Justice through Healing: An examination of a Juvenile Restorative Justice Program in Nebraska

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Lincoln Bar Association
Who we are

- Nebraska Supreme Court’s Office of Dispute Resolution and statewide mediation centers

- Mediation centers have been working over 25 years with Counties, Clerks of District Courts, County and District Judges, County Attorneys, Probation, Schools, and the public
  - Neighbor disputes and small claims mediation
  - Community conflicts / community planning
  - Divorce and custody mediation
  - Child welfare and juvenile justice conferencing
Nebraska’s ODR-Approved Mediation Centers
“Restorative justice (RJ) is a process to involve, to the extent possible, those who have a stake in a specific offense and to collectively identify and address harms, needs, and obligations, in order to heal and put things as right as possible.”

Zehr (2002, p. 37)
Traditional System of Justice

- Crime is considered an act against the State
- Works on a premise that largely ignores the victim and the community that is hurt most by crime.
- Instead, it focuses on punishing offenders without forcing them to face the impact of their crimes.
What is **Restorative Justice**

- Restorative justice is a theory of justice that emphasizes repairing the harm caused or revealed by criminal behavior.

- It is best accomplished through cooperative processes “where those primarily affected by an incident of wrongdoing come together to share their feelings, describe how they are affected, and develop a plan to repair the harm done or prevent a reoccurrence”.

> “Restorative justice (RJ) is a process to involve, to the extent possible, those who have a stake in a specific offense and to collectively identify and address harms, needs, and obligations, in order to heal and put things as right as possible.”

Howard Zehr (2002, p. 37)
Principles of **Restorative Justice**

- The first priority of justice processes is to assist victims.
- The second priority, to the degree possible, is to restore the community.

  - Crime is an offense against human relationships.
  - Victims and the community are central to justice processes.
  - The offender has personal responsibility to victims and to the community for crimes committed.
  - Stakeholders share responsibilities for restorative justice through partnerships for action.
  - The offender will develop improved competency and understanding as a result of the restorative justice experience.
Disparate views of justice

<table>
<thead>
<tr>
<th>Criminal Justice</th>
<th>Restorative Justice</th>
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</thead>
<tbody>
<tr>
<td>❑ Crime is a violation of the law and the state</td>
<td>❑ Crime is a violation of people and relationships</td>
</tr>
<tr>
<td>❑ Violations create guilt.</td>
<td>❑ Violations create obligations</td>
</tr>
<tr>
<td>❑ Justice requires the state to determine blame (guilt) and impose pain (punishment).</td>
<td>❑ Justice involves victims, offenders, and community members in an effort to put things right.</td>
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<tr>
<td>❑ Central Focus: Offenders getting what they deserve.</td>
<td>❑ Central Focus: Victim needs and offender responsibility for repairing harm.</td>
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Typical Program Values

- **Encounter**: Create opportunities for victims, offenders and community members who want to do so to meet to discuss the crime and its aftermath

- **Amends**: Expect offenders to take steps to repair the harm they have caused

- **Reintegration**: Seek to restore victims and offenders to whole, contributing members of society

- **Inclusion**: Provide opportunities for parties with a stake in a specific crime to participate in its resolution
History of **Restorative Justice**

- **1970s**
  - Victim Offender Reconciliation Program (VORP), Ontario, 1974
  - First U.S. VORP, Indiana, 1978

- **1980s**

- **1990s**
  - Nebraska Office of Dispute Resolution is Established, 1991
  - American Bar Association endorses VOM, 1994
  - National Organization for Victim Assistance endorses VOM, 1995

- **2000s**
  - Nebraska adds juvenile victim offender mediation for county attorney referral in diversion and adjudication, 1998
  - European Union promotes VOM in criminal cases and integrate into laws, 2001

- **2010s**
  - Nebraska adopts legislation endorsing VOM and other facilitated conferences 2012-2014
Typical Restorative Justice Programs

**School Practices and Discipline**
- Peer Mediation
- Peacemaking Circles
- Restorative Conferencing
- Truancy Intervention

**Criminal Justice**
- Victim Offender Mediation
- Restorative Panels & Accountability Boards
- Peacemaking & Healing Circles
- Victim Empathy Classes
- Re-Entry Circles & Supports

