



**STATE OF MONTANA
DEPARTMENT OF CORRECTIONS
POLICY DIRECTIVE**

Policy No. DOC 1.8.2	Subject: VICTIM-OFFENDER DIALOGUE
Chapter 1: ADMINISTRATION AND MANAGEMENT	Page 1 of 12 (including 4 attachments)
Section 8: Victim Services	Effective Date: Dec. 13, 2004
Signature: /s/ Mike Ferriter, Director	Revised: 10/24/06; 09/18/08 Reviewed: 08/01/07

I. POLICY

The Montana Department of Corrections provides victim-offender dialogue opportunities to victims of crimes committed by adult offenders under Department supervision.

II. APPLICABILITY

All Department and contracted facilities and programs for adult offenders.

III. DEFINITIONS

Administrator – The official, regardless of local title (division or facility administrator, bureau chief, warden, superintendent), ultimately responsible for the division, facility, or program operation and management.

Crime Victims Advisory Council – The volunteer board appointed by the Department director that is composed of crime victims and others closely associated with crime victims. The council provides the Department with direction on policy and legislation affecting victims of felony crime committed by adults.

Department – The Montana Department of Corrections.

Facilitator – A trained mediator who meets the Department’s requirements to facilitate a victim-offender dialogue.

Victim – The person against whom a felony crime has been committed, or a family member of that person. Other individuals may be recognized as victims on a case-by-case basis.

Victim-Offender Dialogue (VOD) – A restorative justice program that brings together a victim and offender to discuss the crime and its effects under the direction of a trained facilitator.

Victim Information Officer (VIO) – A Department facility or program staff person who provides information and advocacy services for victims.

Victim Information Specialist (VIS) – A Department staff person in the Director’s Office who manages Department victim programs, acts as staff liaison for the Crime Victims Advisory Council, provides victim information and referrals, and represents victim interests in all Department matters.

IV. DEPARTMENT DIRECTIVES

A. Mission and Goals

1. The victim-offender dialogue program will reflect the Department's mission and goals as follows:

Mission

The Montana Department of Corrections enhances public safety, promotes positive change in offender behavior, reintegrates offenders into the community, and supports victims of crime.

DOC Goal:

Goal 3: To provide accurate, timely information and support that contributes to the restoration of victims of crime.

B. VOD Initial Criteria

1. Only victims of adult offenders under Department supervision may initiate the victim-offender dialogue process.
2. All requests from victims will be forwarded to the Victim Information Specialist.
3. The offender's participation will be voluntary.
4. The administrator determines if a particular VOD will be permitted at his/her facility.
5. The administrator, or designee, will meet with the offender to discuss participation in the victim-offender dialogue process.
6. The administrator, or designee, will consider the following issues before rendering a decision:
 - a. the safety of all participants;
 - b. facility security issues;
 - c. the offender's disciplinary record; and
 - d. the offender's stability.
7. Victim-offender dialogue generally will not be approved in cases of domestic violence or stalking. The VIS may consider exceptions to this rule on a case-by-case basis after separate consultations with the victim, the offender, and at least one person directly involved in the offender's treatment plan.
8. Participants must be at least 18 years old. Parents or legal guardians of victims under 18 may represent the minor's interest in a victim-offender dialogue.
9. Each victim and offender will be encouraged to have a support person throughout the process.

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- a. support persons must pass background checks; and
 - b. attorneys who provide legal representation for the crime relevant to the VOD generally may not act as support persons. Exceptions may apply.
10. Victims and facilitators will be responsible for their own expenses associated with the victim-offender dialogue. The Department director may, at his discretion, approve travel expenses for victims and facilitators, not to exceed the state employee per diem and personal vehicle mileage rate.
 11. The victim and offender, and/or the facilitator may end the VOD process at any time.
 12. The administrator may cancel the VOD for good cause after consultation with the victim information specialist and facilitator.
 13. The offender may not participate in the VOD unless he or she admits guilt and accepts responsibility for the crime as described in the final court judgment and pre-sentence investigation. The VIS may consider exceptions to this rule on a case-by-case basis after consultation with the victim, the offender, at least one person directly involved in the offender's treatment plan, and the Crime Victims Advisory Council Restorative Justice Committee.
 14. Offenders involved in a legal appeal may not participate in the VOD.
 15. The victim and offender will agree in advance that they will complete an initial evaluation immediately after the VOD and a follow-up evaluation within three months.
 16. VOD participation will not be noted in offender files nor reported to the Board of Pardons and Parole.

