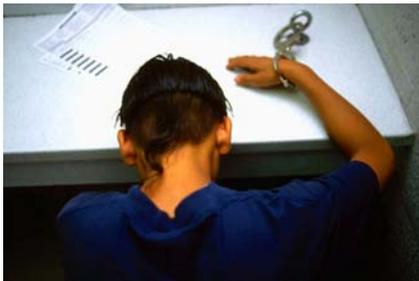


Victim Offender Mediation Programs in Texas

A Report Published by the
Texas Juvenile Probation Commission
Vicki Spriggs, Executive Director
4900 North Lamar Boulevard, 5th Floor East
Post Office Box 13547 | Austin, TX 78711
Phone (512) 424-6700 | Fax (512) 424-6717
www.tjpc.state.tx.us

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Victim Offender Mediation Programs in Texas

This report is written in response to H.B. No. 2291, relating to a study of established victim offender mediation programs in Texas' juvenile probation departments. Section I of this report provides general background information on Victim Offender Mediation (VOM), including its benefits, potential pitfalls, and best practices based on nationwide research of VOM programs. Section II focuses on VOM programs in Texas juvenile probation departments. Although there are nine juvenile probation departments with VOM programs, only three departments have active programs with over 100 annual referrals. Section III provides VOM program outcomes for the three departments with active programs serving at least 100 juveniles annually.

Information for this report was obtained from the following sources. The Texas Juvenile Probation Commission (TJPC) surveyed Texas' 166 juvenile probation departments in late 2007. TJPC staff conducted follow-up interviews with those departments that have a VOM program. Much of the information in Section III, including offense, disposition, and re-referral details was obtained from electronic juvenile offender case data that the TJPC collects from juvenile probation departments.

Section I. Victim Offender Mediation Background

Victim Offender Mediation (VOM) is an alternative approach to punitive, settlement-driven strategies used to treat juvenile delinquency. Whereas traditionally juvenile courts have determined punishment for a juvenile's offense, VOM empowers the crime victim *and* offender to resolve their conflict at the community level through mediated face-to-face dialogue. Dialogue, an essential component of this model, provides both offenders and victims an opportunity to express their feelings, share their pain (or remorse), ask questions, and dispel stereotypes about each other during a mediation session. Rehabilitation occurs as the juvenile develops empathy for the victim when confronted with the human cost of their offense.

VOM stems from the theory of restorative justice, a framework that views the victim, the broader community, *and* the offender as those harmed by the offense. To repair this collective harm, restorative justice requires the active involvement of all affected parties to make the offender accountable and to heal the victim. VOM encourages the involved parties to mutually develop and agree on a plan of restitution. This agreement may involve community service, monetary compensation, direct service to the victim, or a combination of each. An agreement may also include an assurance by the offender to change the behavior that led to the offense or allow the offender to formally express remorse.

There are two schools of thought on VOM referral criteria. One believes any case is appropriate for VOM, regardless of the offense, the offender's age, and the circumstances of the case. The other school believes that only more serious cases, such as felony property offenses and some violent offenses, should be referred to VOM so that the program serves as a true diversionary measure from prosecution or deeper penetration of the criminal justice system.¹ The first school of thought seems to prevail in the juvenile justice system nationwide since VOM has been used primarily to address nonviolent property crimes, minor assaults, and domestic violence offenses. Referral criteria to VOM in Texas' juvenile probation departments are discussed in Section II of this report.

¹ Mark Umbreit, *The Handbook of Victim Offender Mediation: An Essential Guide to Practice and Research* (San Francisco: Jossey Bass, 2000), 140.

VOM is typically a four-phase process.² At intake, referrals to VOM are usually initiated by juvenile probation officers (JPOs), prosecutors, judges, or victim-assistance advocates, depending on program referral specifications. The second phase involves preparation for mediation. During this phase, a trained and impartial mediator who has no direct association with either the offender or the victim meets with both parties separately, explains the process, listens to each participant's description of the offense, and then secures consent to participate in the actual mediation session. The third phase of the program is the mediation session where each person tells their version of events, asks questions, and discusses emotional and material losses. The victim and offender usually have someone present (a parent or close friend) at the session to provide emotional support. Restitution agreements are developed at this time. The last phase requires program staff and/or mediator follow-up and monitoring of the restitution agreement.

