VICTIM OFFENDER COMMUNICATION IN FELONY CASES: AN ARCHIVAL ANALYSIS OF OHIO'S OFFICE OF VICTIM SERVICES DIALOGUE PROGRAM

Ian M. Borton

A Dissertation

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Committee:

Lynda D. Dixon, Advisor

Colleen J. Mandell
Graduate Faculty Representative

Srinivas R. Melkote

Stephen M. Croucher
In this dissertation, I studied victim offender dialogue files archived by Ohio’s Office of Victim Services (OVS). The Ohio Department of Rehabilitation and Correction runs OVS. The Office of Victim Services has processed 349 individual dialogue cases. The OVS director was interested in knowing why only one in four initiated dialogue files complete actual face-to-face dialogue. I conducted an archived data analysis on a sample (N = 212) of OVS completed and will-not-proceed files. Victim offender dialogue programs are typically based on restorative justice theory and, compared to traditional criminal justice processes, have been shown to increase victim and offender satisfaction, decrease offender recidivism, and increase rates of restitution. I posited two hypotheses regarding offender race and the effect of time on dialogue completion. Chi square and Fisher’s exact tests were conducted and indicate that neither offender race nor the passage of time had a significant effect on dialogue completion rates. However, a victim’s relationships to the offender, victim sex, and the dialogue file initiator were each found to significantly impact dialogue completion rates. I also include descriptive analyses of victim motivations for seeking dialogue. This research has implications regarding relational communication, conflict mediation, and restorative justice theory. Finally, I offer several suggestions regarding OVS practices as well as other uses of restorative dialogue in the contexts of severe crime and felonies.
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CHAPTER I

INTRODUCTION

After months of bullying, a child tells his story of hurt. He asks why the bully tormented him so mercilessly. The bully gets a glimpse of how hurtful his words and actions have been. A drunk driver sits across the table from the parents of the little boy she killed. She offers an apology to the parents. A rape survivor comes face-to-face with the man who violated her. He sits in his state-issued clothing, hardly glancing up at her. She wants to be there to get things that the traditional judicial process could never offer her: an opportunity to speak and an opportunity to be heard. He is there because he wants to answer her questions, to make amends, and to apologize. There are tears.

Situations like these, where victims, offenders, and mediators meet can take the form of conference programs, circle programs, sentencing panels, mediation programs, or a hybrid combination (Roche, 2003). Victim-offender mediation (VOM) programs have been in existence for more than thirty years (Zehr, 2004). This movement in sociology, criminology, and corrections literature is generally attributed to the theory and practice of contemporary restorative justice. Restorative justice (RJ) is a radical departure from how crime and offending behaviors have been both thought about and handled in the past (Braithwaite, 2001).

Conferences and mediations based on restorative justice are distinctive in their scope, focus, and goals. The mediation sessions concern not only an interpersonal relationship between victim and offender but also the communities of which they are a part. Their focus is on mending broken relationships and not on determining guilt. The ultimate goal is to repair, heal, or restore the victim and offender’s relationship. My dissertation seeks to understand better the
factors that facilitate and frustrate restorative mediations in felony cases. To accomplish this, I will be studying past cases of Ohio’s Victim-Offender Dialogue (VOD) program.

First, I wish to describe just how and why RJ is such a radical deviation from typical judicial process. Unless otherwise explicitly stated, I will be using terms such as Western, traditional, and typical interchangeably to describe the type of legal process where the offending behavior is considered an offence against the state. In these cases, the offending behavior is the responsibility of some specialized authority to investigate, accuse, try, and punish the individual(s) responsible. For example, perhaps tonight I throw a brick through my neighbor’s window. My neighbor calls the police. They arrive and investigate. The police will question me and soon discover that my neighbors and I have had repeated altercations about their noisy parties. Through the course of their interrogation, I confess. The police bring me to court, and, with the aid of my court-appointed attorney, I am incarcerated for a given amount of time and pay a set fine. Depending on the country where I reside, some of the details may change. There might be one judge or three. I might not get a lawyer. I might have to prove my innocence, rather than the state having to prove my guilt. Whatever the distinctions, a retributive or rehabilitative system focuses on me as the offender. The system is primarily concerned with how to punish past behavior and to change future behavior (Daly, 1999).

A restorative system starts from a different origin than Western justice systems. In a retributive or rehabilitative system, the end goal is the offender does not offend again (Daly, 1999). In a restorative system, the ideal end is that the community, victim, and offender’s relationships are made as right as possible. To continue the hypothetical example involving the brick and my loud neighbors with the same scenario as before, perhaps my neighbors and I choose to participate in a restorative justice theory-based mediation. Proving my guilt or
assigning culpability is not the direct focus of the process. Instead, the mediation would likely focus on my neighbors’ needs, concerns, and desires. In RJ, the victim is central and not peripheral (Marshall, 1999). As the offender, I would be in a position to offer reparations, an apology, or some other sign of my desire to repair the harm my actions caused.

Offending behavior is always contextually situated. In addition to the offender(s) and victim(s) who participate in restorative conferences, there should always be community representatives present (Umbreit, Vos, Coates, & Lightfoot, 2006). The type of restorative program, in part, determines which community representatives are typically present. In community sentencing circles, for instance, community members can substantially outnumber victims and offenders (Rudin, 2005). Other restorative conferences take place in school bullying situations, and community representatives may include teachers, other students, and parents (Hopkins, 2004; Morrison, 2007). Alternatively, a session mediator may be the sole community representative in VOM sessions (Umbreit, Coates, & Vos, 2004). Community representation in RJ is vital. Community participation indicates RJ is concerned with repairing more than a single interpersonal relationship between victim and offender; community is vital to restorative justice.

Restorative justice practitioners tend to be concerned with both the success of the restorative program and individual outcomes. Restorative justice program evaluations tend to focus on broad statistical measures of participant satisfaction and outcomes (Latimer, Dowden, & Muise, 2001). At the same time, Szmania (2006a, 2006b) argues that the dialogue between individual participants is vital to the restorative process. Unfortunately, almost no research focuses on these victim-offender communication situations. Conferences based on restorative justice are valuable venues for communication research. In the following sections, I will clarify
the concept of restorative justice, the practice of victim-offender mediation (VOM), and the connections between RJ and communication studies literature.

Restorative Justice (RJ)

Over the past thirty years, alternative systems of justice have brought with them different terms, values, and goals. The literature concerning alternative forms of justice includes a host of competing definitions and terminology such as transformative justice, relational justice, community justice, and peacemaking justice (Walgrave, 2005). Additionally, researchers have not provided a single accepted definition of restorative justice (Johnstone & Van Ness, 2007; Rugge & Cormier, 2005). This is not to say different definitions in the literature do not share a number of common elements. The differences in definition, conceptualization, and praxis of restorative justice are noteworthy and important to outline. As the editors of the Restorative Justice Handbook make clear, “to ignore or gloss over these differences misrepresents the character of the restorative justice movement, presenting it as more unified and coherent than it actually is” (Johnstone & Van Ness, 2007, p. 9).

Many proposed RJ definitions include the participation of interested parties, the notion of bringing those parties together, a focus on response to an offense, and a discussion of that offence’s implications for the future (Gavrielides, 2005; Rugge & Cormier, 2005). Some definitions identify specific participants: the victim, the offender, and community members (Toews & Zehr, 2003; Umbreit et al., 2004). Another RJ definition identifies harms, needs, and obligations as the subjects conferences should address (Zehr, 2004).

Other researchers assert that RJ should be both community-based and implemented in response to criminal behavior (Latimer et al., 2001). However, these distinctions are particularly unhelpful in understanding restorative processes for two reasons. First, community-based justice
is not necessarily restorative. Paramilitary actions in Belfast’s neighborhoods are community-based but are hardly restorative. Second, actions labeled in a particular context as criminal (i.e. speeding, jay walking, failure to pay income taxes) may not require the repair of interpersonal relationships. On the other hand, there are many offending behaviors not typically defined as criminal that do require such interpersonal reparations (i.e. gossip, workplace or school bullying).

Marshall (1999) provides the following definition that is often cited, but is not without its contentious points, “Restorative justice is a process whereby all the parties with a stake in a particular offence come together to resolve collectively how to deal with the aftermath of the offense and its implications for the future” (p. 5). Theorists and researchers who view RJ as a problem-solving process with particular emphasis placed on the process value tend to adopt this particular definition (Gavrielides, 2005; Zernova & Wright, 2007). Marshall’s definition, however, has come under criticism for being both too narrow and too broad. It is too narrow, critics claim, because it limits restorative processes to those where victims, offenders, and communities can come together. There are many instances where this sort of face-to-face meeting would be unwelcome or even unsafe. Marshall’s definition has also been judged too broad because it does not refer to the repair of harm, and, therefore, does not limit the processes that would be included as restorative (Bazemore & Walgrave, 1999; Zernova & Wright, 2007). Critics of Marshall’s definition focus more on the intended restorative outcome of repairing the harm rather than the restorative process itself.

I respond to this literature with an attempt to reconcile the differences in these definitions. Therefore, to the extent possible, my definition should include the most fundamental restorative concepts while allowing for the greatest possible breadth in interpretation. I also
want to acknowledge that restorative justice simultaneously acts as both a theory of justice and a practice of justice (Gavrielides, 2005). For the purposes of this research, I will conceptually define restorative justice as the theory and practice of interested stakeholders coming together to the greatest degree possible to deal reparatively with the present and future implications of an offense. This definition may help clarify RJ as a concept; however, it does little practical good if the concept not practiced. Often, RJ works not as a single mediation session but as part of a larger mediation or dialogue program. In the following section, I will clarify the type of restorative practice at the heart of this research, victim-offender mediation.

**Victim-offender mediation (VOM).** Restorative justice theory, when put into practice, takes a number of distinct forms. Restorative justice practices can take the form of sentencing circles, family group conferences, and even town hall-style community meetings. By far the most well established model of restorative practice is Victim-Offender Mediation (VOM). In this section, I will describe and clarify what comprises VOM. Specifically, VOM has been conceptualized as the process that provides interested victims of primarily property crimes and minor assaults the opportunity to meet…the offender, in a safe and structured setting, with the goal of holding the offender directly accountable for his or her behavior while providing important assistance and compensation to the victim. (Umbreit, Coates, & Vos, 2004, p. 279)

The key to VOM is the guided face-to-face dialogue between the victim and the offender regarding a particular case for which participants have been prepared in advance (Bradshaw, Roseborough, & Umbreit, 2006). This face-to-face meeting allows offenders to offer voluntary reparations to their victims including (but not limited to) financial payments, work for the victim,
work for a community selected by the victim, drug/alcohol treatment, and/or an apology (Marshall, 1999). Socially, VOM offers benefits that traditional jurisprudence does not. Seemingly, offenders can address victim needs and see their actions have real consequences for which they need to take responsibility (Marshall, 1999). Definitions of VOM vary from study to study and echo the literature of restorative justice definitions. For instance, there is some disagreement in the literature regarding VOM’s acronym. Elmira, Ontario’s Victim Offender Reconciliation Program (VORP) conducted the first case of victim and offender mediation (Zehr, 2004). It is not uncommon to find recent research articles using the VORP acronym. Victim-offender communication (Yokley & McGuire, 1990), victim-offender conferences, and victim-offender dialogues (Umbreit & Bradshaw, 2003) have all been used to describe similar restorative processes. Some programs describe their victim-offender program as victim-offender mediation/dialogue (VOMD) (Szmania, 2006a, 2006b). In addition, the term mediation has come under scrutiny because the term implies moral neutrality that RJ eschews as well as its connotation with civil business mediations (Zehr, 2004). The term victim-offender meeting has come in vogue as an alternative that allows programs both to avoid calling the process mediation and to maintain the VOM acronym (Umbreit & Bradshaw, 2003). Throughout much of the literature, it seems VOM is the acronym most frequently used to describe a host of programs that may or may not espouse that particular moniker.

In addition to the multiple VOM acronyms, there are also distinctions regarding the appropriate application of RJ to different types of offenses. For instance, Umbreit, Coates, and Vos (2004) describe VOM as concerning “primarily property crimes and minor assaults” (p. 279). Similarly, Bradshaw, Rosenborough, and Umbreit (2006) claim VOM typically concerns juvenile property offenses or minor assaults while acknowledging some VOM programs address
more severe crimes. These scholar-imposed VOM limitations appear to run contrary to the reported successes of VOM programs designed to address crimes of severe violence (Gustafson, 2005). However, in cases of severe violence and trauma, VOM is extremely sensitive, complicated, and intensive.

In the context of this study, I operationalize VOM as the mediation/dialogue program of Ohio’s Department of Rehabilitation & Correction (ODRC). Both its current administrator, Karin Ho, and the U.S. Department of Justice identify this program as victim-offender mediation (Umbreit, Greenwood, Schug, Umbreit, & Fercello, 2000). Therefore, I will consider the Ohio Office of Victim Services (OVS) dialogue program a VOM program. The OVS dialogue program works solely with post-disposition felony cases. These cases typically involve violent, personal crimes such as homicide, assault, or sexual abuse. This distinction places ODRC’s VOM outside the norm of typical VOMs that would likely deal with adult or juvenile minor crimes and assaults.

As of December 2007, OVS’s dialogue program has handled approximately 350 dialogue cases. Of these, fully three of four fail to reach the face-to-face victim-offender dialogue stage. A crime victim or another interested party who is seeking some level of communication with incarcerated offenders initiates each OVS file. Typical VOM participation rates range from 40-60% (Bradshaw, Roseborough, & Umbreit, 2006; Umbreit et al., 2006; Umbreit et al., 2004). This places Ohio’s OVS program well-below typical program averages. One of the prime questions facing OVS stakeholders is why so few dialogue cases reach actual face-to-face dialogue. Research into VOMs in felony cases indicates crime severity, race of the offender, and whether the victim represents the interests of an organization (such as a church or business)
affects rates of participation (Coates, Burns & Umbreit, 2002; Gehm, 1990; Wyrick & Costanzo, 1999).

**Hypotheses and Research Questions**

The primary goal of my research is to examine OVS dialogue files in order to understand better the factors that may frustrate or facilitate progress toward actual victim-offender dialogue. I will perform comparative analyses of completed dialogue files, and those that will not proceed to dialogue. Primarily, I will test the hypotheses that offender demographics, type of crime, and time affect progress toward dialogue.

H1: Victim Offender Dialogue (VOD) case files where the offender is White will be more likely to complete dialogue than VOD case files where the offender is non-White.

H2a: The more time passes between the date on which the crime(s) were committed and initiation of the dialogue file, the more likely files involving at least one personal crime will complete dialogue.

H2b: The more time passes between the date on which the crime(s) were committed and initiation of the dialogue file, the less likely files involving solely property crimes will complete dialogue.

In addition, I will be exploring OVS archived files for other differences that may account for the observed low participation rate. There is sufficient empirical evidence to refute the hypothesis that RJ programs harm participants (Bazemore & Elis, 2007). Thus, if I can identify factors affecting participation in the OVS dialogue program, it is conceivable a greater percentage of victims and offenders will benefit from participating in this RJ program and others like it. Given this, I will consider the following research questions.
RQ1: What are the reasons why victims or interested parties seek participation in victim offender dialogue (VOD)?

RQ2: Are there differences in the dialogue completion rates with regard to victim sex?

RQ3: Are there differences in the dialogue completion rates with regard to the relationship between victim and offender?

RQ4: Are there differences in the dialogue completion rates with regard to the party who is seeking dialogue?

RQ5: Are there differences in the dialogue completion rates with regard to the interested party’s stated reasons for seeking dialogue?

RJ and Communication Studies

Restorative justice is fundamentally communication oriented, with victim-offender dialogue vital to the restorative process (Szmania, 2006a, 2006b). Dialogue sets restorative justice theory apart from other theories of justice. Yet, because RJ theory was originally formulated as a part of criminology literature, its practitioners and advocates tend to concern themselves with studying monetary cost, recidivism, restitution, and participant satisfaction rather than communication (Umbreit et al., 2006). Additionally, the term restorative might not be appropriate for situations where direct victim-offender communication is not possible or desirable (Roche, 2007). Restorative justice scholars continually acknowledge dialogue, communication, interpersonal processes, and talk as necessary components of the restorative process. Yet researchers repeatedly fail to study the communication that takes place within restorative contexts (Gavrielides, 2005; Szmania, 2006a, 2006b; Umbreit & Bradshaw, 2003; Umbreit et al., 2004; Umbreit et al., 2006).
VOM and other types of restorative conferences are appropriate contexts for communication scholarship. A number of aspects of RJ should inspire future communication scholarship. However, communication research into RJ may also face some challenges. Restorative justice conferences are a unique and novel context in which to study the communicative aspects of conflict, argument, mediation, and punishment.

First, communication holds a central role in conflict research. Without communication, there would be no conflict development, mediation, or resolution (Deutsch, 2000; Isenhart & Spangle, 2000; Folger & Jones, 1994). While there may not be a single agreed-upon definition of conflict, *incompatibility* is the central characteristic of much conflict research (Antonioni, 1998; Oetzel, Myers, Meares, & Lara, 2003; Roloff & Soule, 2002; Rubin, Pruitt, & Kim, 1994). The incompatibility may be actual or perceived. Additionally, one party may perceive the conflict as restraining them from achieving some goal. In restorative justice conferences, participants respond to their interpersonal conflict in ways that aim to rebuild their relationship, rather than resolve the conflict directly. Typically, some transgression-based conflict precedes the restorative process. Transgression-based conflicts concern a violation of rules (Roloff & Soule, 2002). In restorative justice conferences, the offender has first committed some transgression against the victim(s). Traditional judicial processes seek to identify the specific rule violated, to prove the guilt of the offender, and to sentence the offender to some sanction. Restorative processes focus on the consequences of that transgression. Restorative processes focus on the impact of the transgression on the future relationship between the individuals involved.