C. VOD Preparation Process

1. The victim and offender will sign the Release of Liability form ([Attachment A](#)) agreeing that:
 - a. they are participating in the process voluntarily; and
 - b. they will not hold the Department liable for any negative consequences of the victim-offender dialogue process.
2. The victim and offender will sign the Acknowledgment of Understanding to indicate they understand the purpose and potential outcomes of the victim-offender dialogue process ([Attachment B](#)).
3. The VIS will conduct initial interviews with the victim and offender to evaluate their emotional stability and expectations.
4. The victim, facilitator, and any support people will receive advance notice of the facility's rules and entrance procedures.
5. The facility administrator, or designee, will review the request for the dialogue with the VIO and VIS, and sign the appropriate paperwork authorizing the victim, support people, and facilitator's entrance into the facility.

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6. The victim, support people, and facilitator must pass visitor background checks prior to entering a secure facility.
7. The victim and his/her support person will be encouraged to take a facility tour prior to the dialogue. The VIO, or designee, will assist the victim with arrangements for this visit.

D. VOD Dialogue

1. The actual dialogue will occur at a facility location designated by the administrator.
2. All dialogue participants will be searched upon entrance to the facility.
3. A security officer will be stationed immediately outside the VOD meeting room.
4. The facilitator(s) will brief the offender and victim separately before the dialogue occurs and debrief both parties separately afterward.
5. The administrator will monitor the offender after the dialogue to determine if he or she has experienced emotional consequences that require intervention.

E. VOD Follow-up

1. The facilitator(s) will complete a separate debriefing in person or by telephone with the victim and offender within one week of the dialogue.
2. The facilitator(s) and/or the VIS will complete evaluations in person or by telephone with the victim and the offender at two months, six months, and one year after the dialogue.

F. VOD Facilitators

1. Facilitators will meet all qualifications for victim-offender dialogue as established by the Department ([Attachment C](#)).
2. Facilitators will meet the requirements of *DOC Policy 1.3.16, Volunteer Services*. They will complete the Volunteer Service Agreement ([Attachment D](#)).
3. The VIS will assign all dialogue cases to facilitators.

V. CLOSING

Questions concerning this policy should be directed to the Department's Victim Information Specialist.

VI. REFERENCES

- A. *DOC Policies, 1.1.1, Purpose, Mission and Management Philosophy; 1.3.16, Volunteer Services; 1.8.1, Victim Services*

VII. ATTACHMENTS

- [Release of Liability](#) (Attachment A)
[Acknowledgment of Understanding](#) (Attachment B)

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Facilitator Qualifications
Volunteer Service Agreement

(Attachment C)
(Attachment D)

Montana Department of Corrections
Victim-Offender Dialogue
Attachment A

RELEASE OF LIABILITY

The Montana Department of Corrections supervises adult male and female felony offenders in a variety of prisons, other secure facilities and community placements.

I understand that the Department of Corrections staff and its contractors will do everything possible to prevent breaches of security or safety during victim-offender dialogue. However, I fully understand that entry into any facility for the purpose of participating in victim-offender dialogue involves inherent risks regardless of all safety measures that may be taken by the Department staff and/or contractors.

In consideration of the Department's agreement to allow my entry into one of these facilities, I agree to accept responsibility for any loss, damage, or injury that occurs to me during my visit that is not the result of fraud, willful injury to a person or property or the willful or negligent violation of a law by an offender, trustee, employee or agent of the Department of Corrections.

