



Nebraska Judicial Branch

**Recidivism Rates for Victim
Youth Conferencing at ODR-
Approved Mediation Centers:
January 2018 -
December 2020**

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by Alisha Caldwell Jimenez,
Restorative Justice Program Analyst



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Office of Dispute
Resolution

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Alisha C. Jimenez, M.A., J.D., Restorative Justice
Program Analyst

Statement of the Problem

Background. Grounded in the practices of indigenous groups, principles of restorative justice (RJ) are integrated into juvenile justice programs in jurisdictions across the United States. Some RJ programs have undergone extensive empirical research while others are only anecdotally successful (Sherman, et al., 2015; Sherman, Strang, Mayo-Wilson, Woods, & Ariel, 2015). Victim-offender mediation (VOM, also termed victim offender conferencing or restorative dialogue) programs are considered promising evidence-based programs according to the Office of Juvenile Justice and Delinquency Prevention (OJJDP), which considers RJ more broadly as evidence-based (OJJDP, n.d.). Furthermore, the Nebraska Crime Commission's evidence-based classification system supports the categorization of VOM programs as evidence-based (Wiener, et al., 2014). Meta-analyses examining juvenile justice interventions continuously demonstrate that restorative interventions such as VOM are more effective in reducing recidivism in youth participants compared to youth who merely participate in traditional juvenile justice programs (Lipsey, et al., 2010; Schwalbe, et al., 2012; Wong, et al., 2016). The present report examines the effect of a Nebraska-based VOM-style juvenile program on juvenile recidivism.

In 2015, the Nebraska Supreme Court's Office of Dispute Resolution (ODR) within the Administrative Office of the Courts and Probation (AOCP) secured grant funding through The Sherwood Foundation to pilot and evaluate the juvenile restorative justice VOM program entitled Victim Youth Conferencing. The pilot program extended from April 2015 to December 2017, followed by a statewide rollout in 2018, during which time the program expanded from the three mediation centers in three judicial districts to all six ODR-approved regional mediation centers across all 12 judicial districts. During the pilot, approximately 15% percent of participants committed a new offense within 1 year of program completion. However, due to the infancy of the program, the pilot sample data was not large enough to perform extensive statistical analyses.

In 2018, ODR and the mediation centers initiated a three-year evaluation to examine statewide program outcomes and assess juvenile justice outcomes for VYC youth in each of the six regions of the state. The state-wide expansion initiative identified three primary goals: (1) increase the number of youth served by the VYC process and reduce recidivism, (2) train more facilitators in the evidence-based practice of VYC, including members of diverse backgrounds, and (3) build the ODR's and the six regional mediation center's capacity to implement and



sustain VYC as a prevention and intervention strategy. The latter two goals have long-term implications for the sustainability of the program, and are in-progress.¹

Recidivism definition. Using the Nebraska Supreme Court definition for recidivism, the analysis examined youth who participated in a VYC program to see how many recidivated within one year of completing in the program. Neb. S. Ct. Rule §1-1001(B) provides “recidivism shall mean that within 1 year of being successfully released from a probation or problem-solving court program the juvenile has (a) an adjudication pursuant to Neb. Rev. Stat. §43-247(1) or (2).” Given this definition, youth were considered recidivists if, within 1 year of successfully completing the VYC program, a youth was adjudicated in court for a non-traffic offense.

Analysis Strategy

Mediation Center Database During the 2015 pilot staff from The Mediation Center in Lincoln, Mediation West in Scottsbluff, and Concord Mediation Center in Omaha, worked together with an external evaluator from the University of Minnesota’s Center for Restorative Justice and Peacemaking to determine key data points to track throughout the program. The mediation centers programmed their existing database to capture VYC specific data and maintain consistent records across the centers.

The mediation centers distinguished records according to case number as opposed to each individual youth. As a result, several cases contained duplicated lines of data to account for multiple youth participants in the case. For example, if a case contained three youth offenders, the case appeared in the dataset three times; if a youth was involved in more than one case, he or she would be listed multiple times in the dataset—once for each unique case. In an effort to ensure the integrity of the data, the evaluator reduced each center’s dataset into one flat data file that contained one line of data for each individual youth, whereby each youth was listed once with all relevant cases in one line. The evaluator then combined the data from all six mediation centers so there was just one unified file containing individual cases. One line of data contained at least one and up to two VYC case referrals.