**Transitional Justice**
- Truth and Reconciliation Commissions
- Indigenous, village-based courts

**Conflict and Dispute Resolution**
- Intergroup, Intertribal, Interfaith Dialogue Forums
- Parent-Teen Mediation
- Facilitated Family Conferencing
- Workplace Setting Resolution Processes
**Restorative Justice in Nebraska’s Juvenile Justice System**

**DIVERSION**
- Victim Youth Conference (ODR)
- Other Diversion Restorative Practices
- Truancy Mediation

**PRE-ADJUDICATION**
- Expediting Family Group Conference
- Pre-Hearing Juvenile Family Dialogue
- Victim Youth Conference

**POST-ADJUDICATION PRE-DISPOSITION**
- Expediting Family Group Conference

**POST-DISPOSITION**
- Expediting Family Group Conference

**RETURNING HOME?**
- Juvenile Mediation
- Victim Youth Conference
- Family Group Conference (Justice Youth and Family Conference)

**REFER WHEN APPROPRIATE**
- Self-Referral
- Private attorneys
- County Attorneys
- Juvenile Court Judges
- Probation

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**Flowchart Diagram:**
- The diagram illustrates the flow of cases from **CITATION/SCHOOL REFERRAL** through **DIVERSION**, **PRE-ADJUDICATION**, **POST-ADJUDICATION PRE-DISPOSITION**, and **POST-DISPOSITION**.
- Key decision points include Petition Filed? Detention Hearing? In Detention?
- Self-referral and professional referrals are highlighted as appropriate.

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**Legend:**
- Blue arrow indicating flow direction.
- Dotted lines connecting decision points and referral pathways.

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**Additional Information:**
- The diagram emphasizes the role of **Truancy Mediation** and **Self-Referral** as critical points for restorative justice intervention.
Nebraska’s Victim Youth Conferencing
What is Victim Youth Conferencing?

- A process that provides interested victims an opportunity to meet their offender.
- Meet in a safe and structured setting with a trained mediator
- Engage in a mediated discussion of the crime.
- The victim is able to tell the offender about the crime's physical, emotional, and financial impact; to receive answers to lingering questions about the crime from the offender
- The offender is directly involved in developing a restitution plan for the offender to pay back his or her financial debt.
Nebraska’s Statutes: Juvenile offender and victim mediation

○ Juvenile diversion statutes: VYC (juvenile offender and victim mediation) is one of the objectives in a diversion agreement, upon agreement by the victim, NRS 43-260.06(6).

○ County or city attorney can use this service as a diversionary option as outlined in NRS 43-274(3)(a)-(f).

○ LB595
NEBRASKA JUVENILE JUSTICE FLOW CHART

JUVENILE COURT

Court Petition
Filed in court

Admit “Guilty”
Deny “Not guilty”

Adjudication Trial

Dismissed
“State does not prove”

Adjudication
“State proves case”

Disposition
“Sentencing”

Did youth successfully complete?

Yes.
Dismissed.
No court record

No.
Go to court

Victim Youth Conference
Other Diversion Programs

Law Enforcement Ticket/School Referral

County Attorney Review

JUVENILE DIVERSION

Court disposition may include:
- Probation
- Minimum of 6-12 months
- Can last until age 19
- Youth can be placed out of home
- Fines and restitution
- Review hearings
- Court ordered classes, therapy, and/or treatment
Restorative Justice Partnerships

- Counties and county attorneys
  - Juvenile diversion programs; Local partners with mediation centers,
    Schools
- Crime Commission juvenile service grants
  - Community based aid grants
  - Community comprehensive juvenile service plans
- State Court Administrator’s Office: Office of Dispute Resolution (ODR)
- Regional ODR-approved mediation centers
The VYC Process

- Youth Commits Offense
- Intake and Initial Sessions with the Youth and Victim
- The VYC Conference
- Follow-up
The VYC Process (cont.)

• Tier 1
  • Pre-court referrals from the County Attorneys’ offices after a school-based incident and usually involving a citation from law enforcement

• Tier 2
  • Diversion referrals from County Attorneys or Courts pre-adjudication

• Tier 3
  • Court adjudicated cases referred by the courts for youth with or without probation.

• Other
  • Private parties or self-referrals

The three tiers can be generally summarized into three different sources: *Schools, County Attorney, and Judges.*
The VYC Process (cont.)