Interpersonal conflict literature also delineates between personal and superindividual conflicts (Roloff & Soule, 2002). The former involves participants who act in their own self-
interest. The latter involves individuals acting to serve the interests of others. However, according to restorative justice theory, conflicts between individuals necessarily affect the communities of which they are a part. If participants address a conflict restoratively, it will likely incorporate both personal and superindividual concerns. Restorative justice conferences include the offender and victim and also a representative of the community such as a mediator or dialogue facilitator. It is appropriate for a representative of the community to be part of a restorative conference if there has been a violation of the community’s standards of behavior.

Second, communication in conflict situations may include both aggressive disagreements and logical, rational attempts to persuade others (Jacobs & Jackson, 1981). Confusingly, we term both argument, although individuals can typically distinguish between arguing that something and arguing about something. Thus, individuals can both have arguments and make arguments (Jacobs & Jackson, 1981). Restorative conferences typically are not contexts where participants have arguments about the facts of a transgression (i.e., the offender threatened the victim, the offender hit the victim, the victim needed hospitalization). Rather, they will likely be venues where arguments are made for the appropriate ways in which participants should respond to that transgression (i.e., the offender should pay the victim’s hospital bills, the offender should apologize). Very little research exists on the communication that takes place within RJ conferences (Szmania, 2006a). However, research into RJ dialogues could improve understanding of how participants’ perceive specific invitations, commands, pleas, or requests in RJ conferences as argumentative (Jacobs & Jackson, 1981, 1983).

Third, mediation is a concept both commonly researched as part of communication studies literature and integral to restorative processes. Unfortunately, there is a problem integrating some communication research and restorative justice literatures regarding mediators.
In communication studies literature, researchers commonly describe mediators as needing to be both neutral and impartial (Herman, Hollett, & Gale, 2006; Kressel, 2000; Isenhart & Spangle, 2000; Jacobs, 2002; Rifkin, Millen, & Cobb, 1991). This is problematic because RJ conferences require that all participants acknowledge the offender’s culpability and responsibility to make the situation as right as possible. While some mediation literature suggests that mediation is a means by which right and wrong is determined, this is not the case for RJ mediators (Jacobs & Aakhus, 2002). Thus, mediators in RJ are neither neutral nor victim advocates. This leaves RJ mediators in a position to guide the course of dialogue without needing to maintain the neutrality expected of mediators in other conflict settings (Jacobs, 2002).

Often, mediation and dispute resolution grow from a problem-solving orientation (Folger & Bush, 1994; Herman et al., 2006; Kressel, 2000). Restorative justice conferences, however, are not necessarily oriented toward problem-solving but toward understanding the present and future implications of an offence (Marshall, 1999). This discrepancy constrains the utility of both communication mediation and conflict literatures in understanding the nature, goals, functions, and processes of RJ conferences. Essentially, RJ conferences are not like other sorts of problem-solving mediations. Restorative justice is a wholly different theory of justice that is quite different from competitive, distributive, and retributive theories of justice (Gavrielides, 2005; Littlejohn, Shailor, & Pearce, 1994; Moore, 1994a, 1994b; Zehr, 1990). Whereas traditional dispute resolution may be wholly insensitive to the relational aspects of conflict, relationships are at the core of restorative justice (Braithwaite, 2002; Jones, 1994).

Communication literature on mediation identifies a danger that RJ’s mediators will likely avoid. Jacobs and Aakhus (2002) suggest that, at times, mediators orient their sessions to split the difference between disputants (e.g., counter-offering $60 rather than paying $120) rather than
settling differences based on facts and values. Thus, when participants may wish to argue and debate, mediators may push them toward a bargaining settlement (Katz, 2006). This seems to testify to the need for all participants (mediators and disputants) to understand and commit to the values, philosophy, and purpose of the mediation before the dialogue session begins. This commitment is a firm requirement of restorative practices, which hold offender, victim, and mediator accountable to the ultimate goal of community and individual relationship restoration.

The model of therapeutic discussion is perhaps the closest communication studies research comes to the kinds of mediation that typify RJ. This model assumes conflict arises from mutual misunderstanding of points of view and failures to respect other parties’ rights to hold those points of view (Jacobs & Aakhus, 2002). While this model does acknowledge the relational nature of conflicts, like RJ, it requires a mutual acceptance of each party’s point of view. Conversely, in RJ the offender must acknowledge responsibility for causing harm to the relationship. The therapeutic model does encourage both sincerity and openness of its participants, like RJ. The therapeutic conflict resolution model then goes on to require that the identity claims of both parties be validated and accepted, which RJ would reject if it meant accepting the identity claim of the offenders as blameless and not responsible for their actions.

Fourth, the nature of restorative punishment is also communicative (Gavrielides, 2005). If an offender’s response to RJ conferencing can be considered punishment (i.e., repairing damage to a business, cleaning up spray-paint, community service), that response is due to the collaborative communication that took place within the conference. The punishment is not due to the sanction of a judge or other arbiter. Further, this communication is dialogic rather than a one-way directive from power-holder to (power-deficient) offender as one might characterize many Western judicial systems (Duff, 2001).
RJ conferences and dialogues are a valuable context for communication researchers. Communication and RJ both deal with conflict, argument, mediation, and punishment. Restorative justice fundamentally involves the community of an offense and so should naturally encourage social justice research. In RJ, the community does justice for the community (Mika & McEvoy, 2001). Compared to the traditional justice system, RJ is a much less mechanized and much more humanized system that foregrounds individual needs, feelings, and stories (Wright, 2001). Local citizenry play a clear, vital role in the resolution of community conflicts. Restorative justice makes community participation mandatory. The crisis of community is one problem in many twenty-first century contexts. This crisis exists when many individuals live in sprawling, disconnected, and impersonal communities (Braithwaite, 2001). Research has described postmodern communities as increasingly individualistic, in which individual achievement and growth are of higher priority than communal relationships (Moore, 1994a). Restorative justice has the ability to address this crisis with communication and participation practices that focus on conflict response and relationship repair within and by the affected community. Mediation is a process of interaction that can engender a sense of community where there is none and develop individuals into better community members (Moore, 1994b).

Finally, researchers interested in the success of restorative programs (VOM and otherwise) are typically concerned with victim satisfaction. Chapter II more fully addresses this particular aspect of VOM. Succinctly put, restorative conferences are most successful when victims are most satisfied (Umbreit et al., 2006). Victims are most satisfied when they have participated in the interpersonal process of negotiating a fair restitution agreement regardless of whether the restitution is ever completed (Umbreit & Bradshaw, 2003). Victim participants report the most helpful part of the restorative process is the opportunity to talk with the offender,
explain how the crime hurt them, and to hear the offender’s explanation for their actions (Umbreit et al., 2006). These results are distinctly communicative in nature. Restorative justice theory stems from the value and belief that communication can repair relationships. Restorative justice program evaluations attest to this. Yet, practically no communication scholarship exists that connects RJ theory, practice, or outcomes to the field of communication studies.

I seek to add to the scholarly discussion of the communication in restorative justice dialogues as well as the factors that may facilitate or frustrate the completion of those dialogues. The research I present here deals specifically with Ohio’s Victim Offender Dialogue (VOD) program and its archived dialogue files. Restorative justice asks for the traditional view of Justice, with her scales and blindfold, to be replaced. Instead, RJ practitioners, theorists, and scholars envision, “Justice unmasked…with the vision that comes with an awareness of context, partiality, locality, a sense of place, and time, and community” (Wright, 2001, p. 38). Justice should have her sight restored and see victims, offenders, and communities willing to engage in open, honest, and restorative communication. Communication scholars should take the opportunity to evaluate not only the outcomes of restorative conferences but also the processes. The way to accomplish these goals is to examine pragmatically RJ conferences with a focus on the factors that facilitate or frustrate the process of reaching victim-offender dialogue.
CHAPTER II

REVIEW OF LITERATURE

Since the first days of the Victim Offender Reconciliation Program 33 years ago, criminologists, social workers, and a variety of other researchers and practitioners have been intimately involved with the development and operation of a variety of restorative justice (RJ) programs. These programs have a multitude of forms and operate within a number of different frameworks. Juvenile justice programs, school discipline policies, and even South Africa’s Truth and Reconciliation Commission all have restorative roots (Dignam, 2007; Llewellyn, 2007; Morrison, 2007). Depending on the perspective taken, RJ may be either very old or very new. Restorative justice practitioners are simultaneously concerned with the restoration of a single interpersonal relationship and with the needs of a whole community. Restorative practices have the potential to be profoundly healing and transformative, and have the potential to be hurtful or emotionally damaging (Umbreit et al., 2006). Unlike most traditional Western systems of jurisprudence, RJ does not focus on the identification of an offender, the placement of blame, or the issuance of punishment. Restorative conferences operate as a forum for collective resolution between victim and offender (Chmelynski, 2005). Restorative conferences are not processes for solving a crime or a problem. Instead, the goals include learning from the other participants and the restoration, repair, or healing of the damage offending behavior has had on an interpersonal relationship.

As noted in Chapter I, the literature connecting RJ and communication in restorative conferences is scant. However, the research on RJ history, values, theory, practices, myths, and outcomes is vast. Each of these bodies of literature is replete with relevance for this research into restorative communication. In addition, this literature review focuses on the practice of
victim-offender mediation (VOM), its outcomes, and critical evaluation. This review will highlight both the lack of and need for insight into the communication that takes place within restorative conferences.

**History of Restorative Justice**

Restorative practices are either approximately 33 years old or approximately 12,000 years old, depending on one’s perspective. The origin of restorative practices is a matter of debate within the scholarly literature (Johnstone, 2002). In order to understand how different researchers conceptualize restorative justice, it is necessary to examine briefly the historical debate. Proponents of restorative justice claim its radically different conception of justice stems from its unique origins.

Unlike other modern criminological theories of justice, theorists claim restorative justice to be the normal way of handling offending behavior in tribal communities (Cunneen, 2007; Johnstone, 2002; Johnstone & Van Ness, 2007). Restorative justice stresses that an offending act intimately ties victim, offender, and community together. Thus, victim, offender, and community must take part in the resolution of that offence (Umbreit, Vos, Coates, & Lightfoot, 2006). Restorative justice advocates link these conceptual claims to the values reflected in tribal paradigms of justice employed by Maori, African tribal counsels, and native Hawaiians. However, others caution against the over-simplification apparent in some restorative justice literature that dichotomously links pre-state cultures with solely restorative values and state cultures with solely retributive or punitive values (Cunneen, 2007).

According to the first perspective, restorative practices are prehistoric, prevailed throughout most of human history, and led tribes to handle individual conflicts communally (Johnstone, 2002). Indigenous peoples’ system of justice viewed offenses as something for
which the community was responsible. Thus, an offense had a connection to more than just the individual offender. Victims might seek retribution against the offender’s immediate family, extended kin, or entire village (Pratt, 1996). A conventional image of tribal justice might emphasize personal revenge in which the wronged individuals took retaliation as an occasion to retaliate in turn (Johnstone, 2002). This pattern of revenge and retaliation may have devolved into feuding.

Restorative justice proponents contest the retributive and exclusionary notion of tribal justice. Personal revenge was only one option of a much broader range of just responses that would have included, perhaps primarily, compensation. Further, if an individual was willing and able to pay restitution to the wronged party, then the community afforded the offender some level of assurance there would be no violent retaliation (Johnstone, 2002). The purpose of punishment in these tribal systems, RJ advocates claim, was not as a criminal deterrent nor as a retributive action toward the offender but rather a means of restoring balance to the social order (Pratt, 1996). The conclusion drawn is that our modern systems of justice have lost something tribal communities had. Modern judicial systems primarily exist for the purpose of determining guilt and issuing punishment. By contrast, tribal communities use their judicial practices to restore balance and make peace by requiring the guilty to repair the harm caused (Zehr, 1990).

A number of cultures’ tribal paradigms of justice incorporate restorative elements including many Native American tribes, First Nation peoples of Canada, native Hawaiians and Maoris of New Zealand, Afghani jirge, Celtic Brehon laws, and ancient Judeo-Christian principals (Umbreit et al., 2006).

At least in English-speaking contexts, eleventh-century England is when Henry I redefined offending behavior as offences not as against another individual, but against the state
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(Umbreit et al., 2006). It was at this point when he issued a decree claiming royal jurisdiction over some crimes as offences against the crown. The victim of these crimes was (and often still is) represented by the state’s interest (Szmania, 2006a). Thus, communities began to feel less and less involved in the policing and monitoring of their own cultural standards. Subsequent colonialism spread this state prosecutor, judicially administrated system of justice (Pratt, 1996). This model became the dominant way of meting out justice in purportedly civilized societies. Alternative notions of the just way of handling conflict were suppressed, criticized, and all but destroyed.

According to the second perspective on RJ, in the mid-late twentieth century, criminologists and sociologists began arguing the principles, values, and practices associated with restorative justice could be an alternative to the status quo (Umbreit et al., 2006). Restorative justice made its way into the practices and literature of criminology in the 1970s (Gavrielides, 2005). It was, and still is, often placed in contrast to models called modern, Western, or retributive. Since that time, there has been steadily growing interest in restorative justice both as a theory and as a practice (Gavrielides, 2005). Juvenile justice systems, prisons, schools, courts, victim-offender mediation programs, and perhaps, most-notably, the groundbreaking work of the South African Truth and Reconciliation Commission have all applied restorative justice theory.

Restorative justice theory has also influenced education literature and practice (Hopkins, 2004; Morrison, 2007). Its focus on victim-offender relationships resonates well with teachers and administrators responsible for the development and maintenance of school communities. On a day-to-day basis students typically interact with the same set of individuals for years. Educators have used RJ principles in the development of restorative discipline programs.
(Hopkins, 2004). Restorative discipline programs teach students communication skills, including negotiation and compromise, while the sanctions or punishments restorative discipline imposes as result of the conference help promote ethical respect for others (Gavrielides, 2005).

Restorative conferences serve as both school discipline and social education around the globe (Morrison, 2005). The school may be a child’s first experience with formal justice and personal injustices (Coetzee, 2005). These programs use tenets of RJ for conflict resolution among students, teachers and students, and between other members of the school community. Further, within the context of restorative discipline conferences, children can also learn what constitutes meaningful restitution, forgiveness, and how better to resolve future conflicts (Coetzee, 2005). Restorative justice theory has already made inroads in education literature where it has the potential to affect school communities positively. Restorative justice’s underlying values are the fundamental components that link those ancient tribal practices with modern restorative practices.

Restorative values. Similar to the debate that goes on over restorative justice’s definition, scholars hotly debate what should constitute restorative values. Restorative values should form the foundation of restorative practices. Moreover, restorative practices’ evaluations should be measured in terms of their adherence to some core set of foundational values.

The variety of ways in which restorative justice scholars describe and define restorative values is as numerous as there are research pieces on the subject. In a concise summary and analysis of restorative values, Pranis (2007) divides them into process values and individual values. Process values specifically refer to the operation of the conferences, mediations, or program. Individual values refer to the qualities participants bring to the particular restorative context. Both are instrumental to success of restorative processes.
Regarding process values, *respect* is the term most frequently associated with restorative conferences (Pranis, 2007). Other values espoused by researchers include accountability, community, democracy, equality, hospitality, love, mutual care, and restitution (Boyack, Bowen, & Marshall, 2004; Braithwaite & Parker, 1999; Dyck, 2004; Pavlich, 2004; Sharpe, 2004; Wonshé, 2004; Zehr & Toews, 2004). Key restorative process values include “maintaining individual dignity, inclusion, responsibility, humility, mutual care, reparation, and non-domination” (Pranis, 2007, p. 62).

Individual values describe the sorts of personal characteristics restorative processes attempt to draw out of participants (Pranis, 2007). These values include respect, honesty, compassion, open-mindedness, and patience (Boyack et al., 2004; Pranis, 2007; Zehr & Toes, 2004). Restorative practices should be attempting to elicit these values from participants primarily by employing the former process values in the practice’s development, operation, and evaluation.

These restorative values form a unifying framework onto which representatives from different academic traditions can build their own practices. For example, Minnesota educators who were uncomfortable describing students and school functions in criminological terms (i.e., victims, offenders, and justice) described their activities as restorative measures (Pranis, 2007). While the language used to describe RJ practices changes, the values stay relatively constant and are fairly easy to agree upon.

However, Pranis (2007) has overlooked a key component in the description of restorative values in terms of both process and individual attributes. In both Pranis’ and others’ descriptions of restorative values, what seems most prominent are the communication-centered values. Restorative values include non-domination, inclusion, listening, participation, honesty, mutual
understanding, and meeting the needs of all participants (Boyack et al., 2004; Braithwaite & Parker, 1999; Dyck, 2004; Herman, 2004; Pranis, 2007; Sullivan & Tiffet, 2004). Restorative conferences can only address these values by focusing on the communication that takes place before, during, and after restorative conferences. Therefore, if these are the values RJ practitioners, theorists, and scholars believe are integral to the restorative process, research efforts should begin to focus more directly on the communication processes tied to these values.

Restorative values should guide and inform RJ theory, practices, and evaluations (Pranis, 2007). Evaluations of restorative programs should reflect the restorative values underlying those programs, such as consideration for the voice of all participants and respectful inclusion. In the next section, I will describe how the history and values of RJ help develop restorative justice theory.

Restorative justice theory. Is restorative justice best understood as a method? As a practice? As a theory? Moreover, if it is a theory, what is it a theory of? In the literature on RJ, there are a variety of opinions on what constitutes restorative theory and practice (Gavrielides, 2005). There is abundant evidence of restorative justice practices implemented from New Zealand to Belgium to Canada with different definitions, degrees, and determinants of success (Latimer et al., 2001; Maxwell, 2005; Vanfraechem, 2005). The history of restorative justice may have roots in the practices of ancient, tribal cultures. If RJ theory links to a certain paradigmatic worldview, that connection begins with a particular understanding of human nature.