JUSTICE Database. The JUSTICE system is an online database that maintains most of Nebraska’s trial courts’ case information. Select entities are authorized and granted access to the data system to search case records from county and district courts, including sealed cases for the purpose of research and evaluation.² The ODR pulled data from the JUSTICE database using the IBM Cognos Analytics Tool, a business intelligence tool for analytics and reporting. The data included in the present recidivism analysis included all sealed and public juvenile cases recorded in the JUSTICE database between January 2018 and December 2020.

Combined Recidivism Database. Data was retrieved through Cognos on January 21, 2021, and exported into an Excel document. The downloaded file contained 28,133 lines of data,

¹ For more information about the program goals, visit the Office of Dispute Resolution’s webpage: <https://supremecourt.nebraska.gov/programs-services/mediation-restorative-justice/restorative-justice>

² Neb. Rev. Stat. §§43-2,108.05(3) and 43-2,108.05(3)(g) authorizes access to sealed records by persons engaged in bona fide research, if the research results in no disclosure of the person’s identity and protects the confidentiality of the sealed record.



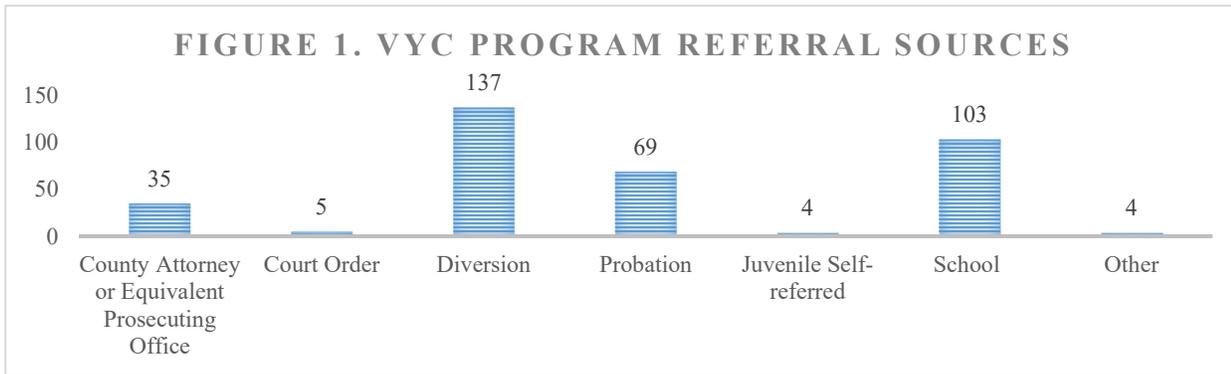
1,051 of which matched with a youth in the mediation center data set. In order to remove the duplicate lines without losing valuable case information, the file was flattened using Excel and the Microsoft Power BI data analytics tool. Lines were filtered using the youth's full name (last name, first name) and date of birth. The ODR sorted cases on a youth's full name (last, first, middle) and case finding date (oldest to newest), then merged the dataset with the mediation centers' dataset, matching on name (last, first, middle) and date of birth. The first case was manually removed using Microsoft Excel and re-merged with the same dataset. This process was completed until all duplicate cases were eliminated, resulting in one single line of data for each youth that included all relevant court cases, up to nine court cases.

One of the challenges in linking the mediation center and the JUSTICE datasets is the lack of a common identification number between the systems. This finding is particularly true for cases referred through diversion or other pre-court processes, as those cases do not have a court case number due to the pre-filing status. In order to match court data with mediation center data, the research team had to rely on other identifiers (e.g., name, date of birth). One challenge in matching cases based on name, is the name may vary in spelling within and between databases. After merging the two files on the match identifiers, the final dataset contained 358 closed cases over the 2-year period. Of those, 152 mediation center cases matched to a court case in the JUSTICE data set.

Outcome Measures. The mediation centers recorded participant success at the time of case closing for each participant. "Complete Fulfillment" includes any case where the individual who caused the harm completed all conditions of the reparation plan. "Partial fulfillment" includes any case where the individual who caused the harm did not complete all reparations but met more than half of the plan conditions. "Unsuccessful" includes cases for which the youth met less than half the plan's conditions and there was low intent to fulfill the agreement. For the purposes of the present analyses, "Success" was coded as 1 and represented any case in which the youth achieved complete or partial fulfillment of reparation plan conditions. "Unsuccessful" was coded as 0.

The definition for recidivism varies within the juvenile justice research. For the present analyses, recidivism was defined in accordance with the Nebraska Supreme Court definition of juvenile recidivism, such that a youth recidivated if he or she were adjudicated for a new offense within one year of successfully completing the juvenile VYC program. For the dichotomous outcome variable "recidivism," a 0 represented a youth who was not adjudicated for a new offense within one year of program participation, and a 1 represented a youth who was adjudicated for a new offense within one year of program participation.

