)

In the following, Josh and Ryan's mother added another viewpoint for understanding the incident and Kevin's father agreed with her statement (P44:24):

[T]his has been sort of a rite of passage with the football team. That they do this and a couple of various other pranks. Just kids thinking that they're, I don't know, the thrill of getting away with something...doing something that nobody knows they did it and then they're able to go around and brag. (P44:18)

The Views on Each Other

The Victims. The juvenile offenders said that they expected the victims to be mean and mad at them during the VOM. However, what they found surprised them. First of all, Josh said, "[T]hey were really nice. I thought they were going to be a lot meaner than that, you know. I thought they were going to hang stuff on us the whole time. They were pretty nice about it" (P14:7). Ryan added, "We expected them to be really mad because we messed up their mailboxes and everything" (P14:10). In addition, the juvenile offenders appreciated that the victims did not call or treat them as criminals. Josh recalled Mr. and Mrs. T as, "They were just really understanding about it and just wanted us to see what was their side of it and how it affects other people" (P14:10).

All of the parents were grateful for the victims' participation. The father of the two brothers noted, "[T]he victims were only really there to help our kids. They were givers in the meeting. And I just felt that these folks were wearing kid gloves when they didn't have to" (P16:25). Josh and Ryan's mother also made a similar observation. She said, "The victims had that same goal in mind to help the kids out"

(P17:16). She also noted, “It was almost like they were there to support the program more than they wanted something out of us” (P17:9).

The Juvenile Offenders and Parents. In their interview, Mr. and Mrs. T emphasized that they were so “fed up” with the continuous crimes around the community. Although they expressed some concerns about the juveniles that they saw in the VOM, they were more enthusiastic about young people in general. First of all, the victims thought that the juvenile offenders were not as innocent as they pretended to be at the VOM (P 19:22). The victims thought the juveniles were not as innocent because the victims knew that there were several more victims involved in the case. But, they also commented that the juveniles came across as really nice kids who just chose to do something wrong that night (P19:15).

Mr. and Mrs. T shared their observation of the parents by saying that they were impressed with the professions of the parents but at the same time very disappointed in the parents’ inability to guide their children in the right direction. They emphasized the importance of the parents’ role in solving issues with young people.

The Continuing Impact of the Crime: The Victims

“When people get fed up enough, they’ll take a stand.” (P19:12) - Mr. T.

Victimization: The Impacts. When I visited their home in a beautiful rural area in the city, the community seemed to be quiet, clean, and well-managed. My assumption was that this kind of community must be safe. Then, I was confused, considering what I had heard at the VOM. My first question to Mr. and Mrs. T was

about the confusion. The response was quite shocking. Mrs. T stated, “Appearances are deceiving out here” (P19:17). Mr. T added:

[T]he security and safety of this community is elusory - it doesn't exist and this is one of the most lawless communities we've ever been in... Vandalism, petty crimes and crimes against property and people and malicious mischief is a very major activity in this town and... Our property itself was subject to considerable abuse and vandalism and it has been since we've moved in. (P19:2)

Not long before the incident, Mr. and Mrs. T installed security equipment that cost them \$25,000 to protect their property. It was their way to take a stand for the series of vandalism and considerable abuse (P19:3). In the following, Mr. T shared his experience regarding what they went through and the response from the local police when it comes to vandalism: “[F]or destroying some street signs or for vandalizing somebody's property, you're not going to get caught first of all because the police won't even investigate” (P19:7). Therefore, to protect their property, Mr. T ended up installing the security equipment, which helped them receive the attention from the police:

I had to interest the police into coming out here because I said I have a picture of their license plate and I have a picture of them committing the crime... otherwise they're going to come out, they're going to take a written report and they're going to go away and they'll never be seen again because... there is so much violation of people's basic rights to privacy that the police just don't have time to investigate all this stuff. (P19:7)

Mr. T provided the police concrete evidence, including a photograph of a license plate, and he gave them a picture of the juvenile offenders actually committing the property damage, bashing the mailbox with a baseball bat sitting in the back of a pickup truck (P19:7).

According to Mr. T, the security equipment has helped them feel safer but those are also the last resort. I was almost surprised to hear that they are indeed considering moving out of the community because of their concern with security (P19:18).

The following conversation is another example of a different type of vandalism that has been going on in the community for a long time. Mr. and Mrs. T also mentioned the ongoing vandalism that occurs around a graduation day of a certain high school, something called 'Juniors versus Seniors.' Although it was not directly related to the current crime, since it was one of the topics discussed at the VOM as an important issue, as well as a motivation for the victims to participate in the VOM, I introduce the issue here.

Mr. T: You will see signs painted up with (High school name) Woman 08 (an example)...And they have annual contest, it's the seniors, the graduating seniors versus the juniors and they see who can paint up the most signs and the most streets with spray paint, indelible spray paint.

Mrs. T: They've been known to do property as well with their markings.

Mr. T: Spraying up fences...And this is highly destructive. It goes on every year. They even know the exact night that it's going to happen. I think it's the night before graduation or two nights before graduation. (P19:11)

As a result, the community always has to repair or clean up after the incidents, and they are even responsible for the expenses on this, Mrs. T said (P19:12).

Mr. G, one of the victims, shared his victimization experience in the VOM. However, since he was not able to participate in this study, I quote the other participants' narratives on Mr. G and his family's experience, which impressed the

juvenile offenders the most, according to the participants. The father of the two brothers, Josh and Ryan, recalled the situation:

What happened was one of the victims, they had some things done to their home, like repetitively and, you know, smashing pumpkins prior too, so once they (the juvenile offenders) smashed the mailbox, the daughter said, “Oh my gosh are they going to come back. Are they going to try to harm us?” (P16:3)

Mrs. T, the other victim, also recalled:

I was just absolutely shocked to hear him (Mr. G) talk about the fear and the impression this has had on his two little children...It really did to think that these three could terrorize this child so it's an incredible disappointment in young people these days. (P19:30)

Victim Needs. First, previously Mr. and Mrs. T claimed the needs as victims to be respected for their basic human rights including privacy and property.

Second, Ann, a mediator of this case, mentioned a need for victims to let people know about their victimization experiences to prevent further victimization (P20:20). The speculation of Kevin's father supports Ann's point: “The only reason why they (the victims) wanted to follow through and done all this is because *this* [italics added] happened way too many times” (P18:5). The “*this*” in the previous sentence also included the local high school's aforementioned annual graduation event. Mr. and Mrs. T expressed their eager interest in knowing when the event will occur this year so that they can inform people around the community. In this sense, gaining further information should be included as a need.

Third, Rob, a coordinator of the program and one of the mediators of this case, mentioned the need for victims to be able to express their emotions, if they wanted to, in the VOM in a safe way. He said, “If I had worked a long time to get

whatever it was, I would be very unhappy. I probably wouldn't be calm...If they're upset, they should show that they're upset. If they're angry, they should show that" (P21:13-14).

Lastly, Mrs. T mentioned her need for a genuine apology from the juvenile offenders and their parents. This will be discussed in detail later in the section about the letter of apology.

The Continuing Impact of the Incident: Juvenile Offenders and Parents

As with Mary in the Department Store Case, I almost did not recognize the juvenile offenders of this case when I met them for the separate interviews. It was not because I did not remember their appearances, but because they looked different due to being more relaxed and cheerful. The juvenile offenders and parents shared the difficulties that they experienced because of the incident on top of other predicaments faced by them.

The juvenile offenders talked about their anticipation to meet the victims in the VOM. Kevin noted how he felt,

I was very nervous, and I know my friend (Josh) was, too, because we talked about it at school, but when we knew we had to come face to face (with the victims), we were really nervous about this thing that we had to go to. (P15:4)

Kevin emphasized that he had to meet the victims face to face and it was even scary for him. I asked why he thought that way. Kevin responded:

Probably just having to come, like, to face the people that I did damage to, because I knew it was a bad decision, so...you kind of felt bad, because...being there you knew you did wrong, so then, when you had to go and see them, you kind of feel worse about it, so it's just kind of scary. (P15:6)

In the following, the mother also spoke regarding her anticipation at the VOM. She said, “[T]he mediation, I have to say, was one of the scariest things just because you weren’t guaranteed of what it was going to be like going in” (P17:13). She added,

[T]he mediation was the biggest fear because...there’s nothing like having to look into the face of the person that you wronged and, you know, admit what you did and say you’re sorry and ask for forgiveness. (P17:21)

As the mother noted above, the consequence of the incident affected the parents too. Echoing the father of the two boys who said, “As the whole family it was a big, you know, a big deal” (P16:10), the mother told about her sons:

[W]e were really shocked...I still can’t understand what went on inside their heads that night but I think they were just good kids that kind of got caught up in the moment and didn’t think about really what they were doing. (P44:21)

Among the three youth, Josh and Kevin were in the process of applying to colleges at the time of the interviews. The mother was particularly nervous for Josh who was applying to college. She shared:

[O]ne of ours is a senior whose applying to, not only a very good academic school which if this had been on their record would have been a no, but also has been nominated for (a name of academy) which if this was on the record, he wouldn’t be eligible...something that seems so harmless to them in the midst of all their friends could have really ruined a big part of their lives. (P41:18)

Ryan and Josh’s family just moved into a new area. Her sons’ bashing mailboxes had a different meaning to the parents. The mother noted:

[T]his neighborhood, this area had seen a lot of damage before and I was a little afraid that these people were going to come in with all this resentment from all these past times that they had property damage and just affix that to the boys so I was very nervous about that...these people are our neighbors. I mean the people that came to the mediation live in this community. (P41:17)

Previously, the mother expressed uncertainty about the VOM. This uncertainty led Kevin's father to wonder what might happen if the victims did not accept the youth's apologies or if the youth were seen as not remorseful enough (P18:19). At the VOM, Kevin's mother was sitting right next to Kevin and from time to time she tried to control what Kevin was saying by pulling on his sleeves. Kevin shared what was going on:

My mom kind of didn't want me to say anything. She was scared, because they (the mediators) said...if they (the victims) wanted to, they could take us to court, so I think my mom was scared that she...didn't want me to get taken to court. So, she just kept telling me not to say anything stupid or something. (P15:32)

Victim Offender Mediation: The Process

Immediate Intervention Program (IIP)

As with the Department Store case, this case also was referred by the IIP. This section describes the process in which the juvenile offenders and their parents were informed about the diversion program.

The mother of the two brothers noted that the meeting with the IIP case managers was a midway point of the whole process, from the incident to the VOM (P17:22). She shared her experience:

[W]hen we were given the opportunity to participate, we were ecstatic and they really outlined everything...I felt like from the very beginning that this was a program designed to help the kids - that that's what the gear was - you know, a rehabilitative kind of thing and for them to be able to take responsibility. (P38:54)

Kevin had a meeting with the IIP case manager two days after attending the intake at the JIAC. The IIP contract indicated what the youth needed to complete:

1. Complete 20 (10 for Ryan and Josh) hours of community service work
2. Complete Victim Offender Mediation
3. Complete an apology letter to your (the youth's) parents
4. Complete an essay stating how this incident has affected your life and the changes that will be made to prevent this from happening again
5. Set one goal to be accomplished within the time frame of the program
6. Pay in full \$50 program fee by completion date
7. Meet with the IIP Case Manager as directed

While Kevin, who drove the car, was directed to complete 20 hours of community service, the other two, Josh and Ryan, were ordered to complete 10 hours of community service. In addition, to follow through the item number 5, which was unusual compared to contracts in other cases. Kevin was directed to 1) apply for jobs and 2) continue to fill out college scholarship applications and to research options, whereas Josh was directed to complete four college applications and Ryan signed the contract to 1) identify and interview three top mechanical engineers and 2) find six colleges that are top engineering schools. The contracts showed the personalized parts for each youth. Josh and Ryan's father noted that the process was rewarding because his sons came up with their own goals. In the following, the father noted:

I took the attitude that hey, I don't care if you don't do it because then you're messing up your future. You're the ones...it's out of my hands. But they did it. They (Josh and Ryan) realize the importance of their name and their actions. (P16:21)

Preparing the VOM

Preparation for the Victims

Regarding the preparation process for the victims, Rob, a program coordinator, explained how he contacted the victims in advance and how difficult it was to make contact.

As soon as we get the, the referral (from the IIP), we mail all the victims a letter indicating that the case is ours (the VOM), and that we would like them to contact us. Very rarely do they do so...It usually takes multiple phone calls (from Rob), which is difficult...you can't always catch them at home...so you play telephone tag. (P47:54)

As described in the previous case analysis for the Department Store case, the intake for the victims took place immediately before the VOM as opposed to the juvenile offenders' that occurred in advance. I asked Ann, a mediator, a question about the victim preparation that occurred prior to the VOM. She responded, "I don't believe that there was. If there was, it was five minutes. You know, because that's kind of the way our system works" (P47:53).

Mr. and Mrs. T recalled what happened during the five minutes preparation for them prior to the VOM. Mrs. T stated: "We were encouraged to keep things...as positive as you can" (P19:28). Although Mr. and Mrs. T followed the guidelines they were given at the preparation session, they were strongly opposed to them. Mr. T noted,

[M]y view was if we were angry as hell at them, we should tell them that. We should let them know. Not that we're going to scream at them, we're just going to say we're really mad at you. We're really upset with you, disappointed with you that you would do this. (P19:28)

I think the mediator should not have said that. I was going to keep it positive anyway because if I'm going to sit down with the person and talk to them, my inclination is to want to keep it on a positive plane so we can effectively communicate...if I get out of control, they'll tell me...I think people are allowed to get angry as long as they're angry isn't as bad as the hostilities the kids used. (P19:35)

Preparation for the Offenders and Parents

According to Kevin, the family was informed at the IIP that he had to meet the

victims. This information scared Kevin the most (P15:13). Then, the two families met Rob for an intake, separately. The mother of the two brothers, Josh and Ryan, recalled the first meeting with him for an intake:

Our first meeting with him, he (Rob) was just so excited about the program. He kind of wanted the same result that we did, you know, for the kids to get a chance to be held accountable and everybody that he talked about that would be participating, their goal was the same - for this to be a positive experience for the boys. But, you know, he couldn't (be sure), these people (the victims) were coming in, you know, they would be held to a civil tone but, you know, who knows how it would go so were nervous but it was very well laid out - what was going to happen and when it was going to happen. (P47:51)

Participants' Motivations to Participate in VOM

This section is about the motivations of the participants to participate in the VOM. This section shares some contents with the section about victim needs. For example, in the victim needs section, I discussed the victims' need such as 1) to tell their victimization stories, 2) to know who the offenders/parents are, and 3) to have more information for preventing further incidents or victimization.

In addition, another motivation for victim participation in the VOM was the indifference and sense of helplessness present among their neighbors due to the vandalism. In the following, Rob shared his experience of contacting the whole victim body to ask their willingness to participate in the VOM.

In this particular case, we ran the whole gambit of, (from) "Yes, I (one of the victims) want to be there, and I want to tell them what happened", to, "I think you should just throw them in jail, and dad should pay the bill."...Others who said the value was so little that they didn't even want to participate. (P46:46)

To Mr. and Mrs. T, their participation in the VOM was a civic duty. Mr. T said, "As long as the community will not enforce the laws, as long as they do not enforce the

moral behavior of its young people, it's never going to get better" (P46:44). Mr. T added, "They accept it. And then the young people feel that it is okay to do" (P19:3).

Mr. T was concerned about the sense of helplessness that their neighbors feel:

[T]he neighbor's perspective, they don't seem to care. Oh, they'll say man, the kids, isn't it awful what they do to the streets and the street signs and knocking off mailboxes but that's as far as it goes. Nobody ever cares to actually do something about it...so it becomes of a way of life for the young people. (P19:11)

During the interview, I shared my impression that the restitution might have not been an issue for them in deciding to participate in the VOM. Mr. T answered, "No...We wanted to see who did it. And we wanted to see their parents. I wasn't sure the parents would be there but some could decline or make an excuse to not be there but I definitely wanted to see them face to face. I really did" (P46:45).

As Mr. and Mrs. T were frustrated that not many victims participated in the VOM, both the offenders' parents also expressed their frustration on the same issue. They wished more victims would have shown up at the VOM to impress upon their children that vandalism is a serious problem.

Josh and Ryan's mother shared another motivation for her participation in the VOM:

[W]e really wanted to give these people (the victims) a voice because they could have taken action against us outside of this mediation. And we also wanted the children to see the face behind it. You know we really saw this of a way them - it's one thing, you know, without the faces on the other side of the table, this was a prank. (P38:46)

Ann, a mediator, commented, "I think they all walked away with a better understanding of the kind of people that they're dealing with, that they're all kind of

living together with” (P20:20). This comment reflects another motivation for the victims that they wanted to meet the offenders as well as the parents. Mrs. T noted,

I definitely wanted to see them (the juvenile offenders and parents) face to face. I really did. I wanted to confront them with this because I can’t imagine going out and taking out my hostilities on someone or something and destroying property...And why young people have it these days is just something I don’t understand. (P46:45)

Participants’ Expectations for VOM

Kevin described the expectation that he had prior to the VOM. He expected that the victims would understand him as well as his friends by accepting their apologies (P15:24).

However, the parents’ expectations seemed bigger than the youth’s. Kevin’s parents, according to Kevin, thought it was good idea to meet the victims so that their son could learn a lesson, seeing the incident through the victims’ eyes (P15:14). The following statement made by Kevin’s father shows that Kevin understood accurately:

[I]t was kind of nice to get to meet people face to face and hear their comments. I think it’s a good program, especially for people like Kevin, who first time doing something that caused damage, and this way he’s able to put a face with the people, with the damage that he actually caused...no matter how much I talk to him about things like this, they don’t see how it affects other people. (P18:2)

Then, Kevin’s father shared his expectation for the VOM: “[M]y expectation was that (the) boys would get, the point would have been driven home what it cost them, not in money...but that the extra time or the emotions that were involved” (P18:20).

Josh and Ryan’s mother was also glad that her sons were not further prosecuted within the legal system. However, at the same time, she expressed concern that the youth would not realize the magnitude of their actions and only view it as “a

stupid teenage prank.” She added, “We really were afraid that the kids wouldn’t get the magnitude of what had happened and we wanted them to get it so this mediation was perfect” (P17:3).

As a victim, Mr. T made a clear statement regarding his expectation that they wanted the youth to know the limit of the criminal behavior.

This is the limit for this form of behavior that we will tolerate. There is another form of criminal justice system which doesn’t tolerate this at all and you spend your life behind bars. It’s up to you after this event it’s up to you which form of justice you want...So the choice is yours. (P19:37)

Looking Inside of the VOM

This section provides a snap shot of the VOM session. Below, Figure 4.2.2 depicts the seating of the VOM.

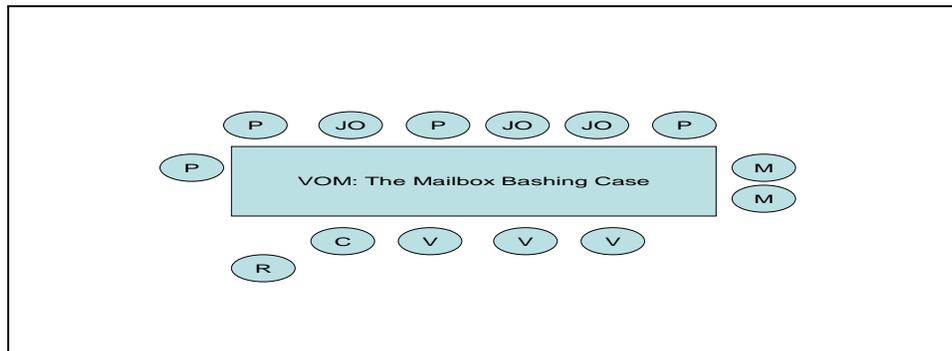


Figure 4.2.2. The seating of the mailbox bashing case. In the figure, juvenile offenders (JO) and their parents (P) sat side by side, whereas the victims (V) sat across the offender side with Rob (C-coordinator). The two mediators (M) sat the right side and I (R-researcher) sat right behind Rob.

The Atmosphere

Ann, one of the mediators, recalled that the victims of this case were different than she had anticipated before the VOM. She expected that this case would be more emotional than the Department Store Case because the victims of this case were more

directly affected by the crime than in the previous case (P20:8). However, she had expected Mr. and Mrs. T to have a different reaction. She shared,

[T]he older couple (Mr. and Mrs. T) that was there, they did way better than the most experienced mediator could ever, ever do. They, they were just awesome...Just in the way they, they talked. You know, you almost would expect someone who's been victimized to come in and be so angry, and do you know what you put me through? Do you know how much money you cost me? My wife went through this...*they didn't preach, they weren't angry* [italics added]. They just said things to the kids that made an impact, and everyone laughed, shaking hands and appreciating each other. (P48:68)

As Ann expected, the juvenile offenders also were afraid that the victims would be mad at them because they damaged the victims' property. To their surprise, the victims behaved differently than they had expected of them. Josh observed,

I thought they were going to yell at us the whole time and you know, call us criminals, stuff like that...it helped up us to see their side more. Because if they were yelling and stuff, I'd think we'd be more, you know, defensive. (P14:11)

Kevin stated that he did not have to hold anything back in the VOM. He said that he felt that he could just say whatever he wanted to say during the session (P15:31). The father of the two brothers also felt that way. While pointing out that the atmosphere was like having a normal conversation, he also commented, "The victims were very professional. They weren't confrontational at all...Their personalities were very calm" (P16:12).

Parental Involvement

The father of Ryan and Josh admitted that he did not say much at the VOM because he thought that it was not the place for the parents to speak. He said, "It's their ownership and I think it could be a detriment when parents step in" (P16:15).

However, Kevin's father expressed a different opinion from the other father. Even though it was not a comfortable experience for him to be at the VOM as a parent of a juvenile offender, he also wished to have some more opportunities to involve himself in the process as a parent because he also had questions to ask the juveniles about what was "really" going on. The father said Kevin was not totally honest with him in explaining the incident.

At first, Kevin's father also found himself to be defensive at the VOM. He noted, "You almost kind of don't want to give them (the victims) too much information, because, you're trying to protect your kid" (P18:23). Kevin's father shared his uncomfortable experience as a parent at the VOM:

[A]t first when you're sitting there, you're a little scared, you know, a little bit defensive because it's your kid. I mean, I felt guilty that it was my kid, you know, you've got a face...I felt bad as a parent that I couldn't instill in my son that he should never have done this.

Kevin's father also said, "[Y]ou don't want the victims to think that you're a bad parent because your son did this" (P18:38). He made a suggestion that if he could have had a bit more information at the beginning regarding what would happen, he would not have been as defensive (P18:38).

Mediators/Their Attitudes and Roles

Facilitating Conversation. Josh and Ryan recalled how the mediators used questions to help the VOM proceed smoothly.

We started talking for a second when we first sat down and then everybody kind of ran out of things to say and...every time there was an awkward pause, the mediators would ask a question, to keep it going, to bring up points and stuff - that helped a lot. (P34:121)

One of the qualities that Josh appreciated about the roles of the mediators was that the mediators introduced not previously considered viewpoints. He also noted that the mediators elaborated on what they said, which provided an opportunity for the juveniles to think of a different side and a different answer (P34: 128). Ryan concurred, “If we didn’t answer it like thoroughly, they’d ask us to elaborate” (P34:128).

Josh and Ryan’s mother also noted a similar aspect of the mediators’ roles:

I liked the fact that they didn’t control, they guided the conversation...I guess, you know, the core, just mediation, *not controlling what was said but just making sure that it was guided toward a resolution and that everybody got to say what they wanted to say* [italics added]. (P34:136)

Kevin’s father recalled a moment where Rob, a mediator, attempted to expand on a conversation between the offenders and the victims.

He (Rob) said, why don’t you (Mr. G – one of the victims) tell them again about what your daughter told you, and I think that broke the ice, because I think the boys were trying to protect themselves, be defensive. (P34:138)

In responding to my question regarding the situation, Rob explained how his intervention helped bring up another aspect of the incident,

She (Mr. G’s daughter) was an unknown, and I felt that it was such an impactful statement that she went to her mother and asked that these kids need to understand that their actions had longer reaches than what they thought. So, that’s why I brought it up. I wanted to make an impact on the, on the offenders that it wasn’t just them and their family and the visible victims, but yet there were other victims. (P34:167)

Mr. T, a victim, concurred with the other participants regarding the role of the mediators. He said, “I don’t recall them (the mediators) saying an awful lot...they were keeping the session moving, asking questions and saying now would you like to

talk about this, that or the other thing” (P34:145).

Ann talked about her role in the VOM, “Keep it moving, facilitate the discussion, but, I think the discussion kind of moved itself at some point.” She especially credited the victims’ active participation for the ease of the conversation. She noted, “They self-generated a lot of it. I think, particularly that older couple, the older gentleman was really instrumental. I give him a lot of credit for a lot of that discussion. I’d like to say that I did, but I didn’t” (P34:157).

Keeping Things Under Control. The participants, particularly the juvenile offenders, mentioned the mediators’ efforts to accomplish important goals within a limited timeframe. Even though the participants appreciated the mediators’ facilitative role, the juveniles also expressed their wish to be allowed to speak at more length. Josh recalled a situation, “I remember them a couple of times saying - Alright we need to get onto the next question - Maybe they could have let us talk out a little bit longer” (P34:123). Kevin also recalled, “[T]hroughout the meeting they kept saying we have another meeting” (P34:129). Consequently, the mediators’ repetitive remarks led him to feel pressure when he read his letter of apology, which will be revisited at a later point.

Limiting the Scope (Range) of the Conversation. Mr. and Mrs. T noted that they wanted to bring up the other damages of their neighbors, who chose not to participate in the VOM. They even had the picture of the juveniles committing the crime captured by the security camera. However, they were told not to bring up the other damages:

We were told when we went in there that the rules of justice apply in this procedure as they would in a courtroom - that we cannot bring other offenses up in this hearing...I'm not presuming that those legal rights should be changed because those are their legal rights, whether they're in a court of law or VOM program, but neither did we buy the fact that this was their first and only incident of committing crime - committing this type of behavior. (P19:47)

Mr. T made a suggestion for mediators to handle this situation better from a victim's point of view. He thought it would be beneficial if one of the mediators could give a briefing to the participants up front that there are other victims involved in this case. He said,

Yes, giving us the whole picture. Rather than telling us about the offenders' rights that we can't bring up other behavior that we may have seen them commit - they should say, in fact, these are the other instances of their illegal behavior that they were found guilty of that night. And briefing us...it probably would be most valuable in front of them... Because they said this was the first they had ever been out. It, in fact, we know that's not the case because we viewed them, our cameras and viewed them. (P19:48)

Being Neutral. Kevin appreciated that the mediators did not choose sides (P34:130). This was also stated by the victims. Mr. T said, "I don't think they directed any responses pro or con - they made no judgments that I recall. It was us to make the judgments as to the type of activity that had occurred and the type of restitution these children were making" (P34:145).

Keeping it Calm and Nice. Kevin remembered the mediators being really nice to him and his two friends at the VOM. He noted, "[Y]ou kind of maybe expected a little tension and a little angry mood. Well, with them, they kind of put a nice, happy mood into the air. They kind of lightened things up...to make it a lighter mood" (P34:130). I inquired how the mediators' efforts to make the mood lighter helped the

youth during the VOM. Kevin answered:

It kind of relieved some of the pressure, like the nervousness I had...It kind of made me feel lighter, because I felt kind of scared and nervous to see them (the victims)...It made you feel like you're doing well. It made it kind of a good thing. (P34:130)

The parents, however, especially the two fathers expressed a different observation on the nice and calm attitudes of the mediators. First of all, the father of the brothers shared,

They (the mediators) were kind of soft also. They were too -- it reminded me they were almost trying to be to Mr. Roger-y. Do you know who Mr. Rogers is?...He was like this gentleman who used to be on the TV and everything's great. Everything's not great. We're there because our kids did something stupid...And I just felt that these folks kind of had, were wearing kid gloves when they didn't have to. (P34:131)

The father added, "We were wrong...it felt like these guys were taking too many sociology or psychology classes" (P34:132). The father suggested that the mediators' roles should be different from the parents' roles because the mediators are representing society. Therefore, they should be firm to keep the boundaries in society (P34:133). However, the father also suggested that the mediators should be soft while being firm in some other instances. The following is the conversation that he and I exchanged.

Father: I think it was too soft. Yeah. And I don't think that there's a cookie cutter. Now, I think that if, for example, there's other instance where the way they approached it would have been perfect. You know, say you have a kid who was beaten by his parents and then gets in a lot of fights, I mean then you got to be, he's a victim too...I think it has to be fluid thing depending upon the issue...I guess you have to know your audience. When you give a speech, you know your audience. When you do a mediation, know your crime.

Interviewer: Right. So you are saying that the mediators didn't know the audience this time?

Father: Exactly.

Interviewer: Okay. So they had to do their homework then.

Father: I think so. I think so.

Interestingly, Kevin's father also expressed a similar opinion about the roles of the mediators. The following narrative suggests a way for the mediators to be firm

[W]hat they (the mediators) could have done was (to) try to get them (the juvenile offenders) to actually explain more (about the incident), ask the right questions. It's a tough, tough scenario...I would say they could have asked some tougher questions...You know, more narrow questions. (P34:141)

Kevin's father defined a tougher question as a difficult question designed to generate a little more discussion (P34:143). He believed that the juveniles did not address two important questions, "why they did it?" "What made them do it? (P38:68). As a parent, Kevin's father expected that he would find the answers at the VOM because his son was not honest enough with him (P18:38). The answers from the juveniles at the VOM were not acceptable from the father's point of view. He even said, "Yep, I'm sorry, but I'm not really going to say anything about it, you know...That was probably the most uncomfortable part of it" (P18:38). Kevin's father made a suggestion:

[I]n any interview, you should have a little bit of a script of how you're going to set the meeting up. I think they should have had a little bit more, and maybe set those expectations out that, hey, we're going to ask you this. We're going to ask you this. We're going to start off here, explain, you know, asking some of these, so that everybody kind of knows at first what, how we're going to do the process. (P34:139)

A Need for Being Sensitive to Victims' Rights. As discussed earlier, the victims were encouraged to keep things positive by one of the mediators (P34:144). I was curious how and when the mediator asked them to keep it positive. Mrs. T

recalled, “One of the mediators came in and gave us a briefing – a very quick briefing. And that was when I recall the person saying that.” Mr. T understood the situation as following:

The mediator would like to see things kept positive all the time anyway because it makes their job easier...If people are yelling at each other across the table, very little mediation is going to take place so they want you to keep your remarks positive and we'll be able to get through this. (P34:146)

Then, Mr. T continued, “that would not be the person’s role to tell us to be positive or negative but I can see why the person would want to do that. The mediator just didn’t want us yelling at the kids” (P34:147). Rob, a coordinator, agreed on what Mr. T said in the above. He noted,

I think the victim needs to be able to express their emotions, and we should not stifle that. I think in the process that if the mediators are doing their job, they can help turn this tide, but I think in the process, the feelings will come together...once they got together and then got to talking, it just went away, so it happens automatically. We don’t need to stifle it. (P34:170)

A Need for Collaborating with Co-mediators. Kevin’s father shared his observation, which provides a different perspective from a parent’s or a participant’s perspective regarding the mediators’ roles and attitudes. He noted, “I’m sure the ones (the mediators) in training are, you know, they’re trying to bring more people in” (P34:139). I also observed that there were several moments when the mediators did not know what to do nor did they know the intentions of the other mediators. Ann, a mediator, related that the practice of collaborating with co-mediators was challenging. In the following, she reflected on her experience:

[P]eople who don’t do it often, or don’t do it with people...often, it doesn’t work that well. And, I know it doesn’t work well with me, because I don’t mediate often or I don’t have a lot of experience...I just don’t know that co-

mediating this way would ever be perfect...I think there's got to be a way that we can talk about or come to some kind of understanding on how to do it better. (P34:165)

Ann commented that the ideal situation should generate synergy by "being able to co-mediate so one person picks up on a nuance that the other one doesn't pick up on, and you intertwine each other on the same kind of path" (P34:164). In order to stay on the same path, Ann urged, "You have to know each other. You have to know each other's style" (P34:164). She added, "I can't even picture him (the other mediator) in my head. I haven't seen him since then, so, you know, and that's unfortunate" (P20:44).

Delivering Apology

Community Service

Kevin signed with the IIP to complete 20 hours of community service and Josh and Ryan signed to complete 10 hours each. However, at the time of the interview, as with the juvenile offender of the Department Store Case, Josh and Ryan did not complete their community service, whereas Kevin had already completed his hours.

Kevin completed his community service at a community volunteer center: "Community service was nice, because I helped the center, and that kind of made me feel good" (P15:12). Kevin's father was proud of his son, "I thought that Kevin did was outstanding" (P18:16). He described what it meant for Kevin to do his community service.

Maybe he's (Kevin) grown up a little bit, because by doing the community service, he had to schedule them himself, and make arrangements to meet with

everybody, because he worked for the community volunteer center...it was a way for him to help, you know, bring in money to help the community, and I think, yeah, I think he, he realized time wise, all this commitment...he really learned a lesson here. (P38:70)

The Letter of Apology

The three youth said that Rob and the IIP case manager had given them helpful guidelines regarding how to write a letter of apology. I asked Josh about his understanding of the possible difference between ‘getting in and say sorry’ vs. ‘writing the letter of apology and read it.’ Josh responded:

It came out a lot more heartfelt than...you do something and somebody catches you and you say “Oh, sorry about that”...I felt not as nervous having the letter and being able to read from the letter rather than just speaking out normal because it was pretty nerve wracking. (P14:25)

Josh related another helpful aspect of writing the letter of apology, which made him think more about what he did and how it affected the victims. He also stated that in so doing, he was able to feel what the victims might have felt after the crime (P14:24).

Josh and Ryan’s mother shared her experience of helping Ryan prepare for reading his letter of apology. At the VOM, Ryan’s disinclination to talk about his perspectives or experiences led to him being almost unnoticed. His mother commented that she was slightly disappointed with the way Ryan handled the situation. In the following, she shared how she wanted him to be at the VOM:

[H]e’s (Ryan) a mumbler. He’s not an eye contact kid even though we said, “Now, look, you’re going into this meeting. You’re going to look at these people in the eye. You’re going to take responsibility.” (P17:29)

Josh and Ryan’s father shared how he felt when his sons read their apology

letters: “I think it kind of gives them ownership of the, what their actions so I thought it was a good idea” (P16:14). However, the father also felt that the letters were not enough of a consequence. To the father, the explanation that the juveniles provided in their letters was inadequate. He noted,

In my opinion, *you got a break* [italics added]...let’s don’t sugarcoat it. You guys made a mistake and you know what buddy, if you’re going to get angry again, according to his letter, because you didn’t, because of a circumstance that happened to you in life, then you’re going to bash a mailbox. That’s a poor excuse. (P16:25)

While the youth believed that their letters of apology were heartfelt, unfortunately, Mr. and Mrs. T also felt the way that the father described above.

They were allowed to make that excuse that they were upset because of the results of the football game and they hadn’t been allowed to play because they were injured, on the injured list. I thought that was - that they had been allowed to forward that as an excuse and I didn’t buy that one bit... You committed the behavior because you wanted to commit that behavior at the time. You were in full control of your faculties and so I guess that’s my one point of disappointment. (P19:45)

Kevin’s letter of apology was two pages long, single-spaced and read at a pace faster than the normal speed of reading. I remember that I felt uncomfortable for the victims during the observation. However, there was no intervention from the mediators. Kevin recalled,

[W]hen they read their (the other two youth) two short letters, I kind of felt like I needed to get mine done, too, so we could move on with the meeting... I guess when I read it, I just didn’t want them (the victims) to get bored and lose focus. I wanted to get my message out there. (P15:22)

Kevin added another reason that he wanted to read the letter faster in the following:

[B]ecause throughout the meeting they (mediators) kept saying we have another meeting. I think that could have been another pressure, too... because if they were running behind... and I didn’t want to keep them later. (P15:27)

Josh related the situation that Kevin described above, “I understand they (the mediators) have other things to do but I think that that could be, you know, a reason why Kevin read it (the letter of apology) faster” (P34:123).

In explaining how he came up with the long letter, Kevin stated that he wanted to include everything that he wanted to say to the victims. Although he realized that the letter was sort of long, he did not want to shorten it at all because he wanted the victims know how sorry he was (P15:22).

However, Kevin’s letter of apology also was not well received by the victims. Mr. and Mrs. T shared their impression as follows:

Mr. T: That was a huge letter...My reaction was God, it must have taken this kid three or four nights to put this thing together. Because it went on and on [laughter] and so he spent so much time writing it, and he just wanted to deliver it and get it behind him (by reading it fast)...I was a little disappointed because it showed us that he didn’t really get it. He should have just...I just want to tell you I am really sorry.

Mrs. T: Yeah, the sincerity was definitely missing but again all of his effort that he did put into it could have been edited by his parents who encouraged him to write a bit more and a bit more. (P19:38)

During the separate interview with Kevin, I had an opportunity to discuss with him the way he read his letter of apology and how it might have delivered a different message to the victims. Kevin responded:

[T]hat’s kind of a good point. I can kind of see that now, because I did mean all that stuff I wrote in there, and...because I wanted them to know how sorry I was, so that’s why I just had everything...I guess I didn’t realize. I guess I could see that now, because like when people try to read through something fast, they could be just trying to make something up...That’s true. (P15:23)

Decision-Making Process

The Caucus

The two brothers, Josh and Ryan, recalled that they were pretty nervous when they went back to the waiting room during the caucus. I asked them what happened in the waiting room. Josh said,

We went back into the room and we all kind of looked at each other, ugh... We were kind of nervous, you know. We kind of felt like they had accepted them (the apologies), you know... when we walked into the room we were kind of like (a sigh), the tough part's over... but we were anxious what are they going to say about all this so far.

It sounded like participating in the VOM with many adults including the victims was not an easy undertaking for the juveniles. Since I was not able to observe the caucus, I also was wondering about the mediators' perspective regarding what happened inside of the caucus. Ann compared this experience to her last one, the Department Store Case:

The first one I had with the victim was the Department Store Case. And during that one, we didn't even ask the guy (the victim) from the department store if he wanted to accept her letter. We just totally blew him off, and we took the letter. So, then this one I learned better, so we did ask. (P20:31)

Following the caucus, Ann shared her observation regarding the positive focus of the conversation. She said,

[W]e talked about future, and especially the gentleman (Mr. T) was talking about the future, what they want to do and, you know, careers and so forth... it ended wonderfully, and everyone was, even, chatting afterwards, and you know, we had to move them on. (P39:59)

The Contract

The participants shared their experiences with the contract. First, Kevin talked about the contents of the contract: "I think that... we'd keep everything confidential... Pay the restitution" (P15:33). Kevin's father shared his observation in

the following:

Rob (a coordinator) writing it out, putting it on paper, having the kids sign it, and like, I know both parents, both of us, you know made the kids pay for this out of their own money, and so I think that has a lot of effect there, too, so. I thought that part kind of just finalized everything and made everybody happy about the situation. (P18:33)

While Kevin emphasized paying the restitution, his father shared another aspect of the contract, which reflected the input of the victims:

One thing was that they (the juvenile offenders) were going to tell other kids and keep doing that, and then the other part was try to advise them (the victims) when this Junior/Senior War is going to occur, so maybe as a neighborhood organization they can be prepared and watch. (P18:33)

During the interview, Mr. and Mrs. T proudly told me that they kept copies of each document they signed at the VOM. Regarding the contract, Mrs. T noted,

We signed forms stating that we accepted their apology. They made the offer of restitution. Then a decision was made as to who's going to receive amounts and we signed all these documents and as far as we're concerned, the case is closed... We have an entire file on everything. (P19:41)

The Impact of the VOM

At the end of the interview with Josh and Ryan, they expressed their hope that the VOM project continues in the city. This passage reflects the lessons the youth learned from the VOM process. In sharing the following conversation, this section discusses the impacts of the VOM in terms of accountability and benefits:

Interviewer: So anything else you want to talk about?

Josh: I just hope they continue the program, you know, so other kids who make bad decisions or make, do a small damage to other people or what they think is small, that it will show them that's it's not just small, it affects people and it will help them to turn around and not do that again. Better than just to take the punishment and, you know, be the same kind of person. So I think you should continue the program because it definitely works.

Ryan: I think they should continue the program because like he said but it helps and it shows people how their actions affect others. (P35:40)

Accountability

Josh and Ryan's father said that he expected to pay a lot more restitution for the damaged mailboxes. This expectation was based on his previous experience, in which he had to replace his smashed mailbox. He was even wondering, "Oh man, did they really charge us enough? It was dirt. \$29.00 (and even only for) a person (Mr. G). It wasn't much at all" (P16:17). As the father described, Mr. and Mrs. T did not ask for any restitution because their mailbox was not demolished completely and they were not interested in receiving the restitution (P19:42).