How a society defines and understands human nature has implications for that society’s conception of justice (Clark, 2005). Clark (2002) argues there are two broad perspectives on human nature. According to the first view, humans are selfish, brutal, and require behavioral
training in order to be good. It adopts a Skinnerian approach to social control and justice. According to the second view, humans are essentially good-natured, cooperative, and interested in mutual benefits. According to the second view, justice focuses more apology, forgiveness, and restitution (Clark, 2005, 2002). Restorative justice theory grew out of the second view of human nature. This is one reason why the tenets of RJ theory seem radically different from those of traditional, Western justice. In the following section, I will examine the particular theoretical tenets that make RD such a different theory of justice.

Restorative justice makes a number of normative claims that are at odds with the parallel normative claims of other criminal justice theories (Gavrielides, 2005). Traditional criminal justice theorists assert certain offending behaviors are violations against the state and law. Those violations carry with them a certain degree of guilt and require the state to determine blame and impose punishment. The key focus is making sure offenders “get what they deserve” (Umbreit et al., 2006). Restorative justice theory includes normative claims such that offending behaviors be seen as a violation of relationships, carry with them certain obligations, and require involvement of stakeholders in determining the appropriate response. The central foci of a restorative view of justice are victim needs and offender obligations (Umbreit et al., 2006). Restorative justice supporters claim justice ought to be something radically different from most dominant Western systems. Restorative justice operates from a different paradigm because of these normative claims.

Restorative justice theory’s normative claims help establish a restorative justice paradigm that sets RJ apart from punitive paradigms (Gavrielides, 2005; Wright, 2001). In Kuhn’s (1996) treatise on the nature of scientific revolutions, paradigms are fallible and periodically replaced by alternative paradigms that more fully apply to new, unanswered questions. Restorative justice’s
paradigm views offending behaviors as violations of interpersonal relationships (Braithwaite, 2001; Johnstone, 2002; Marshall, 1999; Umbreit, 1994). Such a paradigmatic view has very different implications than punitive justice. Restorative justice theory speaks to the restoration of relationships, but not necessarily to the ethics of how you or I should live in relation to one another, the state, or some sovereign deity (Gavrielides, 2005). Restorative justice theory is, therefore, not a theory of ethics, but of justice. In addition, RJ also maintains a unique relationship to the notion and practice of punishment.

Researchers have made different theoretical claims regarding RJ and its connection to punishment (Gavrielides, 2005). Like the debates over RJ’s definition, there is little consensus on what should be the proper relationship between restorative practices and punishment. For instance, RJ might be an alternative punishment rather than an alternative to punishment (Duff, 1992). Duff further proposes punishment is a communicative act composed of two elements. The first communicates disapproval, censure, or criticism. The second element of punishment forces retribution from the offender. Another view is the outcomes of a restorative conference cannot be punitive in nature, lest they cease to be voluntary and become coercive (Gavrielides, 2005; McCold & Wachtel, 2002). Essentially, RJ theoretically eliminates the forced retribution component of punishment. In its place, RJ promotes the communicative disapproval component as vital to the process. Restorative justice’s outcomes, would ideally not force any punishment, sanction, or retribution on any offender participants (Roche, 2007).

However, if punishment is understood as any “painful obligation after committing a wrong…most reparative impositions will indeed be punishments” (Walgrave, 2007, p. 566). Notably, scholars are disagreeing once again about one of RJ’s theoretical components. These sorts of debates are apparent throughout much of restorative justice literature. In the context of
restorative justice, research rarely focuses on the communicative element of punishment. Scholars may be debating about RJ’s relationship with punishment, but they are not asking whether the restorative practices communicate sanctions in a way participants understand to be punishment.

Finally, restorative justice theory and retributive justice are often contrasted (Daly, 1999). The dichotomous schism between restorative and retributive systems of justice began in Zehr’s (1990) seminal text Changing Lenses. In it, Zehr provides a critique of the current judicial practices. He describes them unflatteringly and directly contrasts them with restorative practices (1990). The separation of retributive practices from restorative ones is clean and distinct. However, some current researchers consider neither accurate nor appropriate (Daly, 1999; Roche, 2007). The strong, oppositional distinction between RJ and retributive justice is problematic for a number of reasons. Retributive justice requires, according to Zehr’s (1990) text, a particularly insensitive type of punishment, an integrated system for delivering justice, and a particular view of crime. Zehr’s (1990) retributive justice requires a broad understanding of the term. More recent writings conceptualize retributive justice more narrowly, rooting it “in the idea that the offender has taken an unfair advantage in committing a crime, which can only be corrected by the administering of punishment” (Roche, 2007, p. 78).

Thus, if researchers conceptualize retributive practices narrowly, and punishments broadly, restorative sanctions do not need to be at odds with either. Zehr (2004), himself has acknowledged restorative and retributive approaches to justice share more common ground than previously acknowledged. However, this does not eliminate key differences between restorative justice theory and other theories of justice. Depending on punishment’s definition, retributive punishments might serve to repair relationships (Daly, 1999). Sanctions decided upon by victim
and offender in a restorative conference certainly have a communicative aspect to them. Perhaps calling the sanctions “punishments” or “obligations” may hold meaning for participants outside of what the scholarship claims. Instead of debating the relationship of RJ to punishment, researchers could benefit from exploring whether or not participants regard the sanctions as punishments.

In summary, restorative justice theorists make normative claims far different from other theories of justice regarding participants, obligations, roles, punishments, and retribution. At this time, those normative claims do not extend to broader ethical considerations. Nor do they necessarily need to for meaningful restorative praxis to function. According to restorative justice theory, offending behavior requires, to whatever extent possible, the participation of victims, offenders, and community members in a process, which seeks to deal with that offending behavior and its future implications (Chmelynski, 2005). Restorative justice practices provide the method by which individuals voluntarily attempt to accomplish those goals (Gavrielides, 2005). In the same way that restorative values can form the base for RJ theory, RJ theory forms the base for a variety of restorative practices. In the next section, I will examine these practices in detail.

Restorative practices. It should not be surprising that practices described as restorative justice vary almost as a matter of course. The definitions vary. The values espoused vary. The theoretical relationship with retributive justice varies. This diversity in restorative justice programs began in the early 1970s.

Restorative justice was born out of a combination of three factors. First, social and political efforts were being made to implement more informal conflict resolution processes. Second, there was increasing skepticism regarding punitive practices. Finally, there were rising
victims’ movements (Messmer & Otto, 1992). Efforts in the United States, England, and New Zealand had been experimenting with alternative judicial processes that allowed those most impacted by crimes to participate in their resolution (Roche, 2007). It was not until theorists and academics began visiting programs that their historical and theoretical contexts were fully understood. Programs that grew up in geographic isolation from one another had developed different styles of doing restorative justice. Restorative justice is a field where practitioners routinely recognize the need for individualization and personalization in what is all too often an impersonal system (Green, 2007). Therefore, it should be of no surprise that restorative justice grew in ways that suited those individual contexts. Rather than stemming from a central nexus that created clone-like offshoots, the past thirty-five years has seen the development of a variety of programs all rightly called restorative. While each style of conference is restorative, one key difference between them is the number of participants invited into the process. Some will include only the victims, offender, and mediator while others invite participation from any community members who consider themselves stakeholders.

There seems to be common consensus that the victim-offender reconciliation program (VORP) developed in Ontario, Canada was the first programmatic, modern manifestation of restorative values and theory (McCold, 1998; Zehr, 2004). VORPs spread to the United States through the 1980s and eventually to Europe, as well. By 1990, over 400 such programs were in operation throughout North America and Europe (Umbreit, 1994).

In 1989, New Zealand instituted sweeping reform of their juvenile justice system (McCold, 1998; Zehr, 2004). This reform included the implementation of family group conferencing (FGC). This style of restorative conference, based on Maori tradition, included participation of not only victims and offenders, but a wider circle of participants including family
members and police officers. Currently New Zealand youth courts serve as a back up to FGCs (MacRae & Zehr, 2004). According to Australian criminologist John Braithwaite (1989), FGCs developed independently of VORPs. Both FGC and VORP contribute to the full understanding of what aught to constitute a restorative paradigm (McCold, 1998). FGCs operate widely beyond New Zealand, including programs in North America, South Africa, and Northern Ireland (Zehr, 2004).

Third, peacemaking circles widen the participation even more. Sometimes merely called circles, these restorative conferences involve a large number of participants and usually include a sole facilitator (Zehr, 2004). This restorative practice stems from traditions and practices of Canadian First Nation communities. In addition to local community offences, schools, religious institutions, and other organizations have used circles. They are typically used in order to open dialogue or to solve an issue that affects the community as a whole (Pranis, Stuart, & Wedge, 2003).

What were once called victim-offender reconciliation programs (VORP) are now often identified as victim offender mediation (VOM). VOM has become perhaps the most common moniker of restorative practice. Specifically, VOM is the process that provides interested victims of primarily property crimes and minor assaults the opportunity to meet...the offender, in a safe and structured setting, with the goal of holding the offender directly accountable for his or her behavior while providing important assistance and compensation to the victim. (Umbreit, Coates, & Vos, 2004, p. 279)

Much evaluative research on restorative conferences deals with these types of programs exclusively (Umbreit, Bradshaw, & Coates, 2003; Umbreit et al., 2004; Umbreit et al., 2006).
Among all the different expressions of restorative justice theory, VOM is the most widely disseminated, most researched, and most empirically studied (Umbreit et al., 2003). This does not mean, however, that all RJ practices are VOM or that all VOM programs are the same.

VOMs often concentrate on minor crimes (Umbreit et al., 2004). While VOMs have had success with more serious crime, significantly fewer evaluations focus on these programs (Rugge & Cormier, 2005). My current research with Ohio’s Office of Victims Services will add to the body of research on VOM used in cases of severe, felony crimes.

Additionally, VOMs are not the only type of restorative conference. To ignore FGCs, circles, and other (increasingly blended) conference styles would do a disservice to restorative justice research while simultaneously misrepresenting the state of the field. In the following section, I will comment and summarily contest some of the more commonly held myths and misperceptions purported by RJ opponents and skeptics.

*Debunking the Myths.* Restorative justice and restorative practices are common topics of discussion in the respective literatures of sociology, criminology, and even education. However, this is not to say confounding myths about these practices are absent. At least three pernicious myths challenge the practice of restorative justice. The public perceptions of mediation, crime victims, and criminal offenders all play into the myths surrounding restorative justice practices.

First, RJ and restorative mediation practices appear soft on crime (Wint & Ruth-Heffelbower, 1999). The power of this myth stems from the perception of the different priorities held by restorative and traditional judicial theories. When people espouse this myth, they are noting that the outcome of a restorative conference for vandalism is a restitution agreement decided upon by the victim and offender, whereas, the outcome of the judicial process is a hefty fine, time in jail, and a criminal record. The problem with this myth is that it essentially
compares apples to oranges. Practitioners of restorative processes tend to prioritize the severity of punishment (if they accept restorative processes constitute punishment at all) behind a number of other considerations (Daly, 1999; Gavrielides, 2005). Instead, the outcomes that matter most are levels of victim satisfaction with the process, mediation, and reparation. Decreasing recidivism is of secondary importance. Even so, offenders who do participate in VOM tend to have lower recidivism than those processed through the traditional judicial system (Umbreit et al., 2004). Additionally, mediation in RJ contexts eschews the moral neutrality that is central to other forms of mediation, insisting that offender guilt and culpability remain clear and unambiguous.

Second, there is a tendency to hold cultural myths about victims that affect the public perception of restorative processes. Especially in the case of serious crimes, victims (the public is told) have no desire to meet or speak with the offender, except to enact vengeance (Gustafson, 2007). Restorative processes do not deny that such individual victims exist; in fact, RJ embraces all the myriad responses to victimization. Instead of requiring the victim’s silence in the process, RJ encourages the sort of victim participation that is absent in traditional judicial processes (Braithwaite, 2001; Johnstone & Van Ness, 2007; Umbreit et al., 2006). While the myth is victims want nothing to do with their offender, in actuality the majority (even in the case of crimes of severe violence) consider a face-to-face meeting with their offender to be helpful, even necessary to bring a sense of closure to the offense (Gustafson, 2005).

If victims can have a variety of responses to victimization, criminal offenders also have distinctive, nuanced responses to their culpability. Often it seems, criminals have the stereotype of a violent, stupid, remorseless, or even feral response to their guilt. Given this perception, it is no wonder that the prospect of face-to-face dialogue with a criminal offender could make an
individual fearful. Further, the public may hold the perception offenders would, if given the chance to meet with their victim, merely seek to re-victimize that individual. Criminal offenders both know this is the stereotype held about them and wish to be viewed differently (Gustafson, 2005). While the needs of offenders are secondary to the satisfaction of victims, VOM outcomes indicate offenders who participate are more satisfied than comparable others who did not participate (Umbreit et al., 2006).

Myths are pervasive. They taint understanding of the restorative process, mediation, and RJ participants. I attended the Restorative Justice: Theory, Policy, and Practice Conference in 2007 where, in the discussion following presentations OVS Director Ho commented, “It is important to remember, victims are us.” To this, Barbara Toes (whose current work was in the area of corrections) replied, “Yes, and offenders are us, too.” In order to best confront restorative justice myths, I think it is important to maintain vigilance over our stereotypes whether they concern our stereotypical victim, stereotypical offender, or the stereotypically correct way of doing justice.

Restorative outcomes. I have so far discussed the history, values, theory, and practices associated with restorative justice. However, all of these topics would be of little consequence if there were not also empirical outcomes regarding the results of restorative justice practices. Often, outcomes of VOM or other restorative programs regard participation, victim satisfaction, offender satisfaction, restitution, and recidivism.

Typical victim participation rates in VOMs range from 40% to 60%, although participation rates as high as 90% have also been reported (Bradshaw, Roseborough, & Umbreit, 2006; Umbreit et al., 2006; Umbreit et al., 2004). Gehm (1990) found victims were more likely to enter into face-to-face mediation if the offender was White, if it concerned a misdemeanor,
and if the victim was a representative of an organization (rather than an individual victim). There may be further cultural factors affecting participation. While Gehm and other American studies found organization representatives more likely to participate in VOM than individuals (Coates, Burns & Umbreit, 2002; Wyrick & Costanzo, 1999), a British study found the reverse (Marshall, 1990; Umbreit, et al., 2004).

Notably, there were very few minority victims in Gehm’s (1990) research; it took place in Indiana, Wisconsin, and Oregon. A second study that examined race/ethnicity in VOM (in California) found White and Hispanic offenders were equally likely to participate in face-to-face mediation and both were more likely than all other races/ethnicities (Wyrick & Costanzo, 1999). Clearly, participants’ demographic information as well as the study context should be included in subsequent analyses of VOMs.

The severity of an offense seems to be a poor predictor of mediation participation (Umbreit et al., 2004). While Gehm (1990) found individuals involved in misdemeanor cases were more likely to complete dialogue than individuals involved in felony cases, Hartmann and Kilchling (1998) found 70% of mediation cases involved violent crimes. Perhaps the fact that Hartmann and Kilchling’s research concerned a series of German juvenile justice programs mitigates these results. Additionally, Wyrick and Costanzo (1999) found an interaction between type of crime and time. The more time passed the less likely property offenses would reach mediation, and the more likely personal offenses would reach mediation. Perhaps these results testify to the power of RJ to address deep, personal violations when the passage of time has been incapable of doing so.

Victims who choose to participate cite the desire for restitution as a key motivator for participation (Umbreit, et al., 2006). Further, in a study of the South Australia Juvenile Justice
Victim Offender Communication

(SAJJ) project, 36% of victims said they were not at all curious about the offending youth’s motivation for their offending behavior (Daly, 2002). In addition, victims of serious crimes sought to know why the offender committed the crime and to communicate the harmful impact of the offender’s actions (Rugge & Cormier, 2005). After the mediation ended, victims claim what they liked most was the opportunity to speak with the offender.

The restitution agreement becomes less important for victims than the opportunity to communicate with the individual who offended against them (Umbreit & Bradshaw, 2003). Offenders, on the other hand, choose to participate in order to make amends to the victim, impress the court, or to apologize (Umbreit, et al., 2006). Daly’s (2002) analysis of the SAJJ notes similar results from juvenile offenders. Most (61%) report their main reason for participation was in order to offer an apology. Other reasons cited include thinking they would get off easier (27%), appeasing their family (39%), or feeling pressure to participate (34%).

Second, because it is a victim-centered process, restorative justice programs usually evaluate victim satisfaction. Satisfaction can refer to the meeting, the program, the agreement, their preparation for the meeting, or the handling of their case (Umbreit et al., 2004). Perhaps the most basic, yet important piece of evaluation data regarding VOM, is victims of crimes who meet with their offender are much more likely to be satisfied with the justice system’s handling of their case than victims who participate in normal court processes (Umbreit & Bradshaw, 2003). In addition to increased satisfaction, these individuals also feel less fearful of future re-victimization by the same offender. Findings also indicate restorative justice satisfies victims more than the criminal justice system (Braithwaite, 2002; Latimer et al., 2001). VOM’s organization as a space where victims’ opinions matter may partly account for these results.
Victims tend to receive not just the material compensation they feel they deserve but oftentimes an emotional restoration in the form of an apology (Braithwaite, 2002).

In a comparison of programs, those considered fully restorative in nature (restorative conferences) demonstrated a 91% victim satisfaction rate; those which were non-restorative, (traditional justice system) only achieve a 56% satisfaction rate (McCold & Watchel, 2002). A victim’s attitude toward the mediator, perception of fairness in the restitution agreement, and initial desire to meet the offender affect reported satisfaction (Umbreit & Bradshaw, 2003). Combined, these three factors accounted for 41% of the variance in mediation satisfaction.