Benefits and Potential Pitfalls

Nationally many process and outcome studies have been conducted on VOM programs. Although primarily based on the evaluation of adult VOM programs, research suggests that victim offender mediation is beneficial to both the victim and the offender. Among the well-established benefits of this program are the high levels of victim and offender satisfaction with the VOM process.³ Victims appreciate the opportunity to share with the offender their story and express the pain suffered from the offense. Consequently, many victims report decreases in anxiety over the offense and a feeling of closure with the incident. Offenders generally report having a better understanding of the effects their offense had on the victim. Additionally, most VOM participants believed the process to be fair, including the restitution agreement reached. These reports are confirmed by the high number (almost 90 percent) of agreements reached during VOM. Of those agreements, about 80 to 90 percent are reported as completed.⁴ Given that the majority of VOM programs require voluntary participation from offenders and victims, these results undoubtedly contribute to participants' high satisfaction levels and fairness perceptions.

Summary judgments about the effect of VOM on offender recidivism are complicated by differing definitions of re-offense and the time-frame researchers use to evaluate re-offenses. For example, some researchers define re-offense as adjudicated guilty, others check for subsequent arrests, while still others define re-offense as a violation of probation. Overall, research on adult VOM programs nationally reports reduced recidivism when the follow-up is limited to a period of a year from the initial offense. Generally, the extent of the positive effect decreases as the time-frame increases.

Research also points out the potential pitfalls of VOM programs. In some situations, VOM may actually widen the net of social control if departments automatically refer minor cases to VOM. In some of these situations, VOM becomes a more severe sanction, especially if the juvenile's case would have been dropped or dismissed with supervisory caution if the VOM program did not exist. Another potential pitfall cited by Professor Mark Umbreit of the University of Minnesota is the "McDonaldization" of VOM.⁵ McDonaldization occurs when VOM becomes overly standardized as management seeks to reduce caseloads by quickly processing cases. In doing so,

² Umbreit, Mark. The Mediation & Dialogue Process: Phases and Tasks. Center for Restorative Justice & Peacemaking. PPT. n.d. http://rjp.umn.edu/img/assets/19844/Mediation_Process_Phases_Tasks.ppt

³ Mark Umbreit, Robert B. Coates, and Betty Vos, "The Impact of Victim-Offender Mediation: Two Decades of Research," *Federal Probation* 65, no. 3 (2001).

⁴ Mark Umbreit, *The Handbook of Victim Offender Mediation*.

⁵ Ibid.

departments may eliminate critical components of this model, such as the mediator’s individual preparatory meetings with the victim and offender or they may curtail dialogue during the mediation session. Misunderstood differences in communication styles or ways of expressing values because of differences in cultural, socioeconomic, geographical, or other backgrounds is another potential pitfall that may undermine a VOM session, and a program, if these differences are not addressed through mediator training and in preparation meetings with the offender and victim.

Best Practices

The following bullets provide brief descriptions of VOM best practices as identified by national research. These best practices do not necessarily reflect actual practices in Texas’ VOM programs, which are described in Section II.

- **Participation is voluntary.** Most researchers agree VOM should require voluntary participation from both the victim *and* the offender. Otherwise, participants may not achieve meaningful mediation and empathy for each other when either party feels coerced into VOM.
- **Offender admits guilt.** Most VOM programs require the offender’s admission of guilt prior to mediation. The reasons for this are in line with the goals of restorative justice, whose purpose is to make the offender accountable for the offense. It is unlikely the offender will internalize any sense of accountability if he or she has not admitted guilt, even if the juvenile has been adjudicated guilty.
- **All parties are prepared before mediation.** Separate preparatory meetings between the mediator and victim and the mediator and offender are highly encouraged. These meetings help the mediator assess the participants’ attitudes, address expectations, and ensure no one is feeling coerced into VOM. These meetings also help redress the imbalance of power caused by age and communication differences between the offender and the victim, especially if the latter is an adult. Mediators can address these issues through informal role-playing that helps prepare both parties for the face-to-face dialogue.
- **Employ a neutral and trained mediator.** It is highly recommended that a neutral and well-trained individual not involved in the dispute serve as the mediator. Researchers generally do not consider juvenile probation officers to be neutral mediators, although many programs still employ them in this capacity. Many programs use trained community volunteers from the area’s local dispute resolution center, an option that also helps to reduce program costs. Mediator training requirements often vary across programs. Some have very detailed requirements while others have very general provisions.