Results



Sample Characteristics. The sample is made up of youth referred across the juvenile program, including school referrals, diversion referrals, and probation referrals, see Figure 1. One case did not report a referral source. The centers reported youth race and ethnicity, however, to capture a more complete representation of the sample race and ethnicity were combined into one race-ethnicity variable. The greatest proportion of the sample identified their racial/ethnic category as non-Hispanic, White (155, 43.3%), followed by 72 (20.1%) Latino/Hispanic, 68 (19.0%) Black or African American, 12 (3.4%) mixed race, 10 (2.8%) American Indian or Alaska Native, and 5 (1.4%) Asian. The remaining individuals identified as other (15, 4.2%) or Unknown (18, 5%). Racial/ethnic identification was not reported for 3 cases. Males made up the majority of the sample with 224 youth (62.6%), 131 youth were female (36.6%), and for 3 youth no gender was reported (.8%). Table 1 demonstrates other reported participant characteristics, including information regarding the households to which the youth belonged.

Measures of Success. When all cases were included in the analysis, the average age of participants at the time of the offense was 15.26 years (min = 10.49, max = 18.37, *SD* = 1.63). For 278 (77.7%) of the closed cases, a VYC was held. Of those 278 cases, 273 (98.2%) resulted in a reparation plan. As demonstrated in Figure 2, youth participants in 272 cases (87.1%) successfully completed the program by either completely fulfilling all conditions of the reparation agreement or partially fulfilling the conditions when the case closed.

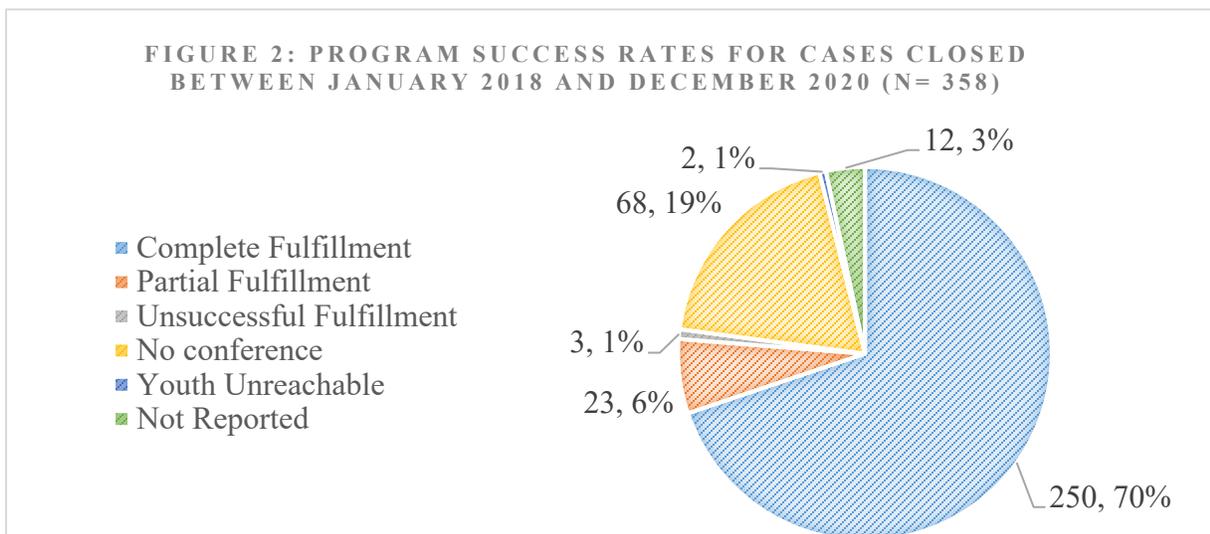
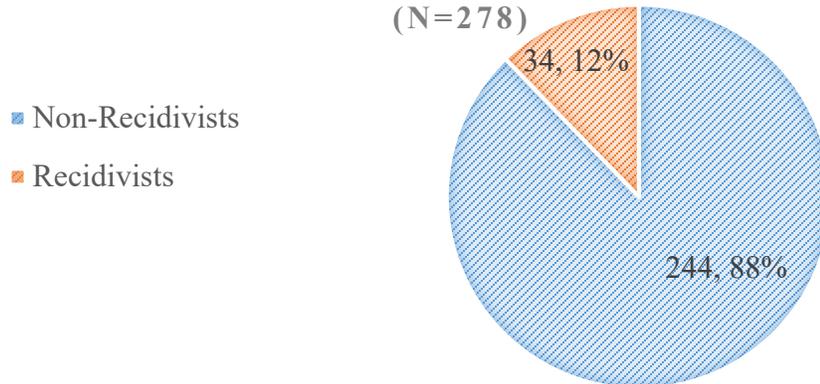


