

THE WISCONSIN CRIME VICTIMS COUNCIL



GUIDELINES FOR VICTIM/OFFENDER CONFERENCING INVOLVING SERIOUS & SENSITIVE CRIMES

Adopted October 2002

ABOUT THE WISCONSIN CRIME VICTIMS COUNCIL:

The Wisconsin Crime Victims Council is statutory fifteen-member body created in the Department of Justice in 1982 by Wis.Stat. 15.257(2). Council members are appointed by the Attorney General and serve as an advisory body to address issues that impact victims of crime in Wisconsin. Of the fifteen members, ten are citizen members; two represent organizations providing victim support services, and one each represents law enforcement, district attorneys and the judiciary.

At the time that this document was developed and revised, the Council had one vacant seat and the following members:

Citizen Representatives

Roseanne Barber-Minano
Jennifer Belich
Quala Champagne
Representative Pedro Colon
Jo Lettner
Attiyya Nuruddin
Hank Starkey
Pastor Viviane Thomas-Breitfeld

Victim Support Services Representative

Laurie Jorgensen

Law Enforcement Representative

Sergeant Ray Banks,
Milwaukee Police Department

District Attorney Representative

Martin Lipske, Iron County
District Attorney

Judiciary Representative & Council Chair: The Honorable Peter Naze

Questions or comments about this document should be directed to:
Julie Braun, Crime Victims Council Coordinator
Braunja@doj.state.wi.us
608-266-1155

TABLE OF CONTENTS

I. INTRODUCTION

PURPOSE & PROCESS..... 1

ESTABLISHING A COMMON VOCABULARY..... 2

UNDERSTANDING THE SCOPE OF THE RECOMMENDATIONS 3

II. RECOMMENDATIONS 4

A. PURPOSE & STRUCTURE OF ACTIVITY..... 4

B. PARTICIPANTS 4

C. QUALIFICATIONS OF FACILITATORS 4

D. VICTIM PARTICIPATION 5

E. SAFETY 6

F. VICTIM/COMMUNITY EDUCATION..... 6

G. POST PROGRAM SUPPORT/ACTIVITY 6

H. EVALUATION 6

I. INTRODUCTION

Purpose & Process

The Wisconsin Crime Victims Council recognizes that there is a growing interest in activities that put victims of crime in contact with their offender(s). These activities exist in an array of structures and are facilitated by a diverse group of practitioners toward a variety of outcomes. The Wisconsin Crime Victims Council is deeply concerned that these encounters could result in further harm to victims, especially victims of violent and/or sensitive crimes (including but not limited to: homicide, domestic violence, sexual assault, child abuse and child sexual abuse). In October of 2001, the Council met to develop recommendations to help guide and evaluate activities that promote and/or facilitate face-to-face contact between victims and their offender(s).

The document that resulted from that 2-day work session was circulated to victim service professionals, and survivors of crime who have participated in and/or facilitated programs that are based on the restorative justice philosophy. The Council considered their input when developing the final version of its recommendations.

The Council acknowledges that programs can not (and should not) be structured as one-size-fits-all, but must be tailored to meet the needs of its participants. The guidelines presented here are very narrowly focused on the needs of victims. It is hoped that the recommendations might serve as a starting point for dialogue among criminal and juvenile justice professionals, victim advocates and program facilitators towards the development of meaningful and uniform standards.

Establishing a Common Vocabulary

There are a variety of activities in Wisconsin commonly referred to as “restorative justice programs.” Such activities include, but are not limited to: victim impact panels, restitution programs, sentencing circles, community service, victim impact statements, victim-offender mediation and family group conferencing. Each of these activities holds different levels of opportunities and risks for victims and should be examined individually. As “restorative justice” refers to a philosophy, not a distinct program, the Council believes that the tendency to label all these activities as simply “restorative justice programs” has hampered efforts to carefully examine their merits and to develop standards. Therefore, the Council strongly encourages practitioners to be mindful of the terminology used to describe these activities so that meaningful discourse might take place among criminal justice professionals, the community and victim advocates.

The “restorative justice philosophy” in its truest sense is a process with the goal of addressing the harm caused by crime. This process involves careful preparation of participants (victims and offenders) conducted by qualified facilitators in a way that protects the safety of the participants so that no re-victimization occurs. The specific activities that are used in a restorative justice process will vary according to the needs of the participants. If a program could in any way cause further harm to a victim, that program by definition could not be considered in accordance with the restorative justice philosophy.

In Wisconsin, there are many programs that claim to advance a restorative justice philosophy. Some of these programs may use the label “restorative justice” without truly embracing the philosophy of it. Other programs may, in practice, reflect the philosophy of restorative justice without ever using that term. Regardless of labels, therefore, the Council

proposes that any activity that puts victim(s) in contact with their offender(s) carefully consider the process they use and the recommendations presented here.

Understanding The Scope of the Recommendations

The following recommendations were developed to guide facilitators of victim-offender mediation, family group conferencing or circles. The term “activities” should be understood to incorporate any activities that put victims of violent and/or sensitive crimes in direct contact with their offender(s). Violent and sensitive crime includes but is not limited to homicide, domestic violence, sexual assault, child abuse and child sexual abuse, extreme physical battery, and other serious crimes.

The recommendations intentionally focus narrowly on matters of concern to victims. While there are many important issues regarding the offenders who participate in these activities, the guidelines do not attempt to address those concerns.