• Initial Contact
  • Youth and Victim are contacted by an RJ Facilitator within 2-weeks of the referral

• Initial Private Sessions
  • Clarify the role of the facilitator
  • Capture detailed information about the case from each party’s perspective
  • Explain the VYC process
  • Determine appropriateness for face-to-face conference

• Preparation Meetings
The VYC Process (cont.)

• Introduction

1. What happened? (Story-telling Discussion)

2. What was the effect? (Impact Discussion)

3. How can the situation be made better? (Reparations Discussion)

• Closing Time
• Reparation Plans

• Outcomes from VYC Conference
  1. Apology (Verbal or Written)
  2. Restitution
  3. Community Service
  4. Services for the youth offender
  5. Other Remedies
Project Restore

A Project of Lancaster County Human Services
The Mediation Center, Lincoln, A Partner
Lincoln, NE
Program Goals

- Provide youth who have committed an offense in a Lincoln middle or high school with an alternative to make amends to their victims and families outside of the court system.
- Intervene early when youth make mistakes, so they stay out of the court system.
- Provide the youthful offender with a process that encourages them to take steps towards feeling reinstated as a respected member of the school community.
- Potentially improve graduation rates of youth offenders by keeping them in school.
Referral Process

- Youth are referred to The Mediation Center by Lincoln Public Schools via the County Attorney, which gives youth the choice to participate in victim youth conferencing.
- Victims are also given the choice to meet face to face with the youth who caused them harm.
- If the victim chooses not to participate, a community surrogate attends the conference in their place.
- Once the mediation conference has been held and restitution has been completed, the youth’s offense is dismissed.
Office of Dispute Resolution
Evaluation of State-wide Programs & Outcomes
## Empirical Support for RJ – Victim Youth Conferencing

<table>
<thead>
<tr>
<th>Reference</th>
<th>Findings</th>
<th>Sample Characteristics &amp; Method</th>
</tr>
</thead>
<tbody>
<tr>
<td>Nugent, Williams, &amp; Umbreit (2003)</td>
<td>Youth who participated in VOM demonstrated 26% reduction in recidivism</td>
<td>Examined 9,307 juveniles in 19 sites United States</td>
</tr>
<tr>
<td>Bradshaw &amp; Roseborough (2005)</td>
<td>RJ dialogue programs (VOM &amp; FGC) contributed to a 26% reduction in recidivism. VOM (M = .34, SD = .46) VGC (M = .11, SD = .12)</td>
<td>Examined 11,950 juveniles in 25 sites; tracked recidivism 9-48 months 4 Countries</td>
</tr>
<tr>
<td>Bradshaw Roseborough, &amp; Umbreit (2006)</td>
<td>Participation in VOM demonstrated a 34% reduction in recidivism</td>
<td>Examined 9,172 juveniles in 21 sites United States</td>
</tr>
<tr>
<td>Schwalbe et al. (2012)</td>
<td>When researcher involved, diversionary RJ programs (Vyc &amp; FGC) significantly reduced recidivism</td>
<td>Examined 28 experimental or quasi-experimental studies in 33 independent samples</td>
</tr>
<tr>
<td>Sherman et al. (2015)</td>
<td>RJ conferences resulted in modest, but highly cost effective reduction in recidivism (3.7-8.1x more cost effective)</td>
<td>Examined 15 randomized control trials (RCTs) US, UK</td>
</tr>
<tr>
<td>Wong et al. (2016)</td>
<td>Diversionary RJ programs significantly reduce juvenile recidivism</td>
<td>Examined 21 studies, including 5,209 treatment group participants and 13,049 comparison group participants. US, CAN, AU, NZ, W. EU</td>
</tr>
</tbody>
</table>
Common Themes in RJ Evaluation

- Recidivism rates
- Victim Satisfaction
- Offender Satisfaction
- Cost-effectiveness
Nebraska’s ODR / Mediation Center RJ Data Management

- Establish common system of data-collection
- Record common moderators (e.g. gender, race, SES)
- Regular data monitoring
Nebraska’s Recidivism for ODR’s VYC Programs

**Figure 1**: Success Rates for Cases Closed between Jan. 2015 and Jan 2018 (n=349)

- **Successful Fulfillment**: 159, 46%
- **Partial Fulfillment**: 143, 41%
- **Unsuccessful**: 35, 10%
- **Not Reported**: 9, 3%

**Figure 2**: Rate of recidivism based on total referred cases (n=439)

- **Recidivists**: 68, 15.5%
- **Non-Recidivists**: 371, 84.5%
External Evaluation Results for ODR’s statewide VYC Program

Center for Restorative Justice & Peacemaking, University of MN
Evaluation Questions

Descriptive:
Demographic and program specific data - Who is served and under what conditions?

