

# RESTORATIVE JUSTICE IN VIRGINIA: PAST, PRESENT AND FUTURE

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## Abstract:

This paper explores the current research on both the restorative justice process of victim-offender mediation and on community corrections, with particular emphasis on the respective impacts of each on offender recidivism rates and on the most recent evidence-based practices (EBP) in each field. The paper also provides case studies of three restorative justice programs in the Commonwealth of Virginia, both thriving and struggling. Also incorporated are insights and advice from both the author and restorative justice practitioners in Virginia with regard to spreading the word about restorative justice so as to increase awareness and support for the alternative model. The paper concludes that while further research on restorative justice's and community corrections' effects on recidivism rates and on EBP is necessary, the current research overwhelmingly indicates that both enterprises reduce recidivism rates as compared with traditional incarceration methods, and that they have the capacity to reduce them even further if implemented in stronger conformity with EBP.

## Summary:

In 1974, the Kitchener Experiment became the first documented case of restorative justice in North America. Today, the United States is home to some 400 active victim-offender mediation programs operating in jurisdictions throughout the country. While the modern restorative justice movement in this country is not yet 40 years old, the model and its principles have roots in some of the oldest cultures in the world. Victim-offender mediation is the most popular form of restorative justice today. Its main purposes are to give crime victims a voice in the justice process, to work toward healing the harm inflicted upon them, to give offenders an opportunity to understand the damage they caused, and to reduce offenders' recidivism rates. Victim-offender mediation is a four-part process, consisting of the referral and intake phase, the preparation for the mediation phase, the mediation phase, and the follow-up phase.

Community corrections refers to efforts to re-integrate offenders into their communities and to reduce offenders' recidivism rates. Eight principles have been established for implementing the most effective community corrections programs, including assessing actuarial risk/needs of offenders, and targeting interventions based in part on particular offender's risk and need. Specifically, interventions should target high-risk offenders and avoid over-intervention with regard to low-risk offenders. Community corrections organizations in Virginia have begun to utilize risk assessment tools, specifically the Offender Screening Tool ("OST") and the Modified Offender Screening Tool ("MOST"). Probation officers use these tools to determine offenders' risk to re-offend and therefore the type and amount of supervision they require. Research has

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<sup>1</sup> William & Mary School of Law, J.D. 2009. I would like to thank the Virginia Community Criminal Justice Association (VCCJA) and several individuals for their tremendous support, especially Jana Braswell, Bill Casey, Bruce Crusier, Lance Kelley, David Saunier, and Ed Wilkins. Email: marin.hoplamazian@gmail.com.

also identified several particularly effective intervention methods, including “individual counseling, training of interpersonal skills, and behavioral interventions, with positive but less consistent effects for multiple services and probation and parole.”

Three case studies on restorative justice programs in Virginia illustrate the diverse nature of the Commonwealth’s programs. When Prince William County made the economic decision to cut funding to their Office of Dispute Resolution Restorative Justice Program, of Manassas, Virginia, the once strong program could not survive and the county is now in the process of outsourcing its restorative justice work. Northern Virginia Mediation Service, of Fairfax, Virginia, while enjoying success in the public school system, is working hard to break into the court system to expand its restorative justice work. In Charlottesville, Virginia, however, Central Virginia Restorative Justice is going strong and hardly feeling the effects of the current economic recession.

A survey of 144 second- and third-year law students at the William & Mary School of Law in Williamsburg, Virginia, revealed that only 17% of students were aware of victim-offender mediation or restorative justice. Of those surveyed who had in fact taken one or more mediation courses during their time in law school, only 47% of them had heard of victim-offender mediation, and only 39% of them had heard of restorative justice. Since many law students will go on to become judges, prosecutors, defense attorneys, mediators, guardian ad litem, police officers, or probation officers, they have the potential to play a key part in the future of restorative justice. There are things practitioners can do that require little time or money, however, to remedy this knowledge deficit. Namely, they can forge relationships with law and undergraduate professors who teach mediation and other relevant courses, initiate contact with university and college career services offices to recruit unpaid interns, and utilize technology—specifically blogs and social networking websites—to further educate the population about restorative justice.

Recidivism rates—or the “proportion of released offenders who reoffend”—are one type of important measure of the success of both restorative justice and traditional retributive justice methods, despite the fact that the goals of the two methods do not entirely overlap. Data from 2002 recorded a 67.5% recidivism rate for inmates of United States prisons. While more research is necessary, a number of studies and meta-analyses have been done on the recidivism rates of restorative justice programs, reporting significantly lower numbers. While these studies have weaknesses—namely, substantively diverse definitions of recidivism, variations in length of time offenders are tracked, and lack of accounting for selection bias—they overwhelmingly demonstrate that restorative justice can and does reduce recidivism more effectively than incarceration.

Evidence-based practices (“EBP”)—also referred to as best practices or what works—emerged following a period when “nothing works” was thought by some to be an accurate statement. EBP research has identified several types of community corrections and restorative justice programs that best address offender needs and reduce recidivism, and additionally it has determined that not all intervention types work equally well on all offender types. The research has also identified criminogenic needs—including antisocial attitudes and antisocial associates—or correlates on which practitioners should focus rehabilitative efforts. Specifically, effective programs are “based on behavioral strategies,” are “multimodal,” are “individualized,” target

“dynamic risk factors,” “employ the *responsivity principle*,” and continue “through aftercare services,” among other attributes. EBP has also brought to light some legal and extralegal factors—namely, prior offenses and gender, respectively—that tend to affect recidivism rates. While these findings are informative and certainly encouraging, more research is necessary to validate and add to them.

**[Note: This paper was supported by a research scholarship award from the Virginia Community Criminal Justice Association. For more information, or for copies of the complete paper, please contact the VCCJA Scholarship Committee at [cru02@co.henrico.va.us](mailto:cru02@co.henrico.va.us)]**