In this case, only two victim parties out of eight were able to participate in the VOM. This created another issue when it comes to accountability, according to Rob: "They paid less than \$100 apiece. That was cheap entertainment for them. Now, in my mind, there was no real consequence (P43:30).

In the following, the victims shared how they felt after participating in the VOM. It seems that even though they thought that the juvenile offenders made excuses for their acts, they still believed that the VOM made an impression on the youth. Mr. and Mrs. T shared:

Mrs. T: I wanted to believe them in their apology, their offering of restitution and their parents' comments as well, that they had been grounded so it was such a variety of emotions for me that evening. It really was. *Going from "I'm glad I met them" on the other hand "Do I believe them?"* [italics added] And I hope for their sake, that they've been cured of this nasty little habit.

Mr. T: I think for them they have. They seemed to say over and over again this is not fun. This is not neat. This is not something we'll go back to school and brag about to our friends. This is awful so maybe they are

impressed with it. I think both of us came away with a sense of they are not as innocent as they pretended to be but at the same, I think they were impressed with the amount of trouble they could have gotten it were if not for the VOM. (P36:65)

In contrast, Kevin's father believed that the youth were held accountable. He shared why he felt this way:

I think they were held accountable. I think that, in all reality, had someone, one of the victims not videotaped our kids would have gotten away with it and you know, they probably would have done it the next week. Hey, it's fun...now it's stopped for awhile, I think. So I think they were held accountable. Yes. (P42:12)

The Benefits

"I really think it's a really good program...it gives you a chance, but it also helps punish you and helps teach you...a good lesson." (P35:42) – Kevin

Kevin's father noted that, at first, he thought that the VOM was just another meeting they had to go to in order to complete the diversion. But, after attending the VOM, he changed his mind. He said, "[B]ut once we got into it, the actual mediation meeting, I think it turned out to be really good. I was impressed. I was really impressed" (P38:73). Josh added, "So I guess the program really does what it's supposed to do" (P35:39), which was also confirmed by Kevin:

I just think the meeting that we went through just really changes your perspective and makes you realize and it's a great way. I mean, if they'd (IIP case managers) send anybody, I think they (the other juvenile offenders) should have to go through that meeting, because it works. I think it works so well. (P35:55)

The above passages reflect the positive impacts of the VOM on both the juvenile offenders and their parents. In the following section I discuss in detail the various benefits noted by the participants.

An Opportunity to See Different Aspects of the Crime

I asked Josh and Ryan if they still remember anything that any of the victims said to them. Although already three months had passed, they vividly remembered almost everything. The following was the most impressive to them.

Ryan: One of them (Mr. G) was talking about how his daughters were scared because they thought like the same people were attacking their house and they thought that we were big, bad guys and they were scared and asking if somebody was going to come in and hurt them or something.
Josh: Yeah, that because I have *a little sister* [italics added]. And when that guy said that, I started feeling really horrible. You know, if you have two little daughters that thought that someone, a monster or some bad guy kept terrorizing their house, and that made me think of my little sister crying. Yeah, I didn't even think about that aspect of it.

Similarly, Mr. G's experience also impressed Kevin. Interestingly, as the youth above thought of his younger sister, Kevin also thought of his younger brother at the moment when he heard the story: "I remember *my little brother* [italics added], when he was a lot younger how he got scared, and that kind of got to me, like, I can't believe I did that" (P35:53). From this experience, all three juveniles stated that they learned a lesson. As is evident in the above quotes, the juveniles realized that their acts influenced many people. In particular, Josh indicated that he had not ever thought of the effects of the crime in this way (P35:26). In the following, Josh eloquently elaborated on the lesson he learned from the program:

If they (the other juvenile offenders) go through a program like we did, you know, and even see small thing affect people in big ways...what they did does affect people and that it even like little small things, decisions you make, affect other people in bigger ways than you think and you need to be aware of...the consequences. Not just to you but to other people of your actions. (P35:29)

Kevin also spoke articulately about the lesson he learned through the program:

It (VOM)...kind of gave me good punishment...That was the best thing about it, is being able to converse with victims and seeing their point of view, because that really changes your perspective...it kind of just makes you feel bad, but then also, at the same time, makes you want to help repairs and it just makes you feel good. (P35:42)

Josh and Ryan's father also made a similar observation. He recalled that after listening to the story of one of the victims' little daughters, "They (Josh and Ryan) realize that something as innocent as they thought really isn't so innocent in the eyes of a young, young girl" (P38:24). From the VOM process, according to the father, the boys were able to see the victims' side and realized that the act they viewed as "no big deal" could be a big deal (P38:32).

In the following, Kevin shared the new perspective that he gained after attending the VOM.

[W]hen we did it (mailbox bashing), we just thought it was all fun and games. And, we weren't thinking about what we were doing to these people, but then when all the stuff they had to go through...makes you think of the consequences more than the actions...it just really like makes you feel what you did was wrong, and it kind of helps me, now, like you want to tell kids not to do it, because seeing their point of view, you don't want anybody to go through it again, even if you don't do it. (P35:44)

An Opportunity to Have a Better Understanding about Each Other

During the interview, Josh and Ryan's father mentioned that the VOM was really informative (P38:22). The father noted that he was able to place himself into the victims' situation during the VOM. The experience at the VOM led him to realize as follows:

I thought we met some good folks, the victim as well...I think the victims that showed up, I think they would be great neighbors and folks that I would want to associate with as well as, you learn a lot about people, how people handle this adversity. (P38:30)

Kevin's father saw the VOM as a healing process between the victims and the juvenile offenders enabling them to get together and start understanding each other's standpoints (P38:72). The VOM also provided an opportunity for the victims to meet and understand the juveniles and their parents better. Mrs. T shared her impression:

I was surprised at the professions of their family, of their parents. Impressed but disappointed of course that their kids were out doing what they were doing. And all I could do, I wanted to believe them in their apology, their offering of restitution and their parents' comments. (P36:65)

Ann, a mediator, shared her speculations regarding the victims' increased understanding of the juveniles and parents, which she saw as another of the benefits that the VOM might have provided to the victims. She mentioned,

Well, an understanding of the kids and the environment right now, the types of kids that live in their neighborhood, you know. They're not hoodlums...I think they feel better about the reasons why kids are doing it. They feel better about their neighborhood. (P39:54)

An Opportunity to Expand the Impact to Community

In addition to performing the community service, one of the tasks that the victims asked of the juvenile offenders at the VOM was to talk to their peers to prevent further vandalism around the community. This assignment was designed by the victims to expand the impact to the community. Kevin's father commented, "Their request to be part of the change, to go out here and talk...I thought that was probably more of a disciplinary action than paying for the cost of all the damage that we had" (P38:62).

During the interview, Josh said that even though they tried to keep it quiet at school, many friends already knew that they had been caught and went through the

VOM, which provided them chances to share their experience and the lessons learned with other friends.

Josh: [A]ctually a couple of kids, you know, thought or were thinking about going out and doing stuff like that and after hearing the amount of trouble we got in, you know, they said, “Oh man, you know, I don’t want to do that - I can’t get in that much trouble. I don’t want to get grounded forever” and all that. So I think a couple of times, the kids have decided not to do it because they found out how much trouble we got in for doing it.

Ryan: It definitely made an impact because like kids have asked like what we did and thinking about doing like the same kind of stuff and they, I’ve told them like that it’s not a good idea - it’s a bad thing to and they haven’t gone and done it. (P35:28)

Kevin also shared a similar experience:

I’ve been telling if kids talk about it...I’m like, ah, that’s a stupid idea. I would not do that. This is what you’re putting them through, and when you hear it, I know, I know Josh’s done it, too, just told kids when he heard it, but, I’ve been doing the best I can. (P35:46)

A Learning Opportunity for the Juvenile Offenders

Mr. T said, “[T]hey have to realize that what they’ve done is wrong and they have not merely broken the law but they have a moral code when they violated your property and they need to understand this and show that they understand that. And I think they did” (P36:67). As Mr. T wished, the juvenile offenders commented that the VOM provided an opportunity for them to learn something from the incident. Josh shared his impression in the beginning. He said that at first he just felt that they were getting their punishment by writing the letter of apology and meeting the victims (P35:38). However, he was able to feel differently after completing the VOM program. In the following statement, he compared how the VOM was different from the other punishments.

[I]f you do something and you get punished like they put you in jail for so long. It's like when you're a little kid and you get in trouble, you get grounded and take your punishment and you don't really learn from it, you say, okay that's over with and you go back out and keep being the same person. But the program (VOM)... You just didn't take your punishment - you learned from it. And then it affects your future decisions. (P35:31)

Kevin also stated that he learned he had made a very stupid decision. In the following, Kevin described how his perspective had changed regarding his view on his tendency to be mischievous, cool and offensive.

I didn't think it (bashing mailboxes) was offensive before, but now I realize how really offensive it was... I don't know what other people's line is, but my line's like, down, like, it's cut real short, like anything can be offensive to me, now, like, everything, just any vandalism's stupid... and that's one thing I really got from that program, from all the people. (P35:47)

The parents shared similar feelings with the juveniles. Josh and Ryan's father stated, "They realize the severity and the opportunity they were given." Josh and Ryan's mother noted that she really had a sense of well being that her sons learned a lesson (P38:56). She felt that the whole experience helped her sons grow up a little bit more, along with building their characters (P38:57; P38:51).

A Second Chance for the Juveniles

The parents described how they felt when they learned about their child being in trouble. Josh and Ryan's mother said, "We were horrified... we were scared to death when it (the incident) happened" (P41:14). Then, she added,

As not only a way for them to defer any more legal action, and to kind of redeem themselves, we were ecstatic because, you know, we had kids looking at going to college and wondering how this was going to mess up their future plus us. (P41:15)

Their father was also appreciative that the VOM provided a second chance for his

sons. In the following, the father spoke about why it was important for the youth to have the VOM,

I've worked in government so I know that background checks are very important and I know that any time there is any paperwork generated that it's going to be seen by somebody...I thought it was a healthy alternative, a win-win situation. (P38:27)

An Opportunity to Move on (A Sense of Closure)

Kevin stated that he felt as if he was "letting it go" when he was reading his letter of apology to the victims (P35:51). In the following, he explained how he felt when he had met the criteria to complete the diversion program.

Kind of relieved a little bit, because you kind of feel pressure to get all your community service done, and get done with it...I feel kind of like it's kind of over, kind of case closed...But, you maybe still think about it, but you're, then you kind of move on from it a little bit...it's not a big burden on you anymore, kind of. You're kind of done. (P35:56)

The parents also felt similarly. Josh and Ryan's mother referred to this feeling as "bring everything to a conclusion." She added, "[W]hen they had finished all the courts...all the proportion, all of the contract. So and then there was like a sense of closure" (P17:25).

An Empowering Experience for the Participants

Ann mentioned that the victims had a chance to give input in the decision-making process. She said, "We asked the victims...it's up to you whether you want to accept (the letters of apology), and they were (did), at that point, we thought everything was fine with them" (P39:58). She also stated that the victims had an opportunity to voice their opinions during the decision-making process, which led them to add their request for the juveniles to go out and talk to their friends about the

impact of vandalism in the community.

Mrs. T commented that she was surprised but pleased at the same time because she was able to solve the issue by bringing people together (P36:66). In her statement, Mrs. T emphasized the ownership and self-determination in resolving the issue, confirmed by Ann's observation as described above:

[T]o watch kind of the human process, I guess, people coming together in the right way and communicating and just watching that process unfold, without a lot of help, outside help. They just kind of came together on their own. (P39:48)

Ann also noted based on her observation: "They (the victims) feel respected. The kids gave them a lot of respect. The process gave them a lot of respect" (P39:55). Although it was not possible for me to have an interview with Mr. G, Ann's observation might reflect his empowering experience through the VOM.

[O]ne particular guy (Mr. G) who came in and you know, he kept saying, "Oh, I wish my wife was here, you know. I wish she had the benefit of this" because his family has lived in fear and his kids have lived in fear, and I think he was able to go home and say, you know, these kids are really not bad kids, you know, and he was able to tell his daughters, "You don't have to be afraid of these kids" you know. They're really good kids, you know. And, I think that's why he wanted his wife to be there. (P39:47)

The victims also were able to acquire the beneficial information regarding what may occur at the end of the school semester in the community. The following excerpt demonstrates that Mrs. T gained the necessary information about the exact date for the annual event in the hopes of preventing further victimization.

About two nights before graduation and sometimes a week before so I have asked the young men of that evening to inform me as to when this is going to happen. Hopefully, I can alert the people of the area to be aware of this and even if it takes staying up extra hours to observe what is going on out there. (P19:12)

The empowering experience was not limited to only victims. The VOM, according to Kevin, provided an empowering experience for him. He shared:

Pay the restitution...even though...out of my pocket, that still kind of feels a little good because after going through that, you want to do something to help them. With doing that kind of helps make you feel like you did something to help repay them for your damages. (P15:33)

Case Summary and Lessons Learned

This case has involved multiple victims and offenders who held different views about the nature of the crimes committed. The victims in this case reported that they had suffered ongoing vandalism by juveniles in the community, and that they were essentially tired of it. The juveniles, on the other hand, tended to view their acts of violence as part of the culture of being a young person in the community. For example, at the VOM, they described their crimes as something they saw as “cool” and “fun to do.”

What Went Well?

The VOM provided a forum for participants to talk about their concerns regarding the continual vandalism in their community. While only three victims from the community were present at this VOM session, their participation in the VOM resulted in the beginning of a wider community awareness of juvenile vandalism, and efforts towards changing this phenomenon.

The victims’ involvement in the VOM process offered an opportunity for the offenders to see the crime from different angles. Importantly, they were able to see the human suffering behind the words and stories which helped the juveniles to

recognize and verbalize that they had made a “huge mistake” in carrying out their crimes. During the interviews subsequent to the VOM sessions, the juveniles kept saying that it was “a stupid thing to do.” In particular, they noted that, since the VOM, they had been sharing their experiences with their friends so that the practice of mailbox bashing would stop. They also noted that the VOM was instrumental in helping them to reach the point where they felt like they should stop this behavior in the community and alert their friends to do so as well.

The victims also related that their experience was empowering because it provided them with information they had not known previously. The victims felt that this information would be useful in warding off future vandalism attacks by community juveniles. Thus, the impact of the VOM would be felt in the broader community.

Parents in this case were especially grateful for the opportunity to participate because it prevented them from having to be more extensively involved with the corrections system. They saw the VOM as offering a “second chance” for their children. Importantly, the parents related that two of the three offenders were applying for admission to colleges, and with that in mind, they were especially pleased to be involved in the VOM as opposed to more stringent or punitive approaches. They were concerned that more intensive involvement in the criminal justice system may have affected their children’s college admission.

What Could Be Done Differently?

This case also provided an important aspect of VOM practice related to victim sensitivity. For example, the victims shared with me during the interviews that they repressed their anger during the VOM session to follow the guidelines that they were given during the preparation session. The lesson learned from this situation is that better preparation of the victims by mediators could allow victims to appropriately express their emotions in the VOM, and therefore, decrease the likelihood that victims may feel re-victimized during the process. In other words, victims should not be discouraged from expressing their feelings because that might be an important part of the healing process. Rather, mediators may need to approach the issue with sensitivity to the needs of the victim, while keeping in mind that appropriate controls need to be exercised by all parties in the VOM sessions.

Better preparation of offenders by mediators related to delivering apologies is also important. In the interviews, on one hand, victims shared with me that they felt they had not received a sincere apology. On the other hand, the offenders shared that they, indeed, were being sincere in their apologies. Education or an appropriate informing of offenders in inter-personal skills such as pacing the rate of speech could play a role in facilitating delivery and acceptance of apologies.

The participants also pointed out in the interviews that they were unhappy with the performance of the mediators in the VOM sessions in this case. For example, some of the parents expressed that they felt the mediators could have asked more pointed questions of the offenders during the VOM to acquire more information on

some of the unaddressed issues. This indicates a need for examination and possible strengthening of the mediator training.

Suggestions from Participants

- Parent
 - One father suggested there should be more self-reflection on the part of the mediator related to their attitudes and roles at VOM. According to the father, mediators should be more flexible in dealing with juvenile offenders, and they should use discretion in their approaches depending upon the severity of the crime. In this case, the parent thought that the mediators were too soft toward the youth
 - One parent suggested that victims should be the first to speak, rather than the offenders because this approach would help victims to ask more direct questions of the offenders. In this particular case, the victims were required first to listen to the offenders and had to delay their speaking until the offenders were finished.
 - A parent suggested that mediators develop a well designed script of how they are going to set the VOM up. In particular, the parent suggested that as a parent he wished to know better about the expectations for the VOM and what questions the mediators were going to ask at the beginning stage of the VOM.
 - One parent expressed a need for the schools to participate in the VOM process.

- Victim
 - A victim described a need for juvenile offenders to have more guidance in preparing and delivering the apology.
 - Victims suggested a way in which the mediator describes the whole range of the crime when a VOM begins, which is currently not practiced to protect the offenders' right. In this case, although the victims wanted to bring up the damages that the juvenile offenders caused to other victims at the beginning of the VOM, the victims were not encouraged to do so.
- Mediator
 - A mediator suggested a need to develop protocols or methods to enable enhanced communication among co-mediators.

CHAPTER 4.3: THE CAR CASE

Participants and Their Stories

The participants, consisted of three youth, a 13 year-old, Casey, and two 14 year-olds, Andy and Jesse, their parents and three victims, Mr. and Mrs. G and Mr. D, attended a VOM in August, 2007. The youth were all Caucasians and attended the same middle school. The offense was criminal damages, including four misdemeanor and three felony criminal charges. While seven victims were involved in this case including four individuals, one county park and recreation and two schools, only three individual victims including a husband and wife participated in the VOM. Table 4.3 represents the demographics of the participants.

Table 4.3

Demographics: The Car Case

	Name	Sex (Race)	Age	Interview Place
Victims	Mr. and Mrs. G	Husband (Hispanic) & Wife (Caucasian)	30s	VOM
	Mr. D	Male (Caucasian)	30s	Coffee Shop
Juvenile Offenders	Andy	Male (Caucasian)	14	Home
	Jesse	Male (Caucasian)	14	Home
	Casey	Male (Caucasian)	13	Home
Parents	Andy's mother	Female (Caucasian)	30s	Home
	Jesse's mother	Female (Caucasian)	30s	Home
	Casey's father	Male (Caucasian)	30s	Home
Mediators	Paul	Male (Caucasian)	40s	Office
	Rob	Male (Caucasian)	60s	VOM
Referral Source	Robin	Female (Caucasian)	30s	Office
	Tanya	Female (Caucasian)	30s	Office

Note. All names are pseudonyms.

The Chronology: The Paths from Incident to VOM

According to JIAC's Intake and Assessment summary, the three juveniles stayed at Casey's parents' home. Some time around 1 a.m. one day in April, 2007, one of them came up with the idea to damage the school and the other two went along with the plan. The summary reports that the three juveniles damaged school property by spraying paint to the wall and breaking windows. On their way back to Casey's parents' home, the juveniles vandalized several cars by slashing tires, breaking windshields, and spray painting. They also spray painted a bench at the baseball diamond next to a community center with the word 'B****' in red color. According to the County Sheriff's Office's report, all of the damage was done on the west side of the school building. The spray painted words were derogatory terms such as "B****", "H*", "FU", "A**", "H****", and "J*****" and so on. Some of them also included demeaning some individuals such as "Get hair Mr. **", "You suck a** Mr. **", and "Mrs. * is a fat a**."

The police contacted the three juveniles and they were sent to the JIAC. About two months after the incident, the JIAC referred them to the IIP. Three days later, the IIP made a referral to the VOM for all three juvenile offenders.

Paul, a coordinator of the VOM at that time, sent out letters to the seven victims two days later to let them know that the VOM would be available for their voluntary participation. Only three victims including Mr. and Mrs. G and Mr. D reported back with their interest in taking part in the VOM.

The VOM occurred in the month of August, 2007, approximately four months after the incident. The following Figure 4.3.1 represents the chronology of the paths the juveniles and victims took from the incident to the VOM.

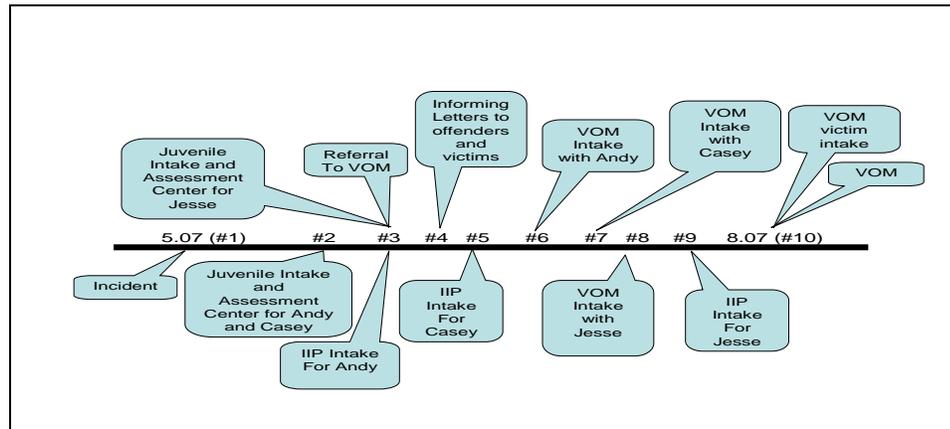


Figure 4.3.1. The chronology of the car case

The Incident

“I was caught up in the moment.” (P43:43) - Casey

The Views on the Incident

The participants expressed their different views on the incident. Rob, one of the mediators for the case, recalled that the nature of the charges was significant. The charges might have given the juveniles a significant amount of time in detention (P43:58). However, Casey’s father considered them small crimes, and indicated that there was no need for the court to waste their time on this incident (P44:38).

The previously described JIAC summary provided information regarding only what happened, whereas the juveniles’ and their parents’ narratives in the following passages address why it happened. Some aspects of the episode did not even unfold at

the VOM. Regarding the juvenile offenders' perspectives, I asked Casey about whether the vandalism was random or intentional at the interview with him. Based on my observation at the VOM, the youth had explained that the vandalism was all random. Casey described what happened as follows.

I did some of the planning too and so did Jesse, and then we set a date kind of. It happened to be at my house that we were staying the night. At first, I didn't think we were going to do it. I was like, nah; we'll just be playing some games all night. But factors come to factors, and so we did it. And we went down to - first we did at school. After that, we thought we were just going to go back home, but it got kind of out of hand. We got caught up in our mess and we went all around. (P43:40)

Andy recalled what happened, "I don't mess up people's equipment...but I guess I was with my friends so I guess I was trying to be cool" (P43:37). Andy added his version of what happened in the following quote, which emphasizes the peer pressure he felt:

[I]t was about 1:00 and we were coming from his (Casey's) house we were almost to that pointing south and I kept on looking back at my house debating if I wanted to go or not. And at that point I remember them saying, "Come on. Are you chicken?" and I said, "No." and I went with them. (P43:38)

While Casey addressed the mutual aspects of the planning among the three of them, the parents had different understandings of the incident. Casey's father said, "I was told by the principal of the school that one of the other kids had had it planned for a month" (P44:33). As opposed to Casey's father, Jesse's mother viewed the situation in this way:

Very much out of his (Jesse) character, but he's very impressionable, and he's a follower, and he was going to do whatever they were going to do, and he knew that it was wrong...(but) he didn't know how to get out of it. (P44:27)

Similar to Jesse's mother, Andy's mother also viewed the incident and her son's involvement in it as a situation of peer pressure and consequently, the juveniles were victims of the peer pressure (P44:30).

Mr. and Mrs. G were the biggest victims when it came to the damages to their cars. Casey shared the reason why they vandalized their cars, which was not addressed at the VOM:

[T]he reason we had really gone to Mr. and Mrs. G's house was a stupid little thing. It was over - one of our friends...he had gotten in a fight with Mark, their (Mr. and Mrs. G's-the victims) son...So that's all we did there. (P43:43)

According to Casey, the vandalism was a way to get revenge on the victims' son, Mark, on behalf of a mutual friend at school. After the completion of the VOM, the offenders had talked with Mark about the incident. Mr. and Mrs. G, the victims, shared what they heard from their son:

Mrs. G: *Now* that I know that they had all their cars picked out and *now* [italics added] I know why it happened. They just, none of them were random. They just decided to hit what cars they wanted to.

Mr. G: Ours was retaliation for one of the boys that used to live up by them that was their friend that moved away that had fought with my son...And because he had fought with our son, they decided they were going to come back and finish off some more stuff for him. And that was, according to what they had told my son, that was the original plan, was just to get ours and then as they started planning it, they decided to hit other people. (P43:50)

Mr. D was another victim who had his car vandalized by the youth. According to Casey:

Mr. D, his ex-wife had a daughter...she and my sister used to be friends...She started messing with our stuff and with us...she just kind of made us feel threatened. So I guess that's why we did their car; that's why I did because of repercussions. You don't mess with my sister. (P43:47)

Regarding the other vandalism they committed, Casey explained, “Down at that school, we were just walking through, and Andy was like, I’m going to do this...and I was like, Oh yeah because I was like doing stuff too” (P43:43).

However, Rob’s understanding about the case was different from the other participants’, especially from the youth’s. He noted,

They did just what most teenage boys do...it was the same thing that we hear almost all the time, is that they were bored and didn’t have nothing to do, outside of the fact that it was one o’clock in the morning, and they should have been in bed asleep. (P43:60)

The Impact of the Incident: Juvenile Offenders and Parents

Losing Friendship. One of the consequences that the youth reported to me was that they lost their friendship. Based on my observation, when a group of friends get involved in an incident, in many cases, they decide not to continue their friendships. The juveniles in this case expressed a similar experience. To Casey, it was difficult for him to lose Jesse’s friendship.

It kind of hurts me because Jesse was a really, really good friend, but now, you know, if I had a chance, I probably would blame everything on him because I’m mad at him basically and he’d probably do the same...He may have done some of it or a lot of it, but he didn’t do everything. It was all of us. Andy, me and him, we didn’t point fingers as much as maybe the other, as me and Jesse did. (P43:46)

As Casey described, Jesse also informed me that he no longer spoke to Casey.

However, interestingly, both of them still considered Andy to be their friend. Jesse noted the reason, “I hang around with Andy, because Casey tried blaming things on me” (P41:23).

Emotional Difficulty. At the VOM, Andy looked very indifferent and seemed to not to care much about anything. However, during the interview, Andy was able to engage in the conversation and was somewhat emotional. He was even smiling a lot, something he was not able to do at the VOM due to the gravity of the content. One particular conversation with him saddened me. He said,

I keep on having dreams about that night. Yeah. I've had good dreams and bad dreams. I've had dreams that where I grabbed all my stuff and I said I was going to go with them and once I got up to the corner I just walked straight home; and then I've had dreams to where I've have like spray paint and it was like double the time of what I did. It was pretty crazy. And there's been times where I actually thought where it was that night again but I woke up and found out it wasn't. And every once in awhile I'll have flashbacks when I go back the victim's house I'll always think about what I did. (P41:21)

After the conversation, I asked several questions to assess if he needed any further assistance with his emotional struggles, but he strongly indicated that he would be able to deal with the difficulty on his own.

I asked Casey what it feels like to become and to be called an offender. The following response from him reflects how he regretted his actions as well as the emotional difficulties he was going through because of his crime.

Seeing how I did that to one of my friend's family...I don't feel happy about it. I think I owe them more. And because they don't trust people, because they're not going to trust people anymore, I'm not going to trust people anymore either because I don't know if that's going to happen to me or not you know. (P41:34)

Difficulties at School. In the following, Casey summarized what he lost due to the incident, especially at school:

I lost my respect at school from my teachers and some of my friends. You know, some people will treat me as if I was an idiot, which you know, they had a right to because that was a stupid thing to do. And the teachers weren't

exactly nice to me as they were...and most kids starting keeping a distance from all of us. (P41:23)

Casey shared an experience in which he met one of his former teachers at a school he used to attend and that he and his friends vandalized.

I've seen Mr. H, the head principal over there, and I really like that school...I used to go there...I walked down there with one of my friends to pick up her little sister, and I looked at him and he looked at me, and I just could see the hurt on his face, and that's also when I really did come to terms of how we shouldn't have done that. (P41:26)

Besides losing trust among teachers, Casey also said that he and the other two youth were suspended from school for about two weeks, which cost him in another way: "[T]hat kind of really messed with my grades because I'm an A-B student. But I failed - I was failing four classes at the end of the year" (P41:25). Also, Casey's friends at school treated him differently because of the incident: "People are kind of afraid of me now...because they think now that I...was a gang member. I don't know where that came from, but he thought I was. I'm like, No, I'm not. I swear" (P41:33).

The Continuing Impact of the Incident: Victims

Victimization: The Definition and Impact. In the following, Mr. and Mrs. G defined themselves as victims:

[W]e were the ones that were punished for the actions of what these kids did to us. So we were victimized because of the removal of one of our vehicles from us and we had to rearrange our entire life around what happened there just so that we could continue functioning. So the definition of victim is that we were innocent people. We didn't have any problems with these kids and they came and vandalized all of our stuff and really put a hurt on us at the time. (P28:4)

The magnitude of the damage, according to Mr. and Mrs. G, included slashed tires and spray paint on both of their vehicles. Even though they found that the cars

also were damaged by flood because the tires were down, they decided not to pursue any type of compensation (P28:2). Besides the material damages, Mr. and Mrs. G also talked about what happened when they found that their cars had been vandalized.

Mrs. G: [T]hat morning, that Saturday morning when they did it, that's when my daughter had her state finals in (a city) and we didn't get to attend that because we didn't have no way of getting her down there... Which is really upsetting... She (also) had to go to (another city). She's got some medical issues mentally and she had to get hospitalized down there.

Mr. G: All at the same time, so we had to get her down there and then use one car to get me to work and transport back and forth.

Mrs. G: And then I'd have to race to the city and then I'd have to be back up here to get him and it was just hard.

Mr. G: Expensive. And also emotionally charged. (P28:3)

During the interview with them, Mrs. G was still very emotional. Talking about the incident still made her cry, even almost six months later. The family was still struggling with the continuous impact of the incident.

Mrs. G: I know every morning when I come out, I'm looking at my tires every day and every morning I get in my car.

Mr. G: The middle of the night, you pop up, run outside quick.

Mrs. G: I'm still jumping up out of bed in the middle of the night to see if someone's out there. (P28:29)

Mr. D, another victim, said he was "just irritated, pissed off" (P29:2) when he discovered the vandalism to his car. According to him, it was just inconvenient, but Mr. D did not consider himself a victim. He shared his opinion:

[I]t's just property. If it doesn't happen directly to me, I don't think I'm a victim. If it's something that affects me or my kids physically or mentally, that's to me more of a victim than property damage. Property is property. It can be replaced. It can be fixed... Physically, mentally, (and) emotionally I'm not a victim. (P29:42)

However, as opposed to the view of himself, Mr. D saw the Gs as victims. He said, “[B]ecause it affected them a lot more than it did me because of their daughter’s situation, because of, so that’s a different thing to different people” (P29:42).

During the VOM, Paul, one of the mediators of the case, read a victim impact statement, which was sent by one individual victim unable to attend the VOM. It reflects the emotional and financial impacts on the victim and her family. It read:

I was puzzled at first. Then I was angry, when I found out the offenders were so young. I was also angry and it made no sense. Since I did not know them and I had not even meet or ever thought I would be a victim of a random crime. I also have a very young child and for 1 day, I had no transportation to take her anywhere. I had to borrow money to fix this. Just worry and wondering how I am going to pay for this. Crying, scared of who would do this to me. I borrowed money from family.

Victim Needs. In the interview with Mr. and Mrs. G, they emphasized ‘now they know better’ about why the vandalism happened to them because they were able to acquire some information at the VOM and after the VOM. One of the questions that Mrs. G asked at the VOM was whether the juveniles chose their cars randomly or intentionally. This question highlights the need for further information for the victims.

The Views on Each Other

The Juvenile Offenders. I begin this section by describing Andy because many participants, especially the victims, shared negative views of him. I also might have agreed with them before I met him for the interview. As described earlier, when I met him for the interview, Andy appeared very different than he had looked at the VOM. During the interview, Andy indicated that he was grateful that he did not go to

juvenile detention. I asked him what meaning it would have had for him to be locked in a detention center. He said, “It would make me feel like a bad person” (P22:30).

He added, “Because I’m usually kind to people. I don’t know what I was thinking that night to make me do that, but it just kind of went to me” (P22:30). Casey talked about Andy during his interview.

Andy, he kind of dresses differently. He likes to wear the baggy jeans, kind of like the rapper look. And you know...some people would probably think ‘Oh he’s a trouble maker.’ I was his friend and I didn’t think he was that much of a trouble maker and I still am...I doubt he’d do something like that again. (P24:40)

While Andy and Casey pointed out that Andy is not a bad person, Mr. D, one of the victims, shared his impression of Andy. He said, “He just didn’t seem like it. I’d probably be seeing him in court or that he’ll probably make another visit to court sometime somewhere down the road” (P29:14). It was not only Mr. D who saw Andy in this way. Mrs. G also noted,

I was sitting there thinking, oh, my gosh. This is a cocky little kid. I was like, he is just, there’s no emotions in him whatsoever and when he seen his mom start crying, he was like huh! Like oh my God, I just want to leave here! Like, oh! He just seemed so hard or something. (P36:78)

The participants also had negative views of Casey. Jesse’s mother shared her impression on Casey: “[J]ust the way, you noticed the way the boys came in, sat down. Jesse was way off over here. Casey in the middle...Center of attention, the gang leader, ring leader...that’s when I realized that, that Jesse was just following” (P25:19). As Jesse’s mother described, Casey was sitting in the middle between Andy and Jesse at the VOM (see Figure 4.3.2). And Casey seemed to try to represent the other two youth at the VOM, which gave the impression that he was the leader of the

three. Casey shared his perspective on the situation. In the interview, he expressed his regret that he had not remained quieter at the VOM (P24:27). He noted:

That night, you know, my senses were higher, you know. I'm going to get it over with. I'm going to get help with that...at the meeting I felt that I had to be kind of the leader because the other two weren't exactly speaking up. So that was that. I think it's just my personality, the way I am. (P24:22)

As opposed to Jesse's mother, Mr. D, a victim, shared a positive view on Casey. He said, "I always thought he was okay...I did see him a few times afterwards. I mean he waved hi to me but nothing bad" (P29:15).

Jesse also considered himself as a good person. I asked him, if his mother were with him at the interview, how she would describe him. Jesse said,

[A]s a good kid and good school student and that maybe, she thought I was confused about what I was doing and wasn't thinking...And, then, she probably thought that was just a big mistake that I made and stuff. (P23:50)

The Victims. Although seven victims were involved in this case, only two victim parties including a husband and wife participated in the VOM. Casey made an assumption regarding this fact, "I (if he were the victims) wouldn't want to see. In my mind, I wouldn't want to see the little rascals (themselves) that did that to me. I wouldn't want to do that. I wouldn't want to deal with them. I'd be too angry" (P24:36). The statement reflects how Casey perceived himself. At the same time, it demonstrates that he understood the magnitude of the effects the incident had on the victims. Casey also remembered the victim statement and the angry tone of the letter. He recalled, "The one lady that wrote the letter that Paul read, from what it sounded like, she was angry and *reasonably so*. And *reasonably so* [italics added]" (P24:38). Casey repeated "reasonably so" twice.

In the following statement, Andy's mother tried to put herself in the victims' position.

I feel for them (the victims), you know. I really do...if it was me waking up that morning and have an agenda, you know, a page long of things that I had to do today, and I go out and go, huh. I have no tires on my car, or my windows are busted out, or it's been painted on, and to grasp that feeling of how they felt that morning when they seen it, it's like, what could possibly, what could go through their mind?...how much anger and who could have done this. (P26:41)

Casey's father also shared how he felt for the victims when he was told about the incident.

I felt sorry for them because I've been vandalized...I could sympathize with them. I guess (it) is the word I'm looking for. I don't know. It sucks to be victimized like that...I felt real bad for the one family, I did. (P27:10)

Victim Offender Mediation: The Process

Immediate Intervention Program (IIP)

After the completion of the intake at the JIAC, the juvenile offenders were referred to the IIP. All of the juvenile offenders were given an opportunity to apply to the IIP. However, if they chose not to or failed to complete the process, then the traditional juvenile justice system would take over their cases. All of them chose to participate in the IIP and met their case managers.

In his application form for the IIP, Andy responded to a question "Why do you want an opportunity to complete this program?" He wrote, "So I will not have this on my record and so when I get a job I will have a better chance of getting it." For Casey, the reason was "To fix what I did wrong," whereas Jesse described, "[E]veryone deserve a second chance and people can change."

The IIP contracts indicated that all of them and their parents agreed to complete the program by following the criteria:

1. Complete 40 hours of community service work
2. Complete Victim Offender Mediation
3. Complete an essay stating how this incident has affected your life and the changes that will be made to prevent this from happening again
4. Meet with the IIP Coordinator as directed

One of the questions I asked the youth was why they chose diversion over court. Andy answered, "I don't think I got that choice. I think she (the IIP case manager) gave it to me...my mom got a note in the mail saying that I got a freebee staying out of juvey (juvenile detention) (P22:8). Andy's mother, however, emphasized that she chose to participate in the diversion program due to the reality that the extensive damage inflicted during the crime would have led to a felony on Andy's record. She thought that the diversion was the only way for him to keep his record clean (P26:6).

Preparing for the VOM

Preparation for the Victims

Mr. D, a victim, explained how he was informed about the VOM. He noted that he received a letter from the DA's office saying that his case was being turned over to mediation. Mr. D recalled that the letter stated that, if the mediation could not resolve his case, then it would go back to the DA for prosecution. According to Mr. D, the letter was neither helpful nor informative. He said, "That was only really, you know, this is when and where and if you want to show up" (P47:62). He expressed that it would have been more helpful for him to receive an explanation of the process

of the VOM (P47:62).

Mrs. G, another victim, recalled a phone call from Paul, a former program coordinator, prior to the VOM, as follows.

It might even have been six weeks before we had the thing, he told me exactly how it was going to work. You guys all sit down and you talk and you get everything out and he just explained everything to me and right then and there I was thinking that would be, we should really probably participate in this because I want to see what they have to say. (P46:48)

While Mrs. G thought it would be important for them to participate in the VOM, Mr. G repeatedly mentioned that he did not understand the VOM procedure.

Even when she (Mrs. G) told me about it, I kept saying, what is it? What is it? She said it's a mediation thing. Yeah, the first time I ever heard of it. I don't think she ever heard of it in the past either, so it was something maybe that we didn't understand. So it really didn't kind of make sense. So we thought maybe...because they (the juvenile offenders) were young and maybe the area we were in, they (DA's) were letting them off easy. (P47:60)

Paul explained the VOM preparation for the victims, usually accomplished by a phone call,

Prior to the mediation that we really don't know what's going to happen in this particular case. (Therefore) I impress upon them (victims) that it will be a safe environment, that the mediators are trained to deal with emotion, and any type of situation that occurs, that they're trained to handle that, that we could stop the mediation. (P47:63)

In the above, Paul talked about the phone calls he used to make before the VOM,

Rob, the current program coordinator, explained another way to prepare the victims, the check-in process:

They would come in a few minutes ahead of time (the VOM). I would have them sign the agreement, explain the agreement, explain restitution to them, answer any questions they have. But, this whole process takes place just before the mediation, so they don't have a lot of time to contemplate what's going to happen. (P47:67)

Preparation for the Offenders and Parents

As opposed to the victims, the offenders and parents went through an intake process before the VOM, in which each juvenile offender and their parent had to meet the program coordinator of the VOM. However, the three juvenile offenders did not remember much about the intake. This was interesting based on the fact that when I met them for the interviews, all three of them remembered details of the VOM even almost four months later. However, Andy shared what he remembered regarding the intake with Paul, “I just remember him talking about when the mediation of all the people, or when everybody was going to get together and talk about it” (P22:13).

Andy’s mother recalled her feeling of being overwhelmed at seeing so many people presented at the VOM, a total of 19 people, including observers. She noted that she was more surprised because she was not informed that there would be others besides the participants. She complained, “It wasn’t explained why everybody else was there...It was very overwhelming” (P47:59).

While Andy’s mother commented that she needed to know more about what was going to happen, in the following, Rob’s explanation reflects why the juvenile offenders and the parents were not fully informed,

[W]hen they (juvenile offenders and parents) come to intake, I just go through some minor processes about what will happen that night. *I explain that it’ll be an uncomfortable situation, and they will be nervous, they will be uncomfortable, but I never tell them what actually happens...they don’t have a clue what’s about to happen* [italics added]. (P47:64)

The following conversation with Rob shows the underlying principles of the approach addressed above.

Interviewer: Well, it's very interesting that you're not letting them (the juvenile offenders and parents) know that what's going to happen here purposely. Because, I wonder they would get really shocked.

Rob: Uh-huh. *I want them to come nervous. I want them to worry, and then, have expectations that it's going to be a whole worse than what it really is* [italics added]. I think, by the time they get done, they breathe a sigh of relief that it wasn't as bad as they themselves thought about it.