Section II. Victim Offender Mediation Programs in Texas

Although VOM has been operating in the U.S. since the 1970s, it is still relatively new to most juvenile probation departments in Texas. Of Texas’ 166 departments, only nine reported offering victim offender mediation services in 2007. As indicated on Table 1 (next page), the majority of VOM programs operating in juvenile probation departments serve only a few youth annually. Only three of these programs served an average of 100 or more juveniles annually. Four departments with VOM programs also offer other restorative justice programs such as Teen Court, Neighborhood Conference Committees, and/or Victim Impact Panels. In addition to the nine departments offering VOM programs in 2007, at least three juvenile probation departments, Lubbock, Nueces, and Hood, are currently developing VOM programs.

Table 1.
Texas Juvenile Probation Departments with
Victim Offender Mediation Programs in CY 2007

Department	Inception Date	Avg. Annual Participants	Average Agreement Rate
Bexar	Jun-94	5	Unknown
Dallas*	1982	492	86%
Gregg	Oct-92	2	Unknown
Jefferson	Jul-90	16	25%
Kendall	Apr-07	6	100%
McLennan	May-07	1	Unknown
Montgomery	May-88	5	80%
Tarrant	Sep-92	200	98%
Travis	Oct-97	124	86%

*Includes VOM referrals that never made it to mediation.

Source: TJPC survey of Texas juvenile probation departments and interviews with juvenile probation department staff.

The referral criteria for VOM vary among the nine juvenile probation departments operating this program. The departments in Montgomery, Tarrant, and Dallas counties allow all offenders, regardless of the offense, to participate in VOM. The other departments refer only juveniles who have committed specific offenses to VOM. For example, Travis' VOM program is used only for juveniles committing domestic violence and property offenses.

Various individuals may refer juveniles to VOM, depending on the department's policies. Probation officers are the primary source of referral to VOM in all departments, except in Gregg County. Gregg County only conducts mediations when ordered by a judge because of limited staff resources. In addition to probation officers, some VOM programs accept referrals from judges, schools, parents, victims, as well as the offender. Appendix 1 contains a table of this information.

All departments make VOM participation voluntary for both the victim and the offender. In many cases the county District Attorney and the juvenile's attorney must also consent to mediation. Some departments report that the voluntary nature of the program contributes to low participation rates. Participation is also affected by the use of mediation to determine restitution and community service hours only, meaning mediation is skipped if these are agreed upon before the mediation date.

The majority of departments reported that the cost of VOM programs is minimal because of the services provided by the county's local dispute resolution center (DRC). In addition to training services, grants, fundraising and client fees, these DRCs are also funded by county court fees. Five of the nine departments rely on the county's local dispute resolution center to recruit and train mediators at no cost to the department. The Dallas and McLennan departments do not use the services of a DRC despite the existence of such an organization in their county. Instead, they use department staff to conduct the mediations. Appendix 2 lists all of Texas' dispute resolution centers and their location. Two of the three counties lacking a DRC still rely on volunteers, but train and recruit mediators differently. Gregg County recruits and trains volunteers from the

community to conduct the mediations for the department. Kendall County's mediations are conducted by a professor from the University of Texas at San Antonio who volunteers for the department. The victim assistance coordinator at the McLennan juvenile probation department conducts the mediations.