Umbreit and Bradshaw (2003) also note there is little correlation between negotiating restitution and being paid back. This suggests the interpersonal communicative process of mediation and negotiation is actually more important than the restitution itself. One mitigating factor of note is victims who felt strongly affected by a crime were less likely to feel helped by restorative processes (Daly, 2005).

Third, offenders report higher satisfaction with restorative justice programs, than with traditional justice practices (McCold & Watchel, 2002). It is typical to find 80-90% of participants reporting satisfaction with the restorative process and resulting agreement (Umbreit et al., 2004). This effect was significant and tended to increase as the level of restorative practice increased. Thus, as different tenets and practices considered restorative increased, offender satisfaction also increased. This follows a similar pattern as victim satisfaction, though not as extreme (McCold & Watchel, 2002). Offenders also tend to report feeling surprised about the positive experiences they had in mediation (Umbreit et al., 2004).

Fourth, offenders who participated in restorative justice programs also followed through on completing acts of restitution (i.e., paying the victim for damaged property, completing
community service work, and attending drug/alcohol/counseling programs) more frequently than in criminal justice programs (Braithwaite, 2002; Latimer et al., 2001). About half of published mediation evaluations report restitution rates (Umbreit et al., 2004). Umbreit et al. found that in approximately nine of ten cases, victim and offender are able to negotiate a restitution agreement; 80-90% of those contracts were completed. Offender restitution may rise by as much as a third, from 58% for non-restorative practices to 81% for restorative practices (Braithwaite, 2002; Umbreit & Coates, 1992).

The final way restorative justice and traditional justice practice are compared is in offender recidivism (Braithwaite, 2002; Latimer et al., 2001; Vanfraechem, 2005). Notably, different studies define recidivism differently. For example, one study may consider any contact with the criminal justice system as constituting reoffending behavior, whereas other studies may only count behavior that results in a guilty verdict (Bradshaw et al., 2006). This lack of conceptual clarity may help contribute to some disparate empirical results regarding recidivism (Matthews, 2006). On average however, restorative justice programs produce significantly reduced levels of offender recidivism (Latimer et al., 2001; Umbreit et al., 2004). Typical reports of recidivism do not include before and after comparisons, which make results more valuable for individual programs, rather than generalizable to the population of programs (Umbreit et al., 2004).

A number of studies claim reductions in recidivism by as much as a third when compared to control groups of offenders (Bradshaw et al., 2006; Braithwaite, 2002). These data compare well to traditional justice programs, which typically report ten percent reductions in recidivism (Lipsey, 1995). Some research into the recidivism rates of restorative justice program participants is not nearly so rosy. A study of different types of offenders included juvenile
violent offenders, drunk driving offenders, juvenile shoplifters, and juvenile property offenders; only the young violent offenders’ rates of recidivism was significantly lower than court samples (Sherman, 2001). All other groups had mixed results. Acting as a type of epilogue, a study of Belgian juveniles found when participants who were part of a restorative conference did re-offend, it was with less serious crimes than before (Vanfraechem, 2005).

Ohio’s Victim-Offender Dialogue (VOD)

The preceding analysis contains the restorative research outcomes that typically form the core of many restorative program evaluations. Rates of participation, victim and offender satisfaction, restitution, and recidivism all have contributed to nearly thirty years of program evaluation, development, and reformulation. These studies serve to highlight the variety of programs based on restorative justice theory and the evaluation of those different forms of restorative praxis. In the following section, I will describe research on VOM in felony cases and specifically the program and outcomes of Ohio’s Victim Offender Dialogue (VOD) program.

The use of VOM in cases of severe violence stems back to Genesee County, New York in the early 1980s (Umbreit et al., 2003). However, while there are a number of VOMs that deal with severe violence, there are also notable differences between these programs. There are three categories of victim-offender mediation programs. Type I prioritizes the therapeutic aspect of dialogue above other goals. Texas’s VOM and Langley, British Columbia’s Victim Offender Mediation Project (VOMP) both follow this model (Umbreit et al., 2003). Second, the dialogue program at the University of Minnesota’s primary focus is narrative. This Type II program encourages each participant to tell their own story and hear others’ stories in an effort to “maximize direct communication with each other” (Umbreit et al., 2003, p. 128). Finally, Ohio and Pennsylvania’s VOD are examples of the third type of program. Type III emphasizes victim
empowerment. Thus, the primary focus of the dialogue is whatever the victim needs to achieve through the dialogue. Every VOM includes some aspect of the empowerment, narrative, and therapeutic foci. The prioritization of those foci will change depending on the program under study.

Research is extremely limited in the use of VOM in cases of severe violence and felony cases. In 2003, there had been only three studies of VOMs in cases of severe violence. Of those, two were small, exploratory pieces. The third study was a large, multi-site, multi-year study that included both the Texas and Ohio VOM program (Umbreit et al., 2003). The first study, conducted in upstate New York’s Genesee County, offered four case studies. This research found that offering VOM was beneficial to victims, offenders, and other participants in the process (Umbreit, 1989). The second study provided four dialogue case studies of severely violent crimes committed by juveniles (Flaten, 1996). Results indicated high levels of satisfaction with both process and outcomes from both victims and offenders.

Initiated in 1998, the third study reported data gathered from Ohio’s VOD program (Umbreit et al., 2003). According to this research, Ohio’s mediation cases dealt with homicide in 57% of cases, compared to 70% in Texas’s VOM. The remainder of the data reported specifically concerned satisfaction and the degree to which participants found the process to be helpful. Post-mediation interviews were conducted with victims; 90% reported feeling very satisfied with their preparation and 10% reported being somewhat satisfied. Over three quarters of participants felt meeting the offender was very helpful with a further 24% feeling it was somewhat helpful (Umbreit et al., 2003). Results from interviewing offenders indicate they, too, generally feel the process is satisfying with 81% rating the process as very satisfying and 19% reporting some satisfaction (Umbreit et al., 2003). Lastly, regarding helpfulness, 93% of
offenders describe the process as very helpful with the remaining seven percent feeling the process was somewhat helpful.

My current research into OVS’s victim-offender dialogue program will perform at least three valuable functions. First, since OVS was already the site of a multi-year analysis, my current research will be able to contribute to (and perhaps contrast) what is already known about these specific types of programs. Second, my research has the added advantage of comparing and contrasting completed dialogue cases with those that will-not-proceed. The OVS designation, will-not-proceed is used to describe a file initiated by a victim but for some reason, has been halted in its progress toward dialogue. Third, while Umbreit et al. (2003) conducted interviews with victims and offenders in Ohio’s VOD, I will add detailed analyses of dialogue cases which never proceed to actual face-to-face dialogue. While many studies include analyses of participation and satisfaction, this study is unique in its comparative analysis of completed and will not proceed cases. While RJ and VOM have their advocates, scholarly research is not uniformly supportive. Even practitioners and theorists who find RJ laudable note at least one major limitation of the understanding of RJ theory and practice. Specifically, while research is coordinated in its claim that RJ poses no significant harm for participants (Bazemore & Elis, 2007), there is little empirical data on how or why RJ works as it does.

The How and Why Questions

After decades of practice, research, and evaluation, there is little question restorative practices produce different (if not always better) results than other responses to offending behavior. Evaluation results show the positive influence of restorative practice in a vast array of contexts from first-time juvenile offenders to serious felony cases (Bradshaw et al., 2006; Braithwaite, 2002; Flaten, 1996). Furthermore, both experimental and quasi-experimental results
consistently refute the hypothesis that RJ programs have negative effects on participants (Bazemore & Elis, 2007). The broad consensus among the literature is participation in restorative programs tends to have significant, positive results. What is less researched, and therefore less understood, is how and why restorative programs consistently produce similar, positive results (Bazemore & Elis, 2007; Hayes, 2007). How does the structure of restorative programs elicit the results researchers find typical (i.e., increased participant satisfaction, decreased recidivism)? By what mechanisms (e.g., why) do restorative processes work? Studying the how/why of restorative processes seems the next logical step in determining which identifiable independent variables contribute to observed restorative outcomes. In this section, I will consider both the RJ program structure and communication as possible causal mechanisms for RJ program success before considering how critical research into RJ may help answer the how/why questions.

First, program structure may be one factor to examine when considering how and why restorative programs work. Current research identifies programs according to varying levels of restorativeness (Bazemore & Elis, 2007; McCold & Watchel, 2002). One key indicator of a program’s restorative potential is the degree to which interested stakeholders have an opportunity to participate. Thus, programs considered fully restorative have the potential to include victims, communities of care, and offenders (i.e., peace circles, family group conferences, community conferences). As the potential for participation decreases, programs may be subsequently labeled as mostly or party restorative. This model received criticism for its reliance on a single dimension (participation) as the sole indicator of a program’s restorative potential (Bazemore & Elis, 2007). However, I believe a program’s capacity for encouraging stakeholder participation can be a potential contributor to its restorative potential. Thus, in this research, it is important to
examine how the structure and focus of Ohio’s OVS dialogue program may affect participation and completion of dialogue cases.

Second, what may prove to be more important to the function of restorative programs is not their structure but the communication within that structure. Restorative justice theorists acknowledge, “dialogue and negotiation serve as central elements of restorative justice” (Umbreit & Bradshaw, 1997, p. 38). Further, VOM victim participants claim the most satisfying elements of the RJ program are the opportunities to meet and communicate with the offender, to receive restitution, to hear expressions of offender remorse, and to experience the care and concern expressed by the mediator (Umbreit, 1994). Notably, three of these four elements deal expressly with the interpersonal communication that occurs both before and within the restorative conference. Restorative processes are communication and dialogue-driven processes. Yet, few studies have attempted to link communication theories with the restorative justice process (Szmania, 2006a).

One such study examined victim and offender perspectives on forgiveness as they might apply to a restorative program, rather than specifically addressing restorative contexts (Estrada-Hollenbeck, 1996). Results of this research indicate the absence or presence of forgiveness influence victims’ emotions. Additionally, offenders who know the victims have forgiven them may subsequently alter their understanding of the conflict including any guilt and anxiety associated with the conflict. (Estrada-Hollenbeck, 1996) These results parallel findings from a study of offender responses to participation in a sentencing circle (Umbreit et al., 2006). Offenders in those circles liked connecting with other people in the circle, telling their story, and listening to others. Victims who took part in similar group conferences also identified the communicative aspects of the conference (i.e., the chance to talk with the offender, the
opportunity to hear the offender’s explanation) as the most important part of the conferencing experience (Umbreit et al., 2006). It is unknown whether communicating forgiveness in an actual restorative context will influence participants in the way Estrada-Hollenbeck’s (1996) narrative examples suggest. Perhaps more importantly, there is also a lack of research indicating whether the communicative aspects of restorative justice programs significantly affect restorative outcomes.

Further indicators of the link between interpersonal communication and restorative outcomes exist in victim satisfaction research. Satisfaction research indicates the importance of interpersonal, face-to-face meetings and goal-directed communication between victims, offenders, and mediators (Umbreit & Bradshaw, 1997). Victims who are unhappy with their mediator or who do not meet face-to-face with their offender are significantly less likely to be satisfied with their experience in conferencing.

One potential area of miscommunication between victims and offenders is the interpretation of each other’s verbal and non-verbal communication (Daly, 2002). According to data from the SAJJ project, 61% of offenders reported their main reason for participating was they really were sorry for their actions. Young offenders in this study offered an apology of some sort in 96% of cases. Notably, victim participants’ perceptions were strikingly different; they believed less than 30% of offenders were making a sincere apology (Daly, 2002). Thus, even when offenders offer an earnest apology, victims may not interpret it as genuine.

There are at least two avenues of inquiry in response to the current call for detailed research and analysis into what has been termed the how/why question of restorative justice (Bazemore & Elis, 2007; Hayes, 2007). The first is restorative justice program structure. The second, and perhaps more salient, is the communication within restorative contexts. The nature
and quality of communication is important or even vital to restorative practices (Szmania, 2006a, 2006b; Umbreit, 1994; Umbreit & Bradshaw, 1997). Yet, further efforts to identify, analyze, and understand the role of communication in restorative processes has been spartan at best.

**Critical research in RJ.** Without question, RJ theory and practice have made major waves in the literatures of criminology, sociology, social work, education, and to a lesser extent psychology and communication studies. Restorative justice theory and research is in a developmental stage where its relationship to shaming (Maxwell & Morris, 2004), punishment (Gavrielides, 2005; Immarigeon, 2004), incarceration and corrections (Boyes-Watson, 2004; Jantzi, 2004) have all come under increased critical scrutiny. Zehr and Toes (2004) have identified a number of critical issues and questions that explore holes in RJ theory and practice. These holes highlight the potential for restorative practices to lose association with their base values and theory. While this literature review is far too short to provide a complete analysis of the gamut of critical issues facing RJ, studies focusing on the communicative aspects of RJ conferences can address some of these critical issues.

Almost without fail, restorative practices are an opportunity for dialogue between victim and offender. The theoretical ideal is direct, face-to-face communication that is collaborative, respectful, supportive, mutually beneficial, and focuses on the harms caused by offending behavior (Umbreit et al., 2006). RJ’s focus is “on interpersonal relationships, human needs, and collaborative problem-solving processes” (Zehr, 2004, p. 307). Each of these descriptions, provided by two of the most prominent scholars in the fields of restorative justice and victim-offender mediation, call for research efforts directed at the communication that takes place regarding restorative praxis. Communication is both foundational and fundamental to the successful operation of restorative programs (Szmania, 2006a, 2006b). I believe one glaring gap
in RJ literature exists between the explicit connection of restorative practices to communication and the simultaneous dearth of research on this issue.

The study of restorative communication may be instrumental to answering the how/why questions of restorative justice. There is currently sufficient research to conclude restorative justice theory has the potential to foster valuable and interesting outcomes in cases of serious interpersonal violations and offending behavior. Yet, the inattention paid to the communication that takes place in restorative contexts limits our understanding of how and why restorative justice works. Evaluation should not be a mere quantification of participants and non-participants, successes and failures, satisfaction and dissatisfaction, or recidivists and non-recidivists. It is time for restorative evaluations to make a bold step toward evaluations that facilitate the examination of processes and outcomes, reasons for RJ conference progress and frustration, and program-level evaluations of effectiveness. Finally, it is time to clarify the vital links between communication scholarship and restorative justice. In the following chapter, I will describe the method used to conduct this research on VOM in felony cases, Ohio’s victim-offender dialogue program, my hypotheses, and research questions.
CHAPTER III

METHOD

I performed my research on the use of restorative practices in felony cases by means of an archival data analysis. I conducted the analysis in two stages on dialogue/mediation files in Ohio’s Office of Victim Services (OVS), Victim Offender Dialogue (VOD) program. This two-stage process was necessary because at the outset of research, I was unfamiliar with both the OVS dialogue file contents and filing system. Additionally, I needed to develop an original data collection instrument. In the first stage, I examined the population of dialogue files, selected an appropriate sample, and developed my data collection instrument. In the second stage, I used my instrument as a codebook to collect data from the dialogue files.

Social scientific archival data analysis is methodologically appropriate to study OVS files for two reasons. First, archived dialogue files contain a record of the interaction between victim, offender, and dialogue facilitator on an interpersonal level. Additionally, the files include a record of social interaction between the OVS organization and individuals seeking dialogue. Second, I can conduct my research by making verifiable observations about the content of archived dialogue files. My research method includes both a record of social interaction and empirical verifiable data and thus meets the criteria for social scientific inquiry (Singleton & Straits, 2005). I hope to use the archival data to draw conclusions about the state of restorative dialogues in OVS felony cases.

In this chapter, I describe the population of interest along with my sampling considerations. Following that, I explain my data collection by operationally defining my research concepts, providing hypotheses, and presenting additional research questions. Finally, I conclude with a description of my data compilation and analysis procedures.
Data Preparation

Population and sampling. My current research with Ohio’s VOD program deals exclusively with the population of archived dialogue files. These files are assigned one of four designations: completed, will-not-proceed, death row, and in progress. Completed files are those cases where victim and offender have already completed face-to-face dialogue. Will-not-proceed files are those cases where a victim or other party started a file, yet it will make no more progress toward face-to-face dialogue. The third set of files is death row cases. The files where the offender is on death row are unlike all other OVS files for at least four reasons. First, OVS employees handle and process them differently than all other files. Second, the OVS director is the only individual who facilitates these particular dialogues. Third, while participation is technically possible for felons on death row, that participation is contingent upon permission from the OVS director. Fourth, death row dialogues have had comparatively few participants (N = 4). For these reasons, it would be inappropriate to compare and contrast them to the other dialogue files. The final classification of files designates those that are in progress. A victim or interested party initiated these files; the file has not made it to dialogue and remains active and open. In progress files will also be excluded from this study because they are neither complete nor concluded.

From the above-described population of 349 total VOD files, I selected a sample (N = 212) of completed and will-not-proceed files. Of this sample, 25% (N = 53) are completed dialogues; 75% (N = 159) are will-not-proceed files. The use of this archived data has a number of advantages for this research. Notably, there is no analysis of OVS will-not-proceed files regarding their content or completeness. This applies to both internal and external research. To my knowledge, this study is the largest ever attempted on initiated restorative dialogues that fail
to reach face-to-face dialogue. Typically, these archived files contain data about the crime (e.g., offense, sentence), participants (e.g., offender and victim demographics, mediator time logs), dialogue process (e.g., person interested in dialogue, reason stopped, dates of inquiry), as well as narrative information provided by the dialogue facilitator.