Interviewer: Then, what kind of preparation they would get?

Rob: Those guys? They don't get a whole lot. I don't, I don't spend a lot of time prepping them. I just, basically, tell them what the procedure is. They'll start off with an opening statement, we'll gather some data, they'll read the letter of apology, and we'll take a caucus and then, if there's restitution, we'll talk about that. That's the basic principle. (P47:65)

Participants' Motivations to Participate in VOM

The Victims

The victims indicated that the desire to gain answers to their questions motivated them to participate in the VOM. In particular, the victims were interested in knowing the intention of the crime, whether it was random or intentional. In the following, Mr. and Mrs. G shared why they wanted to participate in the VOM.

Why they did it? Why they picked our vehicle to damage the most out of everybody else's because everyone else said they just did a tire or a couple tires but they targeted both our vehicles. (P28:10)

For Mr. D, in addition to acquiring answers for his questions, he noted that he wanted to help out young people: "Just a chance to make it, I don't want to say easier on the kids but instead of going straight to the courts, trying to help the kids out more than just punishing them from the start" (P46:49). He also wanted to receive the restitution (P46:50).

In his interview, Paul noted that the victims did not have any choice but to participate in the VOM if they wanted to acquire any kind of restitution, either financial or emotional peace:

The victims didn't have a choice. It wasn't like the victims, went to the victims and said, we can either go to court with these victims or we can do mediation. That wasn't a choice for them. The offenders were placed in a diversion program, so the victims had no say so over that...so I think the process was, in their (the victims) mind, probably, well, this is all I'm going to get out of it, anyway, so I should go this route and participate in it. (P46:52)

Therefore, if a victim wants to have any kind of restitution, then he/she has to participate in the VOM directly. As discussed earlier, there was a victim who sent the victim statement instead of participating in the VOM directly. Although the victim stated that she wanted to obtain her restitution, she was not able to receive any type of restitution.

Regarding the motivations of the other victims who chose not to participate in the VOM, even though it was the only way for them to receive the restitution, Paul noted,

I think it's because of the lag time, the time when the offense occurred and when it was referred, so there was a lot of passage of time. I think the victims had moved on. There are other things going on in their lives, and they didn't want to take the time to participate. That's an assumption on my part. I think, another assumption is, they just didn't even want to mess with them, you know... Why? I've already spent too much time dealing with what these juveniles did to me...again, that's an assumption on my part, but I heard that from a number of victims in the two years that I was there. (P30:9)

The Schools. One of the biggest victims in this case was the schools that were vandalized. Although even the offenders' parents wanted the schools to join in the effort to hold the juveniles accountable for their actions, the schools did not

participate in the VOM process. Jesse's mother shared her experience with one of the school principals.

I wanted him (Jesse) to meet the principal from the schools. Those are his principals, you know...that was really my disappointment, was that they didn't, they weren't there, you know...not to be able to stand up to them and face that embarrassment, face what he did, and apologize, you know. (P25:15)

Paul, a mediator, shared his experience in working with the schools.

According to Paul, the schools were also informed about the VOM process as victims in this case because, as with the parents, he also believed that their participation would make a huge difference. He said he tried to contact the schools and the city park systems but they either did not return his phone calls or kept passing him from one person to another person (P30:31). Paul described his experience:

[M]y experience has been that it's, it was difficult to get public facilities to be involved. In this case, the school, the park...My assumptions are the red tape involved. I don't have time to deal with this. We've got other issues on the plate. This is just another juvenile crime. Our insurance is going to pay for the damages anyway...or just simply, who participates, not my problem...To a certain extent, I think, it's their lack of understanding of it. (P30:30)

The Offenders and Parents

As it was mandatory for the juveniles to attend the VOM, it was not surprising that they did not have much to say about their motivations for participating in the VOM. Andy mentioned that his motivation was, "Just wanted to get it over with" (P23:2). Casey shared similar motivations: "[T]o face what I did...getting it over with, getting it out of my system, getting it off my back, telling them why I did it" (P46:59).

Jesse's mother noted her motivation to attend the VOM, "I wanted him to go up to them and say, I'm sorry. Forgive me. I wanted him to do that, because he needed that for closure and to, to stand up for what he did...facing the victims" (P25:14).

The Mediators

One of the distinctive characteristics of this case from the other cases was the high amount of anticipated restitution, \$6,000. Therefore, Paul, the former coordinator of the program, was particularly cautious regarding the assignment of mediators for this case. Consequently, Paul ended up conducting the VOM with Rob, one of the most experienced mediators, according to Paul. It was unusual because, prior to this case, Paul usually tried to give the opportunity to other mediators while he held a supervisory role. He noted,

I think that was because we had a lot of new mediators coming on board. So, I wanted them to gain some experience involved in it. The other was because of the restitution, the severity of some of it was going on, I thought we needed somebody with some experience in order to mediate that. (P30:3)

Participants' Expectations for VOM

Casey's father addressed a different viewpoint regarding expectations. He said that he wished more of the victims had showed up to provide more of an impression on the juveniles.

I wish more of them would have showed up. I do because I think it would have had a bigger impact on them if more of the victims would have shown up...I wish more of them would have showed up so they could have had their say and could have said what they wanted to say to them and asked them why they did it and stuff because I still don't understand why they did it except for Mr. D's car. (P27:30)

Andy's mother expected the victims to be able to see that the boys were sorry. She said, "I wanted them (the victims) to, at least for my son, for them to see that he (Andy) was very sorry for what he did, you know, and how it impacted them" (P38:97).

As a mediator, Paul shared his expectations for the VOM:

[M]y main goal was to have the victims share how it affected their lives, to create that sense of community for the offenders and the change that occurred to them... The second was the restitution piece to get some compensation to the victims for the harm that was caused. (P30:17)

Looking Inside of the VOM

Below, Figure 4.3.2 depicts the seating of the VOM. While juvenile offenders (JO) and their parents (P), except the father who sat behind his son, sat side by side, the victims (V) sat across from the offender side. The two mediators (M) sat on the left side and I (R-researcher) sat directly behind the victims.

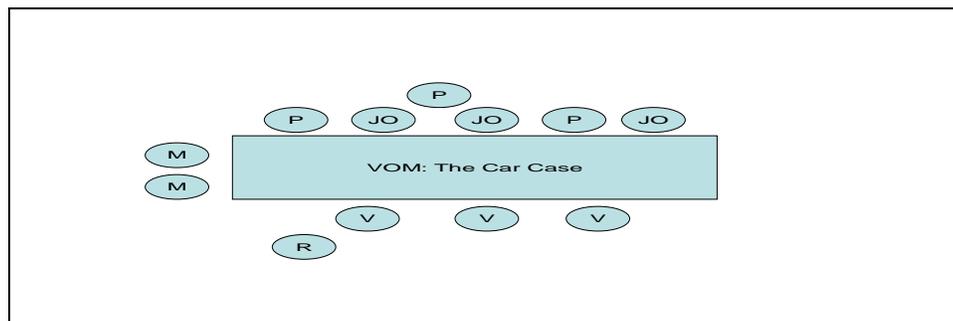


Figure 4.3.2. The seating of the mailbox bashing case

The Atmosphere

Andy stated that he felt comfortable at the VOM. According to him, the atmosphere was different than what he had expected before the session. He expected that the victims would be angry with them, but the victims were calm. He recalled,

“For that meeting, for everybody to be calm and nothing bad to come out of it. Pretty much for everybody to understand what happened and what was going on” (P22:24). He added, “There wasn’t a bad temper going around” (P22:18).

I asked Jesse if he would have any advice for a friend who might need to attend a VOM. He gave advice reflecting the atmosphere of the VOM he attended, stating, “I think I would tell him about this program, and it’s nothing to be afraid of. There’s some parts you’re going to be nervous and scared, but then you can get past that and then it’s pretty much smooth to the end” (P23:46).

Although the juveniles said that the atmosphere of the VOM was calm, as it was discussed earlier, when the victims began to share their stories of victimization and its impacts, the atmosphere became very emotional. One of the most emotional moments during the VOM was when Mr. and Mrs. G shared the impacts of the incident on their family, especially associated with their daughter. The responses from the parents and the juveniles were poignant. In particular, Jesse’s melt down into tears changed the energy of the VOM. Casey, who did not show much emotion on that night, opened up and showed his feelings by trying to calm Jesse down, patting his shoulder. When I spoke with Casey, I inquired about his thoughts at that time. He said, “[W]hen Jesse started crying, that really shocked me because he’s not that kind of person I didn’t think. I could definitely read his feelings then. Okay, he’s just like me” (P24:18).

I asked Mr. and Mrs. G if they had any concern about their safety, given the relatively severe nature of the crime. Mr. G said,

I felt more comfortable because there was a lot more people in the room than just the families and the offenders. They had a whole entourage sitting behind us, so, and I think they were paying attention really closely to everything. So I didn't feel unsafe at all...even though the one guy (Casey's father) did scare me, I was sitting there thinking, okay, there's all these other people around here so he can't do too much. (P28:35)

In the above, Mr. G indicated that he felt scared by a father at the VOM, even though he did not have a concern for safety. Mr. G was not an exception in that respect because, during their interviews, even the other offenders' mothers expressed feelings of being intimidated at the VOM. Casey's father, however, shared a very different perspective on the situation especially compared to other participants'. He noted,

I was mad. I wanted to just pop all three of them (the juveniles) right in the back of their heads...Yeah, I was mad, especially after the Gs' told how their day was that next day and all the things they had to do, what happened to them. I just wanted to pop all three of them, I really did. (P48:73)

Casey's father emphasized that he was mad at the boys, not the victims or other parents. During the interview, he also stressed that the payment for the restitution plan was too immediate for him, which led him to express his opinion in a blunt manner. In fact, Casey's father was very compassionate and apologetic to the victims in the interview, but unfortunately, at the VOM he appeared to be a scary person to the victims and the other two mothers.

Parental Involvement

Paul explained how important it was for the juvenile offenders to see their parents' involved in the VOM process.

I'm sure those parents of those juveniles went through this whole thing about how could you do this, this is inappropriate behavior, you're grounded, we're going to do this, we're going to do that, but then, to see or hear (at the VOM) your parents, then, turn around and apologize on your behalf and express to

strangers how hurtful it was to them and upsetting it was huge for those juveniles...Particularly that one juvenile (Jesse) when his mother began, you know, he was so very, very emotional about the whole thing. (P30:19)

As Paul described, the mothers of Jesse and Andy actively participated in the VOM. They were able to share their perceptions of the situation as well as their regrets. However, Casey's father did not participate in the discussion to a great extent, which, as discussed earlier, gave the other participants, including the victims, a negative impression. The father was able to share his honest opinion of the situation.

I didn't want to be right up on the table because it was the boys that the victims needed to say things to, not us. It was them. I'm not real good with words or expressing myself...I'm reserved I guess, laid back, quiet. (P48:73)

Mediators/Their Attitudes and Roles

In his interview, Paul noted, "The most that we (the mediators) can do is provide the forum" (P34:198). By the forum, he meant the physical surroundings and the coordination (P34:199). However, besides providing the forum, there were quite a few different functions that the mediators have provided and should have provided during the VOM.

Facilitating Conversation. In the following, Paul summarized what the mediators usually do in a VOM.

I hate using the term, gut feeling, because, as you know, that's just intuition...but I think...you base that intuition or that gut feeling on the response of the juvenile in terms of, to the interaction. Did you observe any light bulbs going on? Or, aha moments or those types of reactions? Same with the juveniles' parents. Do they see the reaction as well, or those moments as well? And, then, on the victim's side, do the victims leave with some sense of closure? (P39:77)

In the above, although Paul explained the mediators' roles by using the word

“intuition,” intuition usually involves keen observation of the dynamics among the participants, as well as acute sensitivity for each and everyone’s right. In other words, the mediators need to be equipped with skills, techniques, and attitudes, which helped in their roles to create the dialogue between victim and offender (P34:197).

When I asked the juvenile offenders what roles they observed in the mediators during the VOM, Andy told me that he did not hear them much that night. Instead, Andy said, “I was pretty much hearing the victims talking” (P34:175). Andy remembered a situation where Paul tried to facilitate conversation between the offenders and the victims. Andy said, “[W]hen she (Mrs. G) was crying...Paul told me to ask her why she was crying” (P34:174).

Empathic Listening. Andy remembered that the VOM environment was safe enough for him to say anything he wanted to say. He noted, “Yeah, it was good. Because every time one of us, either the victim wanted to talk or us boys wanted to talk, it was always quiet. And they (the mediators) let us say what we wanted to” (P34:176). However, Jesse’s experience was somewhat different from Andy’s experience. Jesse said,

[S]ometimes, they (the mediators) wouldn’t listen to what I was saying, pretty much. I was trying to say something, and then they would cut me off and tell me, no, you’re wrong. This is what you need to do and stuff like that. I was trying to, because I was sometimes confused about what I was supposed to do. (P34:177)

A Need for Being Neutral. At the VOM, Paul read the words that the juvenile offenders spray painted on the school walls. When he read it, he seemed to be somewhat confrontational with the offenders and it created some tension in the air.

Mr. D, a victim, commented on the situation.

Paul asked them (the juvenile offenders) what exactly was it that they did and I think it was that Andy that said, you know, “we spray painted some things, some words.” He (Paul) tried to get him (Andy) to say what words and he didn’t say them. He (Paul) said, well, let me refresh your memory and he read it off...They just didn’t want to repeat it in front of their parents...So I think that’s what he (Paul) was irritated about. (P34:190)

The following is Paul’s perspective on how he saw the situation.

I’ll admit...perhaps I could have maintained more of a neutral position on it, but when we asked the juveniles what they wrote, because they wrote extremely offensive things, and it was over the door to the preschool...and I was sure they never shared that with their parents, either, what was written on there. So, I thought it was important to really put on the table the fact that it wasn’t just the graffiti, it was the words that they used, which were highly offensive words, and that was important to have that on the table, one, for their parents to recognize the severity of it. (P34:200)

Casey’s father, however, complained that the mediators seemed to be more compassionate to the victims. He commented that it would have been better if the mediators had a little bit more compassion for both sides instead of just the victim’s side (P34:186). He shared what he observed during the VOM. He stated in a very firm tone,

I was expecting (a mediator) to be kind of hard but not like a judge because he’s not a judge...I think it seems like he’s just there for the victims, which is understandable because the stuff happened to them. But he kind of acted like the boys were just criminals right off the bat...and I didn’t like that. (P34:187)

Andy’s mother pointed out another aspect regarding the need for neutrality. She strongly complained that there was a moment where she was displeased because of the finger pointing approach by a mediator. She said,

[T]he beginning of the conversation that he started, he went to each individual boy, and asked, what part did you do? Did you do this? And, who did that? And, that I did not like at all. I thought that that was very unfair. Very unfair,

because he settled me when he said there wasn't going to be any finger pointing...it took a lot for me to sit there to get on with it, because I knew that my reaction wasn't going to be good if I got up and walked out. (P34:183)

A Need for Being Sensitive to Victims' Rights. As mentioned earlier, Mr. and Mrs. G expressed that they were scared by one of the offenders and his father. Mr. G shared what they felt:

Well, the only one that I was kind of scared of was Casey. Casey's father was in there when he said, "No. We're not paying this" (the restitution). And I was just like, oh, my gosh! Like he is a scary person. Like he was going to come banging on our door and just probably just do something stupid. He's the one who kind of scared me. (P34:189)

Even Casey's father also remembered the situation. He said, "I know I kind of sounded like an a** there when I kind of got loud in saying there's no way I can pay that in that amount of time when they told us what the restitution was" (P27:29). Even though the victims felt that they were threatened to a certain degree, the mediators did not intervene or clarify at that moment. When I asked Casey's father, the reason he became loud, he said, "I get paid twice a month, and the amount they (the victims and mediators) were wanting a month was more than one check that I get a month" (P27:37). Casey's father's response was more about his way to figure out how to pay the restitution, rather than being upset at the victims.

Jesse's mother shared a situation involving Mr. D, who was placed in a waiting room with the juvenile offenders and the parents before the VOM. She said,

Mr. D had come in, and they (the mediators) had put him in the same room with us, so we're sitting there talking about stuff what happened...and I didn't know who he was. Andy's mother thought he was my husband. He stood next to me, and then, I know he was very uncomfortable, you know. And, I really had a strong feeling that he was one of the victims...what a stupid mistake to put him in there with us at that time...I think he was mad about that...It was a

very big mistake. (P25:17)

Mr. D recalled how he felt at that time. He said, “I kind of realized that after about a minute that I was in the wrong room...And they started talking about amounts and payment...very uncomfortable” (P29:18).

Being respectful. Casey recalled that he was treated fairly by the mediators. He noted, “I think they were nice, respectful and were able to relate to me in a sort of sense because you know, everybody has messed up, maybe not as bad as we have, but you can always relate to somebody being messed up” (P34:178). However, Casey also added another observation about a mediator. The other parents also commented on the same mediator. First of all, Casey said,

I didn't really see any problems except with the mediator... What I thought was he had seen many cases like this before so I put it off to “*Oh he's used to stuff like this* [italics added].” He just doesn't want to trust them (offenders in general) (P34:180)

Earlier, Jesse mentioned that a mediator would not listen to what he was trying to say. Jesse's mother also noted, “The mediator's just a different person, I guess. Not very understanding...Very short with the kids” (P34:181).

Delivering the Apology

Community Service

One of the unique aspects of this case was that the juveniles were directed to do their 40 hours of community service, which were relatively longer, two to four times, than the other cases. However, Andy's mother noted, “[H]onestly, may not even be enough, to be honest with you. I mean, what they did was wrong, and they should be responsible for their actions” (P26:7).

Andy indicated that he performed his community service at a community volunteer center. He explained what he did at the place, “People would come in with orders and we’d stock up food for them. It was all right. It wasn’t too bad. It was pretty fun” (P22:9).

Jesse also did his community service at the community volunteer center. He informed me that he continued volunteering there after completing his community service hours. During the interview with him, I noticed that Jesse was enthusiastic and happy when he talked about his volunteer experiences. Also, it was the first time that he spoke at length to me about any issue. He shared his experiences:

Jesse: Because it’s fun there, and I’ve, I’ve, we’ve been looking for a volunteering place for quite a while, and I finally found one, and I’m just sticking to that...

Interviewer: It seems like you enjoy your volunteering work much.

Jesse: Because...I thought that I wanted to help people, and so, I just started doing it, and then figured out I do want to help people...I’m going to give back what I’ve done. I might give extra back, more than I’m supposed to give back. I might give extra. (P23:32)

During the interview, I challenged Jesse with a question regarding community service.

Interviewer: Well, some people say that the community service is not really helping the victims directly. You’re helping the other people, even though you committed a crime to the victims. What do you think about that?

Jesse: It helped me because while doing, helping other people, like I said, it gives you time to think about what you’ve done and how you can change it and maybe, later on, it’ll change you and maybe, you’ll learn to help instead of hurt them. It’s just like, something to learn about what you’ve done. (P23:45)

Jesse’s mother was proud of the changes she witnessed in her son. She said, “Seeing his strength in all this and seeing his character, seeing what kind of man he’d going to

be” (P25:29).

To understand the victims’ perspectives, I asked Mr. and Mrs. G this same question regarding the community service.

Interviewer: They’ve done 40 hours of community service.

Mrs. G: Oh, that’s right. They did get community service, too. That I did appreciate. I forgot about that. I was glad to hear that. They’re like community service...

Interviewer: ...but some people are not favorable of sentencing community service which benefits people who have nothing to do with the incident.

Mrs. G: I am because it makes them have to go out and do something, take time away from them having, I don’t know, sit around and watch TV or whatever. They have to get up and go help and do work. (P28:38)

Mr. D was also pleased that the juvenile offenders did their community service, even though it was not directly for him. He noted, “the community needs their service more than I do...There’s plenty of good stuff they can do out there” (P29:35).

Jesse’s mother, however, also shared an experience as a single parent of a juvenile offender needing to work two jobs as follows:

I talked to a person in charge of community service, and I explained to her my situation, and basically, she just didn’t care that I would have to. I can only take Jesse to community service on weekends. (The person said) “Well, we usually don’t have things on weekends. It’s after school. And, I’m working. I don’t know how I’m going to do that.” Well, I work, too. And, I just felt really offended by her remarks the first phone call I had with her.

The Letter of Apology

Andy informed me that he was very nervous when he learned that he had to read his letter at the VOM. However, he reported that once he had read the letter, he felt relieved (P22:21). I asked Andy what it meant for him to read the letter in front of the victims. He responded:

It meant that I actually thought about what I was reading and what I wrote was the truth. Instead of just writing stuff down that I didn't mean, I actually thought about it and I wrote it down. It took awhile to write, too...About three, four days. (P22:22)

Andy's mother recalled how hard it was for Andy to write the letter:

[M]aking him write his apology letter, I think, was the hardest part for him. Because, I don't think that was an easy task whatsoever...I read all of them, and I put myself in their shoes...I would not accept that if you read that to me...it made him really think about what he did (P26:16)

Andy's mother hoped that the victims could see the other side of Andy, the sincere Andy (P26:20). Andy thought his letter was well accepted, based on his reasoning as follows.

[B]ecause they didn't have an angry face on. They actually took time and thought about that we're teenagers and we don't think before we do it. And I think that they really understood...we understood that what we did was wrong. (P22:23)

Jesse's apology letter was very short. Jesse and his mother shared the reason for the brief letter in their interviews. Jesse did not bring his letter of apology to the VOM. In fact, he did not write the letter in advance. He noted, "Because we heard a lot of things that we were supposed to do, and it messed us up." Jesse's mother also recalled the situation, "I'm more upset with me for not remembering that he had to have that. There was so much information thrown at us." The mother continued to say,

[W]hen we got in there (a waiting room at the VOM), the two boys had theirs (the letter of apology), but, and I didn't even remember, and then when we came in, (a mediator's name), it was just very rude, about Jesse not having his letter...so I gave Jesse paper and pen, and said, hurry up and write it down, so I felt that we cheated them out of Jesse really putting down his apology. (P47:58)

Jesse recalled that it took only five minutes to write the letter. I asked what he was thinking at that time. He noted, “I need to really hurry up and finish this before I go out there. I was just thinking what’s going to go on, what are we going to do and how’s it going to effect me and what the other people will have to say” (P23:23). It is not difficult to imagine how much pressure he felt at that time because a number of people were waiting in the waiting room to begin the VOM while he was writing his letter. Although Jesse’s mother thought that Jesse’s letter was heartfelt and showed sincerity (P25:22), she also wished that they had taken the time to put more thought into the letter (P25:23). In regards to reading the letter out loud in front of the victims, Jesse noted that writing a letter of apology was a good way for him to connect to the victims (P23:24). But, he added another aspect:

[I]t was kind of something out loud in your class. It just felt like that. Just nervous, because reading out in front of people, you just get scared, like stage fright. And, you don’t want to mess up and everything...Because, they’re (the victims) just going to be listening...I didn’t want it to go wrong, because I didn’t want them to thinking I’m bad. (P23:19)

Jesse was very emotional when he was reading the letter. I inquired of him if he remembered that moment and what he may have been thinking at that time. He noted, “Oh, because, at that time, I was thinking about what I’d done and how I hurt them and just everything bad mixing in my head and just what I was thinking just came out and reading it at the same time mixed together just made me burst” (P23:20). Although Jesse did not see any positive acceptance in the victims’ faces, he thought they probably took it positively (P23:27). Jesse’s mother said that she definitely would recommend writing a letter of apology as a consequence for juvenile

offenders. She thought reading them out loud to the victims was a positive step. She added, “It needed to be done” (P25:24).

However, Jesse’s apology was not well accepted, according to Mr. and Mrs.

G. The victims shared their impression of the letter as:

Well, two of them were really good and I really liked the fact that they sat down and thought about it, but the one...he (Jesse) was just like I apologize. Sorry. I made a mistake. I thought it was fun and I shouldn’t have done it. Sorry or something like that. I thought, what! *What kind of apology letter is this?* [italics added]. (P28:26)

Decision-Making Process

The Caucus

In this case, the mediators did not hold a caucus. According to the practice guidelines of the program, after listening to the letter of apology the offenders and parents are expected to wait outside of the room so that the victims and mediators can discuss whether they will accept the apology or not. Instead of asking the offenders and parents to wait outside, the mediators asked the victims about their willingness to accept their apologies in the presence of the offenders and parents. I wondered if the victims felt any pressure to accept the apologies. Mrs. G answered, “I kind of did because I was still mad at them, still angry with the fact that they did that” (P28:27). However, two male victims, Mr. G and Mr. D, indicated that they did not feel any pressure.

The Contract

After listening to the letters of apology, the rest of the session was devoted to the discussion of the restitution. An important part of the contract centered on how to

pay the restitution. The offenders and their families appeared to have no issues with paying the agreed upon amount of money. They did not challenge the amount of money to be paid, nor did they ask any questions about the amount. Andy's mother recalled the situation,

It could have been worse... You know, they (the victims), absolutely deserve what they asked for, and it's not easy, but I can't expect my end to be easy when theirs wasn't, you know... In no way would I outright complain.
(P26:35)

They decided to divide the money by three, \$2,300.30 for each youth.

Although the offenders and their parents accepted the resolution of paying the restitution, they also shared their thoughts that it would be really challenging for them to pay the amount of money in a short period of time, within 90 days. Jesse's mother had to have a second job. As addressed earlier, Casey's father said that there was no way for him to pay back the amount of money within 90 days, leading him to ask Casey's grandfather pay the money. While the offenders' families and the mediators tried to figure out how to pay the restitution back, the victims sat silently in the meeting. Somehow, I felt that the victims might feel sorry for the parents, to pay that amount of money, even though the victims had had to borrow money to fix their cars. Mrs. G recalled the situation, "I felt bad because they had to pay it back in such a fast amount of the time and these people don't have extra money" (P28:12).

Since it was a large amount of money, I asked Paul if there was any resistance from the offender. He answered, "Surprisingly, no" (P30:28). He shared his observation on that situation.

[T]here wasn't any... to a certain extent; they were surprised it wasn't more.

Now, there's a hardship aspect to it, in that, how am I going to pay all this money out, but on the other hand, I think, particularly to the parents of the offenders realized that, you know, you have to repair the harm. (P30:28)

Regarding the issue of paying the restitution back in 90 days, Rob recalled what happened: "(Although there were some issues in terms of how to pay the money) They (the offenders' parents) were convinced to sign...He (Paul) explained it to them in such a fashion that they did sign it. There was a lot of unhappiness about it" (P34:208). Mr. D, a victim, noted, "More time should have been given to the parents" (P29:39).

While the parents of the juvenile offenders thought that the contract was fair enough for them, in the following conversation, Mr. D, as a victim, shares a different understanding of the contract.

Mr. D: [O]n the final contract, it was just a sign to agree to it. I mean there's nothing that I could say that would change the actual contract. It was just a contract between the DA and the offenders; not, I just signed off on it as saying, yeah, I saw it.

Interviewer: So you think that the contract was between the DA and the offenders?

Mr. D: Yeah.

Interviewer: But you signed it and to me it was more between you and the offenders, wasn't it?

Mr. D: Well, I didn't get that impression. My impression was here, sign this so we can show the DA that you were here basically. (P29:40)

While, Mr. D did not understand or was not informed that he was able to give input to the final agreement, Paul recalled, "The final agreement was the apologies were accepted, and that they agreed upon a restitution amount, and basically, I think that was it. They didn't, the victims didn't ask for anything else" (P30:27).

The Impact of the VOM

Up until the point I walked in I wanted those kids jailed for what they did.
(P36:75) – Mr. G (a victim)

Accountability

One of the questions that I asked both the victims and offenders and their parents was how they felt when they learned that their case was sent to a diversion program, rather than to the more punitive juvenile justice system. As expected, most juvenile offenders and parents were glad with the decision. However, the victims' response in the following indicates that they went through a different thought process from their counterparts.

Mr. G: [W]hen we first heard it, it kind of sounded like they were getting off easy and they were just going to go home and we would just talk to them and the they were gone; released from everything they did.

Mrs. G: Then, there was actually seeing the impact that it had on their parents and I think they (the juvenile offenders) finally realized we really did mess up. And I was like, good, at least they acknowledge it. They're just not like, gosh, get this over with. I want to leave. (P28:6)

The conversation indicates the shifting process for Mr. and Mrs. G during the VOM due to witnessing the changes in the juvenile offenders such as acknowledging what they did, a part of being held accountable.

As indicated above, a frequent comment during the interviews was “getting off easy” (P22:4; P26:15; P26:24; P28:6). Interestingly, Andy, an offender, thought that he “got off pretty easy” for what he did. However, the following excerpt suggests that he meant that, based on the severity of what he did, he “got off pretty easy.” It also shows that he understood the magnitude of the impacts of the incident. He said,

I think that I took my part of the blame on what I did and I think about what I did and the consequences and...I was pretty glad that back at the school I did tell them what I did. Because now if I wouldn't have got caught, I would have

probably been still doing this...I did get in trouble but I did learn a good lesson. (P42:13)

Andy's mother expressed that participating in the VOM was not an easy way to "get off" for herself and her son. She explained how hard the process had been for her.

[O]ne of the gentlemen (Mr. G) had, had commented, and it sticks in my head, that, they're getting off easy, and that really upset me, because they may not have been put behind those bars and handcuffed like any other criminal, but owning up to your responsibility in front of the victims, I think, is just as scary as sitting in front of a judge, and having the victims sitting on the other side still. (P26:24)

Andy's mother strongly believed that her son received appropriate punishment (P26:26).

Jesse's mother, however, shared a different perspective in regards to the youth being held fully accountable.

[H]e (Jesse) should have been over there (the school) painting the walls and cleaning it off with a toothbrush...I think they should have been held accountable by the schools, big time. I'm really upset with the schools not trying to enforce these kids to stand up to take responsibility for what they did. (P25:34)

The parents of the juvenile offenders offered the youth's labor if the victims needed it for such duties as their yard work. However, Mr. and Mrs. G said they never took advantage of it and I asked why not. While Mrs. G said "No," Mr. G explained: "It would be funny to have someone that did that (vandalism) to us sitting there doing the work that we're telling them to do. More like slavery. Persistence, you know. We were happy with the outcome completely" (P36:94). Casey wondered why the victims have not called him yet. He said, "I gave him my phone number. I don't know if he

lost it or not, but...if he needs work done and I'll like mow his yard for free for however long he wants me to" (P24:30).

Mr. D, another victim, believed that the community service and the VOM were adequate means of holding the juvenile offenders accountable for their crime. However, he added, "Unfortunately, being minors, their parents are held financially accountable" (P42:28). This understanding led him to waive his portion of the restitution, \$500, after attending the VOM. He stated that he felt sorry that the parents carried the burden (P42:26).

As part of the interview process, I inquired about the participants' perspectives regarding the \$500 waiver. To my surprise, the responses from the juvenile offenders and their parents were very different than what I expected, which illustrated the juveniles and parents' willingness to be held accountable.

In the following, I describe the offenders' perspectives first followed by the parents' views. Andy said, "[I]t's good because we have money left over, but it's bad because he (Mr. D) probably needs the money to fix his car" (P42:14). Casey noted, "I was happy, but it's his money. We owe him that still I feel...I feel that I don't deserve that. I feel that we should still pay that off because that was his car" (P42:16). When I interviewed Jesse at the dining table at his house, his mother was watching television in the living room adjacent to the dining table. Therefore, his mother was able to listen to some parts of the interview. In particular, when Jesse said that he did not understand why Mr. D waived the money and that he still owed Mr. D a large amount, I saw the mother's amusement. In her interview, I asked about her reaction,

When I heard Jesse say that...that made me feel so proud of him at that moment...I bet it was, like, nonchalantly, you know, we have to pay this much money. I was like, wait a minute. That's a lot of money, you stinker (laughter). (P42:17)

She added, "Jesse did get cheated out of paying back his debt to society, to him (Mr. D)" (P42:18). Andy's mother also noted,

I was very shocked when I got that letter. I almost wish he hadn't done that, really...I read the letter that Paul sent, and I read it, and I read it, and I read it. Because, I'm thinking, this is a man who said that the kids were getting off easy, but yet, he decided not to pursue this...I didn't understand it. (P42:22)

Casey's father also agreed. He shared his thoughts:

[F]or him to do that kind of made me feel worse...Yeah, because I already felt bad for him...It just didn't make sense to me at first. And then I just realized he seems like he's probably a pretty good guy and he really didn't deserve what happened to him, to his vehicle or anybody's. (P42:23)

Rob, as the current coordinator of the program, shared the offenders' progress in paying back the restitution: "This was over \$6,000 damage, and it's almost all paid off. Two more checks and all \$6,000 will have been paid" (P39:88).

The Benefits

A Learning Opportunity for the Juvenile Offenders

The juvenile offenders and their parents agreed that the VOM provided a learning opportunity for the youth. During the interview, Andy showed a lot of remorse and he seemed very sincere. He told me several times that he learned so much from the VOM. One of the remarks he mentioned several times was "Why I didn't think about it before I did it (P35:59). Andy mentioned that he realized that he was just trying to be "cool" when he was with his friends. He said, "Later in life it doesn't, it's not cool" (P35:61). Andy was confident that he would not do it again

because he learned a good lesson. According to Andy, the best lesson that he learned was, “Think about what you’re doing and think about the consequences” (P35:71).

The following passage shows how Andy already was behaving differently.

I would say before the mediation I would say I was more a show-off...Right now I would say I would think about it because I’ve had a couple of friends ask me if I wanted to do the same thing again and I told them that I’m not, if they want to do it they can but I’m not going to have anything to do with it. And they’ve tried doing the same thing by calling me a chicken and everything and I just walked away. It made me feel better. (P35:72)

Jesse was not an exception. He noted, “[N]ext time, if I’m in that situation I just might as well leave or try, if I’m with somebody, try to make them stop” (P35:75).

Andy’s mother also agreed that Andy learned a great lesson (P38:94). She noted, “What he did was bad, but as long as he learns from his mistakes, it makes him a better person” (P38:93). In concurrence with his mother, Andy noted, “I learned more discipline and more how to respect people” (P35:67). Andy added, “I’ve been more respectful to people. I’ve helped them (the parents) out more than I used to” (P35:69). In fact, when I visited Andy’s house for the interviews, he was helping his mother outside the house. His mother agreed that Andy is more respectful (P45:31). She said, “The biggest part of afterwards, is seeing in him the change as far as the respect” (P45:33).

Jesse shared his learning experience, which taught him the lesson of being responsible for his actions (P35:79). He said, “It’s telling me that I shouldn’t do what I did again, vandalism, and, you know, just telling me not to do it again and stick with the good side stuff” (P35:78). Jesse also noted, “That night, just wasn’t thinking and stuff, but now I’ve learned to think before I act...it’s helped me a lot. With my anger

and stuff like that. I pull back my anger so I don't end up in the same place" (P35:79). Jesse's mother agreed that Jesse learned a lesson: "He learned the hard way, but I think he learned a very valuable lesson" (P38:75). Jesse's mother believed that the VOM process would probably shape Jesse's life, affecting how he would be as an adult (P38:86). She noted,

This could change him to where he builds a better character, builds, you know, makes it stronger for his community sense, you know...I'm kind of glad that it happened, that we got to go through this process, that he's seeing the process, and that it's not something on T.V. (P38:86)

In answering the question of what he learned from the VOM process, Casey said he learned the wisdom not to repeat his crime. Casey noted, "It makes people come to terms with what they did. And so they are less likely do it again" (P35:90). Casey informed me that he has been working at a farm owned by his grandparents' neighbor to pay his grandparents back the money that they had paid for his portion of the restitution. When he talked about the work at the farm, Casey looked bright and happy. He even showed me the book listing the money he had paid back to his grandparents. The following excerpt shows how he felt about the work and what he learned from the place, which reflects an experience that broadened his horizon.

I've got a job I like...you don't want a job that you hate; you want a job that you like because if you have a job that you hate, you're probably going to hate that job for the rest of your life. If you have a job that you like, you'll be more flexible. You can like your job and not be miserable the rest of your life. I like working with animals. (P45:27)

Casey's father observed positive changes in Casey. He noted, "Does more of what he's told now instead of trying to rebel I guess you know. And he's choosing his friends a little bit more wisely instead of trying to be the cool guy I guess at school.

And he's doing better in school" (P45:35).

A Second Chance for the Juvenile Offenders

Jesse appreciated that the VOM was a good chance for him to clear his record (P35:74). Jesse's mother also was thankful that his record will be clean. She even commented that she looked at the diversion as a blessing when she was expecting her son to go straight into court (P37:76). She noted, "All kids deserve a chance" (P38:88). She emphasized that the decision should be made by taking the "bigger picture" into consideration. She elaborated,

If you take a whole look at the picture of the child's... They're good kids. They're not in trouble at school. They get good grades. They're always at school. Good family life, good, you know. Take that into consideration, and that's what they did, which I'm glad they did. (P38:88)

Jesse's mother believed, "[I]f you throw the book at them, there's no home, there's no chance, there's no forgiveness, that's what we're teaching our kids in society, I think that's the wrong message" (P25:40), which the victims also agreed. In the following,

Mr. and Mrs. G compare the VOM to a traditional juvenile justice system:

Mr. G: [I]t seems better than throwing them in the system and letting them go through there and then just throwing them back out...

Mrs. G: And then it wasn't in a courtroom setting either, so they could actually look at you right and pay attention and don't have to worry about someone judging over them like a judge. And scaring them even more so they don't want to talk. (P36:89)

Casey's father also mentioned that he was grateful for the chance for Casey to participate in VOM. At the same time, he noted, "I think it probably doesn't drain the court system. I think that's why it's a good alternative to the court system for small stuff like vandalism and shoplifting" (P40:31).

Not only the offenders and their parents, but the victims also appreciated the VOM for the opportunity to provide a second chance for the youth. Mr. G said,

[I]t gives them a chance to keep their record clean. I guess this is what this does instead of filing a charge or something against them... Which gives them that chance and most of those kids in there said they wanted to join the military. So this won't be hanging on them when they start. (P36:90)

Similarly, Mr. D recalled what he said to the juvenile offenders at the VOM, "Be glad that you're sitting here saying you're sorry to me instead of saying sorry to a judge and then getting hauled off to jail" (P48:76).

An Opportunity to Put a Human Face on It: Seeing Different Aspects of the Crime

Mr. D, a victim, mentioned one of the benefits he appreciated as, "Just being able to sit across the table from them...put a face, put a person to the crime I guess" (P36:103). According to Paul, a program coordinator, the VOM provides "an opportunity to actually interact with the offenders, to sit down across the table, face to face, and share their story. In a court of law, that probably would not have happened, not to that extent" (P39:63). Mr. and Mrs. G, the victims, also appreciated the chance to talk to the offenders and their parents directly at the VOM. Mr. G noted,

I thought it was good because normally you don't get to talk back and forth and they don't get to really hear what affect the people that they have done it to and by having them there, the parents, they made them realize I think more that it was a stupid thing to do. (P36:81)

In specific, Mr. G mentioned,

It seems like it impacts them really greatly, being able to hear what they've done...what the impact was to the family. They don't know what was happening during that family's lifetime at the time they did that. And they got to hear it. (P36:89).

As the victims mentioned above, the following excerpts show in which Paul told

Andy to ask why Mrs. G was crying. Andy noted,

I wasn't expecting her (Mrs. G) to say all of that about her kids needing to go to the hospital. For me it made a big difference on how I affected their lives and how doing one thing that might be fun could mess up someone's life. (P35:62)

Casey also remembered the situation. He elaborated, "[W]hat really gets me is Mrs. G started crying when she told us about how she had to take the kid to the hospital and they only had one car and that really got me" (P35:85).

The parents of the youth made comments similar to the victims' statements. Jesse's mother noted, "Until you actually put a face with what he'd done, he's not really going to, it's not really going to hit, you know, until you put a face and the lives of what he's done to these people" (P38:80). She also mentioned, "Regardless whether they (the victims) cuss him (Jesse) out or accept his apology or not...everyone should face them (the victims) and say they're (the juveniles) sorry" (P38:84). Andy's mother also reported that the best aspect of the VOM was that everybody got together. She said, "[T]he end result was very humble...of course I was very upset, but I walked out of there, and I felt good that the boys saw the other side of it" (P38:90). She also noted,

[I]f they didn't have to do that mediation, I don't think that they would feel as bad. I really don't. I don't think that they would have seen the difference, which I seen in them. I have seen the difference from them walking in that door and sitting down in front of the people. (P26:22)

Earlier, I described the difficulties that Andy had experienced such as nightmares and flashbacks. Although the flashbacks sounded like an unpleasant experience for Andy, I also thought that it was because of Andy's increased

understanding of the victims as well as his enhanced conscience. I inquired about when he started experiencing the flashbacks. In the below, Andy made a clear distinction. He said,

I'd say before it (the VOM) didn't really affect me, but after I did it, it really affected me. Because I used to go riding my bike around up there and I would pass her house and I wouldn't think anything about it. And then after the mediation I would do the same thing and I would always just sit there and stare at it and what I did. (P35:68)

As Andy and his friends also had vandalized the schools, I asked Andy how he felt when he passed by the schools in the community. It should be noted that the schools did not participate in the VOM. Andy noted,

To the school, I don't have really the same effect. I just look at it and I get a flashback but I don't really get a flashback like I did when I pass the victim's house... The school, when I look at it, I just see it as a school but the victim's house, I just, that night, what I did, the picture pops back in my head. (P35:70)

The youth considered the restitution as being fair. In particular, Casey shared his point of view on restitution, "Well, I feel that it's fair. I should feel oh no that's too much, but it's not. It's what we did so I feel fair about it" (P35:88). In the above, he stated that it was fair for them to pay the agreed upon amount of money to the victims. Then, Casey changed his mind, "For them, in the legal sense it's fair. To me, and probably to them too, it might not be. *The money is not going to take away all the pain and regret and everything that happened* [italics added]" (P35:88).