In consideration for the permission given to the undersigned person by _____
_____ to participate in the Victim Offender Dialogue (VOD), the undersigned person, his/her agents, assigns and third parties acting in concert or privacy with him/her (herein, "the undersigned person"), hereby release, discharge, and "hold harmless"
_____, their respective officers, agents, servants, mediators, and/or employees from any and all liability arising in connection with the undersigned person's participation in the Montana Department of Corrections Victim-Offender Dialogue (VOD) program. Further, the undersigned person specifically releases and waives any and all claim(s), against _____ from the acts or omissions of said agency, its staff or volunteer mediator (s) regardless whether such act (s) or omission (s) arise (s), in whole or in part, from the negligence of said agency, its staff or volunteer facilitators (s).

The undersigned person further affirms that he/she understands:

1. All parties must meet the policy guidelines, including agreement with the purpose and goals of the VOD process.
2. All parties declare it is not their intention to cause physical or emotional harm to the victim, offender, or any party associated with the dialogue process.

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3. All parties declare participation in VOD is voluntary and non-coercive. Furthermore, any party to the process has the right to discontinue participation at any time and for any reason.
4. All parties declare the facilitator will make the final determination as to the appropriateness of any dialogue or the parties thereto.
5. All offenders must adhere to the process procedure and preparation guidelines.
6. All offenders must admit they have been advised of and are aware of their legal rights, both state and federal, and this dialogue process will not violate any of their rights under the laws of the State of Montana or of the United States of America.

All parties understand the facilitator is not a legal advisor and is not to provide legal advice to any party involved in the dialogue.

Participation by the offender in VOD is not expected to affect the offender's Prison, Parole, or Community Supervision status. Participation by the offender cannot be expected to enhance any chances for commutation of sentence or for any kind of clemency action. VOD is a personal process between victim and offender and is not intended to have any bearing on the participating offender's status in the judicial, appellate or corrections systems.

All documentation regarding VOD is confidential and will not become a part of the offender's prison/parole/community supervision review file. Only appropriate staff and assigned facilitators will have access to the VOD files in the normal course of the VOD process; however, disclosure of some records may be required by subpoena or by a decision of the Attorney General under the Public Information (Open Records) Act.

All parties understand the necessity that the dialogue be confidential and agree that they will not call the facilitator who serves on process or any party related to the process to act as witness in any court of competent jurisdiction to testify to facts concerning or relating to the subject matter here being addressed, and agree that neither will they subpoena video/audio tapes, documents, notes, testimony or other information about the dialogue. However, the parties also understand that other actors, outside the control of the parties to the dialogue, may subpoena testimony or records, or request release of information under Public Records Law (2-6-101 MCA).

Public record information (such as name of offender, information containing court transcripts, judgment and sentence, offender status...etc.) is not considered confidential.

All parties must agree to participate in the preparation, follow-up and evaluation process.

During the preparation and dialogue phases of the process, all parties must agree to refrain from engaging in any relationship with the media (newspapers, periodicals, TV, Internet...etc.) according to principles of mutual respect and sensitivity necessary to establish an environment for constructive

dialogue. The victim, the offender, the facilitator and the Department of Corrections must agree in writing to any exception to this policy.

All parties declare they are of lawful age and legally competent and empowered to sign this affirmation, waiver and release.

Victim

Offender

Facilitator

State of Montana
County of _____

This instrument was acknowledged before me on _____
by _____, _____ and

SEAL

(Signature of Notary)

(Name - typed, stamped, or printed)

(Title)
Residing at _____
(City where notary lives)
My Commission Expires _____
(Month / Day / Four-digit Year)

Montana Department of Corrections
Victim-Offender Dialogue
Attachment B

Purpose, Goals and Acknowledgment of Understanding

PURPOSE: To provide victims of felony crime the opportunity to (1) participate in a structured face-to-face meeting with their offender(s) in a relatively safe environment, (2) tell their story, (3) ask questions about the crime that only the offender can answer, and (4) begin to heal from the trauma of being victimized so they can move forward with their lives.

DISCUSSION: Victim-offender dialogue can be an effective way to facilitate justice. Success, however, will depend on the victims' and offenders' personal experiences, expectations, perceptions, background, age, maturity, sensitivity, honesty, openness, level and nature of support, relationship to each other (if any), and degree to which they acknowledge or deny their past and present circumstances and feelings. The extent or frequency of the crime also is important.