Table 1. Sample Characteristics for final combined dataset

	N	% of Cases
Youth's School Status (Not Reported=29)		
Enrolled	324	90.5%
Suspended/Expelled	2	<1%
Not Enrolled	3	<1%
Youth Employment Status (Not Reported=76)		
Employed Full-Time	5	1.4%
Employed Part-Time	61	17.0%
Not Employed	216	80.3%
Family Income at Primary Place of Residence (Not Reported=182)		
0-9,999	8	4.5%
10,000-14,999	59	33.5%
15,000-19,999	2	1.1%
20,000-24,999	3	1.7%
25,000-29,999	5	2.8%
30,000-34,999	31	17.6%
35,000-39,999	4	2.3%
40,000-44,999	1	<1%
45,000-49,999	24	13.6%
50,000+	39	22.2%
Family Size at Primary Place of Residence (Not Reported=109)		
2 members	27	10.8%
3 members	61	24.5%
4 members	64	25.7%
5 members	43	17.3%
6 members	35	14.1%
7 members	13	5.2%
8 members	2	<1%
9 members	3	1.2%
10 members	1	<1%
Youth's Place of Residence at Referral (Not Reported=26)		
One-Parent	191	53.4%
Two-Parent/Joint Parental Custody	101	28.2%
Legal Guardian	9	2.5%
Relative/Other Adult	19	5.3%
Youth lives on his/her own	2	<1%
Detention or Foster/Group Home	10	2.8%
Use of Interpreter		
Youth	2	<1%
Victim	2	<1%
Youth's Parent	28	7.8%
Victim's Parent	2	<1%
Language of Interpreter		
Arabic	4	1.1%
Burmese	1	<1%
Nuer	3	<1%
Sign Language	1	<1%
Somali	2	<1%
Spanish	24	6.7%
Vietnamese	1	<1%
Karen	2	<1%



FIGURE 3: NUMBER OF PARTICIPANTS WHO SUCCESSFULLY COMPLETED THE VYC PROGRAM (N=278)



Measure of Recidivism. Table 2 demonstrates the total number of VYC participants and non-participants who recidivated at each of the six regional mediation centers. As demonstrated in Figure 3, the majority of youth were not adjudicated for a new offense within one year of successfully completing the program, whereas 34 (12.2%) youth who successfully completed the program had been adjudicated for at least one new offense within one year.

Table 2. Frequency of Recidivists and Non-Recidivists Occurrence by Mediation Center

	Participated in VYC		Did not participate in VYC		Total Cases
	Non-Recidivists	Recidivists (% of Participants)	Non-Recidivists	Recidivists (% of Non-Participants)	
The Mediation Center (Lincoln)	132	17 (11.4%)	19	7 (26.9%)	175
Concord Mediation Center (Omaha)	64	1 (1.5%)	20	1 (4.8%)	86
Central Mediation Center (Kearney)	20	5 (20%)	6	2 (25%)	33
Nebraska Mediation Center (Fremont)	23	5 (17.9%)	7	1 (12.5%)	36
Mediation West (Scottsbluff)	2	2 (50%)	10	2 (16.7%)	16
The Resolution Center (Beatrice)	3	1 (25%)	0	2 (100%)	12
Totals	244	31 (11.3%)	62	15 (19.5%)	358

A logistic regression analysis using age at referral, youth’s gender (0=male, 1=female), VYC conference type (1=VYC with victim, 0=VYC with surrogate), race/ethnicity (0=racial/ethnic minority, 1=non-minority), and conference participation (0=did not participate in VYC, 1=did participate in VYC) as predictors and recidivism as the criterion revealed success in the program and participation in a VYC significantly predicted likelihood of a youth to a recidivate within a year of case closure. Age, gender, and conference type were non-significant predictors of recidivism. To examine the effect of race/ethnicity on recidivism, ethnic minority groups were aggregated to form an “ethnic/racial minority” classification. The new minority



group was compared to non-minority White youth participants and the two groups were found to be not significantly different. Victim surrogates, as opposed to the actual victim, were used in 191 (53.4%) of all VYC conferences. The use of surrogates in VYC conferences compared to a conference with the actual victim was not statistically significant. Although race/ethnicity was not significant when comparing all ethnic and racial minority groups, Table 3 displays the number of youth in each individual racial/ethnic category.