An Opportunity for a Better Understanding of Each Other

Listening to each other was an opportunity for both parties to have a better understanding about each other. Andy noted, "I didn't think that the victims would really respect us kids for what we did. I think actually they heard our stories"

(P35:64). While the juvenile offenders also appreciated the victims' understanding of them, the victims shared their stories. During the interview with Mr. G, he mentioned several times that, before the VOM, he wanted to put the offenders in jail (P36:83).

However, after attending the VOM, he changed his mind.

Afterwards, I think that things worked out and that what they realized they did to their own families and to the other families. It was better for them in the long-run to realize and to meet with everybody so they could hear the impact and hopefully it's changed their lives. (P36:87)

An increased understanding was not limited to only the juveniles. Mrs. G shared how she felt about the parents after the VOM. She noted, "I felt sorry for them (the parents) because of what their kids did and what they were going to have to do and they just seemed like normal everyday people like us and their kids just made a huge mistake" (P36:80). Mr. D also felt sorry for the parents. He said, "Before (the VOM) I was mad...But after meeting, I felt sorry for the parents...They're the ones that had to pay the restitution" (P36:97). Mr. D said that the VOM process helped him to have more compassion for the parents, which led him to drop his portion of the restitution, as described earlier.

Mr. and Mrs. G shared a story in which they met Casey and his mother, who did not attend the VOM, at a local mall. The story reflects how the VOM has changed the victims' perspectives.

Mrs. G: It was Casey. I saw him in a Mart last Friday. He was in there with his mother and I had never seen his mother and I thought that was strange that his mother didn't show up here (VOM). It was his father. But I've seen him (Casey) there and he was talking to my son and she was nice and jolly and everything until she said, who is this? And he (Casey) goes, this is Mark (Mr. and Mrs. G's son). And he goes, Mark G. And she's like, the Gs' son? And her whole attitude just changed

and I was like oh, my goodness. Like Mark, get over here. I was thinking oh my God, this woman hates us. And she doesn't even know us. But I was sitting there thinking it's probably the fact that they have to pay that restitution back that's really getting.

Mr. G: And she wasn't involved in the process, so she didn't get to hear.

Mrs. G: Nothing, so she probably doesn't really know how it went or and *if she was here (the VOM) it would have been much better because you would understand and see everybody's emotions* [italics added].

Mr. G: In her mind... Her kid did that but she's having to pay us because of what he did. And in a way the parents were victims, too.

Mrs. G: ...But if she was at that meeting she probably would have understood a little better. (P36:74)

As mentioned above, Mr. and Mrs. G witnessed their son was talking to

Casey, which made them happy because they used to have a negative relationship.

This illustrates another of the changes that had occurred between his children and the juvenile offenders at school,

I think they get along better now than they did before... They (the juvenile offenders) apologized to them (Mr. G's children). My son told them, forget it. It's over with. It's being taken care of and from that point, I mean before that it was always like conflict and fighting, get away, you know. And now it's like they want to be a friend. Now I think they've got a different perspective of even that with our son than they had before. (P36:92)

An Empowering Experience for the Participants

Mr. and Mrs. G mentioned that the VOM eased their minds a little bit (P36:93) because they were able to confront the juveniles, ask them why they destroyed their property, and to receive answers to their questions. Mr. G elaborated about how the VOM eased their minds in the excerpt below.

A little bit I guess. I mean it might have been different if we never caught the kids that did it. But at least we got them, we caught them and we got to confront them. We kind of know what the thinking was at the time and why they did it. Kind of knowing that eased our minds a little bit. I mean we could still be going crazy thinking why those kids ever did it. But at least we know and we know why and we know that they're feeling bad about it. (P36:91)

The empowering experience was not only limited to the victims. Below, Casey, one of the juvenile offenders, shared how the VOM was empowering for him.

[W]ith the mediation system...I feel you have to face what you did. You have to face the people that you hurt. So you'll see what your consequences are and you'll see what happened. Some people might brush that aside and say I can get out of this the easy way, but I didn't. I felt that I faced what I did and I saw what the consequences were and it helped me get a lot off my chest. It gets better. (P35:91)

As discussed in the Community Service section, the juveniles were grateful for the opportunity to perform the community service. According to Jesse, it was a chance for him to pay back to society for his crime as well as to better know himself (P35:76). He said, "I thought that I wanted to help people, and so, I just started doing it (community service), and then figured out I do want to help people" (P35:77). Jesse elaborated on what he learned, from his community service experience to attending the VOM. He said, "Before, I felt like what I've done is bad. Now, since I've given back everything I could, I feel a lot better than that. People probably think different about me now. And, they're probably starting to think good things now" (P35:80).

An Opportunity for the Victims to Ask Questions

Earlier, the victims described one of their motivations for participating in the VOM as acquiring the answers to their questions. Mrs. G stated that she wanted to know why they did it and why they chose to damage their vehicle. Mrs. G indicated that the juvenile offenders answered everything that they wanted to know (P36:72). However, even though, as Mrs. G said, they gained the answers that they wanted to know, later in the interview with them, they also stated that the information that the

juvenile offenders provided at the VOM was not truthful. Mr. G noted,

They said it was random but even since then a couple of them have talked to our son and they actually had the plans and everything drawn out of what they were going to be doing that night. . . It gradually is coming out more and more as they get along with my son. (P36:73)

Mr. D also previously mentioned that the vandalism to his car was definitely intentional based upon the history between his step-daughter and Casey's family.

Although he already knew this information, Mr. D said, "I just expected to get some answers on why. And that was pretty much answered by they were bored" (P36:99).

An Opportunity to Move on (A Sense of Closure)

During the interview, Mrs. G became emotional when she talked about the effects of the incident and told me that it is still difficult for her. However, the conversation with her and her husband demonstrated some signs that they were moving on from the incident. For example, as discussed earlier, they stated that they felt their minds were "eased" by the VOM process. Also, they mentioned the changed relationship between their children and the juvenile offenders at school. In particular, their son, Mark, was able to say to the offenders when they apologized, "Forget it. It's over with. It's being taken care of" (P36:92). For Mr. D, he even gave up his portion of the restitution based on his newly formed compassion for the juvenile offenders' parents.

Paul explained how closure occurs in general, based on his experiences, as well as how it occurred in this case.

[O]ftentimes, in these cases of offenses occurred, there is no closure, and I think that's what's, I think that's the great thing about Victim Offender Mediation, that it brings closure to, to what's occurred, rather than just, I

wonder who did that to my car. Did they do it? Was it him? Was it my neighbor? Because, our minds leap to all of these huge assumptions, so when you get down to the table, you can bring closure to it. I feel better about it, now. I've got closure. I'm not happy what happened. I'm still pissed off about it, but at least now I know, and I have some closure. (P39:68)

Therefore, according to Paul, the victims being able to have the answers for their questions, being able to ease their minds and being able to have a better understanding of each other are all related to the victims being able to have a sense of closure.

Paul explained that closure might mean different things to different people. While the victims were able to experience closure by getting answers to their questions, the closure came in different ways to the offenders' parents. In particular, Jesse's mother shared her perspectives on closure. She said, "I wanted him to do that (apologize), because he (Jesse) needed that for closure and to stand up for what he did. It was wrong. Totally wrong what he did" (P38:77).

An Efficient Process for Victims

Mrs. G noted, "I wanted to know when we were getting paid back. And they answered everything that day. I didn't know it was going to be that quick" (P36:76). Mr. and Mrs. G appreciated not only the quicker process of the VOM compared to the court process, but also the chance for the parents and juvenile offenders to decide whether they want to pay the restitution or go back to the court (P36:84). Rob confirmed what the G family observed. He said, "If they go to detention, they would not be getting restitution as quickly and as easily as we're able to get them through the diversion program...The state don't really care about the victim when it comes to

trial” (P39:84).

Case Summary and Lessons Learned

This case provides insights into the VOM experiences involving multiple victims and offenders with high amount of restitution. It also shows the emotional aspects related to the criminal damage charges.

What Went Well?

The VOM provided a forum for the victims and offenders and their parents to have the opportunity to talk about the impacts of the incident. The victims were able to ask questions and acquire answers. They were able to share their victimization experiences with the offenders, which enabled the offenders to see the different effects of their criminal actions. In the VOM session, the victims were able to see the changes in the juvenile offenders. While they thought at first that the youth would “get off” easily for what they did, and while they initially wanted them to be put in jail, they changed their minds after seeing the impact on the offenders and their parents during the VOM session. The victims’ interviews illustrated that the healing had begun not only in the relationship between the offenders and victims, but also between the offenders and the victims’ children at school. The offenders did express remorse for their crimes to me during their personal interviews. They also told me that it was important for them to have had the opportunity to listen to the victims’ perspectives which resulted in the juveniles subsequently changing their behaviors. The juveniles seemed to have learned that, just because something seemed to be “cool” at the time, later they would not view it as “cool.” In other words, they had

learned to control their immediate responses, and to consider the potential future consequences that may occur due to their actions.

What Could Be Done Differently?

The findings showed that the juvenile offenders were not completely straightforward about what actually happened during the VOM. For example, it was later discovered during the personal interviews held with the offenders, that the crime had actually been planned ahead of time, as opposed to what they said at the VOM. Upon interviewing the victims, I also discovered that they had actually learned the truth at a later time. Furthermore, I also learned, when interviewing a mediator in this case that, prior to the VOM, the person intentionally withheld detailed information from the juveniles regarding “what’s going to happen in the VOM.” The mediator noted that he had done this to “scare them.” These findings reveal that the mediator’s choice to withhold information may have resulted in a more defensive posture by the offenders, as well as their parents, in the VOM sessions, as opposed to the offender being fully informed about what they could expect at the VOM session.

Parents of the offenders also complained that they felt the mediators were not being fair with their children. Offenders also noted that they oftentimes felt like they were not heard by the mediators in the VOM sessions. One offender mentioned that the mediators seemed to have so many cases and, therefore, were not able to adequately pay attention to each juvenile’s particular story. The parents felt that these mediators’ approaches served to alienate the offenders even further. Parents also noted that they thought that there was too much focus on the victims and not enough

focus given to the offenders. They suggested that better listening in the sessions by the mediator could help them to feel more relaxed and to believe that their stories were being heard and acknowledged at the VOM. One parent said the mediators should be more compassionate with the juvenile offenders. This suggests that mediators should be aware of the needs of all the participants in the VOM sessions.

There were several procedural and situational aspects of the VOM which illustrated some insensitivity to victims in the program. First, the victims shared that they felt threatened by a certain offender and parent during part of the VOM. However, the mediator did not intervene. The victims' feeling of being threatened implies that the mediator should have intervened after sensing the victims' distress.

Second, one victim also informed me during the interview that she felt pressured to accept the apology, even though she was still upset with the offenders. However, in this case, the caucus was not held and, therefore, the victim felt pressured to accept the apology in front of the offenders and their parents. The lesson learned here is that consistency needs to be exercised in all VOM sessions. In specific, consistency in holding caucuses is important to ascertain that everyone, especially the victims, is in agreement.

Third, in this case, a mediator insisted that the offenders' parents sign a restitution agreement to be paid within 90 days. The procedural aspects of including the victims in the discussions with the offenders and their parents were not always followed in this process. This resulted in the victims feeling bad that the parents were somewhat "forced" to sign a restitution agreement. The victims knew the suggested

agreement would place a burden on the parents. From this observation, the victims were of the opinion that the contract for restitution was an agreement between the DA's office and the offenders, rather than between the victims and the offenders. The important point here is that restitution needed to be repaid within 90 days. The victims, who felt that the 90 day repayment period was too short, were only allowed to observe the discussion. This aspect of the VOM indicates a need for the mediators to lessen the victims' guilty feelings that by including the victim in the process of negotiation.

Suggestions from Participants

- Parent
 - One parent described a need for parents to have a prolonged time period in which to repay the required restitution.
 - Another parent suggested that when the schools are part of the victim system for a particular crime, then they should be involved in the VOM sessions in order to hold the juvenile offenders more accountable.
- Victim
 - All of the victims wished to hear about how the juvenile offenders were doing, especially related to fulfilling their court-ordered responsibilities. The victim described this as a need for adequate follow-up.
 - All of the victims suggested a longer period of time for the parents to comply with the required restitution.
- Mediator

- A mediator expressed a need for more funding with increased awareness in the county to make the VOM a better quality program.
- A mediator suggested a need for the involvement of the schools in the VOM process.

CHAPTER 4.4: THE INVOLUNTARY MANSLAUGHTER CASE

Participants and Their Stories

In May of 2007, Dan, a 17 year-old African American juvenile offender and his family, including his biological mother, father and a supporter, participated in the VOM process. Two members of the victim's family, Ms. J, a step daughter of the victim from the victim's previous marriage, and Mr. P, a cousin of the victim, also participated in the process. In addition to Paul, two more mediators, David and Michelle, were also involved in the VOM.

Dan was prosecuted for involuntary manslaughter in the death of his step-father, John, in July, 2005. John was married to Dan's mother for about two years even though their relationship lasted about five years. Before a transfer to a state juvenile correction complex, where he had served about a year, Dan had stayed approximately another year in a juvenile detention center, awaiting trial. During that time, Dan had two mistrials, which were combative according to the victim's family, and Dan did not take the stand (P46:4), frustrating the victim's family (P4:41). In contrast, the VOM, which was designed to encourage the conversation between the juvenile offender and the victim's family, displeased Dan's parents.

As the time neared for Dan's release, Cathy, Dan's probation officer, referred Dan to the VOM as a part of the special conditions of his release. If Dan would fail to complete the VOM with the victim family, his release would have been revoked by the court.

Given the severity of the crime, the interviews with the offender, his mother, and the two victim's family members took place at the VOM. In addition, unlike the other previous three cases, I was not able observe the VOM for this case.

Table 4.4

Demographics: The Involuntary Manslaughter Case

Participants	Name	Sex (Race)	Age	Interview Place
Victim's family	Ms. J	Female (African American)	30s	VOM
	Mr. P	Male (African American)	40s	VOM
Juvenile Offender	Dan	Male (African American)	17	VOM
Offender's Parent	Dan's mother	Female (African American)	50s	VOM
Mediators	Paul	Male (Caucasian)	50s	Office
	David	Male (Caucasian)	50s	Office
	Michelle	Female (African American)	50s	Office
Referral Source	Cathy	Female (Caucasian) Dan's probation officer	30s	Office

Note. All names are pseudonyms.

The Chronology: The Paths from Incident to the VOM

Cathy, a probation officer at a county community corrections office made a referral to the VOM for Dan in February, 2007, when Dan was still serving his time in a state juvenile correctional complex and was about to be released at the end of March, 2007.

Upon receiving the referral, Paul, a coordinator of the VOM project, sent out a letter to Dan's mother early in March, 2007. The letter emphasized that the VOM is a requirement of Dan's release from Community Corrections and that failure to participate in the mediation process or missing the appointments could jeopardize his

conditional release. Paul also sent out letters to the victims about a week later, letting them know that the VOM is a requirement of Dan's release from Community Corrections. The letter also informed the victims that the VOM will focus on repairing the harm done to the victim's family and relationships. It read:

While participation is voluntary on your part, it would be most helpful for the mediation process if you would participate... We believe your participation will prove to be an expedient and efficient method of justice for you, your family, and your community.

While Paul began to contact the victims to encourage their participation in the VOM process, given the nature of the crime, he also selected two experienced mediators to aid in the process. In preparation for the VOM, David, one of mediators, met Dan and his mother beforehand, whereas Paul was responsible for preparing the victims. The VOM occurred during May, 2007. Figure 4.4.1 depicts the paths that the participants went through from the incident to the VOM.

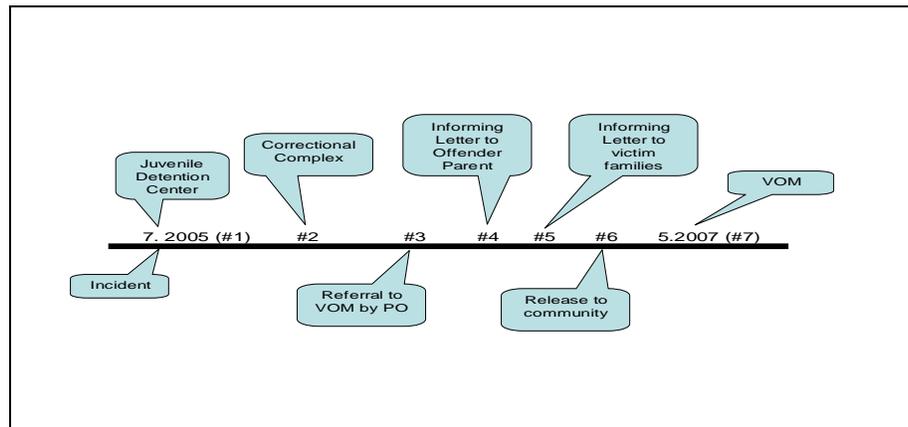


Figure 4.4.1. The chronology of the involuntary manslaughter case

The Incident

The Views on the Incident

According to Mr. P, John, the victim, was his first cousin and they had a very good relationship (P4:2). Mr. P shared a story about John, which reflects upon the importance of his existence when he was alive. He noted,

[W]e have a large family. There's forty-six first cousins, and I would say, out of forty-six, there's probably thirty-six that are really connected. John did not miss calling you on your birthday...one day of the year, you would get that call...It was almost an automatic that you were going to get a call or he was going to come by...that's the kind of person he was...John would always be the first one if you were in need or whatever, you know. He would always try to be there. (P4:71)

In the following, Mr. P noted his understanding of the situation that resulted in his cousin's death.

[A]nger's a funny thing, you know, and I truly don't believe that his (Dan's) intent was to harm or kill John. I think sometimes your emotions and your anger takes over and sometimes a reaction happens, that you don't control...that's what it is, but I think, there's still responsibility for it. (P43:2)

While Mr. P perceived the situation as uncontrolled anger and its consequence on Dan's part, Dan's mother argued that people have to look at the incident in a different way. According to her, John went through with a lot of stresses based on his physical, financial, and familial issues. She noted,

[M]y husband was very, very angry (on the day). He was in a rage (because of the reasons addressed in the above). And for some reason, this situation blew up over bees in a van...So when Dan came down the stairs, he (John) started to focus his anger on him...And him and Dan have had arguments before. When he has gotten angry, he's (John) always walked out the door...But this time he didn't. And then he goes, "Just say one more word." And he had sent Dan to his room. And Dan was going to his room. And Dan said one more word and he just snapped. And he (John) jumped up and he took the stairs four or five at a time, going after him in a rage...I was in fear of my son's life because he'd (John) never been so angry...He's (Dan) 14. John's 50 and he's 265 pounds...only the good Lord knows what happened. (P44:3)

Then, the mother asked, “What are you going to do if you’re confronted with somebody in a rage and that they hit the door? I wasn’t there. He (Dan) had no place to run” (P44:4). Dan’s mother summarized the situation as follows: “[T]he biggest choice was on my husband because he was the grown-up and he (Dan) was the child” (P41:4).

Ms. J, the step-daughter of John, noted her understanding regarding the situation.

We don’t really know what happened. The only three people that do is Dan, his mother, and John, and the two that are left are pretty much blaming the victim...to me, you know, playing the blame game is definitely not the route to go. (P3:31)

The Continuing Impact of the Incident: Juvenile Offender and Parent

“[T]here is beauty amongst the sadness, but if you’re strong enough, you’ll always see the beauty. So if you take it one day at a time, one minute at a time, you haven’t missed anything along the way.” (P2:40) – The mother

One of the things that Dan’s mother emphasized at the interview was “You can’t help; you can’t change it; you have to live with it” (P2:37). As Dan’s mother did, the other participants shared their stories encompassing the continuing impacts of the incident that they will live with for the rest of their lives.

It was no exception for Dan. He said, “I keep thinking about this, it’s going to affect my lifestyle goals” (P41:2). Dan, who served his time for about two years in jail, shared his experience regarding the difficulties experienced in reintegrating into the community.

I’ve been doing that for two years and as I’ve gotten older, I’ve just gotten used to it. It just seems like you grow up too quick when you’re around people you were with a long time ago when you get out. It’s like you don’t know

them. It's like they don't know you no more. You're a whole different person. (P1:8)

As it has been difficult for Dan, so it has been for his mother. She stated,

[I]t was just a long - to see him go to have a birthday and Christmas and all the holidays behind bars...It's kind of like you see your son who went in there at 14 and you see a man that came out. And it's hard sometimes to adjust because I still think of him as (a kid) - but (now) he's opinionated, he's strong, and he knows what he wants. Sometimes there's an argument. (P2:8)

Although Dan did not say much about the experience in jail, his mother shared some stories which illustrate the unseen and unheard aspects of his life in jail as a young person.

There was a situation where he had wrote me a letter, and he said...“When you get this letter I will probably be put in the hole they call it because there comes a time that you have to fight for your rights and don't let anybody push you around”...He goes, “Mom the philosophy is this. If you get in a fight, you both go to the hole.” He says, “If you stand there and let somebody beat you up, you can go to the infirmary; then they send you to the hole.” So he says, “If I get in a fight, I'm going to fight back”...So he's become very opinionated and he knows what's right, he knows what's wrong, and he's willing to argue that point. (P2:9)

[H]e's lived a life that I have never lived. He's seen things that I've never seen... “Mom,” he goes, “You don't know how good it is to be home and you can be able to shut the door to go use the bathroom.” You know, your life is an open book and stuff like that. (P38:5)

The Continuing Impact of the Incident: Victims

Victimization: The Definition and Impact. This section describes the devastating impacts of the victimization by losing a step-father and a first cousin. Ms. J and Mr. P spoke of how it was difficult for them to lose John. However, it should be acknowledged that, as Mr. P described, the relationships between John and Mr. P and John and Ms. J, the step daughter were different (P4:87), which resulted in different

reactions from the individual family members. According to Paul, when he contacted the victims for the first time, Mr. P was more ready to move on, whereas Ms. J was more upset with Dan (P5:30).

In explaining his victimization experience, Mr. P said, “We were victimized because somebody was taken from us that we all loved, we truly loved” (P4:70). However, he did not want to define himself as a victim: “To be a victim, you have to let somebody victimize you. And I refuse to let that happen. But, there was something taken away from us...and that’s where I sit at as far as being a victim” (P4:72).

During the interview, Ms. J was very emotional. In describing herself, Ms. J said she was “a very happy, bubbly, and very happy-go-lucky person” before the incident. Now, she finds that she is not happy anymore (P3:67). She stated, “I can’t begin to tell you how I was really devastated. I mean, this had almost broken me, and that’s really painful even to admit” (P3:72). At some point of the interview, she sounded very angry and I let her know that I sensed the anger inside of her. She noted,

I don’t think I’ll ever get over John’s death. Really, it affected me tremendously. I loved John with all my heart, and it’s really hard to deal with the fact that he is not here anymore...I am never going to get a chance to talk to him...the pain, after a while, just becomes anger and that’ll probably never go away. (P3:47)

Victim Needs. The participants shared the needs that the victims needed to satisfy at the VOM. First, Dan’s mother recalled one of the questions of one of the victims at the VOM. The question reflects the victims’ needs for further information. She shared,

And I heard one of them say why - How could that happen? I mean, my husband was 6'4", 265 pounds, and my son was 14 years old and 115 pounds. You know, they figured that he, that Dan should have been hurt and not John. (P2:22)

As Dan's mother described, Ms. J and Mr. P wanted to have more information about what really happened, which they and other family members were not able to acquire during the trials and even two years after the incident. Ms. J noted,

What I couldn't stand more than anything was that John had actually felt pain...I needed to know, and I asked Dan, what happened. What did you do to him? After you stabbed him, you helped him down the stairs and he's sitting on the couch. What did you do to him? Did you press on his wounds to try to cause him more pain? I really wanted to know, because it bothered me so much. (P3:75)

Mr. P said, "[T]here were some questions that I wanted to ask Dan to see if he would answer them since he didn't answer them on the stand when he was...I thought that was important" (P4:10; P4:80).

Second, as with other participants, the mediators also pointed out the importance of having more information as one of the needs of the victims. Paul noted it as "Full of holes and missing pieces of the information." He added that the victims needed to know the information because the information was *so distorted during the trials* [italics added] (P5:28). Michelle, a mediator, agreed with Paul's description. It is important to acknowledge that Michelle was a victim twenty years ago, losing her sister in a violent incident. Based on her personal experience, Michelle spoke, "I'm sure they (the victims) probably had a lot of unanswered questions" (P7:18).

Third, at the interview, Ms. J said she had wanted to let Dan know how much the incident destroyed her for a long time (P3:15), which described another aspect of the victim's needs. Mr. P also said,

I felt it was important that he (Dan) knew that there was still people out there that he'd hurt, and that, in my opinion, for what little time that he did was not anything compared to what he took away from everybody, so that was one thing that we wanted to get across to him...I wanted Dan to know that we were angry about the situation. (P4:10)

Fourth, Ms. J also talked about her need to let Dan and his biological parents know about the "real" John. She indicated that this need was not heard and even "distorted" during the trials, from her point of view. The following statement also reflects Ms. J's perception of Dan and his parents; this perception will be discussed later in more detail. She argued,

[I]t was important to me that his parents hear what I had to say, because the three of them were not related to John. I might have not been biologically related to him, but I felt like I had known him for this immeasurable amount of time in comparison to how long they had known him, so I really felt like they didn't really know him, and I wanted them to listen and to hear me talk about who he (John) really was. (P3:26)

Fifth, the victim's family also mentioned that they needed a genuine apology, with Dan acknowledging his actions. Given the fact that the victims went through two mistrials, it is not difficult to imagine how important it was for them to hear an apology from Dan. Ms. J said, "It would help a little bit if he was genuinely sorry. If he, if he said, I did this...it would probably ease a little bit of the pain" (P3:48). In the following, Mr. P recalled the trial process and wished,

I think we would have probably been a little bit more agreeable had he come forth and said, you know, I made a mistake. I did something I'm truly sorry for. I did something that I can't take back and I regret, because, maybe, not to

the extent of what he did, but we've all made those mistakes, and I think that probably was more disheartening to our family than anything, was the fact that he just didn't own up to what he did. (P4:16)

As the victim's family described, a genuine apology from the offender was a common need among them, which was also related to their perception of Dan's punishment. Surprisingly, the victim's family was not informed about Dan's early release until Paul contacted them to let them know about the upcoming possible VOM with Dan. Both Mr. P and Ms. J expressed their surprise and anger. In other words, a genuine apology from Dan became more important for the victim's family because of the victim's family's perception of inadequate punishment for the crime (P4:15).

Lastly, a need for closure was also mentioned as a need for the victim family. Ms. J mentioned, "You know, in the end, I couldn't live my whole life being angry with him (Dan) all the time" (P3:59). Once a victim, Michelle agreed with what Ms. J said. She stated,

Kind of like your life is broken up if you've gone through people dying. It's kind of like being on the beach with all this pottery that's broken. You've got to pick up the pieces and move forward. I mean otherwise you're just going to get washed off into the sea. You've got to pick up the pieces and keep moving forward. (P7:31)

Although it was described figuratively, "the pieces of the broken pottery" were the information that the victims had to pick up. Therefore, according to Michelle, having closure is closely related to having the answers for the unanswered questions.

I think it's kind of a transition. You're trying to move forward and so if you have those answers it's kind of like putting in the puzzle pieces so that they fit for you so that you have a clearer picture, kind of like being able to see the

vision. It's not by natural sight, but being able to see the overall picture of things...That allowed me to move forward to this point. (P7:33)

The Views on Each Other

Given the nature of the crime, the participants' views of each other were complicated, not only because it was a murder case, but also because it involved complex family relationships. In the following, the discussions follow the views on Dan, the mother, and the victim family, respectively. To begin with, Paul's explanation in the excerpt below provides another viewpoint to be taken into consideration to increase understanding.

There had been two trials...in the trial process, in order to build the case for Dan, you have to attack the victim. That's the judicial process; you're adversarial. So things were said about the victim, the father, the cousin...(for example) Was he abusive to his wife? Was he an angry man? I mean they were trying to attack his reputation to make it sound like of course Dan was more justified, etcetera, which was very hurtful to the victims, families, to have their family member portrayed in that light. (P5:27)

First of all, the victim family shared their views on Dan, the offender. During the interview, Mr. P repeatedly mentioned that he did not think that Dan is a bad child but that it was a bad situation (P46:23; P46:33; P46:34; P46:35). He informed me that he came to this conclusion based on his research on Dan in which he met and spoke to many people who knew Dan during the trials. However, Mr. P recalled that, at the trials, Dan was different than from many people's impressions of him. Mr. P shared his observation from the trials.

The Dan in the middle of the trial...was probably a Dan I didn't like, but I also understand that you got an attorney there...you're trying to get probation or as little time as possible versus being locked up for eleven years...so the Dan that was on trial was the Dan that was just trying to survive. (P4:80)

While Mr. P believed that Dan was truly remorseful for his crime (P4:54), Ms. J had very different understanding of him.

I really firmly believe...Dan is never going to be able to admit to anyone, especially himself, that he did have another option. He wants the world to believe, and I'll never believe, that stabbing John in the heart with a knife was his only option. It just wasn't true. (P3:35)

Second, during the interview, Dan's mother kept saying, "I'm in the middle" (P2:12; P2:25; P2:33, P2:36). By being in the middle, she meant, "I was the wife. And I had the son" (P2:12). Therefore, according to her, when it came to understanding the situation, she had to understand Dan and John at the same time. She said, "No matter what anybody says or whatever their opinion will be, my husband will always be my husband. But my son will always be my son...I will love him" (P36:46).

As she defined herself "in the middle," the position of Dan's mother was a complicated issue not only during the trial process but also at the VOM. However, even though the mother tried to put herself "in the middle," it seemed that people around her saw her differently. First of all, Dan shared his opinion. It was rather simple for him: "I'm her son though. Blood comes before anything else" (P1:48). His mother shared her experience with the victim's family. She said, "I was looked on as being the enemy because I defended him (Dan). I defended Dan and I also had an opinion about my husband. And so in their eyes, I wasn't being loyal to their cousin...I was with my son" (P2:27).

Ms. J shared her opinion on Dan's mother, "She wants to project herself or believe in her eyes, that she's the victim as well...I don't necessarily agree with

her...I don't believe that she is at all" (P3:32), whereas Dan's mother believed that both herself and the victim's family were the victims (P2:35). Ms. J said,

It's difficult to see someone condoning bad behavior, because I feel like she (Dan's mother) really did, kind of, condone what he (Dan) had done after he had done it...my deal is, I'm not so sure, was she more upset she had lost her meal ticket, or was she more upset that she'd actually lost this human being who was her husband? (P3:30)

Mr. P also shared how he perceived the offender's mother, his first cousin's wife.

If you go by what you saw at trial, then you would say, she is the mother of the defendants...I'm sure...she was put in a tough position...My mother and I had many talks about that...my mother says...I probably would have done the same thing she did...You know, you're there to protect your children. (P4:89)

Cathy, Dan's probation officer and the referral source in this case, shared how she saw the situation. To my question about whether she saw the mother as one of the victims, she noted,

That's a really good question. I don't know how I saw that, because we have to refer the kids, and then we get the kid's information and the parent's information and just let them (the mediators) run with it. But she does sort of triangulate in both worlds on that. (P8:30)

As Cathy mentioned, then, the mediators' perspectives on the mother became important. Paul shared a very similar observation very similar to Mr. P's in the following. He said,

[L]ike all mothers she was protecting her child. I mean that's what parents do, although it was her husband that was murdered. I mean her connection to her son was by far longer and greater probably than the connection to her husband. So I think she was doing what any parent would do in terms of support for her son. (P5:21)

Therefore, the mediators came to a conclusion as follows:

She (the mother) was treated as part of the support group. The mediation was between Dan, the victim survivors...The mediation was between the two of

them or the three of them (Dan and two victim family members) and so she was pretty much treated as a support person. And I think all the mediators felt it was important to keep the mediation between Dan and the victims as much as possible. (P5:24)

It seems that although the mother argued that she was in the middle, most of the participants at the VOM saw or perceived her as just Dan's mother, rather than the wife of her murdered husband or even a victim. Dan's mother recalled what she was told at the VOM. She said,

[T]he biggest thing it (the VOM) wasn't for me to say anything. I had to be quiet. It was only Dan that could talk. See, it was their (the two victim's family) time to ask him questions. And so I couldn't say nothing...the thing is they (the mediators) were talking about this was not my time...My biggest thing was the key was like for me to be quiet and let Dan have his say so it can be over with, you know, because they were the victims and they wanted to talk to him, not to me. (P2:46)

Third, Dan remembered his mother being mad at the VOM. He thought she was mad because she was the only one who really cared about John. Then he added, "The other family, they didn't really care about my mom's husband so that's why she's mad at them because they really didn't care" (P1:49). Dan elaborated more,

Because they (the victim's family) always relied on him (John) to do stuff for them...Well, you can't always rely on someone to do everything for you. See my mom's husband was that person for them...He'd get stressed out about all of that. My mom said he got stressed out over that. So, yeah, it wasn't a close family at all. They're just mad because he's not there no more...They got to do it themselves now. They don't want to do it themselves. (P1:50)

The mother also shared her opinion about the victim's family. While she was saying, "[W]hy I was mad (at the VOM) is because they acted like they were there by his side and they supported him every step of the way, and I knew they didn't" (P2:47), she added,

I was upset because people that John was truly close to didn't come, you know, the ones that truly knew him. But the people that were there knew him but really didn't know him...was here asking and demanding questions, and a step-daughter who sat up there and really didn't have time for him. (P2:49)

Victim Offender Mediation: The Process

Paul mentioned that the majority of the clients participating in the VOM program had committed non-personal misdemeanors (P5:8). Some differences existed in handling this case, in particular, differences in the referral process and in the preparation process. As described earlier, Dan's probation officer, Cathy, made the referral to the VOM instead of the IIP case managers. And the preparation was relatively longer than with the other cases. This section describes how the participants were prepared, their expectations and motivations, as well as the atmosphere, parental involvement, and mediators' roles/attitudes during the VOM.

Preparing the VOM

Preparation for the Offenders/Parents

Cathy, Dan's probation officer, addressed the services provided to Dan when he was about to be released from the correctional facility, especially those needed to help with his re-integration into the community.

We had set up certain things to take place within one week of him coming out. We already contacted the school where he'd be returning, so he, within one day, would be right back in school, so there wouldn't be any time lapse....The Victim Offender Mediation project went through. He did community service work, I think, for the next two weekends just to give him something to do and then, I think he was employed within three weeks. So he was able to sort of get right back on the path of being successful. (P8:37)

In the above, Cathy ensured that arrangements for Dan's release were made while Dan was still serving his time in the jail. The following excerpt shows why the VOM

was ordered in the first place. Cathy noted,

[H]e was closing down at the correctional facility and was not willing to verbalize and talk about what he was feeling. All that was coming out of him was anxiety about coming out...he wasn't talking to me, and he wasn't talking to counselor at the correctional facility. So in order for him to do something it was just something needed to happen. He needed to talk to somebody about it in order to figure out where he was going to go from there. (P8:38)

As Cathy described, Dan's preparation for the VOM began while he was in jail. Paul also mentioned that he alerted social workers in the detention center about his preparation for the upcoming VOM. Paul noted,

Dan had had a lot of prep work...I had alerted them that this was going to happen so that they could do some preparation of him in terms of you need to be open, you need to be honest, you need to move forward on this, you need to get it out in the open so that you can move on with your life. (P47:26)

Paul remembered that Dan was well prepared for the VOM: "Extremely mature (at the VOM). Very, very mature. It was obvious that he had been prepared. He answered every question, no hesitancy" (P47:27). In the interview, Dan talked about how confident he was at the VOM. He said, "I was confident in what I was saying...because I knew what I wanted to say and I don't care what their reaction is. I was telling them how it is" (P47:3). Dan's mother also remembered the preparation process that Dan went through at the jail.

He went through a process and class where he sat in there and he wrote letters. You know, he wrote a letter to the victim. He wrote a letter to John...that's the way they wrote it. They wrote it to the person. And that's what he did. He didn't write it to them (Mr. P and Ms. J). He wrote it to John. (P47:13)

As described earlier, the family relationship was complicated, particularly given that the relationship between the offender and the victim was a step-son and step-father relationship. To find out the relationship between Dan and his mother and

the rest of the family, David, a mediator, and Paul, met Dan and his mother prior to the VOM. While acknowledging the importance of preparation for the participants, David noted, “These pre-interviews...they’re very important, because at some point, a mediator really has to know whether something needs to go to mediation or needs to be” (P47:37). He described how the pre-interviews with Dan’s mother helped:

[I]n the interview that Paul and I had with her, it became pretty clear what her position was. And, so, that allowed us to take that in consideration when we were dealing with the other family members who were not related to her (the mother). They (Mr. P and Ms. J) were related to the victim. (P47:36)

Paul explained that the family was told that, if they wanted, they could bring their support groups to the VOM.

We limited it. I don’t remember how many we said, maybe three per side or something. But we did say you can bring additional people if you needed advocates. So the mother brought a longtime neighbor...and the biological father. And the cousin (Mr. P) and the (step) daughter (Ms. J) didn’t bring anyone. (P47:25)

However, according to Paul, the biological father’s participation was unexpected and surprised the mediators. He said, “We did not know until the day of the mediation he showed up. We had no warning that he was going to be there or anything else” (P47:24). Meanwhile, Dan’s mother also shared her perspective on the same situation, in which she was angry.

They told us that there would be their (the victim’s) family and friends for support. Then we had friends and family lined up for us, you know, for Dan, to be his support group. His dad was here, a neighbor was here...They were here as a support group. But what happened was everybody that was so there - you know what I’m saying - angry, only two people showed up for the mediation. So all the people that were going to come along with us, we told them that we didn’t need them because they (the mediators) didn’t...make them (the victims) feel intimidated over here. (P47:10)

Preparation for the Victims

As opposed to the process in which the offender was prepared for the VOM while he was in jail, the victim's family did not know about the offender's release. Mr. P related that Paul contacted them informing them that Dan was coming up for release (P47:15). As described previously, Paul sent out informing letters to several members of the victim family, such as John's biological son, Mr. P, and Ms. J based on their interests expressed during the trials. In contrast to the offender and parent, the letter emphasized that the victim family's participation was strictly voluntary.

The first contact was a surprise for both Paul and the victim's family. Paul noted,

[I]t was really interesting, because when I called them (the victim family) initially, I was the one that told them he was going to be released. Nobody had contacted them at all...which kind of blindsided me. I wasn't expecting that. I thought maybe they had already received notification, but so I got the, he's what?...He isn't supposed to be out for another such and such. (P47:30)

Mr. P understood the situation as "the system cheated" the victim's family because two years at jail was not enough time as a punishment for the murder of a person who contributed to society from his point of view (P36:41). However, according to Paul, the victim's family was able to accept the fact that the offender would be released soon. He said,

But when I talked to them, I said well, you know, he's out. The decision has been made and there's nothing we can do about that. I mean what we need to do is move from here forward. What we're going to do now. And that's the attitude they took. (P47:30)

As the day of the VOM neared, Ms. J reported that she experienced a great deal of anticipation for the event (P36:7). She said, "[A] lot of my friends and my

family members...would probably tell you that I was probably really tense and very nervous of the anticipation of going to the mediation...it was a big build up” (P3:27).

In the following, Paul shared how he helped Ms. J to ease her apprehension before the VOM.

(Ms. J) was very apprehensive about attending. I wasn't sure if she was going to show up because she was very nervous about seeing him (Dan). And even before we went in, she was very, very nervous about it. And I kept reassuring her it was going to be okay...we were there for her. It would be a controlled process, and that it would be as positive as we could possibly make it.
(P47:28)

According to Paul, Ms. J's apprehension was partly coming from her concern for any possible retribution from Dan as well as not knowing how she would react to Dan.