Normative:
Process evaluation - What's working, what can be improved and is fidelity to best practices maintained?

Impact:
Outcome evaluation - What's different as a result, why and how do we know?
Expansion of Counties Served

VYC Pilot 2015-16
6 Counties Served

VYC Extension 2016-17
9 Counties Served

VYC Expansion 2017-18
13 Counties Served
2017-18 Referral Sources

- County Attorney: 42.1%
- Diversion: 42.1%
- Juvenile: 0.5%
- Court/Probation: 15.3%
Shift to Greater Prevention

2015-2016

- VYC Pilot 2015-16:
  - Tier 1 County Atty Pre-Court: 23%
  - Tier 2 Diversion: 12%
  - Tier 3 Court Adjudicated/Probation: 59%

- Other: 0%

2017-2018

- VYC Enhancement 2017-18:
  - Tier 1 County Atty Pre-Court: 42.10%
  - Tier 2 Diversion: 42.10%
  - Tier 3 Court Adjudicated/Probation: 15.30%

Other: 0%
VYC Youth Diversity: 2017-18 (n=216)

- **White**: 46.3%
- **African American/Black**: 16.2%
- **Hispanic/Latino**: 14.4%
- **Unknown**: 15.7%
- **Asian**: 1.9%
- **Native American**: 1.4%
- **Other**: 4.2%
# Identification of those Harmed (Victims)

<table>
<thead>
<tr>
<th>Harmed</th>
<th>Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>Adult</td>
<td>49</td>
</tr>
<tr>
<td>Church</td>
<td>1</td>
</tr>
<tr>
<td>Community/Neighborhood</td>
<td>1</td>
</tr>
<tr>
<td>Family</td>
<td>3</td>
</tr>
<tr>
<td>Juvenile</td>
<td>104</td>
</tr>
<tr>
<td>Mutual Assault</td>
<td>31</td>
</tr>
<tr>
<td>Private Business</td>
<td>14</td>
</tr>
<tr>
<td>Public Institution</td>
<td>8</td>
</tr>
<tr>
<td>Not Reported</td>
<td>12</td>
</tr>
<tr>
<td>Total</td>
<td>223</td>
</tr>
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</table>
Decision to Participate in VYC

- Victim and Youth Agreed to VYC: 45%
- Victim Declined: 50%
  (Used Surrogate or Substitute)
- Both Victim and Youth Declined: 3%
- Youth Declined: 2%
2017-18 Outcomes for Youth and Victims: Short term

Goal: 95% of VYC’s will result in a reparations agreement.

  → Actual Result: 100% of 159 VYC’s resulted in a reparations agreement with the youths.

Goal: 95% of reparations agreements will be fulfilled.

  → Actual Result: 94.2% of 159 youth have successfully fulfilled their reparations agreements, and 5.8% have partially fulfilled their reparations agreements. No case has been closed without full or partial fulfillment of the reparations agreement.

Goal: 97% of youth, their parents, victims and surrogates will report satisfaction with VYC.

  → Actual Result: 95% of youth, their parents, victims and surrogates who completed a post-VYC conference evaluation survey reported being extremely satisfied or satisfied with the VYC overall.
Post-VYC Survey Responses

- Felt Prepared
- Satisfied with Reparations Agreement
- Facilitators seemed genuinely interested
- Would recommend for others
Is the justice system more responsive?

<table>
<thead>
<tr>
<th></th>
<th>Disagree</th>
<th>Neutral</th>
<th>Agree</th>
<th>Strongly Agree</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Victim</strong></td>
<td>0%</td>
<td>29%</td>
<td>59%</td>
<td>12%</td>
</tr>
<tr>
<td><strong>Youth</strong></td>
<td>1%</td>
<td>10%</td>
<td>50%</td>
<td>39%</td>
</tr>
</tbody>
</table>
Time for Discussion

- Questions
- Comments
Thank You

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