In addition to trained and impartial mediators, VOM programs require coordination and management by department staff. These functions are usually performed by staff with other integral departmental duties, such as the victim assistance coordinator or a juvenile probation officer. Only two counties reported annual operating costs for VOM. Not coincidentally, these same counties have the largest VOM programs in Texas. More information on the cost of these is provided below and in Section III.

Following is a description of existing VOM programs in Texas' juvenile probation departments. Appendix 1 contains a summary of this information.

- Bexar County Juvenile Probation Department -- The goal of Bexar County's VOM program is to divert first time juvenile offenders referred for minor misdemeanor and property offenses from entry into the juvenile justice system. Successfully completed agreements release the offender from further obligations to the department. Referrals to VOM are made by juvenile probation officers, although the offender and victim must still agree to voluntarily participate. Mediations are conducted by the county's dispute resolution center, which recruits and trains mediators at no cost to the department. Bexar County reports voluntary participation contributes to low program participation rates, especially from the victim who is most likely to decline VOM. According to staff, offenders in Bexar County have a greater incentive to participate because mediation gives them an opportunity to negotiate the amount of their restitution. Bexar Department does not track agreement outcomes, although it is the juvenile probation officer's responsibility to ensure the agreement is fulfilled. Department staff report the program's cost is minimal.
- Dallas County Juvenile Probation Department -- Dallas County has Texas' oldest VOM program for juvenile offenders. The program was originally conceived as a result of the Restorative Justice movement, but now VOM has become part of a broader program that provides a full range of services including community service restitution, job readiness training, and at times, direct service to the victim. Referrals to VOM can be initiated by the juvenile court judge, the victim, or the juvenile probation officer for any type of offense. In practice, however, most referrals to VOM are for property offenses. Participation in the Department's program must be voluntary for all parties. The Department conducts all VOMs "in house" under the supervision of the Mediation Manager. Mediations may be face-to-face or over the telephone. The program's annual cost is estimated at \$58,678, which includes prorated salary and benefits for the department's mediator, alternative mediator, interpreter services, and the supervisory staff.
- Gregg County Juvenile Probation Department -- Gregg County had at one time a fairly large VOM program, but according to staff, referrals declined significantly with the introduction of Progressive Sanctions.⁶ Mediations are conducted by trained volunteer mediators when ordered by a juvenile court judge, although the offender and victim must still participate voluntarily. Finding volunteer mediators is one of the department's biggest challenges according to staff.⁷ Program cost is minimal because program administration is included with the other duties of the victim assistance coordinator.

⁶ The department began disposing referrals according to progressive sanctions instead of diverting these to VOM.

⁷ There is no dispute resolution center that serves Gregg County.

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- Jefferson County Juvenile Probation Department -- VOM is reserved in Jefferson County for first or second time offenders who do not have a record of multiple burglaries or unauthorized use of a motor vehicle, and whose parents express a good faith interest in addressing restitution needs. VOM referrals in Jefferson County can be initiated by police officers, judges, victims, schools, probation officers, or the juvenile's parents. In practice, however, most of the Department's referrals are initiated by a juvenile probation officer for cases requiring restitution. As with most all other departments, all parties must voluntarily participate, and additionally, the offender must have admitted guilt. Mediations are cancelled if restitution is agreed upon before the mediation date. Mediations are conducted by the county's dispute resolution center in person or by telephone. The program has no impact on the department's budget because the DRC provides mediation services at no cost.
 - Kendall County Juvenile Probation Department -- Kendall County's VOM program is one of Texas' newest, begun in April 2007. It is operated by the Restorative Justice Board, a multi-agency collaborative effort among the county's Sheriff Department, Courts, the Boerne Police Department, and the Kendall Juvenile Probation Department. The Restorative Justice Board accepts juveniles who have committed misdemeanors and C.I.N.S.⁸ offenses referred by the Kendall Department, as well as by police officers, parents, judges, and the schools. Offender and victim participation is voluntary. Mediations are conducted by a criminal justice professor from the University of Texas at San Antonio and are held at the Kendall County Courthouse or the Juvenile Probation Department. Program costs for 2007 totaled \$1,877, which included mediator training and supplies. These costs, however, were absorbed by the Boerne Police Department, the agency currently scheduling mediations.
 - McLennan County Juvenile Probation Department -- McLennan County's VOM program is known as Victim/Offender Conferencing. Referrals to VOM may be made by the offender's parents, a probation officer, or even the offender, but the victim and offender must still participate voluntarily. Referrals to the program are primarily for property crimes and minor assault offenses. The majority of mediations were for juveniles that accepted a deferred prosecution agreement that addressed restitution and community service hours *prior to* the mediation. The department reports that the program's voluntary nature discourages participation by the offender who often perceives the program as an extra punishment. Mediations are held at the department and are conducted by the McLennan Juvenile Probation Department's victim assistance coordinator. The program's cost is minimal as program coordination and mediation are included with the duties of the victim assistance coordinator.
 - Montgomery County Juvenile Probation Department -- Referrals to Montgomery County's VOM program are made by the juvenile court judge or the department's probation officers, although participation by the offender and victim must be voluntary. The program accepts juveniles with all types of offenses, but in practice, most referrals are for theft and property damage and are made with the goal of arriving at a restitution agreement before the referral is disposed. The agreement is usually part of a deferred prosecution agreement. The department's dispute resolution center recruits and trains volunteer mediators and conducts the mediations off-site, thus minimizing costs to the department.

