



Victim-Offender Dialogue: A Victim-Centered Approach to Justice

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At its heart, the criminal justice system is a mechanism for protecting rights, sanctioning misconduct, and mitigating harm. The government, as the prosecutor, takes on the role of the aggrieved party on behalf of society. The aim is to uphold the rule of law, protect the interests of the public, and maintain order. However, in this process, victims are often relegated to a secondary position. As a consequence, victims often feel disconnected

from the proceedings and decisions surrounding their cases. Their needs, concerns, and desires can be overshadowed by the government's pursuit of a conviction or resolution.

Over the last 40 years, states have pursued reforms that establish and protect victims' rights.¹ Broadly, victims in Florida have constitutional rights "to be informed, to be present, and to be heard when relevant, at all crucial stages of criminal

proceedings, to the extent that these rights do not interfere with the constitutional rights of the accused.”² In practice, this means that victims are notified regarding court hearings and other developments in their cases. They are entitled to provide testimony during trial and to make a statement at the time of sentencing. Victims may also receive financial compensation through restitution payments or a victims compensation fund. However, many victims are left seeking more. Specifically, it is common for victims to want to speak with the person who harmed them—to express how the offender’s conduct impacted their life and to directly hear the offender accept responsibility for their actions.

Victim-offender dialogue—sometimes referred to as restorative justice dialogue or victim-offender mediation—is a tool for addressing the needs, concerns, and desires of victims.³

So, what is victim-offender dialogue? Essentially, it is simply a conversation between victims and offenders. The process is non-adversarial, and all parties must be willing participants. There is extensive vetting prior to contact between victims and offenders to ensure that no additional harm occurs. Moreover, the process is initiated by victims, which means that victim-offender dialogue only occurs if the victim seeks it out. When they occur, victim-offender dialogues are mediated by trained and experienced facilitators. Victim-offender dialogue is not appropriate in all cases and is not a substitute for the traditional criminal justice system. It is just an additional tool to address needs that are not always met by criminal prosecution alone.

With some caveats, research evidence suggests that victim-offender dialogue can have positive impacts on victims’ healing and may even have positive effects in preventing recidivism. For example, a recent review of research found that victim-offender dialogue programming may help reduce symptoms of post-traumatic stress among victims of crime.⁴ This matters because victimization can be a highly traumatizing experience, and many victims report that they do not receive help dealing with this trauma through the criminal justice system.⁵ Large majorities of crime victims prefer alternative accountability mechanisms over incarceration, according to a recent survey.⁶

Additional studies have reported high levels of satisfaction among both victims and offenders participating in victim-offender dialogue programs compared to those exposed solely to the traditional criminal justice system.⁷ Offenders participating in victim-offender dialogue are less likely to reoffend, although some of these outcomes may be attributed to self-selection rather than the dialogue itself.⁸ In other words, offenders who voluntarily participate and show remorse may already be at low risk for reoffending, so it is difficult to directly attribute lower rates of reoffending to their participation in victim-offender dialogue. Nevertheless, the primary objective of victim-offender dialogue is to address the harm experienced by victims, rather than solely focusing on reducing recidivism.

In light of these positive research findings, many states have embraced victim-offender dialogue. In 2020, Florida’s Office of Program Policy Analysis and Government

Accountability (OPPAGA) released a report examining research evidence on victim-offender dialogue and its use across the country.⁹ At least 37 states provide some statutory support for victim-offender dialogue or similar restorative justice practices.¹⁰ Many of these states have programs that enable victim-offender dialogues within the adult criminal justice system. Other states, like Florida, have programming that is limited to the juvenile justice system. As the OPPAGA report noted, there is only limited statutory support for restorative justice in Florida, and the Florida Department of Corrections does not have any formal victim-offender dialogue programs for adults.

Despite a lack of statutory support and official programming, victim-offender dialogue is occurring in Florida. In pockets around the state, organizations like the Florida Restorative Justice Association are working with public officials and facilitating

victim-offender dialogues. The informal nature of this work unfortunately means that many victims are unaware that victim-offender dialogue is an option in the state.

Florida has made great strides in establishing and protecting victims' rights, but too often, victims are still relegated to a secondary role as the state focuses on securing a conviction. Victim-offender dialogue aims to recenter victims within the criminal justice system and help them heal from the harm caused by crime. It is essential for Florida lawmakers to consider reforms that further enable the implementation of victim-offender dialogue throughout the state. Even relatively minor steps such as defining victim-offender dialogue in statute and ensuring that victims are aware of its availability would go a long way.

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ENDNOTES

- 1 Cassell, Paul G., *Crime Victims' Rights* (2017). Academy for Justice: A Report on Scholarship and Criminal Justice Reform, Forthcoming, University of Utah College of Law Research Paper No. 224, Available at SSRN: <https://ssrn.com/abstract=3024143> or <http://dx.doi.org/10.2139/ssrn.3024143>.
- 2 Florida Crime Victims' Bill of Rights, (n.d.). Office of Attorney General Ashley Moody. <https://www.myfloridalegal.com/crime-victims-services/florida-crime-victims-bill-of-rights#florida-crime-victims-bill-of-rights>. (Accessed 11/7/2023).
- 3 Resources on Victim Offender Dialogue, National Institute of Corrections, (n.d.). <https://nicic.gov/resources/resources-topics-and-roles/topics/resources-victim-offender-dialogue>.
- 4 Lloyd, A., Borrill, J. Examining the Effectiveness of Restorative Justice in Reducing Victims' Post-Traumatic Stress. *Psychol. Inj. and Law* 13, 77–89 (2020). <https://doi.org/10.1007/s12207-019-09363-9>.
- 5 Crime Survivors Speak: National survey of victims' views on safety and justice. (2022). Alliance for Safety and Justice. <https://allianceforsafetyandjustice.org/wp-content/uploads/2022/09/Alliance-for-Safety-and-Justice-Crime-Survivors-Speak-September-2022.pdf>.
- 6 Ibid.
- 7 Strang, H., Sherman, L.W., Mayo-Wilson, E., Woods, D. and Ariel, B. (2013), Restorative Justice Conferencing (RJC) Using Face-to-Face Meetings of Offenders and Victims: Effects on Offender Recidivism and Victim Satisfaction. *A Systematic Review*. *Campbell Systematic Reviews*, 9: 1-59. <https://doi.org/10.4073/csr.2013.12>.
- 8 Sherman, L.W., Strang, H., Mayo-Wilson, E. et al. Are Restorative Justice Conferences Effective in Reducing Repeat Offending? Findings from a Campbell Systematic Review. *J Quant Criminol* 31, 1–24 (2015). <https://doi.org/10.1007/s10940-014-9222-9>.
- 9 A Review of Restorative Justice in Florida and Other States. (2020). Office of Program Policy Analysis and Government Accountability. Report 20-02. <https://oppaga.fl.gov/Products/ReportDetail?rn=20-02>.
- 10 Restorative Justice Laws, (n.d.). University of Denver Graduate School of Social Work. Available at: <https://socialwork.du.edu/content/restorative-justice-laws>. (Accessed 11/7/2023).