Paul said,

[S]he was meeting the person that had murdered her father. So she wasn't sure about Dan. She was concerned about 'Is he going to pull a knife on me?'...she was concerned about retribution from Dan. And she wasn't sure what her emotional reaction was going to be to the process as well. I mean that lack of information can be, creates a lot of fear, and she wasn't sure what her reaction would be to sitting across the table from Dan. So that worried her as well.
(P5:31)

In the following, Paul described the questions that he suggested for Ms. J to ask herself in preparation for telling Dan what she needed and how she was affected by the crime.

[W]hen I (Paul) contacted her and spoke with her, she had lots of animosity and anger towards Dan and so when I talked to her about that, I said well, it sounds to me like you, this is stuff that you need to let Dan know. He needs to know how it's affected you and your family and your life, and this is an opportunity, probably the only opportunity you are going to have to do that. Plus it's your opportunity to talk to him about how you want him to respond to you when you see him in the community. How do you want him to respond to you? Do you want him to ignore you? Do you want him to say hi to you? I mean it's better to know that now than to have those awkward pregnant

moments when you run into each other and then you don't know what to do. The information would be helpful. So she agreed to participate. (P47:18)

Preparation for the Mediators

Preparing for the Safety Issue. Given the nature and severity of the case, Paul might have made additional arrangements in preparation for the process, especially regarding safety issues.

[T]here were concerns on both sides in terms of safety...(Such as) Are the victims going to get so angry they are going to jump over the table? Is Dan going to pull a gun or a knife on me? Is he (Dan) going to say awful, dreadful things? I mean that kind of safety issues they were concerned about. (P47:19)

As Paul described, preparing for safety was not only for the victim's family, but also for the offender and his mother. This idea of concern for both parties gave Paul a rationale for not making additional plans for safety. Paul described, "Since they were both worried about the same thing, I figured that there would *probably be no chance* [italics added] of really any kind of safety questions coming in" (P47:21). However, in the following, Paul shared the concerns regarding safety issues raised by the other mediators following the meditation.

[W]e (the mediators) had a discussion and that perhaps it should have been conducted in a more secure place, perhaps having security people available in case something did happen...we didn't have any metal detectors or anything. We didn't search anybody...who knows what could have happened? (P47:21)

David, however, shared another aspect of preparation regarding safety issues. In particular, he talked about how they arranged the seating to protect the victims (see Figure 4.4.2): [I]t's a little different in this circumstance. You know, how do you set up the room? You know, the victims were closest to the door, and I would put myself between them, which I don't really like" (P47:35). Michelle also shared her

perspective on the seating issue, which, according to her, created a “gulf” between the victims and the offender side. She noted,

But I just think if we could have maybe sat at a round table that every other one, like the victim’s family member and then the offender and then another victim’s family so that way it wouldn’t have been that separation...I know for protection-wise you want that, but at the same time I think it might have flowed better had we been at a round table setting where there wouldn’t have been a separation. And then maybe at that point maybe the mother would have felt more comfortable being in the mix of the victim as well as the offender.
(P47:40)

Preparation for the Mediators. Unlike other cases, this case involved some preparation for the mediators prior to the VOM. In the following, Paul explained the preparation for the mediators. According to him, preparation for the mediators was approached in terms of ‘how the mediators are going to handle the case and their expectations in dealing with the emotion.’

To begin with, given the exceptional nature of the crime, Paul had to do some research regarding how to prepare for the case:

I talked to some colleagues...asking if they’d been involved in similar mediations and they said no, they hadn’t. But one of them said treat it like any other mediation...All of the skills are the same...The difference is just it might be more emotional and the subject matter is...which was great advice.
(P47:20)

The selection of the mediators was one of the processes that Paul handled differently than other cases. Paul explained the process and the rationale for the selection of mediators. For David, “David is one of the lead dispute resolution individuals in the state. And I had used him for special cases in the past, usually those cases that involved large amounts of restitution...He’s an excellent mediator”
(P47:22). For Michelle,

Michelle was contacted because she was a volunteer at the center, was involved in the process, and also because the family was African American...they (people at the detention center) thought...perhaps we should have an African American involved. And Michelle was one of the few at the center and she was a very, very good mediator...it turns out she was familiar with the case. (P47:23)

Michelle shared her understanding of her selection: “I think one, because it is a high profile and I did feel like there probably needed to be a person of color there so that he (Dan) would feel okay to talk about the issue, kind of give that comfort zone” (P7:16).

Participants’ Motivations to Participate in VOM

As described earlier, the victims noted that they wanted to ask questions of Dan that had gone unanswered during the trials and while he was in jail. However, to Dan and his mother, it was mandatory to participate in the VOM. Dan’s mother described: “[T]o tell you the truth, it was just like all of a sudden what happened to you. So that’s it” (P46:9). David, one of the mediators, made a comment which summarizes the situation: “[I]t was really the youth authority that suggested this as part of his release, you know, what he would have to do through a release, and he was willing to do it, because it allowed him to get out (P6:25).

During the interviews, both Dan and his mother emphasized that their participation was ordered as a part of his probation (P2:59; P2:63). I asked Cathy, Dan’s probation officer, about Dan and his mother’s reaction when they heard about the VOM as a condition of his release. She said, “He didn’t want to go...And mom didn’t want to go either...(but) they really didn’t have a choice...he was going to have to make a choice to go, because it was required” (P8:39). Cathy understood the

mother as follows: “She thought it would be more *detrimental to him to have to see the victim’s family again* [italics added]” (P8:43). Then, I inquired what led her to refer Dan to the VOM. She noted, “I kind of felt like this needed to happen right away. Otherwise he was going to carry this with him...and never deal with it” (P8:41).

Dan speculated about the reason for the victim’s family’s participation in the VOM: “Because it was probably the life of one of their relatives. That’s probably why” (P1:28). Then he added, “They wanted to know how I felt on the whole situation” (P1:29). Echoing Dan’s description, Mr. P said, “I was angry all the way up to that point. I wanted to hear what he had to say. I wanted to know what was going on, what was going through his mind” (P46:36).

Ms. J said the other family members including her brother and sisters were not able to come to the mediation because they could not even be in the same room with Dan (P46:16). However, they asked Ms. J to attend the VOM. She noted,

I’m the oldest, so my brother had asked me to go, had asked me to come...and they did ask me to go because they wanted to know what happened, what was going to be said, and how it all went down. (P46:17)

Therefore, as a representative of the family, Ms. J wanted to know many things. First of all, Ms. J wanted the chance to speak to Dan (P46:10).

[W]hen you’re in a trial, and you’re the family members of the victim, you don’t really get a chance to speak to that person at all, and so, it was really good news to hear after the terrible news that he was going to be released...the only good that came out of it was the fact that I was allowed to get this chance to speak to him. (P46:12)

Secondly, Ms. J described that she wanted to attend the VOM to let Dan know

about “the John” she knew based on her understanding that Dan did not know him well.

I said a lot of things about my step father that I’m not sure Dan knew, because Dan only knew him for three years before he killed him...I wanted Dan to know everything else. You know, John was a wonderful person. He was the shining light in our family. (P46:14)

Thirdly, Ms. J wanted to let Dan know the pain that John must have felt:

I also wanted Dan to understand the pain that John must have felt when he actually stabbed him. I couldn’t make him physically feel that pain, so, for me, my words were my weapon with him, and as terrible as it sounds, I really wanted my words to cut him deeply, and to make him have some sort of reaction, some sort of feeling, to understand where I’m coming from and...where we’re coming from, where all this pain is coming from. (P46:15)

Similarly, Mr. P said, “I felt it was important that he knew that there was still people out there that he’d hurt...for what little time that he did (the jail time) was not anything compared to what he took away from everybody” (P46:21).

Lastly, in the above, Mr. P and Ms. J emphasized that they wanted Dan to understand the pain that John as well as the family must have felt due to the crime. However, they also wanted Dan to understand more than the pain. They wanted Dan to recognize,

[A]s he (Dan) grows older, he needs to remember, that’s what he has to replace, and that he needs to be what John was...John was a very loving person, a very understanding person and meant no harm to nobody. And, I wanted him to remember that, but I also wanted him, as he goes through life, to remember, you need to be somebody like that. (P46:30)

Participants’ Expectations for VOM

The following excerpt reflects how Dan understood why his probation officer wanted him to go through the VOM. He noted,

Because she wanted to see if I can actually go through with it...Go through this whole process...She wants to see. Because I always keep things bottled up so she wants to see if I will be able to express them. (P1:18)

Then, he shared his expectations of before he went into the VOM process. He emphasized the word “hopefully” several times: “Like release your anger and let it out and all that stuff and then hopefully people will be friends again, like that...*Hopefully* [italics added] that everyone will solve their problems” (P47:8).

Dan’s mother expected to gain closure by attending the VOM. She said, “To get it over with, you know, to get it settled. To get it settled” (P38:8), which echoes Cathy’s, the probation officer, expectation for Dan in making the referral to the VOM: “To get closure...so that he could move on” (P8:42). She also added,

[E]ven though there was a no contact order, we would lift the no contact order for the mediation purposes so that it could be successful...hopefully, he could remain positive while being out versus carrying this with him for the next twelve months and never dealing with it. (P8:40)

Cathy shared her expectation for the victim’s family. While saying, “[T]he goal wasn’t to re-victimize them. It was to, hopefully, help them get closure” (P8:21), she elaborated on the process from her perspective as a probation officer:

[W]e don’t directly deal with the victims or the victims’ family, but because the circumstance is different, the District Attorney had told me that they (the victim’s family) had mixed feelings. They were very, obviously, distraught and upset and wanted some type of closure, so this was a way for everybody to try to develop some type of closure over the issue and meet on a neutral ground. So that was one of the ultimate goals. Obviously, we couldn’t change the outcome of a case, but for the victim’s family and for Dan and his family to come to some terms together, because otherwise, he’s not going to be successful out in the community. (P8:7)

Looking Inside of the VOM

In below, Figure 4.4.2 depicts the seating of the VOM. While juvenile

offender (JO) and their parent (P) sat side by side, the victims (V) and one mediator (Michelle) sat across from the offender side. The two mediators (M) sat at both ends of the table. The mediators informed me that they put the victims closer to the door to protect their security.

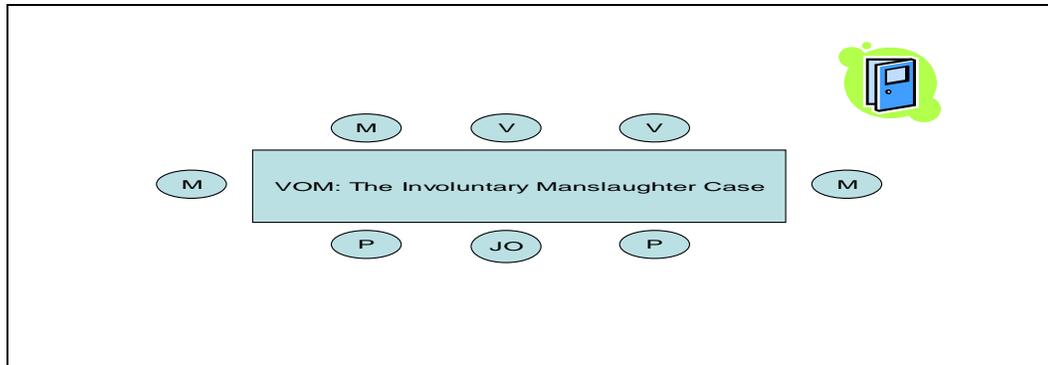


Figure 4.4.2. The seating of the involuntary manslaughter case

The Atmosphere

Dan described the intense atmosphere of the VOM as, “There was tension in the air. There was anger in the air” (P1:47). Paul, a mediator, described it as being “emotional.” He noted,

[L]ots of emotions. One was that it was such an intimate process that during that process I almost felt like...I shouldn't be there. I mean it's like seeing somebody involved in a very emotional moment and thinking...They need their privacy...I didn't know the family or anything until I'd started the process, so there was that emotion involved for me. That it was so, so very intimate. (P5:50)

One of the most emotional moments was when Ms. J read her victim-statement, which she had read in court but decided to re-read at the VOM. She wanted to let Dan know where the victim's family's pain was coming from by re-reading the letter. According to Paul, Ms. J gave Dan the pictures of John and said,

“This is the man you killed” (P48:40). Ms. J informed me that she told Dan: “It’s not just that you did this bad thing, and now you’re in trouble, and you’re getting out and oh, we’re all going to move on. It really wasn’t like that” (P48:14).

Parental Involvement

All of the mediators indicated that Dan’s parents were very protective during the VOM. Both of them tried to speak for Dan. However, it should be acknowledged again that Dan did not take the stand during the two trials. Paul noted, “The daughter (Ms. J) wanted to know in detail what happened the night of the murder. That’s when the mother began to interject comments” (P48:34). Given the fact that Dan did not take the stand during the trial in order to be protected as a minor, it was difficult for the mother to refrain from intervening at that point where her son was directed to revisit the painful situation. The mother’s intervention was viewed as negative by the other participants including the victim’s family and the mediators, and even Dan, all for different reasons.

First of all, Dan said, “I felt embarrassed that my mom had the nerve to have people in to support me when I told them I could handle it” (P48:4). In fact, Dan had a concern that he might have been seen as scared by the victim’s family because he brought his support into the VOM while the victims came only by themselves. He noted,

There’s like...a little bit of shock...they (the victims) act like I’m breaking down, like I’m scared and all that stuff. I wasn’t scared...They acted like I was scared or something. Like just because my family was there they thought that I was scared of them to talk to them...I wasn’t scared of them, period. (P48:5)

While sharing his story during the interview, Dan became agitated as if he did not want to talk about it anymore. In fact, Dan was a young person who tried to practice his independence. A comment from Dan's mother lends understanding to the situation. She observed that the VOM helped her to look at Dan differently. She added, "What happened to my 14-year-old? He's no longer 14...he's grown in different ways" (P38:5). In fact, the mother was still adjusting to her now 17 year old son growing older over the time he had been imprisoned. As discussed earlier, it was also difficult for him to re-adjust to his parents who last spent time with him when he was still a 14-year-old.

Second, Mr. P, as a victim, said, "I was not happy about his mother always butting in" (P48:27). He added,

When Dan was trying to tell his (perspective on) what was going on, she kept interjecting what she had seen or her view... We didn't want to hear it from her. We wanted to hear it from him. We wanted to hear what he had to say (P48:28).

Third, Michelle shared her observation as a mediator: "I think they were kind of trying to protect him. And I thought that was kind of an iffy situation because I thought we need to let him do the speaking because he's the one that committed the crime" (P7:10). Michelle recalled a situation in which Dan's father tried to intervene for Dan. She said,

[T]he time that I can recall when the tension that was there was, the dad said something, Dan's dad...It was like Dan felt irritated even with his dad. It was kind of like he's ready to step up to the plate to deal with the issues, but then he's got the parents trying to do this protective thing. (P7:24)

As described above, although the other participants considered the mother to

be protective and interruptive, in the following, she shared her viewpoint about that instance.

[T]hey (the mediators) were talking about this (the VOM) was not my time. You know, this was Dan's, this was their (the victims') time to ask him questions...I couldn't say anything because they were asking him questions. My biggest thing was...to be quiet and let Dan have his say so it can be over with, you know, because they were the victims and they wanted to talk to him, not to me...it was Dan's time, not mine. (P48:11)

Mediators/Their Attitudes and Roles

Facilitating Conversation. Dan, in his interview, stated, "I just did what I did and did my part and he (Paul) did his and everyone did theirs" (P34:1). In Paul's role as a mediator, Dan pointed out that he set up the whole conversation (P34:1). Mr. P also recalled that the mediators helped them exchange a conversation: "I think they (the mediators) wanted us (the victims) to get our questions answered, plus, I think they also wanted him (Dan) to be able to speak" (P34:15). I asked Mr. P if there was any pressure on Dan to answer the questions. Mr. P said, "I don't think they (the mediators) had any privilege to push him to answer the questions" (P34:16).

Paul shared his experience of the VOM especially regarding the role of facilitating conversation between the participants.

[W]e didn't have to do a lot of controlling. We said very little, very little...Basically we were doing things like if anybody else has anything else they'd like to say, is this okay with you, etcetera...They just really handled it unusually well. (P34:23)

For example,

[T]here was only that one time when the mother began speaking for Dan that the mediators were ready to intervene, but we didn't have to because the cousin (Mr. P) handled it and he handled it beautifully...He said, "You know, I want to hear this from Dan." And so the mother was quiet and Dan

responded back and it was, so the mediators didn't have to interfere in that. (P34:23)

Michelle, another mediator, also shared what she did to facilitate the conversation between the two parties. To assist the conversation, Michelle tried to bring out issues that the victims wanted to know but had not yet asked of Dan. For example,

[T]he victim's family was also concerned about him (Dan) getting his education. They wanted to see something productive (out of him) so I told him, kind of interjected with Dan to let them (the victim family) know what it is that you are doing...you (Dan) might want to let the family know how is it that you're being a productive citizen. Do you have employment? Just so he had a clearer understanding to what the family was asking. (P34:51)

Setting the Limits on Conversation. One of the challenges for the mediators was to facilitate the conversation as being more between Dan and the victim's family rather than being between the mother and the victim family. In this sense, the limit that the mediators set was more about the people who were going to take part in the conversation.

While the mediators set a limit regarding for whom the conversation was intended, the mediators also set another limit. Dan's mother talked about it in the following.

[T]he mediators were here to ask him (Dan) how he felt now, not about what happened and not about the past. You know, they put the limits on what was to be said...they (the victims) couldn't ask what they really - they had to follow the rules just like everybody else. (P34:4)

As Dan's mother said in the above, the focus of the conversation was more on "here and now" (P34:28). In the following, David mentioned the rules that the mediators laid out up front as the VOM began with the goal of setting limits for the conversation.

[L]aying very specific ground rules... We're not going to talk about this...you're going to have to be comfortable with me interrupting you if I think it's getting out of hand, and I may just end it right here, you know, if I don't think we're headed in any good direction, which is something you ought to say. (P50:9)

Dan's mother recalled that the rules were helpful for both she and Dan. She explained why they were helpful from a parent's perspective: "Setting the limit to the point where *not picking him (Dan) apart, not taking your anger out on him* [italics added]" (P50:5).

Maintaining the Safe Environment. Dan's mother appreciated the mediators' efforts to maintain safety at the VOM. She said,

[I]t might have been (different) if other people had shown up. The ones that were angry, looking for resentment and stuff, but they did not show up...when it (the VOM) was all over with and stuff, they (the mediators) kind of kept us apart, you know, so nobody would clash or anything. (P34:8)

She added, "There was Paul to keep everything under control" (P34:9). However, it was not an easy task for Paul given the unusual nature of the crime. According to Paul, the level of alertness among the mediators was very high (P34:25).

However, in his interview, Mr. P expressed some concern about safety at the VOM, and he explained the reason in the following. Previously Paul described a situation where Mr. P handled it "beautifully" (P34:23), but Mr. P shared his honest thoughts about what really went on in that moment (P48:30).

[S]he (Dan's mother) kept interjecting. There were times where I really wanted to say things to her, but at the time, that wasn't what we were there for. But, if you want to know why, it's because *I very easily could have done something physical to that* [italics added], in that situation there. And, there wasn't a person in that, that I felt, you know. And, that's where that thought came from. And, then my thought went on to, you have other situations where there are other people that aren't going to control their emotions. (P48:29)

Delivering Apology

Unlike the previous cases, Dan's community service was not discussed in the interviews for several reasons: 1) Dan had already served his time in jail for about two years; and 2) the community service was designed to provide him something to do, according to his probation officer, rather than as an apology to the community. But, as with other cases, the letter of apology was an important medium to deliver the apology to the victims in this case.

The Letter of Apology

I inquired if Dan was able to apologize to the victim's family. He noted, "Yeah, I did say sorry...Because I did feel bad for what I did and I feel like I should apologize, because it's something that they lost someone. Loss is a big thing so they lost something big" (P1:31). In the following, Paul described how Dan read his apology letter.

He had a prepared statement. And when he read that out first, he stood up to read it, and read the statement out...stood up to make the presentation, which showed a lot of respect for the others involved in the whole process. (P5:25)

Dan shared how he felt when he read his letter out loud to the victim's family. He said, "At first, when I wrote the letter I felt bad because I was reading over it. But...when I read it off to them, I felt a little bit better because I got it off my chest" (P1:37).

It was noticeable that Dan repeatedly mentioned that he did not care about the feelings of the victim's family (P50:1). I asked him what he meant by saying he did not care about their feelings. The following conversation shows his perspective.

Dan: Just because I don't care don't mean I don't think about them...I really don't care about their feelings...I don't know. I really can't explain it. It's just more like I can understand where they're coming from and all that stuff because I know if that happened to me, I'd feel the same way. It's just I just don't care how they feel...

Interviewer: Is it because it's beyond your control?

Dan: Exactly. That's why I feel like I should do all this. (P1:39)

In the following, Ms. J shared her perspective on the letter that Dan wrote.

When I asked her about the apology that Dan delivered to her, Ms. J became very emotional. She said,

Dan did read some flaky letter that he wrote. I shouldn't say flaky, but it was really, to me, it wasn't very heartfelt. It didn't come off sounding really truthful. It was...basically, I'm sorry that this happened, and I know that it's caused you guys a lot of pain... You know, basically, it was really nothing to me, because it didn't have anything...So, there wasn't even a real apology...none of it seemed genuine enough, and not even genuine at all. (P3:40)

Then, I inquired of Ms. J, why did she accept his apology at the VOM. She noted,

Well, to be honest with you, I think that everyone else thought that he was...Like, hey, I'm here. I'm reading this letter that I was told to write... You can walk the line all you want, but unless you're walking it straight, it don't really count, now does it?...especially, he didn't even mention me in the letter. (P3:41)

Earlier, Dan's mother talked about the letter that Dan wrote while he was in jail. In her statement, she emphasized that the letter was written to John rather than to Mr. P and Ms. J, the participants from the victim's family. Although Ms. J felt that the letter did not sound heartfelt, as the interview went on, she voiced a less strong opinion.

She said,

I think it's pretty powerful. I mean, his statement was pretty, it was nice to hear. I don't know if it was real heartfelt, but I will give him that much. It was really nice to hear those words, I'm sorry. You know, because he should be. (P3:90)

Paul described a situation that occurred at the end of the VOM,

[T]he daughter (Ms. J) gets up, walks around the end of the table, Dan gets up and walks around the end of the table, and they actually hug. I was just like, I mean that's when the emotion was just like oh, my God. And Dan says, "I am so very, very sorry for what I've done." (P5:42)

The Impact of the VOM

"I've forgiven him. I'm not going to forget, but I'm not angry". (P4:58) – Mr. P

Accountability

In sharing his perspective about being held accountable for his actions, Dan said, "Just trying to move on. Just trying help, just trying to work out the situation" (P42:2). He also said, "I took a lot of responsibility so I can do what I want to do to get things accomplished" (P42:3). Although he said he tried to help the victim family's move forward, his statement was more associated with his own accomplishments, confusing me. In particular, considering Ms. J's impression of Dan's apology as "It was more about him" (P3:41), Dan's comment sounded rather self-centered. However, it should be noted that there was another factor needing to be considered in understanding Dan's perspective of accountability as "get things accomplished." This factor will be discussed in more detail later. However, for a brief explanation, at the VOM, the victim's family wished for Dan to become the best person that anybody could ever want him to be in order to fill the gap he made in taking John's life. According to Mr. P, "Those are big shoes you (Dan) have to fill" (P48:31). In other words, Dan's statement on his own accomplishment was an effort for him to hold himself accountable for his action by trying to fill John's shoes, and

therefore following the victim family's request (P2:66).

Paul recalled a situation in which he observed Dan making an effort to be responsible by acknowledging what he did.

Interviewer: So what was Dan's reaction when Mr. P and Ms. J were saying things like "I forgive you, but not what you did"?

Paul: I think it was one of understanding that "Yeah, I can understand how you'd feel that way. I made a horrible, horrible, horrible mistake and I can understand that." There wasn't any kind of denial or anything else (from Dan's side). It was "Yes, I know. I know."

Interviewer: So it sounds like he was trying to hold accountable for what he did by acknowledging it?

Paul: Yes, exactly. He seemed to feel that way a lot. That he was accountable for what he had done. And that he was going to have to live with that for the rest of his life. (P42:4)

One of the questions that Mr. P asked Dan at the VOM was "Why didn't you just take responsibility for? We know that you did it" (P48:26). The previous question came from Mr. P's belief that, "[O]nce you take responsibility for your actions, then we can deal with the punishment" (P4:19). According to Mr. P, acknowledging what he did was the first step in taking responsibility. Therefore, Dan's acknowledgment in the above passage had meaning for the victim's family. Michelle also observed that Dan was trying to be responsible for his actions at the VOM when his biological father tried to protect him by intervening in the conversation. She said, "Dan wanted to come forth with it...then, dad interjected...then Dan was trying to say, I've got this...I've got this" (P42:5). Michelle interpreted this as Dan being ready to step up to the plate to deal with the issues in front of him (P42:6).

The Benefits

Ms. J commented that it was nice to have a face to face meeting with Dan to talk to him at the VOM (P36:9). Mr. P also said, “I did get some satisfaction out of that of being able to talk to him and tell him...he took a member, an outstanding member, from this community” (P36:27). It seemed that the participants were able to take something out of the process. This section discusses the benefits from the participants’ perspective.

An Opportunity to Move on (A Sense of Closure)

During the interview Dan expressed that he was glad that the VOM was over. According to him, it was good for him because he felt that the victims could move on with their lives (P35:2). The evidence that he witnessed was, “If they’re going to tell me that they forgive me and all that...then I figure they would move on” (P35:2). As Dan mentioned in his interview, Mr. P said, “I’ve forgive him...I’m not going to forget, but I’m not angry” (P4:58). Dan also described what he said to the victims in addition to answering their questions: “I told them I feel bad about it but ain’t no sense for me worrying about it everyday, stressing me out. I might as well as just move on and that’s what you all should do” (P48:7).

Dan also made it clear that he felt the VOM helped him with his move-on. Dan noted, “I got off my case (later he said he emptied his chest). I don’t got to worry about it anymore. That’s all in the past. It’s done with” (P35:5; P47:9). For Dan, it was important to move on because “I keep thinking about this, it’s going to affect my lifestyle goals” (P35:8).

As it was for Dan, the VOM also provided an opportunity for Ms. J to begin to move on from the death of her step-father. In the following, Ms. J shared her experience of “letting it go” (P36:13). According to her, it was her moment of closure (P36:14). She added, “Not that we want to, and not that we’ll ever forget, but so that we can go on with our lives” (P36:23). According to Ms. J, having the VOM was “Being able to close that chapter,” because,

[W]ith the trial, there was no end, there was no closure. It was suddenly, well, we’re not going to have a trial anymore, and we’re just going to give him a couple years... You know, it was like, chopping your hand off... No trial. No opportunity for you to speak. I was furious about that. (P3:53)

Given her experience at the trials, it becomes clearer why she kept saying that the VOM was “good news out of all the bad news.” She noted,

I did say to Dan at the end that, I hope you live a good life. I hope you’ve learned from this... You need to take yourself out of the situation. You know, John would have taught you that had you given him an opportunity to... *once I said that to him, I felt like there was this little weight lifted off. Like, I didn’t have to carry that around anymore. I’d given it to Dan. Like, here, this is yours* [italics added]. You do what you will with it, you know, with that information. And, so, really, *I left it here (the VOM), I should say. Because, I just left it here. I had to let it go* [italics added]. (P36:10)

As it did for Ms. J, the VOM also provided a sense of closure for Mr. P (P36:38). He shared his perspective as follows.

[W]e (both him and the interviewer) could be sitting here having a whole different conversation if I really, truly believed that he had purposely done this. But, like I said, in my heart and in my mind, I don’t think so. So, I think that’s where it’s at, and I think that’s where we’re at as far as where do you go from now. You know, we go on with our lives. We hope he goes on with his life, and he makes it better, and that he thinks about his choices. (P36:37)

At this point (after completing the VOM), if I met Dan in the street, I would probably... talk to him just like I’d meet anybody else in the street. I’d probably remind him that he has a responsibility to us, but I don’t think I

would treat him any different than I would anybody else that I would meet in the street. (P36:42)

The mediators also shared similar observations. Paul noted, “I think the victims in this case gained lots of closure. And I think Dan gained closure from it as well” (P39:11). Michelle also observed, “[T]hey seemed to be very relaxed afterwards. It was kind of like it got washed out to sea, whatever hindrance or burdens that they had, it kind of got washed out” (P39:28).

Cathy, Dan’s probation officer, shared what she received from Paul, as the program coordinator reporting the result of the case to the District Attorney. She read a part of it to me,

I can read you some comments out of this...it says, prior to mediation, both sides were very concerned about retaliation from the other side...But both parties left with the knowledge knowing that all parties wanted to move on with their lives, and no one needed to be concerned about any future retaliation. (P37:13)

An Empowering Experience for the Participants

The participants, especially the juvenile offender and the victims described several empowering experiences. This section begins with a discussion on Dan’s empowering experiences. At the beginning of the interview, I asked Dan about his future plans. He answered that he is interested in art, music, and business. He sounded confident by saying,

I took a lot of responsibility so I can do what I want to do to get things accomplished...I want to get a lot of things accomplished. There’s just certain things I can’t do right now because there’s certain things I have to first in order for me to get my other things. (P1:67)

At that time, I did not understand what he meant by taking a lot of responsibility.

Later in the interview, he elaborated on what he meant.

It's just like that one saying off that one movie, this Batman movie, that great power becomes your responsibility so when I know I have a lot of responsibilities I know I have enough power to do anything. I have great power to myself...I mean didn't you ask me earlier what I wanted to do after school? Yeah, those are one of the things I wanted to do. (P42:3)

Dan's realization of his great responsibility needs to be understood within the context of what the victims told him at the VOM. As described earlier, Ms. J shared what she said to Dan as "I did say to Dan...I hope you live a good life." Mr. P also was able to say to Dan as follows,

[H]e's a young man, and that's what I told him. I was like, look, you have your whole life in front of you, you know. From this day forward, you have to be a positive person. You have to do the right things. You have to go above and beyond, because you're not, he was, he's got to do better than what than everybody...He took a life. That's something you cannot replace, and he has to be at that point where he, he's not living for one. He's actually living for two. (P36:34)

In addition to acknowledging the crime he committed, Dan also mentioned several changes in himself, which included "My head's wise" (P45:43), "I'm smart now" (P45:4), "My mind's more open to things" (P45:5), and "Sometimes I feel like I had to be in there (the jail) to realize but, I feel good" (P45:6). Dan elaborated,

My eyes are more open. I see things more clearly. Out there, like at first, I just let stuff get to me, but now I can actually look and know what they're (the victim's family) talking about and understand them and be able to, uh. Yeah, I'm actually able to open my eyes." (P45:7)

Dan also mentioned that he is trying to make up for what he lost and told me, "You can do anything you want if you put your mind to it" (P45:11). Dan's probation officer, Cathy, reported how Dan was doing, "Doing very well. School is doing well.

Reporting as directed. He's doing very, very well, for right now" (P45:36).

As discussed earlier, to Ms. J, the VOM was an opportunity to speak to Dan and his parents directly, which she was not able to do during the trials (P36:3).

During the interview, Ms. J strongly voiced several times that she liked the moment when she read her statement again to Dan and his parents at the VOM, which was contrary to her experience at the trials,

The only other opportunity I've been given to speak to him was at his sentencing, and unfortunately, his father was making really loud, rude comments during my speech, so I wasn't allowed to say a lot of the things that I wanted to say to Dan...it was unfortunate the judge didn't get a chance to tell him to be quiet. (P3:10)

Therefore, it was important for Ms. J to read the statement again, which, according to her, helped her tremendously (P36:7). She noted, "I brought my speech with me to the mediation, and I re-read it in front of him, and I also informed his father that I would continue to re-read it until Dan had gotten a chance to hear me clearly without any speaking in the room. (P3:10)

[T]o know that I had said it to him. That was comforting. To know that regardless if he wasn't trying to listen to me or not, I know that he had no choice but to hear the words that I said...Everyone else in the room was quiet. I was sitting just as far away from as we are sitting now, and I looked him directly in the eye, and most of the time I was reading it...and I'm pretty sure he got, he heard me, and that was comforting for me. (P36:4)

Ms. J also described that she learned a lot about herself through the VOM process (P36:17). She noted, "I learned that I can really control myself very well. That, I learned that I have a lot of inner strength, honestly" (P36:16).

An Opportunity for a Better Understanding of Each Other

Mr. P said he did not believe that Dan had an intention in his heart to kill

John. The following excerpt shows the extent of his belief.

I truly believe that he's remorseful for what has happened...If you could give him everything in the world to reverse that, he would reverse it. If you could go back to that day and turn around and say, would you do this completely different? I think, you know, he would turn around and say, you know, I wish I would have just walked up those stairs. (P46:34)

As Mr. P understood Dan better, Dan also said through the VOM process, "I can understand where they're coming from and all that stuff because I know if that happened to me, I'd feel the same way" (P35:4). As with Dan, his mother also enjoyed the opportunity to better understand the victim's family. She mentioned that it was good for her to "face the situation with them, and to see how they were feeling about a lot of things" (P38:2).

The VOM also was another opportunity for Dan's mother to see her son differently. She shared how she felt about Dan.

It was very helpful for Dan and very helpful for me too - I guess it was to sit up there and see him and look at him differently. You know, I mean, what happened to my 14-year-old? He's no longer 14. (P38:5)

The mother added, "You still want to be that, but you've just got to look at him in a different light. But I'm still mom so it doesn't make any difference. I'll always be his mom" (P38:7). At the end of the interview, Dan mentioned about his feelings about his mother,

All of it's my fault. It's my responsibility to take care of mom and all that stuff, because she is getting older...That's why I had to grow up quick cause I know this would soon happen and I hope my brother realize - I hope people realize that so (P45:8).

An Opportunity to Help the Offender's Reintegration

David, a mediator, spoke based on his extensive experience that the juveniles who are involved in the VOM process are seeing how they impacted their community. In this case, the discussion on community occurred in more specific terms regarding Dan's re-integration into the community. Paul shared his opinion,

[T]o help Dan reintegrate into the community. (The city) is a small community. And he would bound to run into these people at some point...the odds of them running into each other were probably pretty great. And so what do you do when you run into them? Do the survivors, the victim's family, want him to say hi? Do they want him to ignore them? (P39:3)

David also shared his opinion regarding the reintegration from the offender's point of view. He noted,

[F]rom the juvenile's perspective, it gives him a better perspective on what he's done, and I also think it has the potential...to work out problems that linger unanswered questions. (Such as) *what if I'm out and I meet such and such, you know* [italics added]. He's trying to live in the group in this area now, and word really spreads between the people the victims are talking to and then, what he's saying to people. (P39:20)

An Opportunity for the Victims to Ask Questions

The victim's family stated that they were able to acquire the answers to unanswered questions. Michelle recalled the questions that the victim's family asked of Dan such as "What led up to the offense?" "Did he intentionally do it? (P7:17).

According to David,

Without having been able to really direct any questions to anybody, they (victims in general) just start to think, and that, sometimes, can fuel anger...so the process does allow that to be reduced somewhat. (P39:15)

As with David's observation, for Mr. P, to have answers was not merely acquiring some more information. Mr. P said, "I was angry up to the point to where the questions got answered...It had allowed us to handle anger...and so that we could go

on” (P36:40). He also said, “I don’t want to say it lets me go to sleep at night, but it allowed me rest better knowing the answers to those questions” (P36:46). According to Mr. P, he still would be angry if he had not participated in the VOM. He added, “I’d still have the questions...I believe just because we were able to get those questions answered, but it makes all the difference in the world. (P36:42)

One of Ms. J’s questions was about the last moments of John’s life, which the victim family was not able to learn throughout the whole trial processes. Ms. J even mentioned that it was one of the requests made by her step-brother, who chose not to come.

[T]he only thing that (I) felt like it was okay was that they (Dan and mother) said that he (John) went in the ambulance and that he had died in the ambulance...as strange as it may sound, to me it felt better to know that he had died in the arms of these (911), granted they were strangers, but they were people who try to save people’s lives, you know. So, they’re coming to you with compassion already. It felt better to know that he had died in their care and in their arms than sitting on the couch with the person that killed him, and his mother, you know. (P36:12)

Ms. J noted, “As far as my pain of the situation with, that did help a little bit with, kind of, dulling that pain” (P36:8). In the following, Ms. J shared how acquiring the answer to her question was helpful in dulling the pain as she stated:

I had to allow myself to believe him. Whether it was true or not, and I really hope it’s true, because that’s what he said...He (Dan) was very nice and comforting to John...I don’t know if that’s what he thought I wanted to hear, but moreover, I wanted to hear the truth, and if that was the truth, then so be it. (P36:11)

The mediators also pointed out that the VOM provided an opportunity for the victims to have answers to some of their questions (P39:2; P39:6; P39:14; P39:15; P39:21; P39:22; P39:24; P39:27). In particular, Paul recalled a situation where Dan

was answering Ms. J's questions. Paul noted, "[W]hen Dan was responding about the incidents...the daughter (Ms. J) says to Dan, "Thank you for that information. That's very, very helpful" because she didn't have that information. He filled in all the blank spaces for her" (P39:6).

Mr. P and Ms. J also shared another way that they benefited from having answers to their questions. Mr. P said:

[I]t also allowed me...at least I could get back to the rest of the family and tell them, you know, this is what happened. The questions that we had of why and how, this is what was done, so, you know, they can live a lot better. (P36:47)

As the victims were able to acquire the answers from Dan, the offender, it was an opportunity for Dan to be able to speak about the incident, an opportunity he did not have during the trials. The mother shared her perspective on this matter. She noted,

[B]ecause it's kind of hard to sit up there (at the VOM) and not say nothing...And every time he went to trial, they lasted a whole week, so you didn't get to say anything. So you know, it was his chance to talk and not be quiet. (P38:4)

Michelle recalled the situation addressed in the above. She said,

I think Dan probably wanted to express what had happened so they would (know), because I remember him saying that he didn't get to say something in court...it was like he didn't really get to share or explain what had happened...I'm sure in my mind it probably relieved a lot of tension or stress that he might have been carrying, guilt he might have been carrying. (P39:25)

Case Summary and Lessons Learned

This case involved involuntary manslaughter by a juvenile offender. This was an unusual case for VOM because of the severity of the crime. Unlike the other cases, the referral to VOM for this case came from a probation officer who had consulted

with the county district attorney prior to making the referral. VOM was mandatory as part of the offender's release. Given the nature of the crime and the previous trials that ensued in this case, participants came to the VOM with widely differing views and gross misunderstandings about each other. However, the VOM session exemplified the possibility for resolving conflicts that result from the commission of severe crimes.

What Went Well?

The VOM provided a controlled environment for participants to discuss the impacts of the incident. In particular, the victim's family indicated that they were able to ask questions that they were not able to ask during the trial process. The victim's family expressed that the VOM was the "only good news out of all of the bad news," in reference mostly to the unexpected early release of the juvenile offender. The family saw the VOM as beneficial because they had an opportunity to confront the juvenile and ask specific questions such as what were the last moments of life like for the victim. This information was something that they had wondered about for more than two years. The victim's family indicated that, by receiving answers to their important questions, they were able to "move on" with their lives. The victim's family also was able to forgive the offender as a result of the VOM session, but they made it clear that they would not forget that he killed their family member.

The offender and his mother also expressed that the VOM session allowed them to have some "closure." The offender was able to apologize to the victim, the deceased.

Overall, the participants noted that the VOM experience was empowering. Unlike the other cases, the mediators were chosen because of their extensive experience, using a culturally sensitive approach. Furthermore, careful planning was exercised in preparation for the case. For example, the coordinator of the program prepared the juvenile offender for the VOM while he was still in incarceration.

What Could Be Done Differently?

Even though the offender's release was planned for a while, the victim's family was not informed about it until they were informed of the VOM. Rather, it was a surprise to them and resulted in anger and confusion when they learned of his release from the program coordinator. Furthermore, the victim's family was not involved in decision-making about pursuing the VOM from the beginning. Rather, decisions about considering VOM as an intervention were made between the probation officer and the DA's office prior to contacting the victim's family, thereby violating a major premise of the VOM model which stresses shared decision-making. The lessons learned here might be that a need exists for improved collaboration and coordination between the referral sources and the VOM to provide a more victim-sensitive VOM service.

Another area in this case that is in need of improvement relates to the delivery of the apology. In this case there were misunderstandings on the part of the juvenile offender and the victim's family regarding to whom the apology should be delivered during the VOM. The offender prepared a letter of apology to the actual victim. The family members present at the VOM felt that the apology should also be directed to

them. This points the way for mediators to recognize the importance of preparing offenders to write apology letters that address all of the important players.

Finally, it is important that attention be given to the perceptions of safety in the VOM environment for all parties involved, especially in the case of severe crimes. It should be noted that, in this case, family members expressed some concerns about their safety, as did the offender who was concerned that the family may wish to retaliate against him. While neither of these issues came to fruition in this session, it is important to recognize that participants may be legitimately concerned about their personal safety at VOM.