⁸ C.I.N.S. refers to "Conduct Indicating a Need for Supervision" and includes non-criminal offenses such as truancy, runaway, public intoxication, inhalant abuse, and certain fineable only offenses that have been transferred to the juvenile courts from a municipal or justice court.

- Tarrant County Juvenile Probation Department -- VOM referrals in Tarrant County can be initiated by the juvenile's parent(s), the judge, district attorney, victim, or the juvenile probation officer for any offense and at various stages of the juvenile justice process. The victim and offender must agree to participate voluntarily. Because mediation is offered as part of a larger domestic violence program, many of Tarrant County VOM participants are referred for family violence offenses. Tarrant County contracts with the county's dispute resolution center to recruit and train volunteer mediators, but the actual mediation session is conducted at the department under the coordination of the Victim Assistance Unit. The services provided by the DRC significantly reduce the program's cost, which is partly funded by a Criminal Justice Department grant. However, funding sources are aimed at the Tarrant Juvenile Probation Department's Breaking the Cycle of Violence, a comprehensive program that provides an array of interventions to address juvenile domestic violence. VOM is only one component of this program. Tarrant County reports its VOM program expanded after the department began scheduling mediation sessions themselves instead of referring these out to the local dispute resolution center. The latter used regular mail to schedule mediations, which often led to lengthy timeframes, sometimes months, to resolve the issue. Exact program costs are not available since VOM is part of a multi-faceted domestic violence program.
- Travis County Juvenile Probation Department -- VOM referrals in Travis County may be court-ordered, requested by a juvenile probation officer, or by the family. All parties participate voluntarily. The program was used initially for property crimes, but began serving juveniles with assault and family violence offenses in 1995, which now comprise the majority of VOM referrals. As with Bexar, Jefferson, Montgomery, and Tarrant Counties, Travis County obtains volunteer mediators from the county's local dispute resolution center, but conducts mediations at the department. The Travis Juvenile Probation Department estimates the cost of their VOM program to be approximately \$5,000 annually.

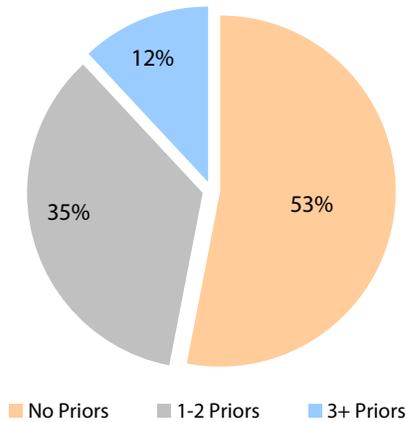
Section III. Victim Offender Mediation in Dallas, Tarrant, and Travis Juvenile Probation Departments

This section contains information on all Dallas, Tarrant, and Travis juvenile probation department referrals to VOM in fiscal year 2006. In that year, these three counties combined referred 589 juveniles to victim offender mediation for 622⁹ offenses. Most juveniles referred were Hispanic (38%), followed closely by African Americans (33%), and then by Whites (27%). Seventy-three percent of these juveniles are male.