Table 4 illustrates the results of the full model. The model was not significant, $\chi^2(6) = 9.089, p > .05$, Nagelkerke $R^2 = .053$, however, conference participation and whether there was a reparation plan were significant predictors of recidivism. Youth who successfully complete the program were 80% (1 - 0.191) less likely to recidivate compared to youth who did not successfully complete the program. Similarly, youth who participated in cases that resulted in a reparations plan were approximately 87% (1 - 0.143) less likely to recidivate.

Table 3. Recidivism by Race/Ethnicity for VYC Participants

	Non-Recidivists	Recidivists	Group Total
American Indian or Alaska Native	8 (88.9%)	1 (11.1%)	9
Asian	4 (80%)	1 (20.0%)	5
Black or African American	40 (85.1%)	7 (14.9%)	47
Native Hawaiian or Pacific Islander	-	-	-
White	110 (87.3%)	16 (12.7%)	126
Latino/Hispanic	55 (87.3%)	8 (12.7%)	63
Mixed Race	11 (100%)	0 (0%)	11
Other	14 (100%)	0 (0%)	14
Unknown	2 (66.7%)	1 (33.3%)	3

Table 4: Logistic Regression Model Predicting Probability of Recidivating (N=247)

	B	S.E.	Wald	df	OR
Age in Years	.009	.017	.321	1	1.010
Racial/Ethnic Status (Minority v. Non-Minority)	-.234	.355	.433	1	.792
Youth Gender	-.293	.376	.609	1	.746
Did case use a surrogate during VYC?	-.697	.389	3.201	1	.498
VYC Participation	-1.658	.5641	6.698*	1	.191
Did Case have a reparations plan	-1.943	.782	6.167*	1	.143
Constant	2.862	2.183	1.720	1	17.503

Note: Model $\chi^2(6) = 9.089, p > .05$, Nagelkerke $R^2 = .053, *p < .05$



Limitations

Although the ODR is confident in the above analyses, the reader should take caution in interpreting such results. First, at the outset of a new program, the mediation centers had to build referrals, expand capacity, develop and refine policies and procedures, and improve implementation efforts. It is not unusual for a program to change substantially during the early implementation stages. The ODR and the mediation centers worked with a program consultant and program evaluator from the University of Minnesota's Center for Restorative Justice and Peacemaking to refine and improve the program during the pilot. The data only reflects *statewide* data for cases opened after January 1, 2018, that was closed by December 2020. The expansion effort concluded in August 2021 and a future analysis should follow-up to include youth who have reached one year post program participation.

Second, when examining program performance, the meaningfulness of recidivism rates is limited without a clearly identified comparison group, that is, a group of individuals who did not participate in the program but reflect similar characteristics to those individuals who did participate in the program. The analyses reflected above examined the relationship between participants and non-participants, all of whom had been referred and screened for the program. Participants who successfully completed the program were compared to those who did not complete the program for various reasons, including: youth was deemed inappropriate for the process, youth declined participation, victim declined participation and a surrogate was unavailable, youth was returned to the referring agency at agency's request. Therefore, future analyses should include a comparison group to better understand program outcomes.

Third, the manner in which recidivism is defined in research varies across studies. The present report relied on the Supreme Court's definition of recidivism that limits reexamination to one year after program participation. The literature demonstrates a range of definitions that varies by the type of eligible offense and the time lapsed from program participation. Future analyses should include alternative recidivism definitions as expressed in the literature. Further, the present study did not examine program effectiveness at each level of the juvenile process. That is, the dataset did not reflect a large enough sample to examine whether the VYC program is equally effective at earlier stages of the juvenile process (e.g., school referrals, diversion) compared to youth referred at later times in the process (e.g., probation). As a subset of this issue, youth who participate in the program later in the juvenile process usually experience a greater lapse in time between the offense and the VYC conference. Future studies should examine whether and to what extent the lapse in time between offense and the conference has on future offending.

Conclusion

National and international research has highlighted restorative justice as a valid evidence-based response to juvenile delinquency. The present analysis examined whether the RJ program, VYC, is effective in reducing recidivism in the Nebraska juvenile population. Analyses show that participation in the VYC program results in lower levels of recidivism when compared to youth who do not participate in the program. In particular, only 12% of youth who successfully



completed the VYC program were adjudicated for a new offense within one year of successfully completing the program, as required by the Supreme Court recidivism definition. Future analyses should examine the point in the system and time of referral that results in the best outcomes for youth. Notwithstanding the limitations in the current analyses, the ODR is confident that the current analyses represent the pattern of recidivism for those served in the VYC program during the designated time period.

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