Suggestions from Participants

- Victim
 - One victim suggested a need for a follow-up. Specifically, the victim said, “We haven’t heard anything since that time . . . it would have been nice to have some kind of follow up just to see how he is doing to make sure that he is following the stipulations of his probation and things like that.”
 - Another victim suggested a need to pay more attention to security.
- Mediator
 - A mediator suggested a need for more funding.
 - One mediator described a need for tighter security. For example, “If you have somebody who’s harmed somebody, in a criminal way, you have a pretty good indication that they may do it again if pushed too far.”

- Another mediator suggested a need for further training for mediators especially related to group dynamics.
- A mediator described the importance of preparation not only for participants, but also for mediators themselves. Specifically, when discussing this, mediator said, “. . . how much the mediator feels they can get involved in that kind of process and how the process is set up and how it’s explained to the parties in advance so they’ll know how much they have to participate.”
- A mediator suggested changing the typical seating format, which created a gulf or separation between the victims and the offender’s side in this case, according to the mediator.

CHAPTER 5: FINDINGS, ACROSS THE CASES

As shown in the previous chapter, each of the four cases displayed various stories with various natures of the severities of the crimes, ranging from misdemeanor to felony charges, which included both pre- and post-charge cases. Nonetheless, the four cases also illustrated similar layers of their experiences based on their breakthroughs and the comparable processes of getting into the Victim Offender Mediation program (VOM). This section focuses on the comparison across the four cases to capture the similarities and differences among the cases. When it is necessary, I re-visit each case for a summary, especially when the nature of the description is complex, helping in further discussion.

The Four Cases

The Chronology: From the Incident to the VOM

With the exception of the Involuntary Manslaughter case, the participants of the other three cases indicated that it took approximately three to four months for them to complete the VOM program, from the incidents to the VOM. In specific, once a referral was made from the IIP to the VOM, it took about one to two months to set up the VOM. During this time, the juvenile offenders tried to complete their community service hours, which were directed by the IIP. Once they met the coordinator of the VOM for an intake, the juvenile offenders prepared the letter of apology during the remaining days, ranging from 10 days to two months. One of the commonalities across the cases regarding the juvenile offenders and their parents is that the juveniles and parents met the coordinator of the VOM before the VOM.

Meanwhile, a coordinator of the program utilized those days to prepare the juvenile offenders by conducting an intake with each of them and their parents. The preparation for the victims was usually done by exchanging phone calls and the actual meetings with them usually occurred for about 10 minutes on the days of the VOMs, immediately before the meeting. In fact, as opposed to the offenders and parents, none of the victims met the program coordinator prior to the VOM.

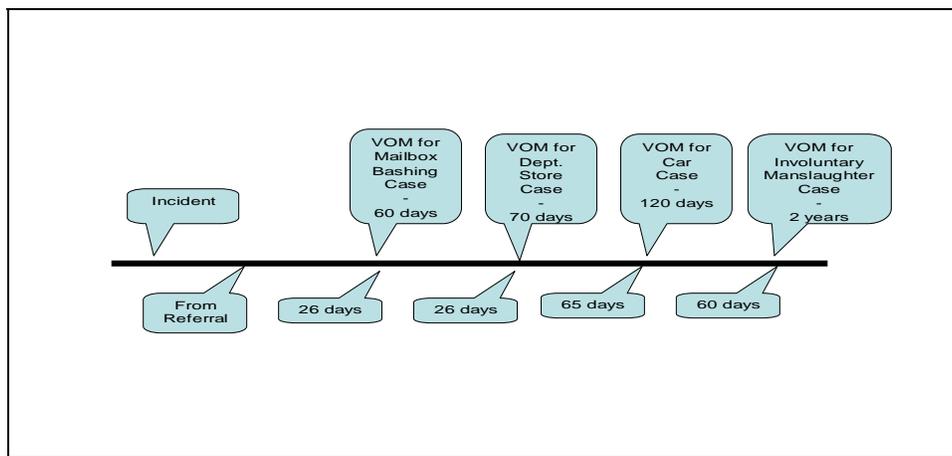


Figure 5.1. The chronology of the cases: from the incident to the VOM

In addition to preparing the victims, offenders, and parents, coordinators of the VOM also needed to prepare the mediators before the VOM. While for the involuntary manslaughter case and the car case, the mediators were selected by a coordinator, the other two cases were staffed on a voluntary basis. In other words, the mediators chose to participate based on convenience. The findings indicated that when the nature of the crime was severe or involved a high amount of restitution, it seemed that the coordinator became more selective in choosing mediators.

Regarding the nature of participation in the VOM, throughout all the cases, the juvenile offenders were ordered to participate in the VOM. In other words,

attendance at the VOM was mandatory for the offenders. The provided information for the offenders and parents emphasized that failure to participate in the VOM could jeopardize their diversion, for the first three cases, and the conditional release, for the involuntary manslaughter case. In contrast, participation in the VOM was voluntary for all victims.

The Incident

The Views on the Incident

The participants' views about their cases, especially the incidents, highlighted the differences rather than the similarities. In particular, some gaps were revealed between the juvenile offenders' explanations and the victims' understanding of the incidents. To the victims, a crime is a crime, whereas the juveniles tended to have their explanations, which the victims thought of as excuses. The gap between the explanations and excuses appeared profound. In addition, the mediators were prone to consider the incidents as typical behaviors of most juveniles.

The Continuing Impact of the Incident: Juvenile Offender and Parent

Across the cases, the participants' narratives on the continuing impacts of their individual incidents highlight the different nature of the cases. It seems that the impact of the incident was different from person to person. However, regardless of the severity of the crime, both the juvenile offenders and parents went through difficulties, which usually were not being addressed at the VOM. The burdens that the parents had to bear reflect the situation that when a child commits a crime, the parent also becomes an offender, needing to be helped as well.

The Continuing Impact of the Incident: Victim

The Definition and Needs. Across the cases, the victim participants talked about their victimization experiences, especially the emotional and financial aspects of these incidents. In particular, the victim participants noted the emotional impacts of the incidents, which became greater according to the severity of the crimes. In other words, the victims of the Car Case and the Involuntary Manslaughter Case talked more about their devastating victimization experiences. It was also found that in two cases, the Department Store and the Involuntary Manslaughter Case, the definition of victim was different among the participants.

The victim participants listed several needs. The most mentioned needs were 1) getting answers to their questions to gain further information, 2) receiving a genuine apology, and 3) sharing their victimization experiences with the offenders.

The Views on Each Other

Juvenile Offender(s) and Parent(s) vs. Victim(s). This section highlights the differences across the cases regarding the participants' understanding of each other. In general, the victim participants thought that the offenders were not as remorseful, responsible, and innocent as they claimed at the VOM. However, in the first three cases, the offenders and parents were appreciative for the victim participants' involvement as well as their understanding of the youth. The offenders and their parents were also sympathetic of the victims' experiences. In the last case, the participants revealed a bigger gap in terms of understanding each other than the

participants in the other cases. However, this should be understood in the context that reflects the nature of the crime and their previous experiences during the trial process.

Victim Offender Mediation: The Process

Immediate Intervention Program (IIP)

Except the Involuntary Manslaughter Case, all cases were referred from the IIP. Across the cases, the juvenile offenders and parents considered the IIP to be a second chance. One of the differences of the IIP contracts was that the community service hours ranged from 10 to 40 hours, depending on the severity of the crimes. In addition, another unusual aspect of the contracts in the Mailbox Bashing Case was seen in that some personalized tasks were added to the juveniles' contracts, taking their situations into consideration. One significant commonality of the IIP contract was to complete a VOM.

Preparing the VOM

Preparation for the Victims

Across the cases, the victims were prepared for the VOM through phone calls as opposed to the offenders and parents, who met the mediators in advance. The participants noted that the preparation session before the VOM was very short. A variance existed when it came to the information that the participants were given before the VOM. While some of them noted that the preparation was helpful, others pointed out that it was not useful. Overall, it appeared that the victims were not thoroughly prepared for the VOM.

Preparation for the Offender and Parent

The participation in the VOM for all offenders was mandatory. Their chances for diversion would be revoked for the juveniles in the first three cases if they chose not to participate in the VOM. For the youth in the Involuntary Manslaughter Case, his conditional release would be retracted if he would not have followed the directive. As opposed to the victims, throughout all the cases, the juvenile offenders and parents had to meet the mediators in advance to be informed about the VOM process. However, in this process, the juvenile offenders and parents were purposely not fully informed about the process. This practice was designed to scare the offenders so that they would be nervous and worry about the VOM process. Then, when they discovered later that the VOM was not as bad as they had expected, it was thought that they would experience more relief. At the intake, the mediator even told the juveniles that the process would not be easy for them because people would be hard on them.

Participants' Motivations/Expectations to Participate in VOM

Participants expressed various motivations and expectations for participating in the VOM. First of all, in the Department Store Case, the juvenile offender and her father wanted to attend the VOM to keep her record clean. The parent and the service providers, including the mediators and the referral source, wanted the juvenile to be able to show her remorse and learn that her behavior harmed many people. The victim emphasized that he also wanted to help young people turn their lives around to be more honest and productive. He also stated that his previous experience with the VOM helped him decide to attend the current VOM. Unlike the offender, parent, and

the victim having specific motivation to participate in the VOM, mediators' motivation to participate in the VOM was rather random.

Second, in the Mailbox Bashing Case one mediator described that most victims in this case did not want to participate in the VOM process. The victims who decided not to participate in the VOM stated that the damage was not serious enough or that they just wanted the offenders to be placed in the juvenile justice system. However, the two victims who participated in the VOM identified that they wanted to have an opportunity to face the offenders to talk to them about their victimization experience. One victim expressed that if people do not care about their victimization experience any more, then it would give young people the message that it is alright to continue to vandalize the neighborhood. The victims' expectations were to let the young people know the limit of their behavior. The statements reflect their concern for young people. The parents of the offenders expected them to have an opportunity to realize the magnitude of their behavior through learning about the harms and emotions involved in the crime. One parent said that, without putting faces with the crimes, it becomes a prank. Parents also wanted to have an opportunity for their children to build character as well as to give the victims a voice. The juveniles also noted that they wished to apologize to the victims as well as to receive understanding from them.

Third, in the Car Case, the victims mentioned that the motivations for them to be involved in the VOM were 1) to acquire answers for their questions, 2) to help young offenders out, and 3) to receive their restitutions. According to a mediator, if

the victims wanted to receive any type of restitution, either emotional or financial, they had to directly participate in the VOM. However, as with the Mailbox Bashing Case many victims chose not to attend the VOM. One mediator speculated that the biggest factor in non-participation is the “lag time” between the offense and the VOM. Lag time is an issue due to victims already moving on or victims simply not wanting to mess with the offenders anymore since they already spent too much time on it. In this case, the schools were the biggest victims when it comes to the damage caused by the juveniles, but the institutions did not participate in the VOM. A mediator pointed out that there might be “red tape” involved as well as a lack of understanding of restorative justice. The juveniles and parents participated in the VOM so they that could move forward and complete the requirements for the diversion. One youth said that he wanted to tell the victims why they committed the crime. Parents wanted the juveniles to be able to face what they did and apologize to the victims. Parents also wanted the victims to be able to see that the juveniles were sorry for their actions. One mediator shared his motivations for participating in the VOM: 1) training new mediators and 2) high amount of restitution. The mediator also shared his goals for the VOM: 1) The victims sharing their victimization experiences with the juvenile offenders and 2) the victims receiving restitution as compensation for the harm.

Lastly, in the Involuntary Manslaughter Case, the juvenile offender and his mother’s participation in the VOM was part of the requirements for the juvenile’s conditional release. In fact, the mother thought that the meeting with the victim

family would be damaging for both parties, but the probation officer thought that the juvenile had to deal with issues associated with the incident, a task he had refused complete while in jail. The juvenile shared his expectation of being able to release emotions that he had bottled up as well as to help the victim family to move on from the incident. The victim family's motivation was to ask the juvenile the questions that they were not able to ask during the trials. While the two victim family members wanted to let the juvenile know that there were still many people he hurt in the community, one victim wanted to let the juvenile offender know the pain that the victim must have felt at the time of the crime. In so doing, she wanted the juvenile to understand the source of the victim family's pain. The victim family also wanted to help the juvenile offender to better know the victim. She thought that the juvenile did not know the victim well due to the brevity of their relationship. However, the victim family also had another motivation to help the juvenile understand that, as he grows older, he has to be a person who can replace the victim, who was a loving and understanding man who contributed to society. The probation officer's hope was that the juvenile would work through his emotions surrounding the incident. She wanted both parties to have a sense of closure. In particular, the probation officer wanted the juvenile to be successful in the community. To be successful, she thought that the juvenile and the victim family, who were distraught and upset, should meet on neutral ground to begin to develop some type of closure over the issue. One mediator expected that the juvenile offender would be able to tell the truth about the incident to the victim family.

Across the cases, the participants expressed various motivations and expectations for participating in the VOM. Regarding the motivations/expectations of the victims: 1) Although the expressions were different, they wanted to assist the juvenile offenders in being better people; 2) the victims wanted to have an opportunity to face the offenders to talk to them about their victimization experience; 3) the victims wanted to directly ask the juveniles their unanswered questions about the incidents; and 4) the victims, especially from the Car Case, wanted to receive their restitution.

The motivations for victims *not* attending the VOM were speculated as 1) the damage was not serious enough, 2) just wanting the offenders to be placed into the juvenile justice system, 3) the lag time between the incident and the VOM, and 4) in cases with schools, there might be red tape involved as well as a lack of understanding about restorative justice.

Although participation in the VOM was mandatory for the juvenile offenders, they also mentioned several motivations/expectations: 1) Keeping records clean; 2) moving forward from the incident; 3) telling the victims why they did it; 4) apologizing to the victims; 5) helping victims to move on; and 6) releasing emotions.

The parents also pointed out their motivations/expectations as follows: 1) The juveniles to be able to show remorse and to apologize to the victims; 2) the juveniles to learn the magnitude of their behaviors that harmed many people; 3) the juveniles being able to put a face with the crime; 4) the juveniles being able to build character; and 5) the victims being able to see that the juveniles were sorry for what they did.

The service providers, including the referral sources and mediators, mentioned their motivations and expectations for the VOM as follows: 1) The juveniles to be able to show remorse; 2) the juveniles learn that their behaviors harmed many people; 3) enabling the victims to share their victimization experiences with the juvenile offenders; 4) enabling the victims to receive restitution as compensation for the harm; and 5) the victim parties and offenders' parties gain a sense of closure.

The mediators also noted their motivations to attend the VOM, which were characterized in two ways. First, for the first two cases, the motivations were rather random. Second, for the last two cases, the Car Case and the Involuntary Manslaughter Case, the mediators' motivations were more specific: 1) Training for new mediators; and 2) involving either a high amount of restitution or the severe nature of crime.

The following Table 5.1 displays participants' motivations and expectations to participate in the VOM, which were mainly categorized in two ways: 1) Helping juvenile offenders; and 2) helping victims.

Table 5.1

Participants' Motivations/Expectations to Participate in VOM

	Victims	Juvenile Offenders (JO)	Parents	Service Providers
Helping JO	To help JO be better person		- To help JO learn something out of the process - To help JO build character - To help JO put a face on the crime to enable different aspect of it	To help JO learn something out of the process
		To release emotion		
		To keep records clean		
		To move forward		To help participants get closure
Helping victim	- To face JO talk their experience - To ask questions and get answers	To tell victims why they did it		To help victim share their stories
	To get restitution			To help victim get restitution
		To apologize	- To help victims see JO being sorry - To help JO apologize	To help JO be remorseful
		To help victim move on		To help participants get closure

Looking Inside of the VOM

The Atmosphere

Across the cases, it was observed that the atmosphere of the VOM became more emotional as the nature of the crime became more severe. Also, more participants concerned their safety as the nature of the crimes became more severe. However, in general the participants noted that they felt safe enough to discuss their issues.

Parental Involvement

Except in the Involuntary Manslaughter Case, it seemed that the parents were allowed to participate in the conversation to the extent that their participation did not interfere with the conversation between the offenders and the victims. When parents thought that the VOM was more between the juveniles and the victims, their involvement was minimal. They considered their roles to be that of protection and support of their children at the VOM. However, their minimum involvement was also seen in a negative way. A parent observed that the parents became defensive in protecting their children as well as wishing not to be seen as bad parents. In the Involuntary Manslaughter Case, there was another aspect that might have needed to be considered during the VOM. Given the fact that the youth did not take the stand during the trials for protection purposes, it was difficult for the mother to refrain from intervening when her son was directed to re-visit the painful situation.

Mediators/Their Attitudes and Roles

In the Department Store Case, the participants pointed out many different mediators' roles and attitudes including 1) keeping things under control, 2) being neutral, 3) being respectful, 4) facilitating conversation, 5) limiting the scope of the conversation, 6) coaching, 7) empathetic listening, 8) creating a victim-sensitive environment, and 9) collaborating with other mediators. In specific, while the juvenile offender and father appreciated the mediators' calm and respectful approaches, the mediators pointed out some difficulties when it came to facilitating conversation between the two parties. Facilitation was especially difficult when an issue was brought up that was of no interest to the victim. In particular, the juvenile offender's

disclosure of her experience of sexual abuse as a backdrop to the incident was not discussed at length during the VOM. The mediators pointed out that an important role that they took was to limit the focus of the conversation to the legal issues of the current incident.

In the Mailbox Bashing Case, the participants noted the roles that the mediators took in the VOM were 1) to facilitate conversation, 2) to keep the meeting under control by accomplishing important goals within a limited timeframe, 3) to be neutral by not making any judgments calls, and 4) to be calm and nice. In specific, the juvenile offenders and parents pointed out the mediators' roles as facilitators of the conversation through asking questions. The participants noted that the mediators played invisible by speaking very little during this process. The mediators tried to help the two parties talk to each other. One mother summed this up as not "controlling" the conversation. The juvenile offenders appreciated that the mediators elaborated on their answers by bringing up some aspects of the situation that they never even thought about before the VOM. One mediator explained it as the ripple effect that helped to expand the juveniles' understanding of the effects of their crime. The juvenile offenders appreciated that the mediators were calm and nice toward them. The lightened mood helped relieve pressure and nervousness in the youth.

However, the participants also pointed out some unsuccessful roles that the mediators while conducting the VOM. First of all, the victims expressed that they were not able to bring up an important aspect of the incident. They indicated that they were not allowed because it was beyond their rights. They wished for mediators to

make a briefing up front about the whole scope of the crime. For instance, letting the participants know that this case involved eight victims, although they were not able to attend the VOM. Second, the parents of the juvenile offenders noted that the mediators were “too nice” even though it was obvious that the juvenile offenders made a mistake. They wanted the mediators to know their audience better. They wanted the mediators to be flexible enough to be able to be both firm and soft by taking into consideration the nature of the crimes and juvenile offenders’ social and personal environments. Third, the victims strongly noted that they were told by a mediator to keep things positive resulting in their inability to express their true emotions to the juvenile offenders and parents. Fourth, the mediators’ repetitive remarks regarding the lag of time at the VOM made the juveniles felt pressured, which consequently caused one juvenile to read his letter of apology faster. The juveniles wished to be able to speak at more length. Lastly, one mediator shared her frustration in collaborating with the other mediators who she did not know well enough.

In the Car Case, the participants noted several different roles and attitudes of the mediators such as 1) facilitating conversation and 2) being respectful. In specific, the participants mentioned that the mediators facilitated conversation between the victims and offenders. One juvenile noted that he did not hear the mediators say much at the VOM. Instead, they let the victims and the juveniles talk. One juvenile mentioned that he felt that the mediators treated him in a respectful way.

However, there were some negative points of view in terms of the mediators’

roles and attitudes. First of all, in several instances, the victims appeared to be feeling uncomfortable. The victims mentioned that they felt threatened by a certain juvenile and his father at the VOM. However, the mediators did not intervene in the situation. The father in question said that he was mad at the juveniles and his inability to pay back the restitution; he was *not angry* at the victims. A parent mentioned a situation where a victim was mistakenly placed in a waiting room with the juvenile offenders and parents. The mother noticed that the victim was very uncomfortable and said it was a big mistake. The victim confirmed that he was very uncomfortable. Second, the parents noted that a mediator was not neutral and understanding of the juvenile offenders but rather more compassionate towards the victims.

In the Involuntary Manslaughter Case, the participants noted that the mediators were doing their jobs by 1) facilitating the conversation, 2) limiting the scope of the conversation, and 3) keeping things under control. In specific, first of all, the participants pointed out that the mediators were there to facilitate the conversation between the juvenile offender and the victim's family. The mediators noted that they did not have to speak much because the participants handled the situation very well by themselves. Second, the participants pointed out that the mediators set limits on the conversation in two ways: 1) They made an effort to shift the conversation to be more between the juvenile offender and the victim's family by limiting the involvement of the offender's mother; 2) the juvenile's mother appreciated that the mediators followed the rules in which the participants would focus more on here and now rather than the past so that the victim's family did not pick her son apart or take

their anger out on her son. Lastly, the participants mentioned that the mediators tried to make sure that everything was under control, including the safety issue. The mother illustrated this point by explaining a situation in which the mediators kept them apart after completing the mediation. The mediators described that the level of alertness among the mediators was very high, given the unusual nature of the crime.

Across the cases, the participants noted several mediators' roles and attitudes including 1) facilitating the conversation between the victims and the offenders, 2) keeping things under control, 3) being neutral, 4) limiting the scope of the conversation, 5) being respectful, 6) being calm and nice, 7) coaching, 8) empathetic listening, 9) creating a victim-sensitive environment, and 10) collaborating with other mediators.

However, there were several areas in which the mediators were not successful in delivering their roles and showing their attitudes towards the participants: 1) The mediators set the limits of the conversation on their own; 2) the mediators were not sensitive to the victims' needs; 3) the mediators were too soft; 4) the mediators did not allow enough time for the participants; 5) the mediators were not neutral and/or more compassionate for the victims; and 6) the mediators were not successful in working with other mediators.

Delivering Apology

Community Service

Across the cases except the Involuntary Manslaughter Case, in which the community service was not discussed at the VOM or at the interview, the offenders

reported positive experiences even though the community service was not easy for them to do. The community service was not just a punishment for them. The juvenile offenders were able to 1) apologize to the community and 2) learn about themselves. Several parents noted their difficulties making contact with the person who answered questions regarding the community service. Selecting the community service was rather random without taking into consideration the juveniles' situations, such as their interests and/or strengths. In general, the mediators did not discuss the impacts of community service at the VOM.

The Letter of Apology

Across the cases, the letter of apology was an important medium to deliver the apology to the victim's family. The juveniles noted that it was not easy for them to come up with the letter of apology and to make it a heartfelt letter. Their parents and teacher helped them to write a sincere letter. Upon reading the letter aloud, most of the juveniles stated that they felt better. Although the offenders put a lot of effort into their letters, many victims thought the apologies were not sincere and heartfelt. It seems that not only the letter itself but also the way of delivering the letter affected victims' impressions of the letters.

Decision-Making Process

The Caucus

In the Department Store Case, the victim noted that, during the caucus, he addressed his concern to the mediators about the apology not being sincere and genuine enough from the offender. However, he was not able to participate in the

decision-making about whether he would accept it or not. Rather, the mediators made the decision without involving the victim about his decision. The victim also said that he was not informed that he had an option to say ‘no’ as a victim in the decision-making process. Consequently, the apology was accepted, although the victim was not satisfied with it. Meanwhile, the victim provided valuable information during the caucus that the offender was a good sales person at work, which the mediators did not know and the offender and parent did not expect to hear at the VOM.

In the Mailbox Bashing Case, the juveniles agreed that they were nervously waiting in the waiting room for the decision to be made during the caucus. They also felt that the tough part of the VOM went alright, and they expected that their apologies would be accepted. One mediator emphasized that the victims were able to voice their opinions in the decision-making process.

In the Car Case, unlike other cases, the mediators did not hold the caucus to discuss the victims’ intention of whether they would accept the apology or not. The mediators asked the victims whether they would accept the apologies in the presence of the offenders and their parents. Although the victims accepted the apologies, one of them indicated that she felt pressured to do so. She mentioned that she was still mad and angry at the offenders.

Across the cases, the use of the caucus was not consistent. The caucus was used during the first two cases, but not in the third and fourth cases. In the first case, the victim was not included in the decision-making process. In the third case, one victim felt pressure to accept the apology in the presence of the offenders and parents.

It is noteworthy here that this same victim also felt threatened by one juvenile and parent. Therefore, it is not difficult to imagine the extent of the pressure she felt to accept the apology.

The Contract

In the Department Store Case, the contract highlighted that the juvenile's apology was accepted and she would complete 10 hours of community service soon. There was no restitution requested from the victim. The father commented that the contract was unfair from the store's point of view because they did not have any compensation, but instead provided help for the juvenile. The victim addressed that the contract gave him a sense of ownership as well as closure. One of the mediators noted that the structured nature of the contract, such as pre-determined hours of community service, seemed to take away an opportunity for both victims and offenders to discuss what was right on their own terms.

In the Mailbox Bashing Case, in addition to the restitution and accepting the apologies, the contract addressed the point of the victims asking the juveniles to talk to their peers to change the culture among their cohorts based on their experiences at the VOM. The victims also asked the juveniles to advise them when the annual event would occur so that they could prevent further vandalism in the community.

In the Car Case, the contract indicated that the apology was accepted and that the restitution would be paid within 90 days. Most of the juveniles and parents thought that the amount of the restitution was fair. One parent said the victims absolutely deserved the amount that they asked for and that there was no way she

would outright complain about the amount. However, one parent complained about the way in which a mediator handled the situation in “a finger pointing way.” One mediator observed that even though there was a lot of unhappiness about the way to pay the restitution, the parents of the juveniles were convinced to sign the contract. The victims felt sorry that the parents had to pay the restitution in such a short period of time. One victim said that he was not informed that he was able to offer his opinion on the contract. He had the impression that the contract was more between the DA’s office and the offenders. He just signed it so that the VOM would be able to let the DA’s office know that he attended the meeting. In contrast, one mediator thought that the victims did not ask for anything else.

Across the cases, the contract indicated that the apologies were accepted, but the victims were not sure that they were able to say “no” at that point. In two cases, restitution was discussed. In one case, the restitution was too little compared to the extent of the crime and in the other case, the participants were not happy about the way to pay back the restitution but they were convinced to sign the contract. The contract also gave the victims the opportunity to feel ownership as well as a sense of closure. A variation existed in that, while some victims were able to give input about the contract, some victims felt that they were just there to help the VOM and that the contract was more between the DA’s office and the juveniles.

The Impact of the VOM

Accountability

Across the cases, the participants' perspectives regarding accountability were various. The mediators, juvenile offenders, and their parents believed that participation at the VOM with the victims, paying restitution, completing community service, and not committing any further crimes were important when it comes to accountability. Many of the juveniles and parents agreed that the VOM was not an easy way of being held accountable for commission of their crimes. In contrast, while not all victims agreed that the juveniles were held accountable, the victims who did not think that the juveniles were held accountable noted that it was important for them to see the juveniles acknowledging what they did with a sincere apology.

The Benefits

In the Department Store Case, the participants pointed out some benefits of the VOM including 1) the VOM provided a learning opportunity, 2) the VOM provided a second chance, 3) the VOM provided an opportunity for the offender to apologize and for the victim to receive an apology, 4) the VOM provided an empowering experience for both the offender and the victim, and 5) the VOM provided an opportunity for both the victim and the offender to experience a sense of closure.

First, the participants mentioned that the VOM was an opportunity for the juvenile offender to learn some lessons from the experience. In particular, the juvenile offender noted that she learned how to trust people by knowing more about how to pinpoint people. She said that she knows how to treat people better at her current job.

Second, the juvenile, especially, was grateful that she had a second chance to keep her record clean. She appreciated that she was not getting into the deeper juvenile justice system such as a juvenile detention center. The father also was appreciative for his daughter having a second chance to clean her act up by herself. The victim also shared that his motivation was to provide the juvenile a second chance.

Third, the VOM provided a space for the offender to apologize and for the victim to receive the apology. The offender expressed some difficulties in meeting the victim again at the VOM. However, she indicated that it was good for her to be able to apologize to the victim.

Fourth, the juvenile mentioned that she felt better when she heard from the victim that she had been doing great at her job. She did not expect to hear these comments at the VOM. The victim said the VOM gave him the opportunity to get his concerns off his chest by being able to address the concerns directly to the juvenile offender, challenging her directly as well as listening directly to the apology. He said that he thought he most likely would not have been able to have this experience through the traditional court system.

Finally, the victim shared that, because of the VOM, he was able to experience some sense of closure, especially by signing the contract. By doing so, he felt that it was time to move forward and that it was old news now. The juvenile offender also experienced a sense of closure or closing off by being able to say sorry to the victim.

In the Mailbox Bashing Case, the participants pointed out some benefits of the VOM: 1) VOM provided an opportunity to see different aspects of the crime by putting a human face on it; 2) VOM process provided them an opportunity to understand each other better; 3) VOM provided an opportunity to expand the positive effect into the community; 4) VOM provided a learning opportunity for the juvenile offenders; 5) VOM provided a second chance for the juvenile offenders; 6) VOM provided an opportunity for the participants to have a sense of closure; 7) VOM provided an opportunity for the participants to have a sense of empowerment.

First, they described that VOM provided an opportunity to see different aspects of the crime by putting a human face on it. Both the juveniles and parents strongly believed that the VOM was great for the juveniles to be able to put a face with the people and with the damage that they actually caused to the victims. They realized that it was more than just damage or cost. The juveniles were particularly impressed by the stories of the little girls of one of the victims. The juveniles could not believe that they could be some monstrous figures to innocent little girls.

Second, the participants pointed out that the VOM process provided them an opportunity to understand each other better. One father said, knowing each other is the beginning of a healing process. Not only the juvenile offenders, but also the parents and the victims, gained a new understanding of each other.

Third, following the request of the victims to talk among their friends in the community about the consequences of the mailbox bashing activity, the juveniles described that they had been talking to peers. They reported that, in fact, they had

witnessed that several of their friends gave up mailbox bashing because the youth had shared their experiences with them .One father said that, eventually, as many kids as possible should participate in the VOM to stop the culture of mailbox bashing. Here, the juveniles indicated that they became the agents of change by “spreading the words out.”

Fourth, the participants also mentioned that the VOM provided a learning opportunity for the juvenile offenders. The juveniles articulated that the VOM was not only a punishment but also a learning opportunity throughout the whole process, in particular, because of the meeting with the victims in a respectful environment.

Fifth, the participants, especially the parents were grateful that their children were able to participate in the diversion program because it provided a second chance for them to keep their records clean. One father mentioned that the VOM was a healthy alternative and a win-win situation at the same time.

Sixth, the VOM also provided an opportunity for the participants to have a sense of closure. One youth mentioned that he felt relieved after completing the whole process and that it gave him a sense of ‘letting it go.’ The parents also felt a sense of closure. One mother speculated that the victims also were able to feel a sense of completion.

Lastly, the participants talked about the victims’ experience of empowerment. One mediator pointed out that the victims were able to give input in the decision-making process. One victim related that she was pleased that the people involved were able to get together to solve the problem in their own way. She was also able to

have the information to prevent further vandalism around the community. One mediator said that the victims might have felt respected by the offenders. One juvenile spoke that he felt good because he was able to help the victims by repaying them for the damages caused by him.

In the Car Case, the participants pointed out some benefits of the VOM, including: 1) VOM provided the juvenile offenders an opportunity to learn; 2) VOM provided the youth an opportunity for a second chance; 3) VOM provided an opportunity for the offenders to put a human face with the crime; 4) VOM provided an opportunity for them to have a better understanding of each other; 5) VOM provided an empowering experience; 6) VOM provided an opportunity for them to get answers to their questions; 7) VOM provided an opportunity for the participants to have a sense of closure; and 8) VOM was an efficient process for the victims.

First, the participants appreciated that the VOM provided the juvenile offenders an opportunity to learn something. The victims pointed out that usually juveniles do not enjoy a chance to really hear what affects people, but that the VOM provided the opportunity for the youth to hear from the victims directly in this case. The juvenile offenders and parents indicated that some behavioral changes resulted from participation in the VOM. For example, one youth said he learned to think about what he is doing and to think about the consequences at the same time. He also proudly reported that he was able to walk away from peer pressure even though he was called “a chicken.”

Second, the offenders and parents and the victims appreciated that the VOM

provided the youth an opportunity for a second chance. One mother appreciated that the decision to offer the VOM to the juvenile was made by considering the bigger picture, such as first time offenders, good kids, not in trouble at school, and good families. One father said that the VOM was a good alternative to the court system, especially for small crimes. One victim mentioned that the VOM helped the juveniles keep their records clean for their future careers.

Third, the participants mentioned that the VOM provided an opportunity for the offenders to put a human face with the crime that they committed, enabling them to see the different aspects of the impacts. The victims noted that, since the juvenile offenders did not know what was happening to the family's life due to the crime, listening to the victims helped them put a person with the crime. One mother said that, until they actually put a face with what they had done, it would not really affect the offenders. Most of the juveniles remembered what the victims said, especially regarding the victims not being able to give their sick daughter a ride to the hospital. The juveniles remembered this story as the human face of the crime, and it affected them the most.

Fourth, the participants, especially the victims, noted that the VOM provided an opportunity for them to have a better understanding of each other. One victim said that, before the VOM, he wanted to put the juveniles in jail. However, after taking part in the VOM, he changed his mind, seeing that the juveniles realized what they did to their own families as well as to the victims' families. The victims especially emphasized that they felt sorry that the parents were burdened due to their children's

mistakes. One victim family also shared that their children and the juvenile offenders have a better understanding of each other now at school.

Fifth, the participants mentioned their experiences of empowerment. A victim family mentioned that the VOM eased their minds because they were able to confront the juveniles, to ask them why they vandalized their property, and to acquire answers to their questions. A juvenile offender said that he felt better that he paid society back for his crime through the community service.

Sixth, the victims appreciated the VOM providing an opportunity for them to get answers to their questions. The victims mentioned that the juveniles answered everything they wanted to know at the VOM. However, the interview process with them also revealed the fact that the answers were not truthful. Interestingly, the victims indicated that they did not mind the untruthful answers.

Seventh, the victims demonstrated some signs that they were moving on: 1) They felt their minds were eased; 2) they sensed the changed relationship between their children and the juvenile offenders at school; 3) one victim dropped his portion of the restitution based on his newly formed compassion for the juvenile offenders' parents. One offender's mother wanted her son to face the victims so that he could experience closure.

Finally, the victims pointed out that the VOM was an efficient process for them. The victims appreciated the VOM process for being quicker than the court process when it came to receiving the restitution. One victim also liked that the VOM process helped the juveniles to be more responsible due to needing jobs to pay the

restitution.

In the Involuntary Manslaughter Case, the participants pointed out some benefits of the VOM including: 1) VOM provided an opportunity for them to move on to live their own lives; 2) the participants shared their empowering experience at the VOM; 3) an opportunity to understand each other better; 4) the participants discussed the issues related to the juvenile offender's re-integration into the community; and 5) VOM was an opportunity for them to ask and answer questions.

First, the participants noted that the VOM provided an opportunity for them to move on to live their own lives. The juvenile offender thought that the victim family would move on because they told him at the VOM that they would forgive him. One of the victim family members said she was able to close a chapter that she was not able to close at the trials. By meeting and speaking to the juvenile at the VOM, she felt that little weight had been lifted off so that she does not have to carry it around anymore. The other victim family member also said he is not angry anymore and that he was able to go on with his life. The mediators were also able to witness the participants' moving-on at the VOM. One mediator depicted it as it "got washed out to sea, whatever hindrance or burdens."

Second, the participants shared their experience of empowerment at the VOM. The juvenile offender realized that he had a lot of responsibilities and that he knew that he had enough power to do anything. He said his eyes were more open so that he saw things more clearly. The victim family asked the juvenile to live his life for two lives. They did not want the juvenile to waste away his life. One victim family

member said that it was comforting for her to re-read the victim statement that she read at the trial, but which was not well received at the time. She was able to look the juvenile directly in the eye and knew that he had no choice but to hear her words. She also learned that she is a person who can control herself and who has a lot of inner strength.

Third, the participants mentioned that they had the opportunity to understand each other better. In particular, the understanding between the offender and the victim family came after the VOM. One victim family member said that he believed that the juvenile offender was truly remorseful. The offender said that he understood where the victim family came from, regarding their feelings about the crime. The juvenile was able to put himself in their shoes by saying, "I know if that happened to me, I'd feel the same way." The VOM also helped the juvenile offender and his mother to gain a better understanding of each other. The mother realized that her son was not a 14-year-old boy anymore.

Fourth, the participants discussed the issues related to the juvenile offender's re-integration into the community. In particular, the mediators were concerned about this issue. They wanted the juvenile to be prepared to run into the victim family in the community. One mediator observed that the juvenile looked more relaxed after completing the VOM because, after the VOM, he would not have to look around every corner to see if there was a family member coming to gouge him.

Lastly, the participants stated often that the VOM was an opportunity for them to ask and to answer questions, which they were not able to do during the trials. One

victim's family member said that he is not angry anymore since having the answers to his questions. The other victim's family member also said that the VOM helped her to dull the pain by asking questions and receiving answers. In particular, she asked about the last moments of the victim's life, a question that she and her family had not known the answer during the last couple of years. The victim's family also mentioned that they would be able to share what they heard at the VOM with other family members who did not attend the VOM. The offender's mother also thought that it was helpful for her son to talk about the incident as he had not been allowed to speak during the trials. One mediator said that the chance for him to talk probably relieved the tension or stress that he might have been carrying with himself.

Across the cases, the participants noted the benefits of the VOM as follows: 1) The VOM provided a learning opportunity; 2) the VOM provided a second chance; 3) the VOM provided an opportunity for both the victim and the offender to experience a sense of closure; 4) the VOM provided an empowering experience for both the offender and the victim; 5) the VOM process provided them an opportunity to understand each other better; 6) the VOM provided an opportunity to see different aspects of the crime by putting a human face on it; 7) the VOM provided an opportunity for victims to acquire answers to their questions (Q & A); 8) the VOM provided an opportunity for the offender to apologize and for the victim to receive an apology; 9) the VOM provided an opportunity to expand the positive effect into the community, including juvenile offenders' reintegration; and 10) the VOM was an efficient process for the victims.

Below, Figure 5.2 depicts the benefits of the VOM, across the cases.

Importantly, the two most common benefits reported throughout all the cases were 1) experiencing a sense of closure as well as 2) an empowerment. It is also noteworthy that some of the benefits each case illustrated were distinctive being concurring with the nature of the cases. For example, the participants of the Mailbox Case indicated the expanded impacts to the community. The participants of the Involuntary Manslaughter Case also expressed the benefits regarding helping the juvenile offender re-integrate into to the community.

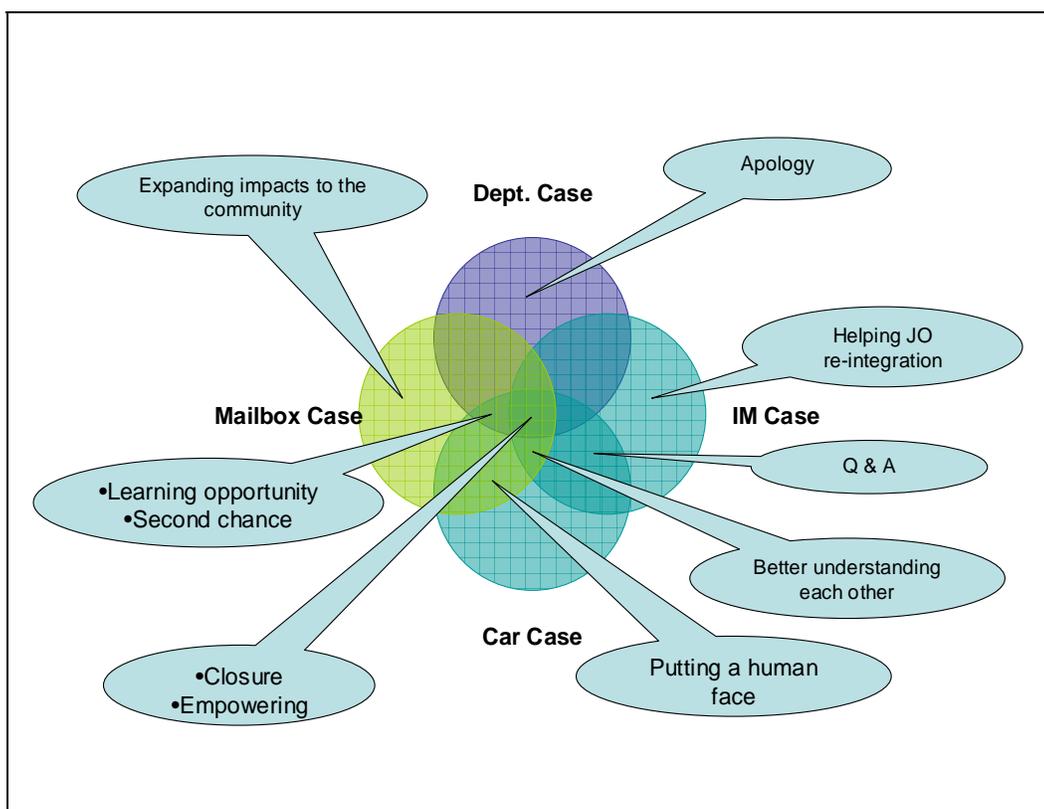


Figure 5.2. The benefits of the VOMs

Lessons Learned

This section highlights the lessons learned from each case. The lessons were drawn from two questions, which underscore both the restorative justice process and outcome: 1) What went well? and 2) what could be done differently?