Slightly more than half of the juveniles referred to VOM had no prior referrals, as indicated in the chart that follows. Thirty-five percent had one or two prior referrals, while 12 percent had three or more prior referrals to the juvenile probation department at the time of referral to the VOM program. An examination of this information by department shows greater similarities between the prior referral history of the juveniles referred to VOM by Tarrant and Travis counties. The percentage of Tarrant and Travis County juveniles with no prior history and referred to VOM was 66.5 percent and 62.8 percent respectively, whereas the percentage of Dallas juveniles with no priors was 37.1 percent. The percentage of juveniles with one or two prior referrals for Tarrant and Travis counties was 26.4 percent and 23.9 percent respectively, lower than Dallas' rate of 47 percent for this category.

⁹ Juveniles may have participated in VOM for multiple offense referrals. The primary offense for each referral was used for analysis.

Number of Prior Referrals for Juveniles Referred to VOM in Dallas, Travis, and Tarrant in FY 2006



Overall, the majority (56%) of VOM referrals were for misdemeanor offenses. Table 2 below specifies the type of offenses that lead to the VOM program referral. Burglaries were the most common felony offense, the majority of which were committed by juveniles in the Dallas VOM program (122 out of 131 felony burglaries). Overall, assaults were the most common misdemeanor offense, the majority committed by juveniles in the Tarrant and Travis VOM programs (205 out of 227 misdemeanor assaults).

Table 2.
Offenses Mediated by VOM in Dallas, Tarrant, and Travis Juvenile Probation Departments (count and percent)

Felony Offenses							Class A & B Misdemeanors					CINS	Violation of Probation Order	Contempt of Magistrate Order
Aggravated Assault	All Sexual Assaults	Burglary	Motor Vehicle Theft	Robbery	Theft	Other Felony	Assault	Drug Offenses	Theft	Weapons Violations	Other Misdemeanor	Truancy, Runaway, etc.		
35	1	131	30	9	28	21	227	4	46	1	72	8	7	1
5.6%	0.2%	21.1%	4.8%	1.4%	4.5%	3.4%	36.6%	0.6%	7.4%	0.2%	11.6%	1.3%	1.1%	0.2%

Note: Offenses listed were determined at disposition. Offense information for one referral was unavailable.

An examination by department of the offenses committed by juveniles referred to VOM reflects differences in offense referral criteria. For example, the majority (68.6%) of Dallas' total VOM referrals are for felony property offenses. Only 15 percent of the total property offenses are misdemeanor offenses. The offenses of Tarrant County juveniles referred to VOM are overwhelmingly misdemeanor offenses (84.4%), mainly for assaults. Like

Tarrant County, Travis County's total VOM referrals are overwhelmingly misdemeanor offenses (72.6%), and also like Tarrant County, are primarily for assaults within the misdemeanor category.

The majority (58.5%) of VOM referrals in Dallas, Tarrant, and Travis counties in FY2006, were disposed after the juvenile attended mediation (see Table 3). However, it does not appear that VOM served as a diversion from juvenile justice system involvement in two of these counties since most juveniles participating in the respective VOM programs were placed on supervision for their referral offenses.

Table 3.
Sentence Timing of VOM Referrals

Timing of Disposition	Count	Percent
After Mediation	364	58.5%
Before Mediation	85	13.7%
On Mediation Date	172	27.7%
Unknown	1	.1%

As indicated in Table 4, the three departments differed dramatically in the way they disposed the cases of juveniles participating in the VOM program. Eighty-four percent of Dallas juveniles referred to VOM were disposed to probation, while 36.4 percent of juveniles from Travis received a disposition of probation. Travis County placed the highest percentage of juveniles on deferred prosecution (33.9%) while Tarrant County diverted the majority of juveniles participating in VOM from the juvenile probation system (70.6%). This seems to indicate differences in the purpose of the programs as well as the juveniles served by each program.