The use of this sample of files also poses challenges to research. For example, there seems to be a wide variety in the type and thoroughness of data included in each file. Some files may be thick with pictures, accounts of the crime, and even newspaper or magazine stories. Others may contain only a few pieces of information about the offender or dialogue inquiry. Generally, the completed files contain quantifiably more information than the will-not-proceed files. In the next section, I describe the context of this study, including the development of my data collection instrument.

*Context of the study.* This research deals with archival data with which I was unfamiliar, so I chose to visit the Office of Victim Services (OVS) and spend time examining a selection of files prior to beginning formal data collection. This preliminary research revealed the data contained in OVS mediation files comes from a number of sources and is archived in two main forms: paper and microfiche. The dialogue facilitator/mediator in charge of the case completes some of the file components. Other contributors can include the victims themselves, family members, police officers, offenders, or other stakeholders in the process. In some cases, the data of interest to this study is included amongst a score of seemingly irrelevant documentation. Despite this, the files are easily comparable and contain numerous pieces of parallel information. The strengths of using this data source include comparability, standardization, and ease of accessibility (Elder, Pavalko, & Clipp, 1993; Singleton & Straits, 2005).
The choice whether or not to recode OVS data was not so much a decision as an imperative necessary to facilitate data analysis. An initial examination of the archived data showed that most files contain similar information, albeit in a variety of formats (e.g., offender race might be found in a newspaper article included about the crime, or on a microfilm from Ohio’s Department of Rehabilitation and Correction). Recoding the data is common in archival research and provided me with a systematized base from which to perform analyses (Elder et al., 1993).

Instrument development. From my initial fact-finding research, I was able to develop a data collection instrument (see Appendix A) that could act as a codebook, allowing me to collect commonly researched data (i.e., demographics, crime data) as well as data specific to OVS dialogue files (i.e., reasons why dialogue will not proceed, person interested in dialogue). Since I was now familiar with the information commonly available in each OVS mediation file, I was able to construct a suitable data collection instrument. In addition to distinguishing between completed and will-not-proceed files, many of the files include brief descriptors of why the dialogue will not proceed. I also collected available information about the timing of events in each mediation case (i.e., date of the crime, date file was initiated, date completed), crime(s) committed, demographic data of victims and offenders, and the relationship between victim and offender (e.g., parent/child, spouse/partner, friend). Next, I collected information on the institution in which the offender is incarcerated, their sentence, and the involvement of community representatives (e.g., clergy, therapists). Further, one piece of data I did not expect to find was mediator time-logs, which are also archived in the mediation files. These time logs, not surprisingly, are more complete in those files for completed dialogues than for those that will-not-proceed. I recorded not only the total hours facilitators spent per file but also time spent
in face-to-face conversation with victim or offender, time spent in mediated communication (e.g., phone, email), and time spent in dialogue. Lastly, the facilitator in charge of assigning the dialogue file often provided narrative descriptions of crime as well as the reason(s) why the victim sought dialogue. I transcribed these descriptive paragraphs into a word processing file for later analysis. The transcribed narratives and descriptions of victim motivations for seeking dialogue netted 22 pages of text. Information contained in the OVS dialogue files, including textual descriptions, is invaluable in addressing my hypotheses and research questions. In the following section, I restate my research hypotheses and research questions, and provide operational definitions.

Data Collection

As noted in my review of literature, the data on the use of restorative processes in felony cases is limited to a few studies. Moreover, the research that has been compiled deals almost exclusively with completed dialogues and, primarily, participant satisfaction with those dialogues. The current research will begin the process of discovering and understanding both the differences and similarities between completed dialogues and those that will never reach mediated dialogue. Umbreit et al. (2003) found offender and victim VOD participants in Ohio and Texas had overwhelmingly high satisfaction overall and satisfaction with their preparation. Owing to the scarcity of extant research on the use of restorative dialogue in felony cases, my research presents a limited number of hypotheses. In the next section, I state my research hypotheses, pose research questions, and operationally define my terms.

Hypotheses

H1: Victim Offender Dialogue (VOD) case files where the offender is White will be more likely to complete dialogue than VOD case files where the offender is non-White.
Gehm (1990) found victim offender dialogues where the offender was White were significantly more likely to complete dialogue than cases where the offender was Black or Hispanic. Additionally, Wyrick and Costanzo (1999) found that White and Hispanic offenders were more likely to participate in dialogue than all other races. Gehm’s (1990) study, however, lacked high numbers of minority offender participants. Of the 212 total cases collected, nearly three-quarters White offenders (N = 137), one quarter Black offenders (N = 48), and only one offender identified as Hispanic.

H2a: The more time that passes between the date on which the crime(s) were committed and initiation of the dialogue file, the more likely files involving at least one personal crime will complete dialogue.

H2b: The more time that passes between the date on which the crime(s) were committed and initiation of the dialogue file, the less likely files involving solely property crimes will complete dialogue.

While there have been conflicting data presented on the effect of crime type on participation (Gehm, 1990; Kilchling, 1998), Wyrick and Costanzo (1999) found an interaction effect for time and crime type. In the case of property crimes (e.g., theft, arson), time played a mitigating role on participation; however in the case of personal crime (e.g., homicide, assault) time played an aggravating role.

Research Questions

In addition to my hypotheses, I will use the OVS archived file data to explore a number of pertinent research questions. Because so few studies have explored the nature of initiated but never completed dialogue files, answering these research questions should help to build an understanding of the factors that may facilitate or frustrate dialogue completion.
My first research question focuses on the reasons victims state for seeking participation in dialogue. Victims report their two main reasons for participating are to know why the offender committed the crime and to communicate the harm of that crime (Rugge & Cormier, 2005). Rugge and Cormier gathered these data from a dialogue program similar to OVS; it also dealt with dialogue as a response to serious crimes (i.e., sexual assault, robbery). However, unlike OVS data, Rugge and Cormier’s interview results were obtained post-dialogue, making it impossible to determine whether victim participants adjusted their reasons for participation in response to their actual experiences in dialogue.

RQ1: What are the reasons why victims or interested parties seek participation in Ohio’s victim offender dialogue (VOD) program?

The next research questions to explore differences in completion rates based on the demographic characteristics of the crime victim and the relationship between victim and offender. I constructed the last research question to examine the possible impact of different stated reasons for dialogue.

RQ2: Are there differences in the dialogue completion rates with regard to victim sex?

RQ3: Are there differences in the dialogue completion rates with regard to the relationship between victim and offender?

RQ4: Are there differences in the dialogue completion rates with regard to the party who is seeking dialogue?

RQ5: Are there differences in the dialogue completion rates with regard to the interested party’s stated reasons for seeking dialogue?
Definitions

First, OVS separates records into completed and will-not-proceed files. I define Completed files as those files that have resulted in face-to-face dialogue between offender and either the victim or another party affected by the crime(s). I define Will-not-proceed files as those files that are no longer active and will proceed no further toward victim/offender dialogue.

Second, I will use the Ohio Department of Rehabilitation and Correction (ODRC) classification for offenders’ race whenever possible. Thus, White offenders are defined as those offenders whose ODRC file records them as White. Black offenders are defined as those offenders whose ODRC file records them as Black. Hispanic offenders are defined as those offenders whose ODRC file records them as Hispanic.

Third, unless otherwise stated, I present all measurements of time in months. Where available, I will also determine the date of birth of offenders by ODRC records. ODRC records also list the date of the crime, primarily from crime summary reports contained in OVS dialogue files. The date OVS received the initial inquiry from either the crime victim or other party determines the date of initiation. I define the date completed in the case of completed files as the date dialogue occurred or, in the case of will-not-proceed files, as the last day OVS made or attempted contact with a participant.

Fourth, personal crimes are defined as those crimes that involve the death or physical injury of one person due to the actions of another. For this research, personal crimes include crimes such as murder, voluntary manslaughter, involuntary manslaughter, vehicular homicide, rape, gross sexual imposition (GSI), and assault. I define Property crimes as those crimes where the only injury is the loss or damage of physical property. Examples of property crimes would include theft, robbery, and arson.
I define reasons for dialogue as the reason either victims or another party interested in dialogue provide as recorded in the OVS dialogue files. Typically, these are present in textual form. The relationship between victim and offender is defined as the articulated, identifiable social status of the victim in relation to the offender prior to the crime. This relationship may be parent/child (e.g., father/daughter, step-mother/step-son), other biological family (e.g., uncle/niece, grandmother/grandson), social (e.g., lovers, friends), work (e.g., employer/employee), religious (e.g., priest/parishioner), or school (e.g., teacher/student).

Finally, I define the party seeking dialogue as the primary individual who has initiated the dialogue file. This person may be the offender’s direct crime victim. However, this is not always the case. Other parties seeking dialogue include parents, spouses, siblings, children, other biological family members, and other non-family individuals.

Data Compilation and Analysis

Data were entered, collated, and analyzed from the archived OVS dialogue files using the Statistical Package for the Social Sciences (SPSS) software. I entered data from each record as a new case and completed 212 total cases. I assigned names, labels, and appropriate scale, interval, and nominal designations to each variable. I coded missing data and excluded these data from subsequent statistical analyses unless otherwise noted. I reviewed the data record to correct for mistakenly entered or otherwise implausible information.

Many of OVS’s dialogue files contain textual narrative descriptions of why the victim or interested party seeks the dialogue. Three independent coders analyzed and coded the narrative descriptions of reason for dialogue as containing an explicitly stated reason or not. Those descriptions containing explicitly stated reasons were subsequently coded using a fourteen-category code. Inter-coder reliability, based on three independent coders, was established using
intra-class correlation (ICC). This measure of inter-coder reliability is similar to Cohen’s Kappa and approaches 1.0 where there is no variance in the items coded. Based on a random selection of judges and a random selection of OVS file narrative data, ICC attained a correlation measure of .978, indicating sufficient inter-coder agreement.

Finally, I conducted chi square tests in order to identify statistically significant differences between those files that had completed dialogue and those that will-not-proceed. Unless otherwise noted, all significance levels are set at $\alpha = .05$. 
CHAPTER IV

RESULTS

This chapter contains the data compilation and statistical analyses for this research. I collected data from archived restorative dialogue files. Ohio’s Office of Victim Services (OVS) collected the files as part of their victim-offender dialogue program. First, is a descriptive summary of dialogue file data. The second section contains the results of my hypothesis tests. The results of my research questions are in the third and final section of this chapter.

Population and Sample

The Ohio Department of Rehabilitation and Correction (ODRC) established Office of Victim Services (OVS) dialogue program in 1996 (Umbreit, Greenwood, Schug, Umbreit, & Fercello, 2000). In 1999, the OVS dialogue program trained 33 volunteer dialogue facilitators from within and outside ODRC (Umbreit, Bradshaw, & Coates, 2003). The population of archived dialogue files spans from 1996 to 2008. In this time, OVS has processed 349 individual dialogue cases. As stated earlier, these files are designated completed, will-not-proceed, death row, or in progress.

I drew a sample of cases (N = 212) from the archived dialogue cases. This sample consisted of both completed and will-not-proceed files. The majority of files (75%) were will-not-proceed files; in these files, the dialogue process had been halted at some point prior to dialogue completion. Of the will-not-proceed files, 25% contained no explanation as to the reason why the dialogue process stopped. In 20% of cases, the offender refused to proceed outright. In nearly 13% of cases, the victim refused to continue the process. Interestingly, in just over 15% of cases, the dialogue process failed because of a loss of contact with the victim. This included instances where the victim moved, changed phone number, or did not return OVS calls.
In 9.5% of cases, OVS deemed the victim request for dialogue inappropriate. This may have been because the victim was under 18 at the time of the request, the victim wanted to use the dialogue for something other than what it was intended or, the Department of Rehabilitation and Corrections (DRC) judged the offender to be not ready for dialogue. Other reasons for will-not-proceed status included: the offender denied guilt (4.4%), the offender was already out on parole (4.4%), and the victim was satisfied with less than dialogue (5.7%). Table 1 provides a summary of these results.

Table 1

<table>
<thead>
<tr>
<th>Stated Reason for Will-Not-Proceed Dialogue Status</th>
<th>n</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>Unknown/ Not Stated</td>
<td>39</td>
<td>24.7</td>
</tr>
<tr>
<td>Offender Says “No”</td>
<td>32</td>
<td>20.3</td>
</tr>
<tr>
<td>Loss of Contact with Victim</td>
<td>24</td>
<td>15.2</td>
</tr>
<tr>
<td>Victim Says “No”</td>
<td>20</td>
<td>12.6</td>
</tr>
<tr>
<td>Inappropriate Request</td>
<td>15</td>
<td>9.5</td>
</tr>
<tr>
<td>Victim Satisfied with less than Dialogue</td>
<td>9</td>
<td>5.7</td>
</tr>
<tr>
<td>Offender on Parole</td>
<td>7</td>
<td>4.4</td>
</tr>
<tr>
<td>Offender Denies Guilt</td>
<td>7</td>
<td>4.4</td>
</tr>
<tr>
<td>Other</td>
<td>5</td>
<td>3.2</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>158</td>
<td>100.0</td>
</tr>
</tbody>
</table>

*Demographics.* Results indicated that nearly three of four offenders are White (73%); one quarter of offenders are Black (26%). In my sample, there were only seven female
offenders. Offenders had a mean age of 31.15 years ($SD = 10.48$) at the time they were incarcerated. Results further indicate offenders have served an average of 8.1 years ($SD = 6.05$) before dialogue is initiated. Neither victim age nor race can be determined from OVS files. However, it is possible to identify victim gender and number. A sole female is the victim in 57% of cases; OVS files identify multiple females as the victims in a further 3% of files. An individual male is the crime victim in 35% of cases. Finally, a mixed gender group is the victim in slightly less than 4% of cases.

Additionally, results indicated individuals other than the direct crime victim initiate the dialogue file the majority of the time (58%). Further, when a non-victim initiates a dialogue file, it is a parent of the victim almost 47% of the time. The victim’s child initiates 26% of dialogue files; a victim’s sibling initiates in nearly 11% of files. Finally, a victim’s spouse initiates dialogue in just over 6% of the cases. Table 2 presents these results.

Table 2

*Descriptions and Frequencies of Non-victim Dialogue File Initiators*

<table>
<thead>
<tr>
<th>Party Interested in Dialogue</th>
<th>$n$</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>Parent of Victim</td>
<td>53</td>
<td>46.5</td>
</tr>
<tr>
<td>Child of Victim</td>
<td>30</td>
<td>26.3</td>
</tr>
<tr>
<td>Sibling of Victim</td>
<td>12</td>
<td>10.5</td>
</tr>
<tr>
<td>Spouse of Victim</td>
<td>7</td>
<td>6.1</td>
</tr>
<tr>
<td>Other Relative</td>
<td>5</td>
<td>4.4</td>
</tr>
<tr>
<td>Other Non-Relative/ Friend</td>
<td>2</td>
<td>1.8</td>
</tr>
<tr>
<td>Unknown</td>
<td>5</td>
<td>4.4</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>114</td>
<td>100.0</td>
</tr>
</tbody>
</table>
Victim-offender relationship. Dialogue files indicated the victim and offender had some type of identifiable relationship prior to the crime in 51% of cases. In the files where there was an identifiable relationship prior to the crime, 43% of crimes committed were sexual in nature (e.g., rape, gross sexual imposition). Crimes in cases where victim and offender had no identifiable relationship largely included involuntary manslaughter (28%) and theft (28%). Where there was an identifiable relationship, parental relationships (e.g., parent/child, step-parent/step-child) made up 37% of cases. Files identify an additional 38% of relationships as primarily social (e.g., lovers, friends). Finally, just over 17% of victims and offenders have some other family relationship. Table 3 summarizes these results.

Table 3

<table>
<thead>
<tr>
<th>Relationship</th>
<th>n</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>Friend/ Social</td>
<td>38</td>
<td>38.4</td>
</tr>
<tr>
<td>Parent/Child</td>
<td>37</td>
<td>37.4</td>
</tr>
<tr>
<td>Other Family</td>
<td>17</td>
<td>17.2</td>
</tr>
<tr>
<td>Work Acquaintance</td>
<td>2</td>
<td>2.0</td>
</tr>
<tr>
<td>Religious Acquaintance</td>
<td>3</td>
<td>3.0</td>
</tr>
<tr>
<td>School Acquaintance</td>
<td>1</td>
<td>1.0</td>
</tr>
<tr>
<td>Other Relationship</td>
<td>1</td>
<td>1.0</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>99</td>
<td>100.0</td>
</tr>
</tbody>
</table>
In the sample, offenders were serving time for 253 crimes total. Sexual crimes comprised nearly one-third of all crimes committed; this included 23% rape and 10% gross sexual imposition. Almost 30% of crimes resulted in death. This included 13% murder, 5% voluntary manslaughter, and 12% involuntary manslaughter. Property crimes such as arson and theft account for a further 14% of all crimes.

In the following section, I present the results of my hypothesis tests. I had two hypotheses in this research. In the final section, I include my research question analysis. Alpha level was set at .05 for all tests of significance.

Hypothesis Testing

The first hypothesis stated: Victim Offender Dialogue (VOD) case files where the offender is White will be more likely to complete dialogue than VOD case files where the offender is non-White. Owing to the demographic breakdown of the dialogue files, I grouped all non-White offenders together. A Chi square was conducted to determine whether White offenders were more likely to complete dialogue than non-White offenders. The results of the test were not significant \( \chi^2 (1, N = 139) = .100, p = .752 \). This result indicated offenders, with regard to race, were equally likely to complete dialogue. Hypothesis one was not supported.

The second hypothesis concerned the relationship of time and type of crime with regard to dialogue completion. I split Hypothesis two into two parts, bifurcated into personal crimes and property crimes. The first part of Hypothesis two stated: the more time that passes between the date on which the crime(s) were committed and initiation of the dialogue file, the more likely files involving at least one personal crime will complete dialogue. I conducted a Fisher’s exact test on collapsed time categories in order to test association between time and dialogue completion (see Table 4). This test is a conservative version of the Chi square test for
categorical variables. The test was not significant, $\chi^2 (6, N = 118) = 2.89, p = .845$. This result indicated that dialogue completion rates in cases of personal crime do not significantly differ with regard to time.