First of all, each case revealed issues that were unique and specific to that case. For example, the Department Store Case showed the discrepancy among participants in dealing with a representative as a victim. In addition, the offender in this case was a former victim herself. The Mailbox Bashing Case dealt with a crime committed by three youth but the vandalism affected the entire community and therefore, much of the discussion in this case involved the effect of the crimes on the broader community. The Car Case involved a large amount of restitution, as well as multiple offenders and victims, which added to the complexity of group dynamics. The Involuntary Manslaughter Case illustrated an unusual crime for the VOM. As the case unfolded, there was a great deal of misunderstanding among participants, as well as many displays of emotion as a result of the severe nature of the crime and the trial process endured by the participants. As described earlier, there were critical variations that the mediators had to take into consideration in preparing for and conducting the various VOMs. In other words, the general principles of VOM, or restorative justice, had to be adapted to fit the variations of each case. The most common process overlooked in this process relates to victim-insensitive approaches in the VOM sessions.

Second, a number of best practices in VOM processes emerged across the four VOM cases. Participants pointed out that they had an opportunity for face-to-face

contact with their counterparts in a controlled and safe VOM environment. The VOM provided the participants with a forum in which they could openly discuss the impact of the crimes on the victims, the offenders, and parents. Some participants indicated that they were able to present their often painful stories, as well as reveal their feelings about the circumstances. Mediators provided guidance and direction in the sessions to ensure that victims' voices were heard and that the juvenile offenders were made aware of the seriousness of the crimes they committed and their need to be accountable to the victims. The victims in the VOM stressed how it was important for them to be able to ask the questions they needed to ask that had remained unanswered for a long time. Mediator skills were instrumental in encouraging participation without the mediator being over-bearing. As a result, the victims indicated that they felt empowered by their exchanges with the offenders. Participants also noted that they were able to see not previously seen aspects of the situation. They also reported that they had begun to feel a sense of closure which they felt would facilitate movement towards healing from the events. The behavioral changes among juvenile offenders were particularly significant. For example, the youth of the Mailbox Bashing Case informed me that they had prevented further vandalism among their friends by sharing their new perspectives from the VOM session.

Third, some process and outcomes from the VOM sessions were not as positive for the participants. Some VOM sessions did not proceed in a way that reflected sensitivity towards victims. Consequently, some victims felt that they were not able to express their true feelings. Some victims also noted that they felt alienated

from the decision-making process. Offenders were not fully informed about the VOM process during the preparation time, which resulted in defensive behavior during the VOM sessions. This may have resulted in them not being able to be straightforward in their interactions with the victims in the VOM sessions. In particular, VOM processes regarding delivery of apologies revealed some important issues that should be examined more closely. Participants also pointed to what they saw as a lack of experience among mediators. Consequently, participants, in particular the victims, expressed that they experienced some re-victimization, feelings of guilt, and an overall sense of dissatisfaction with the apologies. Some offenders also expressed that they did not feel like they were heard by the mediators.

Finally, the most noteworthy lesson learned from this process is that when the VOM session followed the general principles of restorative justice thoroughly, the restorative outcomes were more noticeable. However, confirming this assertion will require more systematic inquiry. Subsequently, a potential remedy would be to establish a restorative justice system that would encourage the VOM process to “do more” of the general restorative justice principles, and “do less” of the other less-effective, or even harmful, methods. The following Figure 5.3 presents a flow chart which portrays the lessons learned in this section.

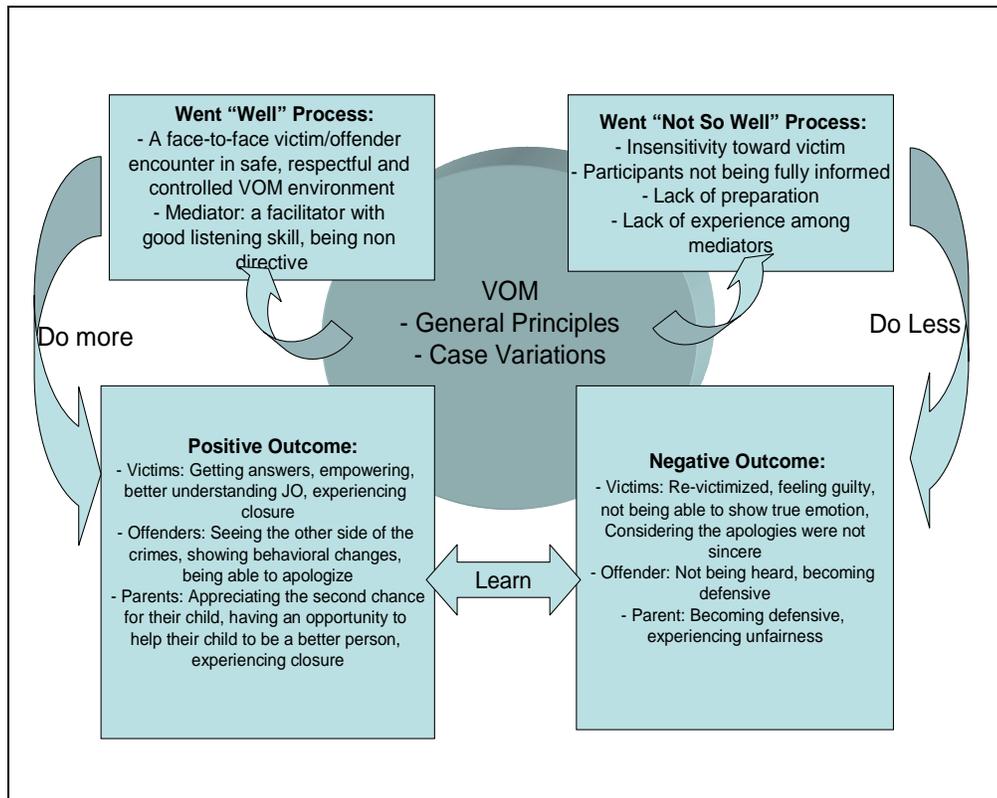


Figure 5.3. A flow-chart of lessons learned

Suggestions from Participants

Across the cases, participants' suggestions brought together several aspects of the VOM program. First of all, the most frequently mentioned suggestion was to secure more funding and resources. Second, many participants suggested follow-up sessions be held. In particular, the victims considered follow-up beneficial to know whether the offenders were taking responsibility for fulfilling their contracts. Third, participants suggested more training for mediators, ranging from inclusion of group dynamics to attitudes and roles of the mediators. Fourth, many participants described a need for schools to participate in the VOM process when a school is involved as a victim of the crime. In particular, this was seen by parents as a way to hold their

children more accountable for the crimes. Fifth, participants suggested a need for securing tighter safety measures, especially when the nature of the crimes is severe. Sixth, participants expressed some need to change the current format of the VOM. Suggested changes included: 1) The typical seating format; 2) offender speak first; 3) lack of script; 4) lack of guidance regarding preparing offenders' apology; 5) lack of victim sensitivity; 6) short period for paying restitution back; and 7) too structured of a VOM format which reflected lack of mediator discretion. These suggestions provide valuable information that could improve the VOM program.

CHAPTER 6: DISCUSSIONS, IMPLICATIONS, AND CONCLUSION

Summary of Key Findings

To develop an in-depth understanding of the restorative justice process at the local level, a qualitative study utilizing a naturalistic case study approach was conducted. In addition to persistent observation of a Victim Offender Mediation (VOM) program operating in a Midwestern city in the United States, the study included 34 face-to-face interviews with adult crime victims, juvenile offenders and their parents, and service providers including mediators and referral sources. The primary research questions were: 1) How does restorative justice work? And 2) what are the experiences of the participants in restorative justice? Analyses of the observations and the individual interviews answered the primary research questions as well as yielded many important insights into multiple layers of participants' various experiences, which is especially important because of the different positions participants held in the VOM process, all reflecting varying needs, motivations, and expectations which come to bear upon how the VOM process works. This study brings forth the detailed and rich stories from an insider's perspective on restorative justice, helping us to take a closer look at what is aptly referred to as the "black box" of restorative justice. While there were many alternate views expressed by participants in VOM, there were also similarities participants expressed, particularly related to what they viewed as the benefits of the process.

This study analyzed interviews and observations of four separate VOM cases including: 1) The Department Store Case, a theft classified as a misdemeanor; 2) the

Mailbox Bashing Case, a misdemeanor charge of eight criminal damages; 3) the Car Case, classified as seven criminal damages, which included three felony criminal damage charges and four misdemeanor criminal damage charges; and 4) the Involuntary Manslaughter Case, classified as a felony.

All juvenile offenders indicated that their participation in the VOM was mandatory, which required them to either complete their diversion program or be referred to the traditional court system. In particular, for a juvenile offender from the Involuntary Manslaughter Case, it was a matter of jeopardizing his conditional release from a jail. In contrast, the victims' participation in the VOM was voluntary, but if they wanted to have any type of restitution, including either financial or emotional, it was necessary for them to attend the VOM.

The victim participants discussed their victimization experiences, which included financial, emotional, and physical dimensions. They identified several needs that they wished to meet as a victim including: 1) To acquire answers to their questions; 2) to receive a genuine apology; and 3) to share their experiences as victims with the offenders. The juvenile offenders and parents also mentioned the difficulties that the criminal incidents caused, in both financial and emotional dimensions. In particular, the parents of the offenders expressed the burdens they felt they had to carry as result of the crimes committed by the youth.

Participants expressed various motivations/expectations for participation in the VOM program. Victims' motivations to attend VOM highlighted were: 1) To help out the juvenile offenders to be "better" people; 2) to have an opportunity to face the

offenders and talk with them about their victimization experiences; 3) to ask questions of the juveniles in a direct manner that had not been answered since the occurrence of the crime; and 4) to receive monetary restitutions.

Although it was mandatory for the juvenile offenders to attend the VOM, they still mentioned several motivations/expectations they had of the process: 1) To keep their records clean; 2) to “get over” the incident and move forward; 3) to tell the victims why they did it; 4) to apologize to the victims; 5) to help the victims move on; and 6) to release their emotions.

The parents expressed their motivations/expectations for attending VOM for their children: 1) To be able to apologize to the victims; 2) to be able to learn the magnitude of the behaviors they had engaged in; 3) to be able to “put a face” on the crimes; 4) to be able to help their kids build character; and 5) to ensure that the victims could see that the kids were sorry for their actions.

The service providers’ motivations/expectations included: 1) The juveniles would be able to show remorse; 2) the juveniles would learn that their behaviors harmed many people; 3) the victims would be able to share their experiences with the juvenile offenders; 4) the victims would be able to receive the restitution; and 5) both the victims and offenders would be able to move on from the incidents.

VOM participants, each with different roles and expectations of the process, brought with them their unique frames of reference, or standpoints, on the particular case, whether they were the offender, victim, family member, or mediator. For example, in terms of views of the crime, to the victims, a “crime is a crime.” The

juveniles, on the other hand, tended to offer explanations on why and how they committed the crimes, which the victims commonly regarded as excuses. While most victims tended to think that the offenders were not remorseful enough, the offenders and parents were appreciative for the victims' understanding and participation in helping the juveniles out whereas the mediators tended to consider the incidents as "typical" behaviors of most juveniles.

Regarding preparation for the VOM meeting, offenders and parents were required to attend a face-to-face meeting with the VOM coordinator. In this meeting, they were informed in a minimal fashion about what to expect in the VOM process. While the offenders and their parents were given the opportunity to meet the coordinator in advance of the VOM session, victims were prepared for the VOM through prior phone discussions with the VOM coordinator.

Participants noted that the atmosphere or the "feel" of the VOM sessions was emotionally charged, and became more so with the severity of the crime presented in each particular case. For example, in the Car Case and the Involuntary Manslaughter cases, participants reported that passion and intensity were evoked, making the sessions emotionally exhausting. Safety issues were also raised when discussing cases with crimes of a more severe nature. In addition, the selection process for mediators in these cases warranted increased attention, with caution exercised regarding "best fit" of the mediator to the case. Finally, participant preparation for the VOM session was more thorough in the more severe cases.

Participants identified several roles the mediators played, as well as attitudes

that mediators held. The roles were 1) to facilitate the conversation between the victims and the offenders, 2) to keep things under control, 3) to be a coach, 4) to create a victim-sensitive environment, 5) to control the scope of the conversation, 6) to listen with empathy, and 7) to collaborate with other mediators. The attitudes participants identified in mediators included 1) being neutral, 2) being respectful, and 3) being calm and nice. However, there emerged some examples where participants viewed mediators as unsuccessful in carrying out their roles, and espousing the above identified attitudes. Some of these include: 1) Not listening to the participants; 2) not being sensitive to the victims' needs; 3) being too soft with juvenile offenders; 4) not allowing enough time for the offenders and parents; and 5) being biased toward the offenders.

The offenders shared positive experiences gained through the community service they had performed, noting some of the benefits of this as: 1) Being able to apologize to the community; and 2) being able to discover and learn about themselves, especially what they like to do or want to do in future. However, several parents noted difficulties in reaching the community service providers, and in the rigidity of the schedules imposed on them. The findings also indicated that the sites of the community service were given to the juveniles in a rather random manner.

The letter of apology was an important medium by which to deliver an expression of remorse to the victims. The juveniles noted that, even though it was not easy for them to come up with the letters, most of them felt better with the outcome especially when they read the letter to the victim(s). However, most victims

considered the apologies as not sincere and heartfelt enough. The findings indicated some issues in delivering apologies, especially regarding presentational aspects of the apology, which demonstrated both/either a lack of preparation and/or victim insensitivity.

As noted in previous chapters, a caucus and contract mechanism was in place to facilitate the VOM processes. However, some inconsistent practices were observed regarding the use of them, which revealed some victim-insensitive approaches. For example, some victims were not included in the decision-making process when they were supposed to be included, especially regarding whether or not they would accept the apology. Others noted that they felt pressured to accept the apology. Some indicated their impression that the contracts were more between the DA's office and the offenders rather than between them and the offenders.

Participants expressed various perspectives in regards to accountability. Juveniles and their parents thought that attending the VOM, paying restitution, completing community service, and not committing any further crimes were ways they were held accountable. In addition, both the offenders and the parents agreed that VOM was not an easy punishment. However, victims often felt differently, and several did not agree that the juveniles were actually held accountable enough for the crimes they committed. The victims that did not think the juveniles were held accountable re-affirmed the importance of receiving a sincere apology from the juveniles.

Overall, the participants identified positive outcomes in many dimensions as a result of the VOM process. These include that the VOM was: 1) A learning opportunity for the juvenile offenders; 2) a second chance for the juvenile offenders; 3) an opportunity to have closure for both the victims and offenders; 4) an empowering experience for both the victims and offenders; 5) an opportunity to better understand each other for both the victims and the offenders; 6) an opportunity to see different aspects of the crime by putting a human face on it, especially for the juvenile offenders; 7) an opportunity for the victims to acquire answers for their questions/for the offenders to provide answers; 8) an opportunity for the offenders and parents to apologize to the victims and for the victims to receive an apology; 9) an opportunity to expand the positive effect into the community for both the juvenile offenders and victims; and 10) an efficient process for the victims. It is important to acknowledge that, regardless of the severity of the crimes, the participants reported very similar impacts from the VOM on their lives, although the extent of the impact was more intense for some than others.

Discussions: Connecting the Findings to the Literature

As described above, most of the findings suggest supporting evidence to the existing restorative justice literature, particularly, the positive outcomes that the VOM has provided to the participants. For example, many of the findings such as victim needs, mediator roles, and benefits of VOM are consistent with the process, outcomes, and principles of restorative justice reported or suggested in several studies (Bazemore & Umbreit, 2004; UNODC, 2006; Zehr, 2002). However, as the

participants' stories began to unfold, findings that contradicted these studies emerged concerning, in particular, the principles. In the following section, I revisit the common characteristics of restorative justice programs adapted from UNODC (2006) to compare the findings from this study to the scholarly literature.

The following Table 6.1 presents common principles of restorative justice as applied to victims and offenders. The checkmark (√) indicates that the principle has been followed in most cases, whereas a “x” shows that the principle was violated or not followed thoroughly. However, it should be acknowledged that these are not mutually exclusive. In other words, in some cases, it occurred simultaneously. In particular, principles in the table that are presented in boldface type represent areas of concern which be discussed in detail below.

Table 6.1

Applying Characteristics of Restorative Justice to the VOM

Victims are provided an opportunity:		Offenders are provided an opportunity:	
To be involved directly in resolving the situation	√/x	To be involved directly in resolving the situation	√
To address the consequences of the offense	√	To acknowledge responsibility for the offense	√
To receive answers to their questions about the crime and the offender	√/x	To provide answers to victim's questions about the crime express about the offense	√/x
To express themselves about the impact of the offense	√/x	To understand the impact on the victim	√
To receive monetary restitution or symbolic reparation including an apology	√/x	To make amends or restitution/reparation (an apology)	√/x
To restore, when appropriate, a relationship with the offender	√	To restore their relationships with the victim, when appropriate	√
To reach closure	√	To reach closure	√

Note. Adapted from UNODC (2006), *Handbook on Restorative Justice Programmes*

As seen in Table 6.1, I was able to confirm that the UNODC's (2006) standards were followed in most cases. In particular, the findings revealed that the VOM was especially successful because it allowed the victims an opportunity to address their experiences as victims directly with the offenders. The findings also revealed a similar benefit for offenders, who increased their understanding of the impact of their crimes on the victims. Most importantly, VOM participants indicated that they experienced some degree of closure and empowerment with an opportunity to "move on" from the incident. Participants presented heartfelt narratives that provided evidence that the healing process had indeed begun for them.

The existing literature (Bazemore & Umbreit, 2004; Williams-Hayes, 2002; Zehr, 2002) indicates that the restorative justice process is exemplified by participatory involvement, maximizing information, reciprocal dialogue, and ultimately, mutual agreement between the victims and the offenders. In this respect, the findings of this study, however, also suggest some contradictory evidence to these principles. The fact that information was withheld in order to scare offenders provides one example of how the primary principles of the restorative justice paradigm were breached.

The boldface typed principles of restorative justice presented in Table 6.1 above provide a foundation for further discussion of the following areas below, wherein the principles were compromised and which were converged into three subsections: 1) Apology, forgiveness, and VOM; 2) restorative justice, transformative dialogue, and social construction; and 3) moving toward restorative justice.

Apology, Forgiveness, and VOM

Although this study has highlighted the positive impacts of the VOM, there were some puzzling findings. One of the findings concerns the apologies that the juvenile offenders delivered to the victims. While the victims felt that the apologies were not truthful, remorseful, and heartfelt, they ended up accepting the apologies just the same. In contrast, most of the juvenile offenders and parents indicated that the apologies were sincere. In discussing the gap between these two different perspectives, I begin by sharing my observations from the VOM sessions as well as the face-to-face interviews.

One difference that I found between the observations and the interviews with the participants, especially the juvenile offenders, is that the youth behaved very differently during the personal interviews than they did during the VOM sessions. In the personal interviews, they appeared relaxed with lots of smiles, and engaged in the interview process, opposite characteristics from those they showed at the VOM. I wondered what made this remarkable difference. While others in the VOM sessions may have also had their own reasons to be anxious, the juveniles expressed that they were especially nervous because they did not want to go to juvenile detention if the VOM went “wrong.” In particular, some of them were in the process of applying to colleges, and realized the importance of a “clean” record. The offenders were also nervous because they would have to face the victims they had harmed by their crime. In the most extreme case, one juvenile had to meet the family of a victim whom he had killed. The anxiety of the offenders may have been exacerbated by the manner of

preparation they received prior to the mediation session where they were told to expect that the victims would be harsh on them.

I also found that the juveniles acted in an uncomfortable manner, especially when they delivered their apologies to the victims. In fact, I found myself feeling uncomfortable with the nature of the apology and the manner of delivery.

Interestingly, in the personal interviews with the juveniles, I gained a different perspective because I was able to see the depth of sincerity of the juveniles towards their crimes and the victims, and how much they hoped that their apologies would be accepted by the victims. Unfortunately, most victims in this study expressed that the apologies lacked sincerity and remorsefulness.

The findings identified by victims when discussing their needs, indicated that a genuine apology was important to them. Furthermore, the juveniles and parents acknowledged that one of their motivations for participating in the VOM was to make an apology. Therefore, this matter of disparity between what the juveniles see as a sincere attempt to make an apology and the victims seeing as ineffective needs to be examined closely.

There emerges a need to introduce some theoretical background from the literature on apology to further understand this disparity. Lee's (2005) discussion provides an excellent framework for further discussion. Lee defines an apology, based on the definition of O'Hara and Yarn (cited in Lee, 2005, p. 6-7), as an identification of the wrongful act, remorse, promise to forbear, and offer to repair. However, the delivery of an apology is not a simple matter. An apology has to

include some acts such as admitting one's fault, expressing regret, and expressing sympathy. In addition, to be effective, it also requires some presentational aspects such as 1) voluntariness, 2) appropriate timing, and 3) sincerity. Sincerity, by its nature, also requires attention to non-verbal cues such as body language and facial expressions.

To build on Lee's (2005) discussion on the apology, it is important to take a closer look at the situations in this study in which the apologies were delivered. First of all, in the Department Store Case, the juvenile offender did not make eye contact with the victim. In fact, the juvenile offender read the apology to the mediators and did not look at the victim. The juvenile offender also read it fast so as to hasten the process. Since the juvenile was nervous, she also made awkward facial gestures, such as inappropriate smiles in a serious moment, which were interpreted negatively by the victim. In addition, the victim compared the juvenile's attitude to other girls who went through the VOM in which he also participated as a victim representative, setting up a predisposing mind-set toward the juvenile offender. The victim also did not like the fact that the juvenile's father did not apologize to him.

Second, in the Mailbox Bashing Case, one juvenile wrote a long letter of apology, but the victims did not feel it was heartfelt. At the VOM, the youth realized that his letter was too long compared the other two friends' and did not want to make the victims feel bored by his letter. Furthermore, he was told several times during the VOM that another meeting was scheduled immediately following their session, so he felt rushed by the process. When he started reading the letter, he found himself

reading it faster and faster. He did not make eye contact with the victims.

Furthermore, the victims in this case were partially prejudiced in their views toward the offenders, in spite of the apology, because they had learned earlier that these youth had previously engaged in multiple episodes of mail box bashing. However, the victims were not able to disclose this information during the VOM session to protect the offenders' rights.

In the Car Case, one juvenile did not bring his letter of apology to the VOM because he forgot to write it up before they came to the VOM. Without being able to take time to think of and write up the letter, the juvenile was told to write it in the waiting room, which he did in about five minutes. By so doing, the offenders' mother expressed that she felt they were cheating the victims. The victims proclaimed, "What kind of apology is that?"

In the Involuntary Manslaughter Case, the offender wrote the letter of apology while he was in jail, prior to the mediation session. The letter was specifically written to the victim, the deceased. One of the victim's family members argued that the offender would not acknowledge what he did. She felt the letter was not heartfelt. In particular, she added that the letter did not even include her as one of the victims, making it very impersonal for this particular victim.

The situations discussed above clearly show that delivering an apology is not an easy task. An apology is a complex undertaking and one that requires attention to many factors, including recognition of the influences of the context in which the apology is delivered, as well as the actual presenting, or presentation, of the apology.

Primarily, the sincerity of the offender was called into question by the victims and did not seem to be enough to satisfy the victims' needs. In most cases, non-verbal cues such as looking the victim in the eye, appearing to look remorseful in facial expressions and so forth, were not present, and/or did not adequately meet the need of the victims. However, these issues should have been addressed earlier in the process by educating the juveniles while they were prepared for the VOM sessions. The apologies had the effect of helping the offenders feel better by "getting it off their chest", as noted by one offender. Unfortunately, it was not enough for the victims who felt that the apologies were not victim-sensitive.

Apology is another type of communication between juvenile offenders and victims, with which most juvenile offenders are not familiar, especially in the formal setting such as VOM. Therefore, it is critical that juvenile offenders be educated about how to effectively deliver an apology to victims who, as adults, usually hold high expectations and standards about the sincerity of an apology. Two examples shed significant light on the critical aspects of education on apology. In two interviews, I was able to share my observations about the delivery of the apologies with two juvenile offenders. One of them read it to the mediators rather than the victim and the other one read it at a faster than normal speed. When I shared my observations with them, they indicated that they understood right away by saying, "[I]t would probably have been better if I read it more towards him (the victim) instead of towards the mediators...because he was actually representing the store" and "I guess I could see that now, because like when people try to read through

something fast, they could be just trying to make something up, and I kind of see that now. That's true." This also points out that these youth were pretty self-aware, and that they could draw on their own strengths in this process, if given an opportunity.

A model of forgiveness (McCullough, Pargament, & Thoresen, 2000; Szmania, 2004) theorizes that apologies communicated by the offender create empathy in the victim, resulting in the victim granting forgiveness. However, Szmania (2004) provided a counter example to the existing model with her study in which the victims offered forgiveness first and the offenders responded with apology. In the current study, even though the victims felt that the apologies were not sincere, somehow they were able to grant their forgiveness to the offenders.

The motivations of the victims to participate in VOM seem to be important to be taken into consideration in explaining the granted forgiveness in this study. In the Department Store and Mailbox Bashing Cases, the victims felt that their motivations were part of a duty to make a better community. For example, for the victim of the Department Store Case, his participation was an effort to help young people to be productive citizens. The victims of the Mailbox Bashing Case also mentioned that their participation was to let the young people know that there are people out there who care about the community.

In the Involuntary Manslaughter Case, however, although both victims granted forgiveness to the offender, they had a very different understanding of the youth. One thought that the offender was genuinely sorry for what he did, noting that the situation itself was "bad," but not the offender. In contrast, the other victim

thought the offender was feeling sorry for himself rather than for the victim and the family. This victim also thought the offender would not be able to acknowledge what he did to the victim. Both victims, however, noted that they forgave the offender, but that they did not forgive what he did, differentiating the person from the act. Both noted that they had “lives to live” and they wanted to “move on.”

As the above discussion shows, the victims in the Involuntary Manslaughter case brought their own perspectives to forgiving the offender. In spite of their differing perspectives, each was able to accept the apology and offer forgiveness. Forgiveness enabled each of them to “move on” with their lives, which was their ultimate goal.

In conclusion, it is evident that there were important presentational aspects of the apology delivery by the offenders. Some of these included lack of interpersonal skills in delivering the apologies. Another factor is that the juveniles were anxious in the sessions, which also affected their ability to deliver an effective and sincere apology. On top of this, the offenders’ parents were concerned about how effective the offenders were, as the parents believed in the sincerity of the apology, but were uncertain as to whether their child would be believed by the victims. This suggests the need for more preparation of juvenile offenders and their parents for the VOM process. In addition, the process could be improved by an enhanced understanding of group dynamics, interpersonal communication skills, and understanding behaviors in the context of the VOM group environment. Taken as a whole, enhanced knowledge and skill on the part of the mediator could result in a more “victim-oriented” approach

to the delivery of apologies by offenders. This may lessen the anxiety of the juvenile and the parents, and leave the victim feeling more satisfied and able to “move on.”

The previous discussions regarding the various participants in the VOM process also highlight the complicated nature of communication between and among VOM participants. While the findings indicate the need for more studies on the interactive aspects of apologies and forgiveness in VOM, they also highlight the complexity of participants’ experiences in the VOM. This requires a different framework to facilitate better understanding of the VOM process and desired outcomes. In the following section, I discuss participants’ experiences in the VOM as meaning-making processes embedded within the theory of social constructionism.

Restorative Justice Process, Transformative Dialogue, and Social Construction Social Constructionism

In this section, I provide theoretical background on the theory of social constructionism. This theory holds that concepts such as roles, attitudes, groups and social institutions are not viewed as independent and factual entities. Instead, they are considered to be human constructs inter-subjectively created by our individual cognitive processes (Robbins, Chatterjee, & Canda, 2006). One of the contributing aspects of this theory is the introduction of the concept of multiple realities, which provides a tool to further understand the findings of this study.

Csikszentmihalyi (1997) noted his observations on the recent development of fractal geometries, which explain well the concept of multiple realities:

The same reality may be packaged in different bundles, so to speak, and that depending on the perspective of the viewer, the angle of vision, the time

frame, and the scale of observation one might see very different pictures of the same underlying truth. Thus there is no need to brand as heresy visions and insights that differ from the beliefs we learned as children, yet we also know that these are locally valid, temporary manifestations of a single underlying process of enormous complexity. (P142)

The theory maintains that knowledge is a human construction that cannot be an ultimate truth, but rather, is ever changing (Guba, 1990). While people make or provide meanings in their lives through their perceptions as well as the cognitive and affective operations of the mind (Berger & Luckman, 1966; Smith, 2001), people also make meanings through interactions with others because people usually come to know the world and their reality by interacting with other people (Greene & Lee, 2002; Weick, 1993). These constructed meanings allow room for multiple realities that exist in people's minds and subsequently in relationships to the world around them. One's knowledge of reality is constructed through social interactions (Greene & Lee, 2002). The theory can help practitioners reject and transcend the traditional subject-object dualism (Robbins, Chatterjee, & Canda, 2006), which, according to conventional scientific views, is based on an expert's objective knowledge about human behaviors (Greene & Lee, 2002). Greene and Lee observe that, through social constructionism, practitioners recognize reciprocal processes between a person and their environment such that a change in one can bring about a change in the other. Also supported by Hoffman (1990), social constructionism, therefore, undermines the traditional assumption of the helping relationship that is a matter of instruction or manipulation by experts who often define how other people ought to be, which leads to a discussion on loss of authority. According to Gergen (1994), the practitioners'

loss of authority is crucial for dismantling the traditional hierarchy between the practitioner and client. Instead of being “superior” with the “truth” about the world, the practitioner enters the arena with a range of languages that devalue the idea of superior truth.

In applying the discussions of social constructionism to restorative justice, in line with the thinking of Greene and Lee (2002), it becomes important for the practitioners to enable the participants to engage in the continuous process of creating new realities that are more meaningful and restorative through what they talk about, instead of replacing the participants’ narratives with helping professionals’ interpretations, especially in order to repair the harm that has affected the lives of victims and offenders. In other words, through the social constructionist’ lens, restorative justice should be a process of continuous conversation back and forth, between victims and offenders, with the intention of together creating a shared meaning through discourse that is sensitive to the needs and concerns of the participants. In so doing, it is important for restorative justice practitioners to take into account a participant’s definition of self, which is socially constructed within the contexts of different relationships.

In short, as Zehr (2002) observes and as is exemplified in this study, restorative justice is a social phenomenon involving a complex system of participants such as victims, offenders, their parents, and service providers. The theory of social constructionism provides a framework for restorative justice practitioners 1) to take into account a person’s definition of self which is socially constructed within the

contexts of different relationships, 2) to create a climate in which participants can exchange their experiences to be heard, understood, confirmed, and accepted, and 3) to help participants construct new realities that are more meaningful to them.

Truth Seeking vs. Seeking Healing

The existing literature on restorative justice emphasizes “truth seeking” as one of the goals in restorative justice to facilitate the healing process. An example of this is presented in the *NASW News* by Fred (2005) who suggests that restorative justice “emphasizes truth, accountability and, most important, healing for the victim, offender and community.” However, the present analysis provides an example that runs counter to the existing literature on truth-seeking, where “truth-seeking” was not especially successful, yet the healing process was not hampered despite the fact that the “truth” was not revealed until later.

The Car Case provides a vivid example for this discussion of truth seeking. It was a quite surprising and perplexing experience for me to meet the juvenile offenders of the Car Case for their interviews. As I discussed earlier, my surprise was partially because they were very engaging in the interviews and looked very different from how they appeared at the VOM. However, mostly I was confused because they opened up to me and shared the information that they did not reveal at the VOM. One of the questions that victims in general usually wonder and ask about relates to the motivations that lie behind committing the crimes. In short, it is about “Why me?”, “Why my house?”, and “Why my car?” to name a few. The victims of the Car Case were not an exception. They asked the same questions. “Why did you choose my

cars?” “Was it intentional?” At the VOM, the juvenile offenders answered that the cars were chosen *randomly*. In other words, there were no specific reasons for them to choose the victims’ cars, which depersonalized the crime at the VOM. However, in the interviews, the juveniles told me that the acts of vandalism toward the two victim families that participated in the VOM were not random. Their vandalism of the victims’ cars was *intentional*. The victims also relayed that they heard later from their son, who learned from the offenders at school, that their cars were the targets of revenge. Therefore, as the victims noted, that truth came out later, but while in the mediation session, the victims took the stories the juveniles told as truth. The other victim already knew before the VOM that his car had been damaged intentionally. It should also be acknowledged that the offenders may have been afraid that their diversion status would be revoked if they told the truth.

These responses were similar to the victims in other cases. In fact, only one victim out of the eight victim participants of this study noted that the offender was truthful at the VOM. During the interviews, it became apparent that the victims believed that the offenders were not truthful enough by saying, “not as innocent as they had claimed” or “not completely honest.” In particular, in the Involuntary Manslaughter Case, one of the victims asked the juvenile offender about the last moments of the victim’s life. The victim’s family member acknowledged that she would not be going to know the truth since she was not there and believed that the juvenile offender and his parent would not be honest with her. However, she took the explanation of the juvenile as truth by saying, “I had to allow myself to believe him.

Whether it was true or not [italics added], and I really hope it's true, because that's what he said...I don't know if that's what he thought I wanted to hear, but moreover, I wanted to hear the truth, and if that was the truth, then *so be it* [italics added].”

Although the victims believed that the juveniles were not honest and truthful with them at the VOM, most of the victims still believed and even endorsed the VOM as a valid program. Some of them even said they would recommend it to other people. For example, the victim of the Department Store Case made a comment, “I still think it's a valid program...these are young kids, and they're making dumb mistakes...I think it's a good program to help them turn their lives around.” This may mean that whether or not the offenders shared the truth, the victims were still able to take something out of the process, as did the offenders and parents. In other words, even though the offenders may have been reluctant to tell the real story, this did not affect the victims' perceptions of the usefulness of the process. In fact, in the interviews, the victims indicated that they felt better because they were able to confront the offenders and let them know about their devastating experiences, despite the fact that they later discovered the answers they received from the juveniles at the VOM were not always truthful.

The findings from the interviews showed that, while the offenders were not able to necessarily disclose “the truth” during the VOM sessions, a process seemingly had begun that resulted in them being later able to disclose “the truth” to me in the personal interviews. The personal interviews with the juvenile offenders also revealed

that the juveniles had gained significant understanding of the impact of their crimes in the interim time period from the VOM sessions to the time of the personal interviews.

As pointed out earlier, at the VOM sessions, the juvenile offenders usually became very defensive, as did their parents. In the end, however, the victims were satisfied with the results of the VOM even though they did not ultimately receive the truth about the nature of the crime from the offender at the VOM session. The victims also indicated that, as a result of the VOM sessions, they were able to begin the healing process and “move on” with their lives. From a social constructionist point of view, this suggests that the VOM may have provided, as noted by Csikszentmihalyi (1997), a “temporary manifestation” of some truth for both parties (p. 142). In other words, the realities that were co-created via the dialogue between the offender and the victims, despite not resulting in the “truth-seeking” which was a goal of the mediation process, still provided benefits. It also might be said that a meaningful experience was co-constructed between the offender and victim as a result of the VOM process, which I discuss more in the following.

It is important to reiterate that one of the primary goals of the mediator in VOM is to elicit the truth from offenders, guided by the premise that this will promote healing for the victims. Based on my observation, this goal oftentimes hampers mediators’ abilities to be neutral when they discovered that the offenders were not truthful. Then, it might suggest that, even though “truth-seeking” is still important, the mediators should not be preoccupied with the idea of it so that they can

be open to another possibility of facilitating the parties to co-construct new realities that are more meaningful to them.

Transformative Restorative Justice Dialogue: Putting a Human Face on Crimes

Except for the Involuntary Manslaughter Case, the juveniles in the cases mentioned that they thought their acts were “cool” and “fun.” For example, the juvenile of the Department Store Case said, “I really didn’t cause any harm to anybody until...giving the discounts and all that fun stuff out.” The juveniles of the Mailbox Bashing Case also noted, “We saw some smashed mailbox...and some kids were talking about how they had done it before, hitting mailboxes and how much fun it was and we really wanted to do something fun.” Notably, the mailbox bashing was considered “a game” among young people in the community. In addition, one juvenile from the Car Case said, “I was with my friends so I guess I was trying to be cool.”

The following Table 6. 2 shows the wide discrepancies in understanding between the offenders and the victims, regarding the same phenomenon, highlighting the notion of multiple realities, or that everybody comes from their own place, or from their own frame of reference, to the VOM.

Table 6. 2

The Participants and Their Multiple Realities

Mailbox Bashing Situation	Juvenile Offenders	Victims
Definitions	- A game among friends	- Ongoing vandalism in the community
	- It is a culture	- It is a violation of basic human right (privacy & property)
Situations	- Having fun and looking cool, unless not getting caught	- Considering moving out - Taking a stand: installing security camera
	- Grabbing a bat and smashing mailboxes	- Being vigilant and watching and taking pictures of them
	- Getting caught	- Calling the police
At the VOM	- Being afraid of meeting the victims	- Finally being able to confront the offenders
	- Being able to apologize sincerely	- Having difficulty to believe them

However, upon completing the VOM, all of the juvenile offenders indicated that the “fun thing” was no longer fun and cool, showing a reversal from their previous views. The victims also indicated that they, too, had changed their minds. They mentioned that before they went into the VOM, they thought that the offenders were trying to “get off” easily from the crimes. One victim of the Car Case noted that he wanted to “put the juveniles in jail” but that he changed his mind when he saw the impacts of the VOM on the offenders’ faces at the VOM.

Congruent with the victims’ observation, the VOM was not an easy way for the juveniles to “get off” from the crimes mainly because the offenders had to face their victims again, which created significant sense of shame among the youth, resulting in personal disgrace and remorse. Below, three youth explain how the VOM

worked for them, providing excellent examples of how reintegrative shaming, as proposed by Braithwaite (1989), was operating in the VOM system:

You know, if you didn't ever have to face them (the victims) again, and you just had to do your community service and you're done, that would have been soft. I would have been happy with that. But, having the shame, it's kind of like a shame thing, it hurt, you know, it hurts your pride. (Mary – the Department Store Case)

You have to face the people that you hurt. So you'll see what your consequences are and you'll see what happened. Some people might brush that aside and say I can get out of this the easy way, but I didn't. I felt that I faced what I did and I saw what the consequences were and it helped me get a lot off my chest. (Casey – the Car Case)

Instead of just sitting there and taking, yelling at us and alright that was our punishment, and then going out and maybe doing it again sometime, them (the victims) being nice and like being nice relates to the whole program. It shows you what was wrong with what you did... You just didn't take your punishment - you learned from it. (Josh – the Mailbox Bashing Case)

Braithwaite (1996) argued that reintegrative shaming works best in a way that respects the offender as ultimately a good person who committed an evil act. As the youth described, even though meeting the victims at the VOM was a shameful event, it did not occur in a disrespectful and humiliating way. As the youth in the last excerpt described, the victims and mediators treated them with respect. The following Figure 6.1 depicts the above discussion regarding the loop of transformative restorative justice dialogue.