Table 4.
Disposition of VOM Referrals in Dallas, Tarrant, and Travis Counties

Disposition	Dallas	Tarrant	Travis	Combined
Diverted from Juvenile Justice System*	4.8%	70.6%	27.1%	31.7%
Deferred Prosecution	6.9%	15.0%	33.9%	14.8%
Probation	84.4%	12.1%	36.4%	50.3%
Commitment to TYC	3.8%	0.0%	0.8%	1.9%
Disposition Unavailable**	0.0%	2.3%	1.7%	1.3%

*Includes dispositions of dismissed, supervisory caution, non-suited, adjudicated with no disposition, not guilty, and refused.

**Includes transferred cases and others where disposition information is unavailable.

Notes:

The dispositions listed reflect the first disposition given for the referral.

Of the original VOM referrals, 39 were consolidated and disposed in another case. The most severe disposition given for each child was reported.

Mediation Outcomes

The majority of referrals to VOM arrived at agreement in all three departments, as shown in Table 5. The departments do not systematically track these agreements to ensure they are fulfilled, therefore, outcomes showing if the agreement was completed are not available.

Table 5.
Victim Offender Mediation Outcomes

Department	Agreement	No Agreement
Dallas*	85.8%	14.2%
Tarrant	98.1%	1.9%
Travis	86.4%	13.6%

*Does not include 57 referrals where mediation outcome information is either unavailable or unclear.

One Year Re-Referral Rate

The TJPC examined the one year re-referral (e.g., a subsequent referral) rates of those juveniles participating in VOM in Dallas, Tarrant and Travis Counties in fiscal year 2006. Re-referrals include all formal referrals to the juvenile probation department within one year of the first VOM session, regardless of the offense. Only juveniles younger than 16 years at the time of mediation were selected for re-referral analysis in order to give all juveniles a full one-year follow-up time period in the juvenile justice system.

Re-referral rates in Dallas and Travis counties were 51 percent and 58.2 percent respectively, far higher than Tarrant County's rate of 35.3 percent, as listed in Table 6. An examination of the incidence of prior referrals for the juveniles who participated in VOM provides some insight to the differences in re-referral rates. Juveniles with a prior history of referral are at higher risk for a subsequent referral. About 67 percent of the Tarrant County juveniles participating in VOM were first time offenders, compared to 37 percent of Dallas County juveniles. Conversely, 63 percent of juveniles participating in the Dallas VOM program had at least one prior referral compared to 34 percent of juveniles in Tarrant County. Overall, one year re-referral rates of VOM participants in these three counties during fiscal year 2006 were higher than the one-year re-referral rate for all juveniles disposed by department.