Table 4

*Personal Crime Dialogue File Completion Rates by Time Category*

<table>
<thead>
<tr>
<th>Years</th>
<th>Time Category</th>
<th>$n$</th>
<th>% Completing Dialogue</th>
</tr>
</thead>
<tbody>
<tr>
<td>0 – 1.99</td>
<td>1</td>
<td>17</td>
<td>17.65</td>
</tr>
<tr>
<td>2.00 – 3.99</td>
<td>2</td>
<td>16</td>
<td>37.50</td>
</tr>
<tr>
<td>4.00 – 5.99</td>
<td>3</td>
<td>17</td>
<td>17.65</td>
</tr>
<tr>
<td>6.00 – 7.99</td>
<td>4</td>
<td>22</td>
<td>27.27</td>
</tr>
<tr>
<td>8.00 – 9.99</td>
<td>5</td>
<td>11</td>
<td>27.27</td>
</tr>
<tr>
<td>10.00 – 13.99</td>
<td>6</td>
<td>16</td>
<td>18.75</td>
</tr>
<tr>
<td>14.00 – 27.99</td>
<td>7</td>
<td>19</td>
<td>21.05</td>
</tr>
<tr>
<td>Totals</td>
<td>118</td>
<td></td>
<td>23.73</td>
</tr>
</tbody>
</table>

The latter part of Hypothesis two stated: the more time that passes between the date on which the crime(s) were committed and initiation of the dialogue file, the less likely files involving solely property crimes will complete dialogue. The frequency of crimes in OVS files revealed property crimes comprised only 7% of the total crimes committed ($N = 15$). While this statistic might not preclude testing the second part of Hypothesis two, subsequent analyses revealed an interesting trend. Offenders who had committed personal crimes spend between 1 and 27 years waiting for dialogue to begin. An offender who had committed solely property crimes spent between one and six years waiting for dialogue initiation. Thus, files involving property crime had a small range of time waiting for dialogue compared to files involving
personal crimes. Further, the OVS data set contained only a small number of solely property crimes. Due to the lack of observations and the narrow range of years, this hypothesis was not tested.

**Research Questions**

I developed five research questions that would help guide the analysis of OVS dialogue files. The first asked: what are the reasons why victims or interested parties seek participation in Ohio’s victim offender dialogue (VOD)? Where previous research found two over-riding reasons why victims seek dialogue (desire to know why the crime was committed and, desire to communicate the harm of the crime), analysis of OVS dialogue files yielded 14 different reasons for dialogue. Notably, 30% of dialogue files contained no explicitly stated reason.

Previous research identified two reasons present in this sample, as well. The desire to ask *why* was the most frequently stated reason (24%). Regarding the second reason however, our coders did not make a distinction between victims who wanted to communicate the harm of the crime (e.g., never see my dad again, miscarried baby) and victims who wanted to communicate the positive outcomes of the crime (e.g., closer to mom now, am a stronger person). Coders categorized both these types of statements as communicating the *impact* of the crime. These statements account for 11% of the reasons victims state for seeking dialogue.

Other reasons included the desire to forgive or express forgiveness (11%), to ask *what happened* types of questions (12%), and the desire for closure, healing, or to move on (11%). Just over 6% of victims wanted to know how the offender was doing in prison (e.g., is he doing ok, are the classes helping him). Nearly 9% stated they had some additional questions for the offender, which ask neither what happened nor why the offender did it. Victims also wanted to know if the offender was sorry or remorseful in nearly 7% of cases. The other reasons included
a desire to visit the offender (2%), to stop others from committing similar crimes (1%), or to alleviate fear of the offender (3%). Finally, 4% of victims wanted a relationship, an apology, or a confession from the offender. Table 5 presents a summary of these results.

Table 5

*Frequencies and Stated Reasons for Seeking Dialogue*

<table>
<thead>
<tr>
<th>Reason</th>
<th>Example(s)</th>
<th>n</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>-To Ask <em>Why</em>-type Questions</td>
<td>“Wants to know why the crime was committed,”</td>
<td>50</td>
<td>23.5</td>
</tr>
<tr>
<td></td>
<td>“Wants to see him and ask ‘why’.”</td>
<td></td>
<td></td>
</tr>
<tr>
<td>-To Ask <em>What Happened</em>-type Questions</td>
<td>“Wants to know what really happened”, “Wants to know where her cousin’s body is.”</td>
<td>25</td>
<td>11.7</td>
</tr>
<tr>
<td>-To Forgive/ Offer Forgiveness</td>
<td>“…has been thinking about forgiving the inmate.”</td>
<td>24</td>
<td>11.3</td>
</tr>
<tr>
<td></td>
<td>“…wants to forgive him, but not the act of the crime.”</td>
<td></td>
<td></td>
</tr>
<tr>
<td>-To Get Closure/ Healing/ To Move On</td>
<td>“Does not want to harbor bitterness toward defendant.”</td>
<td>24</td>
<td>11.3</td>
</tr>
<tr>
<td>-To Communicate the Crime’s Impact</td>
<td>“Victim wants to let him know what he did to her,” “She also wants to tell him how much he hurt her.”</td>
<td>23</td>
<td>10.8</td>
</tr>
<tr>
<td>-To Ask General Questions</td>
<td>“She just wants to ask him some questions.”</td>
<td>19</td>
<td>8.9</td>
</tr>
<tr>
<td>Reason</td>
<td>Example(s)</td>
<td>$n$</td>
<td>%</td>
</tr>
<tr>
<td>--------------------------------------------</td>
<td>---------------------------------------------------------------------------</td>
<td>-----</td>
<td>-----</td>
</tr>
<tr>
<td>-To Ask if the Offender is Sorry/Remorseful</td>
<td>“Wants to know…how he feels about what he did.”</td>
<td>14</td>
<td>6.6</td>
</tr>
<tr>
<td>-To Ask How the Offender is Doing</td>
<td>“She wants to know if he is getting help.”</td>
<td>13</td>
<td>6.1</td>
</tr>
<tr>
<td></td>
<td>“…interested in mediation session with offender so as to know his state of mind.”</td>
<td></td>
<td></td>
</tr>
<tr>
<td>-To Alleviate a Fear of the Offender</td>
<td>“She wants to know if defendant will harm her,” “Thinks that dialogue will help her feel safe.”</td>
<td>6</td>
<td>2.8</td>
</tr>
<tr>
<td>-To Establish Regular Visitation</td>
<td>“Wants to be able to visit.” “Victim to begin visitation with husband.”</td>
<td>5</td>
<td>2.3</td>
</tr>
<tr>
<td>-To Establish/ Maintain a Relationship</td>
<td>“Wants to meet with him because he is her dad.” “…wants to see him because she likes him.”</td>
<td>4</td>
<td>1.9</td>
</tr>
<tr>
<td>-To Get an Apology</td>
<td>“Wanted offender…to write letters of apology.”</td>
<td>3</td>
<td>1.4</td>
</tr>
<tr>
<td>-To Get a Confession</td>
<td>“Wanted offender to admit to what he had done…”</td>
<td>2</td>
<td>0.9</td>
</tr>
<tr>
<td>-To Stop Others From</td>
<td>“…would like to be able to stop kids from choices like [offender].”</td>
<td>1</td>
<td>0.5</td>
</tr>
</tbody>
</table>

| Totals                                    |                                                                           | 213 | 100.0 |

Table 5 (continued).
The second research question concerned differences in the dialogue completion rates with regard to victim gender. I combined case files involving multiple females with cases involving lone female victims. Similarly, I combined cases involving multiple males with cases involving lone male victims. I conducted a chi square test to determine whether files involving female victims were more likely to complete dialogue than files involving male victims. The results of the test were significant $^2 (1, N = 185) = 7.696, p = .006$. This indicates that, in fact, crimes involving male victims are more likely to complete dialogue than those crimes involving female victims.

Research questions three and four both dealt with the relationship of the victim or party seeking dialogue and the offender. The first of these two questions concerned differences in the dialogue completion rates with regard to the relationship between victim and offender. I conducted a chi square test to determine whether victims who had a prior identifiable relationship with their offender were more likely to complete dialogue than victims who had no prior identifiable relationship were. The results of the test were significant $^2 (1, N = 146) = 17.628, p < .001$. This result indicates that victims who had a relationship with their offender prior to the crime were significantly less likely to complete dialogue than those victims who did not know their offender prior to the crime.

Next, research question four focused on differences in the dialogue completion rates with regard to the party seeking dialogue. This research question examined differences depending on who initiated dialogue, the actual crime victim or a non-victim interested party (e.g., parent, spouse, child). I conducted a chi square test to determine if victims seeking dialogue are more likely to complete dialogue than non-victims are. The test was significant $^2 (1, N = 198) =$
6.734, \( p = .009 \) and indicates that non-victim parties are more likely to complete dialogue than actual crime victims are.

In the final research question, I sought to identify differences in the dialogue completion rates with regard to the interested party’s stated reasons for seeking dialogue. I tested this research question using two different logistic models. Neither model was significant. The first included those files where no reason for the dialogue was stated, \( \chi^2 (8, N = 285) = 11.60, p = .170 \). The second test excluded those files where there was no reason provided, \( \chi^2 (7, N = 192) = 11.20, p = .130 \). These tests indicate that, regardless of the reason(s) why victims seek dialogue, rates of completion are not significantly different.

In this chapter, I presented the statistical results of my hypothesis tests and research questions. In the next chapter, I will discuss the implications of these results. The discussion will focus on three areas. First, the results will be used to help illuminate details of restorative justice applications. Second, the data analysis should provide insight into OVS practices and areas for improving service to crime victims. Finally, my discussion will focus on the areas where communication scholarship might inform restorative dialogue practitioners.
CHAPTER V
DISCUSSION

Archived data analysis of Ohio’s Office of Victim Services (OVS) dialogue program yielded a number of intriguing results. The analysis of these dialogue files provides a hitherto unexplored avenue in the research of communication in the context of restorative mediations. Thus, the results provide both an insight into Ohio’s dialogue program and data to be regarded in future restorative justice research. First, the descriptive analyses of the dialogue files provide a glimpse into the operation and composition of Ohio’s OVS. Second, the hypothesis tests offer some results contradictory to research previously published. Finally, the exploratory nature of my research questions has led to identification of notable differences between completed dialogue files and those that will-not-proceed. In this chapter, I will discuss the results of my research, paying particular attention to both their heuristic potential and their place within restorative justice and communication literature. In the first section, I will discuss descriptive analyses of completion rates, offender time served, dialogue file initiation, and type of crime.

Descriptive Analyses

Completion rates. At the outset of this research, OVS Director Karin Ho explained that comparably few initiated dialogue files complete face-to-face dialogue. While typical victim participation rates range from 40% to 60%, analysis of the archived dialogue files reveals only one quarter of initiated OVS files complete dialogue (Bradshaw, Roseborough, & Umbreit, 2006; Umbreit et al., 2006; Umbreit et al., 2004). One reason so few initiated files do not complete dialogue may be due to OVS’s focus on felony crime. Results indicate twenty percent of offenders refuse to participate outright. Further, 13% of victims eventually refuse continued participation in dialogue. This means that one-third of will-not-proceed files attain that
designation due to refusal by either the victim or the offender. It is possible the reason Ohio’s dialogue program suffers from such low rates of dialogue completion is due to the initial severity of the crime and the subsequently long process of preparing participants for dialogue. I would like to make note of two additional findings regarding dialogue completion.

First, 25% of will-not-proceed files contain no reason for the dialogue’s failure to proceed. Lack of documentation may account for this observed result. Alternatively, it may be that the initial victim inquiry was incompatible with OVS goals (e.g., the victim inquiring was under 18, their goal was establishing visitation). Regardless, the file records do not note these distinctions. It is clear that more diligent and thorough file completion would lead other investigations and OVS stakeholders to a clearer picture of the reasons for dialogue failure.

Second, in almost 6% of files victims are satisfied with some level of victim-offender communication that is not face-to-face dialogue. This might include a letter exchange, a distance videoconference, or the relay of information via dialogue facilitators. Ohio’s dialogue program claims to be a victim-centered program that emphasizes empowerment and victims’ narratives (Umbreit, Bradshaw & Coates, 2003). Thus, I am curious why this subset of dialogue files is designated will-not-proceed rather than completed. It seems that in these cases, where the victim is satisfied with something like a letter exchange, OVS should consider the file complete. While OVS may have the goal of face-to-face dialogue, some victims clearly have different goals and can be satisfied with victim-offender communication that does not involve face-to-face dialogue. I find the practice of designating this subset of files as will-not-proceed rather than complete to contradict OVS’s stated program focus.

*Offender time served.* Offenders have been incarcerated for an average of 8.1 years (SD = 6.05) at the time of initial dialogue inquiry. The time spent between incarceration and
initiation of dialogue is noteworthy for several reasons. First, the 8.1 years average does not take into account other periods of incarceration an offender may have already served. Therefore, an offender may have served time in prison on a number of other occasions, totaling well over 8.1 years. This statistic also indicates offenders typically have spent nearly a decade apart from society. This statistic provides a picture of an inmate who has had a fair amount of time to integrate into the institutional culture of the prison system. Second, this statistic indicates something about OVS’s typical victim participant. It suggests that dialogue is not typically the first step in a victim’s recovery process. Indeed, it may seem to some victims as their last option in processing the pain and grief of a crime. Some literature on trauma recovery states that trauma survivors use a host of methods and resources to cope including social support (Parappully, Rosenbaum, Van Den Daele, & Nzewi, 2002; Pearlin, 1982), God or religious faith (O’Leary, 1998; Pargament et al., 1988), disclosing feelings (Greenberg, Wortman, & Stone, 1996), and empowerment (Herman, 1992). Trauma sufferers can benefit from these each of these resources (Parappully et al., 2002). Whether OVS victim participants have engaged these resources is unknown. File analysis reveals victims deal with the implications of these felony crimes for an average of eight years before seeking out OVS. In that time, accessing other trauma recovery resources has not provided the victim with what they feel they need. OVS dialogue serves as an innovative resource to address these unmet victim needs.

**Dialogue file initiation.** Someone other than the direct crime victim initiates the majority (58%) of OVS files. Within this subset, parents of the victim initiate half (49%) of the files. These statistics have a number of implications for the understanding of restorative justice and OVS practices. First, restorative justice’s application to victim-offender mediations implies the coming together of victim and offender to deal reparatively with the aftermath of an offense.
However, in the case of OVS, the majority of cases do not involve the direct crime victim. This practice reaffirms the definition I suggest for restorative justice at the outset of my research: the theory and practice of interested stakeholders coming together to the greatest degree possible to deal reparatively with the present and future implications of an offense. Next, OVS stakeholders should consider the frequency with which parents of victims initiate dialogue files when it examines current practices and services. This might lead OVS to develop and foster relationships with victim support groups whose primary focus is on the loss of a child to violence, such as Parents of Murdered Children. With a greater awareness of who initiates dialogue, OVS will become better able to operate as a service to all those who suffer due to felony crimes.

*Type of crime.* OVS files often include a description of the crime from either the dialogue facilitator or police investigators’ reports. These reports allowed the identification of relationships between the incarcerated offender and the crime victim in 73% of files. There was a clear difference between the crimes committed by offenders who knew their victim prior to the crime and those that did not. In files where the victim and offender had a relationship, 43% of crimes were sex crimes (e.g., rape, gross sexual imposition). In files where there was no identifiable relationship, crimes were largely involuntary manslaughter (28%) and theft (28%). Furthermore, nearly two-thirds of all crimes are either sex crimes (33%) or crimes that result in a death (30%). This statistical breakdown of crimes contradicts previously published research, which reported 57% dealt with homicide (Umbreit et al., 2003). Notably, that research sampled only 21 completed dialogues. Umbreit and colleagues’ narrow focus on completed dialogues provides an inaccurate representation of the actual state of the OVS dialogue program. I have provided a more comprehensive picture of OVS files. The data suggest OVS resources should
focus more on addressing the aftermath of sex crimes and crimes committed by persons known to the victim and less on homicides.

In summary, the impetus of this research was the discovery of low OVS rates of completion. Subsequent research revealed a host of interesting data that holds implications for restorative justice research and OVS operations. These results include the time offenders spend incarcerated until dialogue is initiated, who initiates the dialogue file, and the type of crime. In the next section, I consider my hypothesis tests and the implications of their results.

Hypothesis Tests

Hypothesis one. The first hypothesis concerned the effect of offender race on dialogue completion. I hypothesized that White offenders would be more likely to complete dialogue than non-White offenders would. The hypothesis was not supported. This result did not support research by Gehm (1990) or Wyrick and Costanzo (1999) who found differences in the frequency with which White offenders complete dialogue compared to some other non-White offenders.

The results of this hypothesis have muddied understanding of the effect of race on restorative dialogue completion. I am confident that my sample size affords me the ability to draw a valid conclusion about the effect of race on OVS dialogue completion. However, I am more hesitant to extend that claim to other restorative justice settings for a number of reasons. First, in my sample, nearly three-quarters (73%) of offenders were White. In addition, non-Black minorities were all but nonexistent. Without an adequate number of Latino, Asian, and other minority groups, drawing broad conclusions from the OVS dialogue files would be imprudent. Second, the OVS dialogue program focuses exclusively on severe crimes and felonies. This focus mitigates my results’ applicability to other less intense programs. These
facts temper Hypothesis one’s external applicability. Additionally, I would have liked to compare offender and victim race in an effort to determine whether participants of concordant race would complete dialogue with higher frequency than those of discordant race. Unfortunately, the archival nature of this research prevented such an analysis.