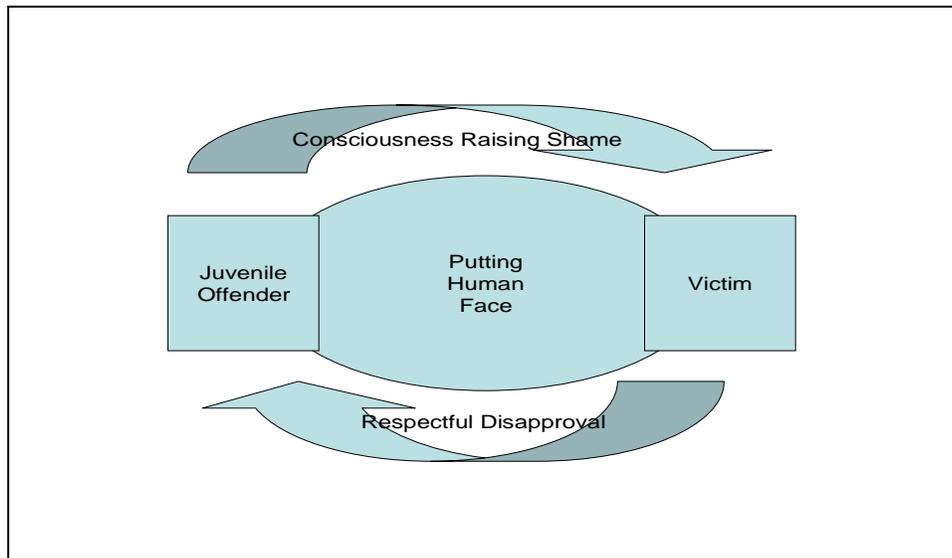


Figure 6.1. The loop of transformative restorative justice dialogue

Consequently, through the VOM the victims and offenders were able to see different aspects of the crimes wherein both parties now had a better understanding of each other. Although the conversation stopped at the VOM, a new understanding was just beginning for the participants. The existing literature in restorative justice (Bazemore & Schiff, 2005; Umbreit, 1999; Zehr, 1990) argues that restorative justice practice helps offenders “put human faces on the crimes.” Although the scholars mentioned this in a more figurative way, the current analysis provides more direct supporting evidence for this argument in terms of putting “human faces” on crimes. For example, the juveniles of the Car Case shared as follows,

I wasn't expecting her (victim) to say all of that about her kids needing to go to the hospital. For me it made a big difference on how I affected their lives and how doing one thing that might be fun could mess up someone's life.
(P35:62)

The above story resulted in one youth noting that, since the VOM occurred and as a result of the insight he gained into the victims' perspectives, he was able to change

his response in an incident where he was called “chicken” by some friends. Whereas previously he might have not been able to resist the peer pressure to react to this taunting, this time he proudly noted that he was able to turn around and walk away which made him feel good.

Another example comes from the juvenile offenders in the Mailbox Bashing Case, who noted below,

Ryan: One of them (victims) was talking about how his daughters were scared because they thought like the same people were attacking their house and they thought that we were big, bad guys and they were scared and asking if somebody was going to come in and hurt them or something.

Josh: Yeah, that’s because I have a little sister. And when that guy said that, I started feeling really horrible. You know, if you have two little daughters that thought that someone, a monster or some bad guy kept terrorizing their house, and that made me think of my little sister crying. Yeah, I didn’t even think about that aspect of it.

As the above examples show, putting human faces on the crimes was helpful to let the juvenile offenders know the impact of the crimes on the victims, especially those victims who did not attend the VOM. However, as demonstrated below by one of the victims, putting a human face on the crime is a way to bring together the different understandings between the offender and victim into a common reality that both parties can share. This may be a point at which *the healing might have begun*. Mrs. T, one of the victims of the Mailbox Bashing Case, recalled:

I was just absolutely shocked to hear him (the other victim) talk about the fear and the impression this has had on his two little children. At least a teenager you could talk to try to calm them down but when you’re talking about a what, five to seven year old child, that tore my heart out. (P19:30)

Given the parallel between the offenders and victims, as seen in Table 6.2 finding a common ground by putting a human face on a crime enabled them to bring

together their different perceptions. The connotation of “fun” in the mailbox bashing game became “not fun” “not cool.” As a result of their exchange with the victims in the VOM sessions, both the offenders and victims were able to see the innocent faces of the little girls behind the smashed mailboxes. It suggests that the VOM provided a space for both the victims and offenders to construct a new meaning that a “fun” and “cool” thing to do for offenders can become a horrifying event for victims.

Although the discussions on apology and restorative justice processes from a social constructionist view provide important implications for practice, additional discussion based on the findings in this study is warranted in order to change the current VOM process to a more restorative practice in terms of the process and the outcome.

Moving Toward Restorative Justice

Lost in Translation: “Fast Food” Restorative Justice

Restorative justice scholars (Bazemore & Schiff, 2005; Umbreit, 1999) warned of the possibility of some restorative justice programs attempting to deliver “fast-food” restorative justice processes, in which victims are disempowered by the limited flow of information available to them, and how they are discouraged from expressing emotions, solving problems, and building relationships. The findings suggest that some aspects of the VOM process indicate some characteristics of a “fast-food” model. However, it should be acknowledged that some components of the fast food approach might be useful based on the limited availability of resources within a program. Simply put, the use of fast food approaches may be a way that the

program can survive while still providing the services. In most cases, in my estimation, the mediators do the best they can with the resources that they have available to them.

Nonetheless, a fast food approach is not generally desirable, and has implications for both the service recipients and the providers. For example, in this study, across the cases, the victims were only prepared for the VOM through phone calls as opposed to the offenders and parents, who met the mediators personally in advance. The victim participants noted that, although the preparation session for them before the VOM was short, approximately five to 10 minutes, they received a lot of information. Meeting immediately before the VOM did not allow enough time for them to be emotionally prepared for the meeting. Some victims were even encouraged during this meeting to keep things positive when interacting with the juvenile offenders at the VOM session. The victims strongly complained that, because of this guidance, they were discouraged from expressing their disappointments and emotions toward the juvenile offenders at the VOM. This shows disrespect for the rights of the victims, and violates the principles of restorative justice which clearly rest on the notion of inclusion of the victims and the victim as the most important part of the process.

According to a coordinator, the juvenile offenders and parents were intentionally not thoroughly informed about the VOM process in order to scare the offenders so that they would be nervous and worry about the meeting with the victims. This was based on the assumption that the juvenile offenders and parents

would be more relieved to find out later that the encounter with the victims was not as bad as they expected.

Findings from this study show that offenders do think about their crimes even though many victims felt the apologies were not sincere. The offenders believed that they did “pay the price” by having to face the victims again. As discussed with me in the interviews, they relayed that they did regret their acts and they did feel guilty about them. Perhaps a larger, more important issue is the lack of preparation for offenders and victims in general. Therefore, it should be emphasized that more upfront preparation is needed for offenders and victims prior to the face-to-face meetings so that both parties can be better prepared for the VOM. Specific skills on how to deliver an effective apology, for example, will help the offender and the victim. Victims can be informed prior to the sessions that offenders may or may not be able to express their remorse in “perfect” fashion, or in ways that are necessarily in line with what the victim would like from the youth.

In addition, there were several examples that suggested the mediators were not successful in practicing their roles and in the way they handled the VOM sessions: 1) The mediators imposed limits on the amount of time spent on and scope of the conversation on their own; 2) the mediators were not sensitive to the victims’ needs; 3) the mediators were too soft; and 4) the mediators were not neutral toward the offenders and parents or were more compassionate towards the victims. Some responses from the participants regarding mediators’ roles and attitudes require further investigation. For example, a youth indicated that, because the mediators

repeatedly saw so many juveniles in their work, they no longer believed anything the juveniles said in the sessions. This put the juveniles at a disadvantage because they felt that they were sincere, and therefore, not heard by the mediators.

Regarding participation in the VOM, throughout all of the cases, the juvenile offenders were court ordered to participate in the process. Offenders in the first three cases were made aware that their failure to participate in VOM could jeopardize their diversion. In the Involuntary Manslaughter Case, the youth was made aware that if he did not attend the VOM his conditional release would be compromised. Although participation in the VOM for all victims was voluntary, the findings of the current study provide some counter examples to the existing literature which suggests that voluntary participation is necessary for both parties. In particular, the process in which the victims of the Involuntary Manslaughter Case were informed about the VOM resulted in an insensitive approach that had severe emotional consequences for the victim's family. For example, while the arrangement for the VOM was planned in advance of the offender's release, the victim's family was not informed about the release until they were contacted by the VOM coordinator regarding the scheduling of the VOM session. Because the VOM process places an emphasis on the involvement of the both the victim *and* the offender, the VOM should have been discussed with the victim's family beforehand. Prior to making the decision about arranging the VOM and prior to contacting the victim about the session, arrangements could have been with the victim's family to discuss how they felt about the situation. This did not happen, and rather, the victim was contacted after the decision to have a VOM had

been made leaving the victim upset and surprised that these plans had been made without their prior knowledge. This might have promoted a defensive posture on the part of the victim's family when they first hear about the VOM session.

Each VOM is a translation of restorative justice principles into their own environment. When a translation fails, the meaning is changed. Here exists the importance of the translator, or mediator, in this case. The UNODC (2006) emphasizes that it is not a specific practice model or process of restorative justice that makes a response to crime restorative, but rather its adherence to a set of restorative principles. Therefore, what we may need to do more of, as UNODC (2006) suggests, is to consistently and continually make sure the programs follow the principles of restorative justice to achieve restorative outcomes or "making things right," which leads the discussion to move forward to address restorative justice.

A Need for Victim-Sensitive Restorative Justice

Zehr (2002) argues that victims' involvement in their own cases in the justice process can be an important way to return a sense of empowerment to victims. The current study also has shown a noticeable impact on some victims' empowerment. For example, victims participating in the program indicated that their minds were eased by being able to confront the juvenile offenders, to ask them the questions that they had wanted to ask but had been unable to do so. This applied to the offenders as well, who shared the empowerment they felt as a result of being held accountable for their actions, by having to pay back society, and by gaining a greater understanding of themselves in the process. In addition, as with existing studies (Umbreit & Vos, 2000;

UNODC, 2006; White, L., 2001) the current study indicates that the restorative justice program has a positive effect on gaining the sense of closure among victims and offenders and their feelings of well-being. These communications between victims and offenders in VOM are often based on an assumption that restorative justice programs are victim-sensitive (Szmania, 2005).

However, based on the strong focus in some findings on offenders' needs, some evidence in this study indicates that victims' needs were sometimes overlooked at the VOM. Furthermore, it caused a negative impact on some victims, such as the potential to cause fear. For example, when juvenile offenders were not able to show their remorse because of their nervousness or simply being uncomfortable in VOM sessions, the possibility of re-victimization exists for victims. In this case, mediators need to pay careful attention to the dialogue that is taking place so that, if necessary, they can attempt to diminish the possibility of re-victimization.

As Bazemore and Schiff (2005) suggested, some victims in this study also claimed the risk of secondary victimization by saying that they felt pressured to accept the apology, to not express emotions, to forgive, and to be rushed to agree in order to receive the reparation. Therefore, it is also important to find ways to reduce the risk of secondary victimization resulting from victims thinking they need to behave a certain way to receive the benefits of the program. It is also significant to find ways to better meet the needs of the victims in restorative justice programs. For example, as Wemmers (2002) suggests, offering services such as further follow-up and support for victims may be a critical modification of the current program. Some

victims indicated that they wanted to be informed about ways the offenders were being held accountable. For example, a victim noted that, since the offender did not complete the community service at the time of the VOM, the victim became suspicious about the willingness of the juvenile offender to be held accountable for her crime. In this case, as the victim wished, the coordinator's follow-up with the victim would have helped the victim to gain a better understanding about the offender's accountability, and for the victim to gain sense of closure. During the comprehensive member check, I was able to inform the victim about the offender's completion of her community service, which pleased the victim and provided a sense of closure, according to the victim.

Victim-sensitive restorative justice begins with more careful attention to victims' needs. In this respect, in line with the thinking of Saleebey (2004), it is important to pay attention to the "small" and often "invisible" factors in the environments and settings in which we work. In the case of VOM, the session environment is intense and even confrontational at times, and therefore, the need for attention to small details by the mediator such as how participants are responding to others, can be critical to the outcome of the session. For example, in this study, several situations were identified where the victims identified that they felt pressured and threatened during the VOM sessions. One of these involved a situation where a parent of a juvenile offender bluntly stated that there would be no way for him to pay back the restitution within the period of time required. His statement created a threatening atmosphere at the VOM. However, the threatening feeling had begun

even before his remarks were made, as described by many participants. But, according to the offender's father, he was just angry at the offenders, including his son, because he could not understand why they did such a bad thing to the innocent victims. Although the father was not angry at the victims, they took it personally and perceived the anger to be directed at them and consequently to be threatening. If the mediators had been able to clarify the situation at the time it occurred, perhaps the victims would not have experienced these feelings. This approach may have decreased the anxiety level among the victims at the time of the VOM. I found it unfortunate that the other VOM participants did not have an opportunity to listen to the statements the father made during his interview with me.

In another situation, one victim was a representative of a company and he was not "on the clock" at the time of the VOM. The victim noted that he became "sour" even before the VOM began because he felt that he was not treated respectfully by the offender and her parent who were about 30 minutes late to the meeting. He felt that if his opinion was valued, the father would have showed up on time, and he would not have become irritated with them. In my observations of the VOM cases in this study, it is worthy to note that VOM sessions do not always begin on time.

In moving toward more victim-sensitive restorative justice, the current program might benefit from following the suggestions made by scholars such as Zehr (2002) as well as Bazemre and Umbreit (2003). For example, they emphasize that victims' voices must be heard and their needs must be addressed by the process. In

addition, victims should be given choices about procedures such as when and where the session will be held, who will be present, and who will speak first.

Compatibility with Social Work Values and Applicability to Social Work Practice

As discussed earlier, most social work scholars agree that the misfit between the values and missions of social work and the justice system results in the profession longer having a major presence in the criminal justice field (Gumz, 2004; Judah & Bryant, 2004; Reamer, 2004).

The process and benefits of VOM that the participants shared in this study resonate with the values and principles that social work has embraced throughout its history, especially the importance of the dignity and worth of the person as well as the importance of human relationships (NASW, 1999). Findings from this study suggest that it is possible to incorporate both compassion and accountability into resolving conflicts (Morrison, 2002). In the process of resolving conflicts in VOM, findings have demonstrated the possibility that the process provides a tool that respects the participants, including victims, offenders and their parents, while not condoning the offenders' behaviors (Braithwaite, 1989, 1999; Morrison, 2002).

The social work values of self-determination and client-centeredness are reflected in the VOM process because victim participation in the VOM is voluntary. Some parents and juvenile offenders also indicated that they "chose" to participate in the VOM to make the situations "right." The mediators showed respect for the self-determination of participants by letting participants express their views, and by not imposing their views as facilitators onto the participants.

The mediators also employed the strengths perspective in their interactions with participants. For example, VOM procedures state that mediators cannot return to addressing problems following completion of the caucus. In the Department Store Case, the juvenile offender and the father were excited to hear that the youth did a great job in her employment as a sales person. The youth and her father did not expect to hear these positive words at the VOM. Although it was not one of the cases in this study, in one of my observations of a VOM, mediators and a victim were able to use the strengths of an offender who was involved in the VOM because of his graffiti on a wall at a local park. The victim, who was a representative of a city park, and mediators were able to identify the juvenile's strengths as an artist and invited the offender to consider collaborating on a city mural project. The offender was excited about the opportunity and he was subsequently able to improve the mural project using his artistic talents as he performed his mandatory community service hours. In this sense, these aspects of the program resonate with the values of the strengths perspective, which assumes all people have positive characteristics and the capacity to succeed (Saleebey, 2006). The compatibility of the restorative justice programs with social work values sheds important light on the need for the social work profession to become more involved in the criminal and juvenile justice systems.

The findings also indicated that the strengths perspective, a staple of social work practice, is also highly applicable to work with offenders, victims, and others involved in the VOM process. In applying the strengths perspective in restorative justice, it should be emphasized that practitioners should not make assumptions about

offenders and parents. Furthermore, practitioners need to remember that the VOM environment can be an extremely stressful situation for offenders and their parents. Their frustration and nervousness may be expressed in various ways. Meeting them in their homes and workplaces was a humbling experience for me. My initial perspectives of offenders and their parents resulting from my observations of the VOM process changed completely as a result of these interviews which provided me with great insight into the feelings and behaviors of the offenders and the victims.

Due to the multiple and demanding tasks a mediator is confronted with in the VOM sessions, they oftentimes may overlook details, such the feelings or reactions of a particular individual in the group session. Moreover, offenders and their parents may not always be able to clearly articulate what it is they are trying to say in a VOM session. Therefore, it is critically important that mediators find ways to elicit the unique perspectives of each individual. Starting “where the client is at” is a basic principle of social work practice, and one which holds utmost significance for the VOM process because everybody comes from their own frame of reference. By so doing, the mediator will be better able to enhance understanding between victims and offenders in the VOM session.

Some of the implications for social work practice have been discussed in the above section. In the following section, I will discuss more direct implications for social work education, practice, policy, and research.

Implications

Implications for Social Work Education and Practice

This study expands the current knowledge on restorative justice as a social work practice issue by focusing on its compatibility with social work values such as showing respect for the dignity and the worth of the individual, and the importance of human relationships. Also, insights drawn from theories such as social constructionism and the strengths perspective, already embraced by the social work profession, serve to expand our understanding of restorative justice and the VOM model.

The study's findings hold important implications for social work practice. As noted earlier, many prominent social work scholars call for attention to restorative justice. Based on the compatibility of restorative justice with social work values, these scholars urge social workers to return to the justice field to serve the unmet needs of crime victims and offenders. By bringing value-critical social work perspectives to the current study, it makes an important contribution to the accumulation and expansion of social work knowledge in restorative justice. Since restorative justice is still a relatively new area of social work practice (Umbreit, 1995), the focus of this study on examining the multi-layered details of the helping process in VOM can help social workers understand ways to improve the VOM process and ultimately the lives of the victims, offenders and others involved in the process.

The findings highlight a need for a better understanding of human relationships, group dynamics and human behavior, especially in adolescence. This need exists not only among restorative justice practitioners but also between victims

and offenders. Social work education emphasizes the importance of understanding human behavior in the social environment and demands that social work professionals take a wide angle view of the client situation, spanning micro to macro levels of social work involvement. Social workers, by their professional training and education, also bring knowledge of systems and intervention skills and strategies to the challenges that clients might face in restorative justice practices. Many social workers have received interpersonal skills training as part their professional education, and some may have had specific training in mediation.

However, despite the compatibility of social work education and training with the restorative justice model, it has not been given much attention in social work education. Building on Young and LoMonaco (2001), who argued the importance of incorporating content on offenders and corrections into existing social work curricula, the strongest recommendation I have based on findings from this study is that social work education should expand or reinforce content on crime victims and restorative justice, including the principles as well as the practices, in graduate and undergraduate curriculums.

Implications for Social Policy

Several implications for social policy emerged from this study's findings that have important consequences for victims, offenders, and others involved in the process. The NASW provides relevant guidance to the social worker. NASW (1999) states,

Social workers should engage in social and political action that seeks to ensure that all people have equal access to the resources, employment,

services, and opportunities they require to meet their basic human needs and to develop fully.” (Standard 6.04[a])

In this respect, social workers should play a key role in advocating for policies that reflect the needs of victims. Social workers should initiate the establishment of victim-sensitive policies at the federal, state and local levels, which will be the foundation of restorative justice practice. They can also work to ensure that policies support adequate funding to promote sound restorative justice practices.

At the local level, some studies have found that restorative justice programs that have adopted written policies and procedures with clear rationales, and specific program models are more likely to be associated with decreasing re-offense rates among offenders (see Bonta et al., 2006). Since numerous local jurisdictions have adopted restorative justice policies, it is important for local restorative justice programs to clearly articulate their policies and procedures and tie them to restorative justice principles.

A critical but often overlooked issue needing to be addressed relates to organizational policies that support employees who work in VOM programs. In this study, a mediator argued, “We probably need to do a better job of our game plan, and treat it like we’re going to a Super Bowl every single time.” Policies that promote manageable workloads, the provision of continuing education and training for mediators, and enhancing opportunities for inter-mediator communication are a few ways to help them prepare ‘*a Super Bowl*’ for every VOM. These changes would also foster better alignment with the principles and values of the restorative justice model,

which consequently will diminish the chance of providing “fast-food” restorative justice at the local level.

Among the states, there are currently 29 that have VOM or VOM-types of statutory authority (Lightfoot & Umbreit, 2004; OJJDP, 1998; Umbreit, 1998). The levels of regulatory provisions vary by state, ranging from extremely comprehensive details on how to run the program, for example, to providing a simple reference to VOM within other options related to sanctions (Umbreit, Lightfoot, & Fier, 2001). In addition to reinforcing restorative justice principles, minimum national standards should be established, or at the very least, manuals should be provided that promote and provide acceptable standards of practice (Boyack, Bowen, & Marshall, 2004) while at the same time enhancing the quality of local programs, especially regarding the skills and training of mediators. This is especially critical because as the findings showed, most of the contradictory findings were based on mediators’ misunderstandings of the principles of restorative justice. The conflicting findings may also be due to mediator inexperience. In this sense, as White, L. (2001) emphasized, it is critical that mediator training puts the trainees into situations that simulate the experiences of victims and offenders in order to increase victim-sensitivity. This concept needs further study.

Inter-agency policy development is important in two ways: first, to shorten the lag time between the occurrence of the crime and the VOM session; and, secondly to allow a more expedient process for inter-agency referrals which may be needed following the VOM. Victims noted that often the lag time between the criminal event

and the VOM session was too long, and they felt like they had to “open old wounds again.” Furthermore, ending the VOM session does not always mean that issues that emerged during the session are resolved for the participants. In many cases, it seemed appropriate for outside referrals to be made for further follow-up on a particular issue. In this respect, policies that promote inter-agency collaboration once the VOM is complete are critically important. Although it is not directly related to inter-agency collaboration, the findings suggest that the schools should be included in the collaboration loop. Their participation would increase the possibility for juvenile offenders to be held more accountable for crimes when schools are part of the victim system.

It is critical to promote efforts that enhance public awareness of VOM. Raising awareness among the general public, political parties, and state governments is important because lack of action is often due to lack of information (UNODCCP, 1999). Several participants in this study reported that they were not aware of VOM prior to coming to the group sessions. They also indicated later how much they felt they had benefited from the VOM process. Public awareness about VOM is important for many players who interact in the criminal justice system which may include judges, probation officers, social workers, community agencies, and most importantly, the crime victims. It is especially important for judges to be aware that VOM programs exist and are successful, as they often have to choose among many options for sentencing of juvenile offenders, and may not be aware that VOM programs are operating in their jurisdiction (Wemmers, 2002).

Finally, although the roles of legislators and other policymakers are critical, as the OJJDP (1998) observes, it should also be noted that restorative justice should not be mandated in a top-down authoritarian process. Rather, the process should involve all stakeholders including victims, offenders, families, and communities. This was illustrated in this study in one case in which victims were clearly not involved at the appropriate junctures in decision making about the VOM process. Therefore, informing and educating legislators as well as the general public about victim rights, needs, and juvenile offenders' needs is important.

Implications for Research

This study holds several implications for research. First, a major finding from this study shows that mediator knowledge and skill plays a critical role in facilitating the interaction between victims and offenders in VOM sessions. Few studies have examined the role of the mediator in VOM in terms of interpersonal skills and their knowledge of group dynamics. Empirical research studies could point the way towards the development of more effective group facilitation by VOM mediators.

Second, another major finding from this study is that apologies were not often well-received by the victims. This indicates the need for research studies that could, for example, explore strategies used by other VOM programs or, more broadly, restorative justice programs such as FGC and healing circles regarding the delivery of sincere apologies. Along with this, the need for examination of the apology-forgiveness interaction is important. Empirical studies could explore how victims

perceive apologies (e.g., as sincere or not sincere), and the relationship this may hold to the likelihood that the victim will forgive the offender.

Third, this study has raised consciousness among some participants, and within the broader community. When the comprehensive member check with each participant was done, some of victims, offenders, and parents noted that, as a result of the VOM sessions, the number of juvenile crimes expected to increase in a particular month in the community had actually diminished for the first time in several years. This points to a need for a follow-up study as well as to the possibility of participatory action research (Brown, 1994; Reason, 1994) in restorative justice as a useful tool in helping communities combat juvenile crime. This research would also empower people through the process of constructing and using research for their own benefit.

Limitations of the Study

This study has several limitations. First of all, the study intended to be exploratory in order to learn, in an in-depth way, the experiences of the participants who participated in a restorative justice program. Therefore, this study included only a handful of participants from only one site. Due to the study design, the findings of this study may reflect only some of the views that others hold and, therefore, cannot be generalized. Instead, this study provides good transferability because of the “thick” descriptions in the findings and from the context in which the study was conducted (Lincon & Guba, 1985; Rodwell, 1998).

Another limitation is that all of the cases in this study included victim participants. However, at the research site where the study was done, victims were not always included in the VOM sessions. In fact, the VOM program included victims in about only one-third of the VOM cases. Therefore, it is important to acknowledge that the findings of this study did not reflect those VOM cases that do *not* include victims. This is also related limitation based on selectivity in the cases that were sampled (Patton, 2002). Therefore, as Patton suggested, findings need to be kept in context. However, this points in two important directions with regards to future study. While it is critical to examine the experiences of VOM participants among a variety of case situations, it is also vital for researchers to study the fidelity of restorative justice programs. In other words, it is still unclear that what is or what should be included in the restorative justice approach. For example, can we still call an approach that does not include direct victim involvement a restorative justice program?

Finally, although observations of VOM cases were conducted for a one year period of time, it should be noted that engagement with the participants from the selected four cases was relatively brief. In other words, observations of the participants here presented only a partial picture. Therefore, for future study, it would be beneficial to collect data over time to capture changes that occur in participants' experiences. Or, again an additional follow-up study may be valuable.

Conclusion

This study explored the nature of the experiences of participants in a victim-offender mediation program. A qualitative research design was chosen based on the

purpose of the research and its fit with the naturalistic paradigm. This study makes an important contribution to the existing restorative justice literature by providing an in-depth understanding of the processes and experiences of the participants in a VOM, an insiders' perspective. The participants' voices, especially those of the victims, offenders and their parents, and the service providers' voices, all rarely heard in previous empirical studies, provided first-hand experiences as well as a look at state-of-the-art approaches and practice wisdom that are applied in restorative justice practice. In addition, the procedural aspects of the current study can be expected to help the readers obtain a glimpse into the practice of restorative justice, which has the potential to promote the successful application of VOM in a variety of environments. Consequently, studies like the one presented here can help pave the way towards increased understanding of the exceedingly complex issue of how to appropriately and effectively apply the principles of restorative justice, which have the potential to improve the lives of many individuals. This study constitutes only "one step" in that direction.

Programs based on the principles and philosophies of restorative justice are rapidly increasing. However, not many programs are involved in research efforts that examine their delivery of service and its effectiveness. Therefore, more attention should be given to contexts such as the development and delivery of the program (Umbreit, Vos, & Coates, 2005; Wemmers, 2002). This study has shown that process is critical to outcomes in VOM, and that research of a process-oriented nature is essential. It should be noted that traditional criminal justice system approaches which

value punishment for offenders, and minimizing victim's rights, still wield a powerful influence within the criminal justice system. The system is very entrenched in a punitive model. Therefore, efforts to improve and enhance VOM programs and processes will require more time (Morris, 2002). However, the findings from this study provide convincing support that the VOM provides something that the retributive justice approaches cannot provide, and therefore, criminal justice systems need to look at expanding VOM programs. At the same time, the study findings also suggest that there is ample room for VOM programs to improve their practices, which would be especially beneficial for victim participants adversely affected by victim-insensitive approaches.

I began this journey asking myself a question: "Can the ends justify the means?" At the end of the study, I am convinced that I am one step closer to answering the question with competence, "No, the ends should not justify the means. Instead, the means and the ends should justify each other." In an era in which public opinion dictates that society should "get tough" with young offenders, this study supports the notion that restorative justice can provide a useful framework for social workers to better meet the needs of crime victims, juvenile offenders, and others involved in the process as well as to better understand the restorative justice process. The realization that social work values can be compatible with the VOM process, as identified in this study, provides an important rationale for social workers to regain their voices, and once again, find their fit within the criminal justice field.

As I pointed out in the introduction to this study, in the famed documentary film “Scared Straight,” the interviewer asked former juvenile offenders: “Do you still remember the number?” referring to a number offenders were given twenty years earlier when they visited, for a brief two hour period, a prison setting where they interacted with the inmates. Twenty years hence, most of the offenders still remembered the number they were given during the time they were involved in the “Scared Straight” experience. Some recalled the experience with fear, and some had continuing nightmares about the process over the intervening twenty year period. Undoubtedly, the “Scared Straight” experience had a lasting effect on the juvenile offenders in a rather traumatic way.

The juvenile offenders in this study, too, have memories. The following story poignantly presents one 14 year old boy’s remembrance of his VOM experience:

I keep on having dreams about that night. Yeah...there’s been times where I actually thought where I was that night again, but I woke up and found out it wasn’t. Every once in awhile, I’ll have flashbacks when I go back the victim’s house. I’ll always think about what I did...I’d say before (the VOM) it didn’t really affect me, but after I did it, it really affected me. Because I used to go riding my bike around up there and I would pass her house and I wouldn’t think anything about it. And then after the mediation I would do the same thing and I would always just sit there and stare at it and (think) what I did.

In contrast to the remembrance of the juvenile offenders in the “Scared Straight” program, the above youth’s statement provides tremendous hope that restorative justice programs can be both compassionate and accountable, while neither marginalizing nor discounting the victim’s voice nor devaluing and demeaning the offender (Morrison, 2002; OJJDP, 1998; Zehr, 1990). However, at the same time, the findings from this study compel us to look more closely into the restorative justice

“black box” to avoid falling into a “Pandora’s Box” where principles of restorative justice are confounded and chaotic.

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Appendix A: IRB Approval

9/10/2007

HSCL #16753

Jung Choi
1725 Tennessee, #2
Lawrence, KS 66044

The Human Subjects Committee Lawrence has received your response to its full IRB review of your research project,

16753 Choi/Canda (SOC WEL) A Naturalistic Case Study of Restorative Justice: The Experiences of Actors and Decision-makers in Victim Offender Mediation

and found that it complied with policies established by the University for protection of human subjects in research. The subjects will be at minimal risk. Unless renewed, approval lapses one year after approval date.

The Office for Human Research Protections requires that your consent form must include the note of HSCL approval and expiration date, which has been entered on the consent form sent back to you with this approval.

1. At designated intervals until the project is completed, a Project Status Report must be returned to the HSCL office.
2. Any significant change in the experimental procedure as described should be reviewed by this Committee prior to altering the project.
3. Notify HSCL about any new investigators not named in original application. Note that new investigators must take the online tutorial at <http://www.research.ku.edu/tutor/hsp/index.shtml>.
4. Any injury to a subject because of the research procedure must be reported to the Committee immediately.
5. When signed consent documents are required, the primary investigator must retain the signed consent documents for at least three years past completion of the research activity. If you use a signed consent form, provide a copy of the consent form to subjects at the time of consent.
6. If this is a funded project, keep a copy of this approval letter with your proposal/grant file.

Please inform HSCL when this project is terminated. You must also provide HSCL with an annual status report to maintain HSCL approval. Unless renewed, approval lapses one year after approval date. If your project receives funding which requests an annual update approval, you must request this from HSCL one month prior to the annual update. Thanks for your cooperation. If you have any questions, please contact me.

Sincerely,

David Hann
Coordinator
Human Subjects Committee -
Lawrence

cc: Edward Canda

Appendix B: Informed Consent Form for Minors (an example)

Approved by the Human Subjects Committee Lawrence Campus, University of Kansas. Approval expires one year from 9/10/2007.

INFORMED CONSENT FORM STATEMENT-Minor

A Naturalistic Case Study of Restorative Justice The Experiences of Actors and Decision-makers in Victim Offender Mediation

INTRODUCTION

The School of Social Welfare at the University of Kansas supports the practice of protection for human subjects participating in research. The following information is provided for you to decide whether you wish to participate in the present study. You may refuse to sign this form and not participate in this study. You should be aware that even if you agree to participate, you are free to withdraw at any time. If you do withdraw from this study, it will not affect the compensation, your relationship with this unit, the services it may provide to you, or the University of Kansas.

PURPOSE OF THE STUDY

The purpose of this study is to gain an in-depth understanding of the experiences of participants in a Victim Offender Mediation (VOM) program. In order to do this, this study attempts to reflect multiple perspectives of participants on their experiences in a VOM program. VOM is a collaborative and peacemaking process to resolve conflicts or solve problems between the victim and the offender. Where appropriate, any other individuals or community members affected by a crime participate together to deal with its aftermath. To attain the goal, the researcher will conduct interviews with several different sources and make on-site observations as well.

INFORMATION TO BE GATHERED

This study will gather information from three main sources: 1) the child's record at the VOM program for gathering demographic information and the description of the incident provided by the Immediate Intervention Program at the District Attorney's Office, 2) the interviews, and 3) on-site observations.

PROCEDURES

Your child's role in the study is to participate in interviews conducted by a doctoral student of the University of Kansas, who will ask your child questions about his/her experiences and opinions about the VOM program. The interviews will be in-person and the arrangement will be made through a phone contact to you. The investigator will take as little time as possible and interviews will be approximately one hour, but some follow up questions may be necessary. In-person interviews would be scheduled at your and your child's convenience. The researcher will meet you and your child at your residence or any place you and your child are comfortable including the office of the VOM program. Sensitive issues such as illegal conduct in addition to the issues already discussed in the mediation, substance abuse, and sexual behavior will not be pursued as part of the interviews. Your child may choose to discontinue participation at any time. In addition, information may be collected from your child's records at the program and observations. At the observation, the investigator will only take notes and will not audio or video record the sessions. For the sake of accurate records, the researcher plans to audiotape the interview and it will be used only by him. However, if you and your child do not wish to be audio recorded, the investigator will only take notes and will not record the interviews. The recorded interviews or notes will be stored in a locked cabinet.

Each participant will be interviewed three times, after they have signed an informed consent form. The first interview (about 60 minutes) is designed to give an overall understanding of the problem; the second interview (about 30 minutes) will be used to fill in details not obtained in the first interview; and the third interview will be a Comprehensive Member Check (CMC, about 30 minutes) where the participants will be asked to comment on the accuracy and credibility of the study report.

RISKS

Your child may need to remember what happened to him/her when the crime took place. Therefore, participation in this study may cause your child stress. This may entail taking a break. If your child's reaction continues to escalate to the point where the interviewer suspects potential harm to self or others, the interview would be terminated immediately and the interviewer would contact you and/or a mental health professional. Additional information will be provided in securing the necessary support (e.g., Family Service & Guidance Center, Topeka, 785-232-5005; Shawnee Community Mental Health Center, 785-233-1730).

BENEFITS

The benefits of participation in this study is that your child would be able to provide information about his/her experiences with the VOM program that may be used to improve the program to be more sensitive to the needs of the participants and also to improve the services provided by the juvenile justice system.

PAYMENT TO PARTICIPANTS

Your child will receive \$10, per interview, for the first two interviews as a thank you for his/her time and participation. However, your child will not be paid for the last interview, which will be focusing on the accuracy of the case report.

PARTICIPANT CONFIDENTIALITY

Your child's name will not be associated in any way with the information collected about your child or with the research findings from this study. The investigator will use a pseudonym instead of your child's name. The investigator will not share information about your child unless required by law or unless you give written permission.

Permission granted on this date to use and disclose your child's information remains in effect indefinitely. By signing this form you give permission for the use and disclosure of your child's information for purposes of this study at any time in the future.

REFUSAL TO SIGN CONSENT AND AUTHORIZATION

You are not required to sign this Consent and Authorization form and you may refuse to do so without affecting your right to any services you are receiving or may receive from the University of Kansas or to participate in any programs or events of the University of Kansas. However, if you refuse to sign, you cannot participate in this study.

CANCELLING THIS CONSENT AND AUTHORIZATION

You may withdraw your consent for your child to participate in this study at any time. You also have the right to cancel your permission to use and disclose information collected about your child, in writing, at any time, by sending your written request to: [J.J. Choi, The University of Kansas, School of Social Welfare, 1545 Lilac Lane, Room 306, Lawrence, KS 66044-3184]. If you cancel permission to use your child's information, the researcher will stop collecting additional information about your child. However, the researcher may use and disclose information that was gathered before receiving your cancellation, as described above.

QUESTIONS ABOUT PARTICIPATION

Questions about procedures should be directed to the researcher listed at the end of this consent form.

PARTICIPANT CERTIFICATION:

I have read this Consent and Authorization form. I have had the opportunity to ask, and I have received answers to, any questions I had regarding the study. I understand that if I have any additional questions about my rights as a research participant, I may call (785) 864-7429 or (785) 864-7385 or write the Human Subjects Committee Lawrence Campus (HSCL), University of Kansas, 2385 Irving Hill Road, Lawrence, Kansas 66045-7563, email dhann@ku.edu or mdenning@ku.edu.

I agree to allow my child to take part in this study as a research participant. By my signature I affirm that I am at least 18 years old and that I have received a copy of this Consent and Authorization form.

Type/Print Participant's (Child's) Name

Date

Print Parent's Name

Parent's Signature

Researcher Contact Information

Jung Jin (J.J.) Choi, M.S.W.
Principal Investigator
School of Social Welfare
1545 Lilac Lane, Rm 306
University of Kansas
Lawrence, KS 66045

Edward R. Canda, Ph.D.
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School of Social Welfare
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University of Kansas
Lawrence, KS 66045

Appendix C: The Guided Questionnaire for Minors (an example)

Youth (Offender) Interview Protocol

Child's Name:

1. What was your offense?
2. What did you think of the process in that your case was handled, prior to the VOM?
3. Were you informed what's available (e.g., court vs. diversion)?
 - a. Why did you choose diversion over court?
 - b. Who made that decision?
4. When did you learn about the VOM program?
 - a. How much information did you receive and by whom?
 - b. When you heard about the VOM for the first time, what was your reaction?
 - c. What were your expectations prior to attending the VOM?
5. What happened during the intake?
 - a. Who came along with you?
 - b. Did you understand what the goals of the programs?
 - c. Did the intake help you understand the program?
 - d. What were you or your parents asked to do?
 - e. Were there any unmet needs for you and your parents at the intake?
 - f. What were your impressions after the intake?
6. What happened during the VOM session (in detail)?
 - a. How did you feel during the VOM?
 - i. Were you threatened or comfortable?
 - ii. What made you feel that way?
 - b. How was it like for you to read the letter of apology?
 - i. What did you learn from writing up the letter?
 - ii. What kind of meaning it had to read it in front of the victim?
 - iii. Was it a good medium for you to deliver your apology?
 - iv. Did you think that the victim took it in a positive way?
 - v. What made you think that way? Or, how did you know?
 - c. Did the VOM meet your expectation? Please explain.
 - i. If yes, what expectation did you have?
 - ii. What had helped you to meet your expectation?
 - iii. If no, what had deterred you to meet your expectation?
 - d. What were the things that helped you get through the VOM?

- i. Was there a particular aspect that helped you get through the program?
 - e. How would you describe the mediators?
 - i. What aspect of their activities was most helpful? In what way?
 - ii. What aspect of their activities was least helpful? In what way?
 - f. What was your agreement?
 - i. To what extent you and your parents agreed to the final agreement?
 - ii. Were you and your parents satisfied with the final agreement?
 - 1. If yes, what made you satisfied?
 - 2. If no, please explain.
 - g. Was the environment safe enough (not only physical) for you to talk about the things that you went through?
 - i. How would you define “being safe”?
 - h. Were you and your parent treated fairly?
 - i. Did anything happen that you did not expect during the VOM?
 - j. Did you have any unmet needs during the mediation?
- 7. How would you describe your experience in the program, overall?
- 8. What did it mean to you to meet the victim and the family in that environment?
- 9. To what extent, did you think that you held accountable?
 - a. What did it mean to you to take responsibility?
- 10. What are the things that you learned by attending the program, if any?
 - a. Did you notice any differences between before and after attending the VOM (at home, school, community)?
- 11. What are some of the most or least helpful features of the VOM?
- 12. Can you think of any changes you would like to make for the program?
- 13. Would you recommend this program to your friend who might be in a similar situation that you went through?
 - a. If yes, why?
 - b. If no, why?
- 14. If you were talking to a friend of yours in the same situation as you, what advice would you give to him/her?
- 15. Is there anything else you would like to tell me about your experiences in the program that I did not ask you about?

Appendix D: Audit Trail

Classification	File Types	Evidence
Raw Data	<ul style="list-style-type: none"> - Interview audiotapes and transcripts - Field notes—condensed and expanded -Case record review notes 	<ul style="list-style-type: none"> - Dialogue: social interaction and tapes - Descriptions of events (mediation sessions), feelings, characteristics of environment, and behaviors of participants and researcher
Data Reduction and Analysis Products	Field notes—condensed and expanded	<ul style="list-style-type: none"> - Category files
Data Reconstruction and Synthesis Products	<ul style="list-style-type: none"> - Diagrams and outlines of relationships and patterns - Emerging patterns - Findings and conclusions 	<ul style="list-style-type: none"> - Arrangement of concepts and categories - Drafts of report -Drawings of relationships
Process Notes	<ul style="list-style-type: none"> - Reflexive journal - Methodological log 	<ul style="list-style-type: none"> -Daily activities, feelings, heuristic insights -Protocol for decisions and procedures, instrument development process, peer debriefing and member check interactions