II. RECOMMENDATIONS

A. PURPOSE & STRUCTURE OF ACTIVITY

1. The primary purpose of activities must be to help victims heal.
2. As a secondary benefit, activities might seek to reduce recidivism.
3. Activities should never be initiated for the purpose of benefiting the outcome of an offender's criminal or juvenile case or sentence. This includes discovery, plea negotiations, trial, sentencing or early release.
4. Activities must have the flexibility to respond to the needs of each victim as an individual.
5. Program facilitators must be clear about their limitations in order to help victims establish realistic expectations for the activities in which they participate.

B. PARTICIPANTS

1. All participants must be screened and prepared in order to ensure that victims do not suffer further harm. When the balance of power between a victim and offender is unequal, (such as if the offender is a spouse, employer, counselor, parent, family member, etc) the potential for further harm to the victim increases and extreme caution must be exercised.
2. Special caution is always warranted in cases involving sensitive and/or violent crimes and in which the victim and offender have had a prior relationship.
3. The dynamics of different crimes require different approaches and facilitators should have the expertise to respond appropriately to victims.
4. Programs should have in place a policy that addresses whether children or vulnerable adults are appropriate participants and if so, under what circumstances they can participate in activities and how their special needs will be met.

C. QUALIFICATIONS OF FACILITATORS

1. At minimum, programs should have facilitators with training in the following:
 - a) The signs and effects of trauma
 - b) The behavioral characteristics and dynamics of offenders
 - c) The dynamics involved in the crimes being addressed
 - d) Victimology
 - e) Interpersonal communication

C. QUALIFICATIONS OF FACILITATORS (con't)

2. Facilitators must be uniformly and universally screened, trained & certified by a recognized, respected institution. The Council recognizes that there is not currently a certifying authority in place to do this. Establishing a state certifying authority or some type of official and objective regulating body is a long-term goal that program participants and agencies should pursue. In the meantime, however, authorities within individual programs or agencies/organizations that fund, participate in or otherwise support such programs should make substantial efforts to ensure that facilitators are qualified. The use of any “certification” as a qualification should be meaningful.
3. Facilitators must be subject to a criminal background check. Participants should be informed of the qualifications and backgrounds (including any criminal background) of facilitators.

D. VICTIM PARTICIPATION

1. Except as allowed by § 938.34(5)(r), it would be inappropriate for judges to order participation in activities or for attorneys to recommend participation in activities as part of the disposition of a case.
2. Activities should be victim-initiated. Therefore, if a victim/witness coordinator, a juvenile case worker, a Department of Corrections employee or a designee thereof is asked by a facilitator or offender to contact a victim to arrange a face-to-face meeting, the request should be declined. A notation should go in the victim’s file so that if the victim ever does initiate a request to meet with the offender, the information is available.
3. If time is of the essence (for example, if the offender is dying) and circumstances are such that if the victim is not contacted, they may never have the opportunity to decide whether they want to meet with the offender, the coordinator should contact the victim to allow them the choice. In presenting the options, the coordinator should take great care to ensure the victim can make their decision free from guilt or pressure. Coordinators or program facilitators should then make every effort to prepare the participants as best they can in the time available, keeping in mind that the needs of the victim are still of primary concern, despite the urgency of the situation.
4. Victims should have access to activities and be informed of services available to them but individual programs should not actively recruit victims.
5. After sentencing or disposition, as part of the normal post-sentencing or post-disposition information, county victim/witness coordinators should give victims general, information about victim-offender mediation, family group conferencing or other programs that involve contact with their offender. Victim support organizations should help victims understand the risks and benefits of these activities.

E. SAFETY

1. Participants should be informed in advance of the security measures that will be enforced at the meeting and within the facility.
2. Participants should be checked for weapons.
3. Security personnel should be in the same room as participants, or at the request of the victim, accessible immediately outside the room.
4. Facilitators should arrange seating in the room in a way that provides the greatest security and comfort for the victim. Victims should be shown the room before the meeting.

F. VICTIM/COMMUNITY EDUCATION

1. A community education campaign is recommended to support the goal that participation in activities be victim-initiated. A community education effort should provide non-biased information that includes the availability, risks and benefits of activities.
2. A professional education campaign is recommended to inform judges, law enforcement, prosecutors, victim/witness coordinators, corrections personnel, public defenders, juvenile case workers, the defense bar and victim advocates of the availability, benefits and risks of activities.

G. POST PROGRAM SUPPORT/ACTIVITY

1. Facilitators should have in place a plan for short-term follow-up with the victim to assess the effect the activity had on the victim. The facilitator should meet with the victim immediately upon completion of the program and one month later.
2. If the activity has resulted in trauma or other harm to the victim, facilitators should make appropriate referrals and continue to follow-up with the victim for a *minimum* of six months.

H. EVALUATION

1. Victims should be informed ahead of time that they may be asked to participate in short and long-term program evaluation and that aggregate data will be shared with other agencies.
2. Evaluations should not contain names or identifying information.

H. EVALUATION (Con't)

3. An evaluation should be conducted by an independent organization to include:
 - a) Recommendations for improving policies and processes for future activities
 - b) Outcome perspectives of the victim, offender and facilitator
 - c) Satisfaction measures
4. Long-term evaluation should be conducted to assess activities against their stated purpose.
5. If a program seeks to reduce recidivism as a secondary objective, long-term evaluation should be conducted to track recidivism rates of offenders for at least five years after they participate in the program. Recidivism evaluations should discuss the specific crimes committed by recidivists as compared to previous crimes.
6. Aggregate data from program evaluations should be sent to the certifying authority and be accessible to the Department of Corrections, the Office of Crime Victims Services, the Wisconsin Association of Victim/Witness Professionals, the courts and the public.