_Hypothesis two._ Hypothesis two examined differences in dialogue completion rates with regard to time and type of crime. My hypothesis stated that as the time interval between the date the crime was committed and the date the file was initiated the completion rates of personal crimes would increase and, completion rates of property crimes would decrease. Neither the personal crimes nor the property crime component of this hypothesis was supported. My results do not support findings of Wyrick and Costanzo (1999). Those researchers found an interaction effect of time and type of crime on dialogue completion. Results of OVS file analysis show that rates of dialogue completion are generally stable over time. However, I was unable to test the effect of time on completion in cases of property crimes due to a lack of files involving solely property crime.

As it stands, my operationalization of time in hypothesis two is solely a function of the crime victim. I operationalized _time_ as the span of time from when the crime was committed until the date the dialogue file was initiated. OVS deals exclusively with victim-initiated files, thus only the crime victim can initiate a dialogue file. If I included input from both victim and offender participants in the measure of time, perhaps I would observe more variation in dialogue completion rates. Such a measure of time could potentially span from the date of the crime to the date when the file was terminated/dialogue completed. Alternatively, I could measure time from file initiation date to file termination/dialogue completion. Either of these alternative measures of time would minimally assure offender input.
As noted in the previous chapter, there is limited extant research on restorative dialogue in severe or felony cases. This is the primary reason for my limited number of hypotheses. However, neither Hypothesis one nor Hypothesis two was supported by the OVS data analysis. The results of my research indicate clearly that there is still much to learn about the application and practice of restorative dialogues in felony cases. In the next section, I consider my five research questions.

Research Questions

Research question one. With this research question, I sought to examine the reasons why victim participants in Ohio’s dialogue program desired dialogue with their offender. Previous research by Rugge and Cormier (2005) found victim participants claimed two predominant motivations for seeking dialogue: desire to ask the offender why, and a desire to communicate the harmful impact of the crime. In their research, Rugge and Cormier provide no breakdown for the proportions of these two reasons. Analysis of OVS dialogue files yielded 14 different reasons why victims sought dialogue. I also found that 30% of dialogue files contained no explicitly stated motivations for seeking dialogue. I will discuss three points regarding this research question. First, I will examine the difference between communicating harm and communicating impact. Next, I will consider why previous research claims only two reasons why victims seek dialogue and my OVS research found 14. Finally, I will describe some of the distinctive motivations found in OVS archived dialogue files.

First, I contend Rugge and Cormier (2005) may have missed an important component of individuals’ responses to trauma and adversity. When an individual experiences psychological or physical trauma, at least four responses are possible (Carver, 1998; O’Leary, 1998; O’Leary & Ickovics, 1995). Following the adverse event, an individual can succumb and continue a
downward slide. Second, an individual might *survive with impairment*. The individual rebounds but, with some decreased function. Third, an individual may experience *recovery*, a resumption of similar function as before the trauma. Finally, the fourth possibility is *thriving*. When an individual thrives, they go beyond mere recovery and exceed previous function (O’Leary & Ickovics, 1995). One example of an individual thriving after trauma might be a survivor of domestic violence who finds herself to be more empathetic and involved with social activism. A couple that has weathered a bout with cancer and becomes closer and more loving than before the initial diagnosis can also be construed as thriving.

It is possible Rugge and Cormier’s (2005) sample did not include any victim participants who had experienced thriving. It is also possible that the impacts of a crime were unilaterally designated *harm*. In my research on OVS dialogue files, I found both victims motivated by the desire to communicate the hurt a crime caused; and victims motivated to communicate the positive, beneficial consequences of crime. For example, one file includes a victim stating she “wants to face him and ask why he did it, and to tell him it made her stronger.” Additionally, some files contain records of comments that we could classify as neither positive nor negative (e.g., she wants to be able to talk to him about her life now). Regardless of whether the victim considered the aftermath of crime to be positive or negative, both these motivations indicate a desire to communicate the impact of an offender’s actions. The desire to communicate the impact of crime accounted for 11% of the stated reasons for dialogue.

The second difference between previously published research and my OVS analysis is the number of reasons victims state for seeking dialogue. Rugge and Cormier (2005) claim a second victim motivation: the desire to know *why*. My research confirms this reason is also present in almost one-quarter (24%) of OVS files. Unlike Rugge and Cormier, however, I found victims
interested in dialogue express a broader range of questions than merely *why* questions. For example, in 12% of files, victims express a desire to know *what happened*. These questions typically concern events surrounding the crime, the victim’s last words, or questions that the trial and other criminal justice procedures did not address. For example, “Victim wants to know was there a set-up by the girlfriend,” or “…who did the stabbing and how many people were present.” An additional 9% of files contained other questions that I could not classify as either *why* or *what happened*. In one case, the victim expressed a desire to know whether the burglary was an attempt to force her to move.

One reason for the diversity of recorded OVS victim motivations for dialogue might be the point when they were collected. While Rugge and Cormier (2005) apparently collected their victim interviews post-dialogue, OVS dialogue facilitators likely collected victim reasons for seeking dialogue during initial phone interviews. This distinction is noteworthy because it is possible that Rugge and Cormier’s participants adjusted their stated motivations for entering dialogue based on their actual experiences in dialogue. OVS file initiators, however, are unencumbered by the experience of participation. Their responses, when asked the reason for seeking dialogue, are unaffected by the dialogue experience. It seems possible that Rugge and Cormier’s participants would have had just as diverse a selection of motivations for participation as OVS participants *prior* to dialogue. However, after dialogue how they felt about the dialogue experience might temper their subsequent responses. I am not altogether certain Rugge and Cormier’s participants could respond to a question about their motivations for seeking dialogue *without* considering their seemingly recent dialogue participation. Unfortunately, due to design differences it is not possible to verify this claim.
Another possible explanation for the 14 categories I found lies with sheer sample size. Rugge and Cormier (2005) describe the results of their exploratory study without noting sample size. Even given 30% of OVS files contain no explicitly stated reason why the victim sought dialogue, my analysis simply may have contained a greater number of cases. The large number of cases could account for the comparatively high number of different reasons found. However, if this were the case, I would expect OVS files predominantly to contain the two reasons Rugge and Cormier assert. Combined, these two reasons account for only 35% of OVS stated reasons for seeking dialogue.

Third, my analysis uncovered several unexpected motivations for dialogue. In 11% of files, the victim expressed a desire to communicate forgiveness. For example, “father has been thinking about forgiving the inmate and thinks it is the Christian thing to do,” or “she has forgiven him and wants to move on.” Some of the literature surrounding trauma recovery might help explain this motivation. This research describes individuals who display psychological resiliency and thriving after trauma as having a strong reliance on faith (Hood, Spilka, Hunsberger, & Gorsuch, 1996; O’Leary, 1998) and as developing a greater openness and interest in faith and spirituality (Calhoun & Tedeschi, 1998; Parappully et al., 2002). Further, it may be that individuals connect the Judeo-Christian ethic of forgiving one’s enemy as part of their problem-solving process when faced with the aftermath of crime (Pargament; 1996; Pargament et al., 1988).

Perhaps connected to the desire to forgive, was a focus on offender sorrow or contrition. In 7% of OVS files, victims wanted to know if the offender was sorry or remorseful for committing the crime. It seems that in these cases, victims are interested in knowing whether an
offender appropriately feels bad for committing the crime, perhaps as a precursor to forgiveness. A remorseful offender seems to be more easily forgiven than a recalcitrant one.

Research question two. My second research question examined whether rates of dialogue completion vary with regard to victim sex. The test of RQ2 was significant. Crimes involving male victims are significantly more likely to complete dialogue than those crimes involving female victims. This is an interesting finding regarding sex differences in crime victims. Certain criminology literature concerning re-victimization may provide an explanation for this result. Recall that 10% of files OVS or Department of Corrections personnel deem to be inappropriate. Sometimes dialogues end because the victim interested in dialogue is still less than 18 years old. Sometimes the dialogue process stops because DRC officials cannot guarantee civil participation from the offender while in victim-offender dialogue. Research has shown an offender who has a high level of intimacy with a victim is more likely, deliberately, to target that victim for a subsequent attack (Dugan & Apel, 2005). Women, in particular, are more likely to be subject to an offender’s deliberate targeting. Notably, women who share a close relationship with their offender are more likely to attract subsequent offender retaliation after attempting to limit exposure to that offender (Dugan & Apel, 2005). In these cases, where limiting exposure actually leads to increased attractiveness in the eye of the offender, what may be necessary is increased advocacy for appropriate and safe application of restorative dialogues.

This result of RQ2 may also be due, in part, to the high percentage of cases involving sex crimes. Women are more likely to be victims of sex crimes than men are, and one-third of OVS files deal with sex crimes. It is possible this observed sex difference in completion rates is due to substantially lower rates of dialogue completion in sex crime cases. Further, the vast majority of offenders in my sample are male. Potentially, the sex of the offender could play a role regarding
with whom they will engage in dialogue. In order to test this, I would need to compare my overwhelmingly male sample of offenders with a suitable sample of predominantly female offenders. Unfortunately, this is a sample neither OVS nor I have at this time.

Research questions three and four. The third and fourth research questions deal with the relationships between victims and offenders and how those relationships affect dialogue completion. The results of these questions help strengthen the argument for communication researchers to further involve themselves into restorative justice literature. Research question three tested whether victims who had a prior identifiable relationship with their offender would be more or less likely to complete dialogue. Gehm (1990) suggests the nature of a victim and offender’s first meeting may influence dialogue participation. I found that those victims who had a prior relationship with the offender were less likely to complete dialogue than those victims without such a relationship were.

Research question four considered dialogue completion rates with respect to the individual (victim or non-victim) seeking dialogue. Results indicate a file initiated by a non-victim was significantly more likely to complete dialogue than one begun by the actual crime victim. Since both question three and four deal fundamentally with participant relationship differences, I will consider their connection to relational communication. Relational communication messages are typically targeted at a specific individual, focus on dyadic interaction, and involve a number of interdependent themes, including intimacy and dominance (Burgoon & Hoobler, 2002). The results of both RQ3 and RQ4 directly connect to the relational communication concepts of dominance, intimacy, and conflict.

First, relationships have both horizontal and vertical elements (Burgoon & Hoobler, 2002). The vertical element is representative of the relational concept of dominance.
Dominance is the actual behavior by which a person demonstrates power and influence over another (Berger, 1994). Components of dominance include displays of aggressiveness, threat, strength, persuasiveness, dynamism, and self-control (Burgoon & Hoobler, 2002). When it comes to OVS mediated dialogues and most victim-offender mediations, the offender gets the choice of whether or not to participate. If they do voluntarily participate, they must abandon aggressiveness, threats, and strong-arm dominance strategies. In their relationship with the victim, the offender must adopt a subordinate role. In the dyad, the victim participant is arguably the more dominant individual. For instance, the victim successfully persuades the offender to participate in dialogue. Further, victims must display a phenomenal kind of self-control when they come face-to-face with the offender who raped them, murdered their father, or left them in a wheelchair. Both persuasiveness and self-control are dominance behaviors. Perhaps when faced with being subordinate, offenders reject dialogue with individuals with whom they share a high level of relational closeness. Instead, they opt to participate with victims with whom they share no previous relationship or, better yet, with someone only related to the victim.

Second, intimacy is the relational distance between individuals or, the degree to which they participate in each other’s lives (Michalski, 2004). Intimacy is the horizontal element of an interpersonal relationship and typically includes messages of affection, trust, and inclusion (Burgoon & Hoobler, 2002). Individuals who exchange high numbers of these types of messages and have high levels of empathy and rapport have a higher degree of intimacy (and therefore a decreased amount of relational distance). Intimacy and distance share a single continuum in communication research. However, distance is not simply the absence of intimate messages and behaviors. Distance is the “presence of factors that create a noticeable rift in an ongoing relationship” (Hess, 2003, p. 198). These factors include unfriendly actions
characterized by negative, anti-social intentions and withdrawal actions comprised of avoiding intimate topics, and nonimmediacy (Hess, 2003). OVS files indicate that 37% of identifiable relationships are parental (e.g., parent/child, step-parent/step-child), 38% are social (e.g., lovers, friends), and 17% have some other family relationship. Prior to the crime, these relationships likely had a relatively high level of intimacy and relational closeness compared to files where there was no identifiable relationship. Yet, these cases are less likely to complete dialogue than cases where there was no relationship. I suggest it is not simply a lack of intimacy but the presence of relational distance, which accounts for this result. Victims and offenders who had a relationship may well retain that same relationship, albeit distinctly altered from its pre-crime state. In sum, if distance is the presence of a rift between individuals who maintain a relationship, perhaps victims and offenders come to view the crime (and its accompanying emotions and memories) as a rift they cannot or should not bridge. In those cases where victim and offender had no identifiable relationship prior to the crime (i.e., a drunk-driver hits and kills someone), there is no prior intimacy, disclosure, or rapport between the individuals to complicate their now purely victim-offender relationship.

Offenders come into dialogue with either the crime victim or a non-victim who is somehow connected to the victim. Again, if offenders opt to participate with those with whom they have less relational intimacy, they will participate in dialogue with the non-victim. On an individual level, offenders might be choosing dialogue more frequently when their actual victim will not be present. However, it may also be that crime victims, when presented with facing their offender, are more likely to back out than would be a crusading family member. Thus, it may be the degree of relational complexity, intimacy, and distance that account for the results of both RQ3 and RQ4.
Third, it is possible that differences in dialogue completion rates found in research questions three and four are due to victim or offender conflict style. Conflict style refers to the general orientation of an individual in how they approach conflict (Daly, 2002; Oetzel, 1998; Oetzel et al., 2003). According to a typology based on dimensions of assertiveness and cooperation, there are five conflict styles: avoiding, accommodating, confronting, compromising, and collaborating (Rahim, 1983). Research has shown differences in self-partner perceptions of conflict style in heterosexual intimate relationships (Buunk, Schaap, & Prevoo, 1990). Misperceptions of other’s conflict style may hinder dialogue between such intimate partners participating in OVS dialogue. Further research has shown differences in the perceptions of self and others in mixed gender conflicts between intimates and non-intimates (Kluwer, Dreu, & Buunk, 1998). In cases of greater relational distance between victim and offender, (i.e., when there was no prior relationship, when a non-victim initiates dialogue) participants may be more likely to choose an accommodating or collaborative conflict style with that non-intimate other. In cases where there is a high degree of distance, characterized by both unfriendliness and withdrawal, participants may be more likely to adopt an avoidant conflict style. Alternatively, intimate participants may show a more cooperative conflict style. Notably, Kluwer et al. (1998) make distinctions only between cooperative and competitive conflict orientations.

*Research question five.* My final research question further examined the stated reasons why victims initiate the dialogue process. This question analyzed whether different reasons why individuals seek dialogue correspond to different rates of dialogue completion. There are no differences in OVS file completion rates with regard to victims’ stated reasons for seeking dialogue. Additionally, no differences exist between those files that contain explicitly stated reasons and those that do not. As mentioned previously, it is likely that OVS employees
recorded victims’ reasons for seeking dialogue during initial stages of contact with OVS. Clearly, regardless of what initially motivates victims to seek participation in victim-offender dialogue, it is not so meaningful as to affect the eventual completion of dialogue. Therefore, victim reasons for participation serve as a useful resource in understanding what underlies initial OVS contact. However, those reasons do not seem to have the power to affect completion of dialogue.

In this chapter, I have attempted to describe my results in a way that clarifies their relevance to both OVS practices and the literatures of communication and restorative justice. Neither of my hypotheses were supported. I suggest this means that scholars still have much to discover about the use of restorative dialogues in cases of serious crime. However, I was able to find significant differences in dialogue completion rates with regard to sex and victim-offender relationship. I believe this last result has the greatest potential for the integration of communication scholarship on relational intimacy and distance into the practical application of restorative justice theory. In the final chapter, I will summarize and conclude my research.
CHAPTER VI
CONCLUSION

My research into Ohio’s Office of Victim Services (OVS) victim-offender dialogue program provides insight into the Department of Rehabilitation and Correction’s program, the application of restorative dialogue in felony cases, the interpersonal relationships, and motivations of dialogue participants. Broadly, subscribing to the tenets of restorative justice requires that members of a society reevaluate both what constitutes an appropriate response to misbehavior and how individuals should act in relation to others. Narrowly, OVS dialogues serve as a venue where felony crimes can be addressed in ways that focus on the relationship needs of offenders, victims, and others. Stakeholders or OVS employees may use the findings of this research to inform current practices and services. The research also has implications for restorative justice and communication literatures. At the outset of this research, I established the goal of understanding better the factors that facilitate and frustrate restorative mediations in felony cases. The research results add the limited body of research into felony restorative dialogues and are sometimes inconsistent with previous research. In this final chapter, I will first discuss the results’ specific implications for OVS. Second, I will address connections to restorative justice and communication literature. Finally, I will layout a series of questions to help guide future research.

Implications for OVS

I was very fortunate to gain access to the corpus of Ohio’s archived dialogue files. The research results can potentially benefit OVS services and practices in the following ways. First, based on results concerning potential dialogue participants, OVS should develop an introductory informational packet. This pamphlet should contain clear, empirical evidence of the benefits of
participating in dialogue, contact information for various support services reflecting awareness of
participant demographics, as well as basic information on OVS’s purpose, goals, and
responsibilities. The OVS dialogue program is a victim-centered, victim-initiated, and victim-
needs focused RJ project. As such, there is a dichotomous tension between prioritizing victim
needs and increasing dialogue participation. On one hand, OVS strives to encourage victims to
identify and address their own needs as they deal with the aftermath of a violent crime, whether
that includes participation in OVS dialogue or not. On the other hand, they surely want victims
and offenders to participate in a program they perceive to be valuable and helpful. The scholarly
community generally agrees that RJ programs, at worst, do no harm to participants, and at best
are integral to trauma recovery following a crime (Bazemore & Elis, 2007). It seems natural that
OVS dialogue facilitators and other employees would feel a tension between addressing victim
needs and encouraging victim participation. When the facilitators, themselves, have experienced
successful dialogues as a victim participant this tension may be even more pronounced.