GOALS:

(1) The primary program goal is to provide victims the opportunity to confront the trauma of their victimization and move forward with their lives.

- Express directly to the offender current and repressed feelings about the crime, such as fear, anxiety, anger, loss, sadness and helplessness.
- Tell their story – “The one you injured or killed was a real person with hopes and dreams.” “The property you stole or damaged was important to us because...”
- Ask questions and receive answers and insight that only the offender can provide.
- Experience a sense of empowerment by having a direct voice and participation in the process of restorative justice.

(2) A secondary outcome might be that offenders face the full human impact of their crimes.

- Hear first-hand the depth of trauma experienced by the victim.
- Express remorse related to their offense and its resulting impact, in an effort to help heal the harm they causes
- Honestly answer questions about the crime for the sole purpose of helping the victim.

PROGRAM POLICIES

1. Victim-offender dialogue will be initiated by the Department of Corrections at the request of a victim. Offenders may not initiate the process.
2. Participation is voluntary. Either the victim or the offender can discontinue participation in victim-offender dialogue at any time.
3. Department of Corrections staff will determine on a case-by-case basis if victim-offender dialogue is appropriate for the particular victim and offender. The decision whether to bring the

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victim and offender together for a face-to-face meeting will be made by the facilitator with the approval of the Victim Information Specialist.

4. The Victim Information Specialist or the facilitator may terminate the victim-offender dialogue process at any point if the actions or attitudes of the victim or offender are considered disruptive or destructive. Inappropriate motives may include manipulation, physical or emotional harm, revenge or coercion.
5. The victim and the offender must sign a release, relieving the Department of Corrections, the staff and the mediation from legal liability, and declaring that it is not their intention to cause physical or emotional harm to each other, or to any party associated with the victim-offender dialogue process.
6. In order to participate in Victim-Offender Dialogue, offenders must admit guilt and accept responsibility for the crime being discussed, and adhere to all process procedures and guidelines. Offenders may not participate if they are undergoing an appeal of their conviction for the crime being discussed.
7. The victim-offender dialogue must focus only on the offense of record for the offender and the related victim.
8. The victim-offender dialogue is a voluntary and personal process between victim and offender, and is not intended to have any bearing on the offender's status in the judicial, appellate or corrections systems. The offender's decision to participate or not participate will not affect his or her prison classification, chance of parole, community supervision status, or chances for a commutation of sentence or clemency.
9. All Department of Corrections records regarding the victim-offender dialogue are confidential and will not become part of the offender's file. Only DOC staff and assigned facilitators will have access to the records. However, disclosure of some records may be required by subpoena or by a decision of the Attorney General under the open records law.
10. All parties declare they are at least 18 years of age and legally competent to sign this affirmation, waiver and release.
11. In order for any aspect of the victim-offender dialogue process to be video/audio taped, all parties must agree to such a tape recording and the purpose. During the initial pilot program, victim-offender dialogue cases will not be video or audio taped for training purposes, or for distribution to the news media.
12. Victims and offenders who participate in the actual face-to-face victim-offender dialogue must agree to participate in the follow-up and evaluation process.
13. During the preparation and mediation phase of the process, victims and offenders agree not to engage in relationships with the media (newspapers, periodicals, TV, radio, Internet, etc.). The purpose of this policy is to ensure an environment of mutual respect and sensitivity necessary for a constructive face-to-face dialogue. The victim, the offender, the facilitator, the Department of Corrections Victim Information Specialist and the Department of Corrections Director, must agree in writing to any exception to this rule.

14. Every reasonable effort will be made to contact and consult with counselors, therapists, pastors, family members and/or other identified support people as requested by the victim and offender in order to provide the safest and most beneficial conditions possible for the Victim-Offender Dialogue.
15. The facilitator will determine the length of each victim-offender dialogue session, based on the needs and expectations of the parties involved.
16. The facilitator will not attempt to impose his or her solutions or expectations on the victim or offender.
17. The Department of Corrections does not guarantee any particular outcome for the victim-offender dialogue process.
18. The victim-offender dialogue process requires the knowledge and consent of the facility administrator responsible for the offender's supervision.