Generally, RJ research indicates that appropriate participation is beneficial for victims,
offenders, and others. However, a victim-centered program like OVS dialogue cannot abandon
the voluntary means by which it gains participation. Participant education seems like one
possible solution to help alleviate this tension. In addition, this step could benefit greatly from
the integration of communication research. Communication scholars are uniquely suited
construct ethical, persuasive, well-reasoned messages, which both target a specific audience and
facilitate decision-making. I suggest OVS develop an educational, persuasive pamphlet or
information packet to distribute to potential dialogue participants. Current communication
scholarship in persuasion, ethics, and audience analysis should inform the pamphlet’s content.
This pamphlet should be available to all potential dialogue participants either on or before their
first meeting with OVS dialogue facilitators. I believe such a pamphlet will not only serve as an ethical way to increase participation, but also more consistently and systematically inform participants of dialogue options, beneficial results, and potential risks associated with restorative dialogue.

Finally, analysis of OVS archived files revealed a noticeable lack of documentation in some of the dialogue files. Mainly, this tempers the validity of research results into OVS. It would benefit both OVS and subsequent research efforts to devote some additional resources into a more systematic and thorough record-keeping system. Future comparative analyses will be able to make better use of complete archived records. It may be that current OVS record keeping is in line or even ahead of other restorative program standards. Regardless, there is little doubt that an investment in detailed record keeping would assist both OVS services and any future research on dialogue files.

Implications for RJ Research

While my results may have specific implications for OVS practices, they also have broader implications for other restorative justice research. Innumerable contexts and programs apply restorative justice theory, and to suggest the results have applicability across those contexts would be inappropriate. Instead, these results may help inform understanding and future practices of restorative dialogue in cases of severe violence, felonies, or programs linked to punitive corrections programs. My unsupported hypotheses help to highlight the exploratory nature of research into this RJ context. In the following section, I connect the study’s results with RJ research into non-victim file initiators, the research context, participant demographics, reasons for dialogue, and mediators.
First, results have implications for the understanding of non-victims who participate in restorative dialogue. The data indicate non-victims initiate more dialogue files than do actual victims. These non-victims can be the actual victim’s parent, child, sibling, or spouse. Yet, RJ literature seldom focuses on non-victim support persons affected by crime. When research mentions these individuals, they are frequently lumped in with the community impacted by crime. While the community is an integral component of restorative justice theory and practice, researchers should recognize these non-victim individuals as something other than mere members of the affected community. In OVS dialogue, it is less likely an offender will enter dialogue with the direct victim of the crime. Commonly in OVS dialogue, non-victims initiate dialogue, prepare with dialogue facilitators, and come face-to-face with offenders. They essentially serve as victim surrogates in the restorative dialogue process. These non-victim individuals may need a designation that identifies them not as community members but as somehow connected to the role of the victim. I suggest the use of the term victim surrogates for further research and identification purposes. More research efforts should be directed at understanding who these surrogates are, and what impact their participation has on restorative contexts.

Second, while RJ forms the theoretical foundation for the OVS dialogue program, many other contexts also employ RJ principles. While this research clarifies some aspects of the OVS dialogue program, the program remains firmly rooted in a traditionally punitive criminal justice system. This fact naturally limits the applicability of my results to schools, juvenile programs, and other RJ contexts. However, OVS research results further reinforce restorative justice’s applicability in serious offender contexts. Moreover, there is now a greater understanding of participants in these dialogues, victim motivations for seeking dialogue, and the factors that
influence dialogue completion. Previous research by Umbreit et al. (2003) reported that
homicide accounted for 57% of OVS cases. In contrast, this archived data analysis found only
30% of cases involved a death. That same study reported Texas’ VOM dealt with 70% homicide
cases. Yet, based on current OVS findings, a re-evaluation of Texas’ VOM may be in order.

Third, findings did not support either hypothesis. In the case of OVS, White offenders
and non-White offenders were equally likely to complete dialogue. There was also no difference
in dialogue completion rates with regard to time for personal crimes. While results do not
support previously published studies, I believe this speaks to the dearth of extant felony RJ
research rather than to serious flaws in the research. I believe one significant limitation of my
research is the high proportion of White offenders (73%). With the exception of Black offenders
(26%), minority offenders were neigh absent from my sample. I suggest that future research
strive to correct this error by over-sampling from minority populations. Perhaps by this effort,
researchers will be better able to make claims of differences in dialogue completion rates with
regard to race. Further, the archival nature of my research prevented the comparison of offender
and victim/ surrogate race. Perhaps dialogue participants with similar demographic
characteristics, such as race, complete dialogue with greater frequency than those with dissimilar
demographics. Subsequent analyses should more thoroughly investigate similarities and
differences in felony VOM program participants beyond the basics of satisfaction, recidivism,
and restitution.

Fourth, victims’ stated reasons for seeking dialogue do not seem to affect dialogue
completion rates. However, the myriad reasons do help illuminate why victims/ surrogates seek
dialogue. Based on research by Rugge and Cormier (2005), I expected only to find a couple
different reasons why victims sought dialogue; instead, I found 14. At this stage, I cannot
account for this finding. However, I do consider this result meaningful in terms of understanding the motivations that underlie dialogue participation. Analysis indicates some victims/surrogates, from their initial contact with OVS, wish to forgive the offender. Some are fearful of reprisal; some demand a confession; some just want to visit their loved ones. The sheer gamut of these motivations should lead restorative justice-based dialogue programs to evaluate their victim/surrogate interaction and preparation. Perhaps through an improved understanding of victims’ motivations for dialogue, RJ practitioners can improve both participant education and preparation. This research found victims to be motivated by more than asking either why-type questions or communicating the harm of the crime. This knowledge has the potential to improve restorative dialogue practice, dialogue participant services, and the theoretical understanding of why individuals seek participation in dialogue.

Additionally, while there are many examples of RJ research dedicated to understanding victims and offenders, far less attention is paid to dialogue facilitators and mediators. Perhaps this is due, in part, to a focus on participant satisfaction, restitution, or recidivism. That might fundamentally exclude mediators/ dialogue facilitators. This is inadvisable for at least three reasons. First, as an inclusive process that is to connect victims, offenders, and their communities, excluding the mediators can essentially exclude the community representation. To exclude the mediators’ impact on dialogue is to misrepresent both the restorative process and the constituent participants of dialogue. Mediators or dialogue facilitators are a necessary component to restore a victim and offender’s relationship to community standards of conduct. Second, no one participates in as many restorative dialogues as the mediators. Often researchers do not gain access to the personal, private, intimate dialogue venue. Instead, to understand what happens in dialogue, researchers administer surveys, interview victims and offenders, or search
through archived mediation files. The most experienced individuals in dialogue are those mediators and facilitators who have, sometimes for years, prepared victims/surrogates and offenders for that encounter. Mediators and facilitators are a source of a wealth of wisdom and experience about what works and what does not work in dialogue. It is time researchers start listening to these experts. Third, when scholars learn more about restorative dialogue, restorative practitioners should use that knowledge in constructive and productive ways. Dialogue mediators are the individuals most likely to use this research in praxis. Thus, they are able to provide me with invaluable feedback regarding the scholarly understanding of restorative justice theory in practice. If dialogue is fundamental to the restoration of a victim and offender’s relationship, so must dialogue be fundamental between researchers and mediators if practices are to be as beneficial as possible. For these three reasons, I advocate more research directed at understanding restorative dialogue via facilitators and mediators.

Finally, I will discuss how my research informs understanding of RJ practice with regard to restorative values. Too often perhaps, research into restorative justice programs is concerned with outcome measures of participant satisfaction, recidivism, restitution, and cost. However, there is more to restorative justice than just these outcomes. There is an additional ethical component. The ethical treatment of RJ participants is another outcome with which research should be concerned. Restorative justice theory implies that all individuals who are interested in participation be treated in ways that are honest, non-coercive, supportive, respectful, and promote relationship restoration. Increasing rates of participation should not hinge on decreasing the quality treatment of participants. While many RJ programs (including OVS dialogue) want to increase rates of dialogue completion, that goal must not circumvent foundational restorative values: respect, maintenance of individual dignity, non-domination, inclusion, and voluntary
participation. Before research addresses participant satisfaction, it should be concerned with the foundational issue of participation. Satisfaction is both a function of participation (i.e., victims cannot be satisfied or dissatisfied with their experiences in dialogue if they never participate) and a relatively common focus of restorative justice program research. Rather than further research efforts focusing on victim and offender satisfaction, a re-dedicated effort to understand and improve rates of participation might better serve future restorative practices.

Implications for Communication Research

There are three primary areas where this research can help to connect restorative justice and communication literature. The first is the relationship between victim and offender and the understanding of relational communication between intimates. The second is conflict and mediation research. In this section, I will discuss how this research can inform the development of these connections.

Victim/offender relational communication is the first area where communication scholarship is able to connect with future RJ research. In the case of Ohio’s OVS dialogue program, I found the relationship between the victim and the offender is related to participation in dialogue. This result helps research more closely examine how individual participant differences affect dialogue completion. Results indicate that dialogues are more likely to occur if a non-victim initiates the process and if the victim and offender had no identifiable relationship before the crime. Restorative justice is conceived of as focusing on strengthening, healing, and repairing relationships (Johnstone & Van Ness, 2007). However, at least for OVS, the cases with smaller relational distance between victim and offender are less likely to complete face-to-face dialogue. Research efforts should engage scholarship on communication and conflict between intimates more directly. It may be that victim/offender interpersonal relationships hold
a valuable key to understanding just how and why restorative justice works. Specifically, the relational communicative understanding of intimacy and dominance in relationships should help inform subsequent restorative research. Since this type of communication research typically concerns intimate dyads, it may be uniquely suited to assist understanding dialogue participants who had a relationship before the crime.

Conflict and mediation research is a second area of potential coordination between communication and RJ scholarship. The relationship between participants and the conflict context have long been keys in the communication perspective on conflict (Folger & Jones, 1994). Both sex differences and differences in relational intimacy can affect conflict style (Buunk et al., 1990; Kluwer et al., 1998). The context of the conflict and, based on this research, the relationship between victim and offender seems to influence those individuals’ participation in restorative dialogue. Yet, understanding these differences and contexts does not seem to be a priority for many RJ researchers likely due to their common association with sociology, criminology, or social work. It may be possible to integrate a restorative approach to conflict with current or past research on conflict style through a series of experimental or quasi-experimental studies. These studies could be designed to help inform not only the development of a conflict style typology which includes restorative justice, but also the understanding of the relationship between more conventionally accepted conflict styles and RJ participants.

Further, the study of mediation recognizes that conflict resolution measures, which do not take into account the relationship between disputants, can be both inappropriate and ineffective (Folger & Jones, 1994). In the context of OVS dialogues, my results indicate the relationship between victim and offender influences dialogue participation. Thus, with regard to the
relational understanding of conflict, communication research has the potential to inform both future OVS practices and the practices of other RJ programs.

Finally, communication research has identified transgression-based conflicts as resulting from the violation of some set of rules (Roloff & Soule, 2002). However, it is yet unclear whether RJ participants perceive their involvement in dialogue as a process to resolve or even address the transgression component of the crime. According to the analysis of the reasons individuals seek dialogue, some victims/surrogates are interested in transgression-related issues (i.e., to ask why-type questions, to communicate the crime’s impact). However, other motivations seem unrelated to the actual transgression (i.e., to forgive, to ask how the offender is doing).

There are a number of entry points for communication scholars interested in restorative justice. Among them is the relational nature of the dialogue process, conflict, and mediation in restorative contexts. In addition to my work with OVS, some communication scholarship already focuses on mediator opening statements and RJ dialogue (Szmania, 2006a, 2006b). My research is one of the tentative first steps of communication scholarship into restorative research, though the eventual impact of communication research in this context is still unknown. Communication studies in restorative contexts have the potential to affect both the theory and practice of restorative justice.

Future Research

Thus far, I have discussed this study with regard to specific OVS practices and within the broader contexts of both restorative justice research and communication studies. My results have practical utility in restorative programs focused on severe crime or felony cases. The results also illustrate how much more is yet to be understood in these contexts. In this final section, I will
suggest a pathway by which future research could improve the understanding of felony dialogues and the communicative aspects of restorative practices.

First, beyond the context of felony crime dialogues, I call into question how we educate and prepare potential dialogue participants. This is particularly salient given the findings regarding the multitude of motivations victims/surrogates have for participating in dialogue. Programs like OVS depend on funding, and often funding rests on quantifiable results such as rates of participation. However, participation must be voluntary and non-coerced. Thus, the first avenue for future research should be education for potential dialogue participants. OVS should distribute educational materials to explain the dialogue process, participants’ rights and responsibilities, potential benefits, and hazards of participation. This step has the potential to increase OVS (and other program) rates of participation while retaining the key restorative values of non-domination and respect.

The next step in understanding dialogue in felony cases will likely necessitate comparative research with other programs. Umbreit et al., (2003) conducted some comparison/contrast research into Ohio, Texas, and Pennsylvania’s VOM programs, but did not consider some issues of individual participant differences vital to additional understanding of VOM. Further comparative analyses could do a great deal toward clarifying the theoretical and practical relationship between participant demographics and participation. Additionally, comparative analyses would increase both sample sizes and diversity of participants. This is likely necessary if RJ scholars are to understand the role participant demographics, time, and crime severity have in the dialogue process. Programs like OVS have been steadily growing since the mid 1980s (Umbreit, et al., 2003), and yet empirical data that could guide, inform, and assist the programs are scant. These comparative analyses would not require Herculean efforts,
but they would involve closely coordinated endeavors to identify comparable data across states, countries, and individual cases. Comparison and contrast of these three programs could help researchers to answer the following questions.

1. What is the relationship of participant demographics to dialogue completion?
2. What is the role of time in dialogue completion?
3. What is the role of crime severity in dialogue completion?
4. What are the similarities and differences in the populations of participants, non-participants, offenders, and mediators?

Further, comparative research between programs could also provide information about the operation of the dialogue program, itself. This might assist subsequent program management, record keeping, practices, and services.

5. How is data recorded, processed, and stored?
6. How are programs evaluated?
7. What data are common or unique to program records?
8. What are the reasons participants state for dialogue participation?
9. Do the reasons change over time?

Finally, communication research has much to offer to the study and practice of restorative dialogues. Until recently, communication research has offered very little to RJ theory and practice. However, as restorative programs grow in popularity and recognition, their value to schools, juvenile justice programs, and the wider criminal justice system will become increasingly clear. Research efforts based in communication studies can help future research examine questions such as:

10. How can current understanding of conflict styles integrate with restorative justice?
11. How can mediation be understood in restorative contexts?

12. How do differing levels of relational intimacy and distance relate to restorative justice?

13. What are mediators’ experiences regarding restorative dialogue?

Communication scholarship should accompany the continued re-discovery of restorative justice through a focus on such topics as relational communication, conflict, and mediation. The issue before interested scholars is not whether restorative justice will benefit from a focus on restorative communication or not, but rather, how best to argue convincingly, demonstrate, and understand those benefits.
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APPENDIX A

VOD CODEBOOK

Dialogue Competed (1=yes, 0=no) (1)

Reason why dialogue will not proceed (1= offender says “no”, 2 = victim says “no”, 3= loss of contact w/ victim, 4= other) (1)

Explanation (narrative)

Date inquiry received (MMDDYYYY) (8)

Date assigned to mediation (MMDDYYYY) (8)

Date Dialogue completed/Date Dialogue process stopped (MMDDYYYY) (8)

Date of Crime (MMDDYYYY) (8)

Person interested in dialogue (1= victim, 0=non-victim) (1)

If 0, relationship to victim (1=parent, 2=spouse, 3=sibling, 4=child, 5=other-relative, 6=other, non-relative) (1)

Offender known to victim prior to offense (1=yes, 0=no, 9=unknown) (1)
If 1, nature of relationship (1= parent/child, 2=other family, 3=friend/social acquaintance, 4=work relationship, 5=religious relationship, 6= school relationship, 7= other) (1)

Inmate institution (0-30) (2)

Crime(s) (1=murder, 2=vol. manslaughter, 3=invol. manslaughter, 4=assault, 5=rape, 6=GSI, 7=________, 8=________, 9=________, 0=other) (4)

Sentence (1=range, 0=fixed term) (1)

If 1, (min, max) (3,3)

If 0, # of years (life imprisonment=500, death sentence=900, missing=999) (3,3)

Next: (MMDDYYYY) (8)

(Parole/Furlough=1, PRC hearing=2, EDS=3, EST=4, POA/PDR=5, not marked =9) (1)

Why victim wants to meet with offender (narrative)

Local county advocate involved (1=yes, 0=no) (1)

Therapist involved (1=yes, 0=no) (1)

Others involved (1=yes, 0-no) (1)

If 1, what is the role of the other participant (1=clergy, 2=family, 3=friend/supported, 4=other) (1)

Facilitator Time Log:

(total billed hours=XX.X) (3)

(Hrs. face-to-face contact=XX.X) (3)

(Hrs. mediated communication (phone, email, etc.= XX.X) (3)

(Hours in dialogue=X.X) (2)

Offender D.O.B. (MMDDYYYY) (8)
Offender Race/Ethnicity (1=white, 2=black, 3=Hispanic, 4=other) (1)

Victim Sex (0=female, 1=male, 2=multiple males, 3=multiple females, 4=more than 1, mixed) (1)