Acknowledgement of Understanding and Affirmation

I acknowledge by my initials and signature my understanding and agreement with the Policies, Purpose, and Goals of the Montana Department of Corrections Victim-Offender Dialogue Program.

Name

Date

Montana Department of Corrections
Victim-Offender Dialogue
Attachment C

FACILITATOR QUALIFICATIONS

Facilitators for the Victim-Offender Dialogue Program will be selected by the Victim Information Specialist based on a combination of formal training, mediation experience, experience with victims/offenders and personal commitment to the principles of restorative justice.

Facilitators will be required to have completed the following:

- At least 15 hours of basic victim-offender mediation/dialogue training under qualified trainers as defined by the Victim-Offender Mediation Association and/or the National Institute of Corrections, the Montana Mediation Association, or a combination.
- Completion of at least 30 hours of advanced victim offender dialogue training under qualified trainers as described above. At least 15 hours of this advanced training must focus on crimes of severe violence.
- Co-facilitation of at least two actual victim-offender dialogues (not role plays) with adult or youth offenders. These may be pre-conviction or post-conviction and may involve misdemeanor or felony crimes.
- A facilitator in a case that involves personal injury, death, or threat of injury or death, must have co-facilitated at least one victim-offender dialogue with a facilitator experienced in mediating crimes of violence.

In addition, volunteer facilitators must:

- Abide by all Department procedures and policies governing the process: *DOC Policies 1.3.16, Volunteer Services; 1.8.1, Victim Services; and 1.8.2, Victim-Offender Dialogue.*
- Sign the Department's Volunteer Service Agreement ([Attachment D](#)) of this policy.
- Provide the Victim Information Specialist with a resume of their mediation experience and a statement of their personal commitment to the process.
- Participate in interviews with the Victim Information Specialist and others involved in the victim-offender dialogue process, in order to (1) discuss his/her mediation skills and personal style and personal experiences as victims, if applicable, and to (2) discover attitudes or behaviors that might enhance or detract from the success of the process.
- Maintain close contact with the Victim Information Specialist and other Department of Corrections staff during the victim-offender dialogue preparation process and follow-up. The Victim Information Specialist agrees to be readily available for consultation at the facilitator's request.

The Department of Corrections retains the discretion to approve or not approve a particular facilitator for any or all Victim-Offender Dialogues under its jurisdiction.

**MONTANA DEPARTMENT OF CORRECTIONS
VOLUNTEER SERVICE AGREEMENT**

Attachment D Victim Offender Dialogue Policy 1.8.2

I, _____ (*print name*), do agree to the following conditions of providing volunteer services for the Department of Corrections:

1. I agree to engage only in those assignments or activities that have been assigned or authorized by the volunteer coordinator.
2. I will not present myself as a representative or paid employee of the Department.
3. I do not expect to receive monetary compensation for my services.
4. I agree to avoid undue familiarity. If an offender has a problem that is beyond the scope of my position, I will direct the offender to the appropriate agency staff. I will not pursue a relationship with an offender that is outside my assigned responsibility.
5. I agree to bring nothing in or take anything out for any offender except work materials that have been approved by the volunteer coordinator.
6. I will report without delay to the volunteer coordinator any condition, activity, or unusual behavior that may be unethical, illegal, dangerous or potentially dangerous.
7. I agree to meet attendance and performance requirements.
8. I understand that I am responsible, and therefore liable, for my own actions, and agree to use due care and caution when providing volunteer services.
9. I agree not to report for volunteer activities under the influence of alcohol or drugs.
10. I agree to accept only those assignments and engage in only those activities that have been assigned or authorized and that supplement, but do not supplant, the work of classified Department employees.
11. I understand that offenders under Department jurisdiction have been convicted of felony criminal activity, and that any offender I may have contact with may attempt to take unfair advantage of me. If taken hostage, I understand that the same rules apply to me as to any Department employee.
12. I understand that my status as a volunteer may be suspended or terminated at any time with or without any reason and at the complete discretion of the Department.
13. I have received a copy of *DOC Policy 1.3.16*, have read it, and agree to be bound by its terms.

VOLUNTEER'S SIGNATURE

DATE