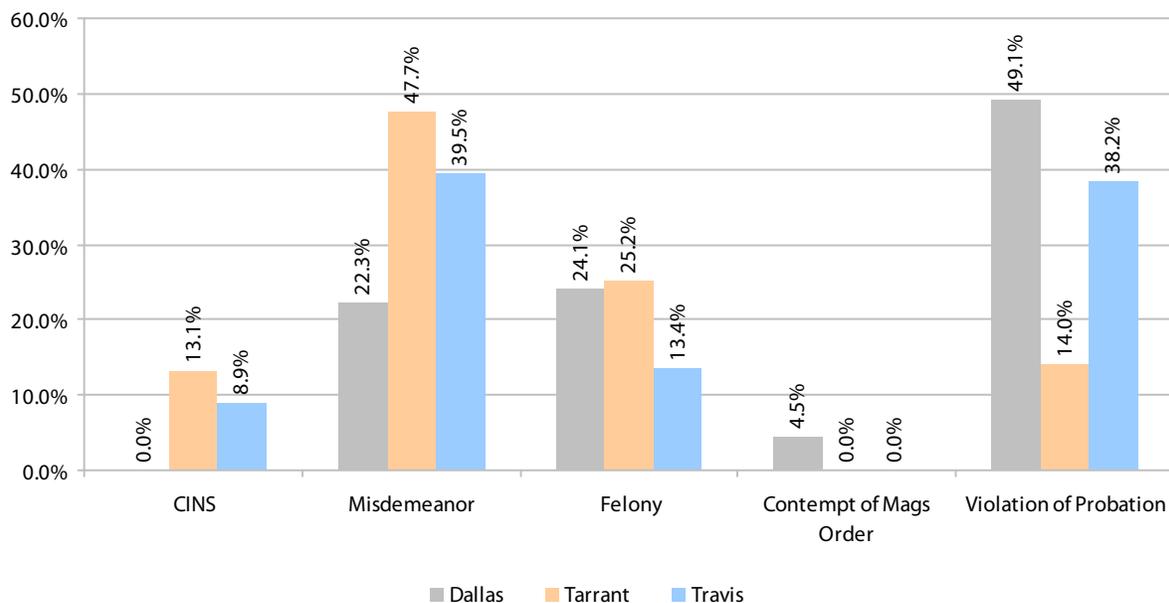
Table 6.
One Year Re-Referral Rates

Department	VOM Participants	All Juveniles Disposed *
Dallas	51.0%	32.3%
Tarrant	35.3%	33.1%
Travis	58.2%	46.3%

*Re-referral rate for all juveniles disposed in the department in FY 2006.
Note: Analysis only includes children younger than 16 years at the time of VOM.

Overall, misdemeanors and violations of probation were the most frequent offenses committed by juveniles within one year after their VOM participation in the Dallas, Tarrant, and Travis juvenile probation departments. The chart that follows compares the juveniles' re-referral offenses by department. The reported re-referral offenses are only for those juveniles who were younger than 16 years at the time of mediation. The majority of re-referral offenses in Dallas County were violations of probation (49.1%). Misdemeanor (22.3%) and felony (24.1%) re-referral offenses in Dallas are a distant second to violations of probation. Unlike Dallas County, most of the juveniles' re-referral offenses in Tarrant County were misdemeanors (47.7%) with felony re-offenses a distant second (25.2%). The most frequent re-referral offenses for Travis County juveniles are almost evenly split between misdemeanors (39.5%) and violations of probation (38.2%).

One Year Re-Referral Offenses of VOM Participants in FY 2006



Note: Offense categories are at the time of referral and may change at disposition.

In comparison to the other juvenile probation departments with VOM programs, the cost of running VOM programs in these three counties is significant. The Dallas Department conducts its mediations in-house with the use of one full-time mediator, an alternative mediator, and occasionally, volunteer mediators who are trained by the department. The Dallas Department estimates the annual operating costs for its program is approximately \$58,678, which includes *only* salary and benefit compensation for staff directly involved in the program and interpreter services. Tarrant's costs is slightly less because the county's dispute resolution center recruits and trains the department's mediators. Exact operating costs are not available for Tarrant since the VOM program administrator has other functions tied to the position's \$55,900 annual salary. Travis also uses mediators provided by that county's dispute resolution center. That program's cost is estimated to be about \$5,000 annually once the program administrator's time is prorated for VOM program costs only.

Section IV. Conclusions and Recommendations

Conclusion

Texas has VOM programs in nine of its 166 juvenile probation departments. Three of these programs, located in Dallas, Tarrant, and Travis counties, provided victim offender mediation services to 589 juveniles in fiscal year 2006. Although VOM is sometimes practiced in other juvenile probation departments, VOM referrals in those departments were minimal.

The program costs for operating a VOM program are not insignificant as it normally includes recruiting and training mediators and other human resources. These costs decrease considerably, however, when departments use the resources from the county's dispute resolution center to obtain neutral and trained mediators. These DRCs are partially funded by county court fees.

The VOM practices of the three active departments reflect a nationwide trend of using VOM primarily to address nonviolent property crimes and minor or domestic violence assaults. Some best practices identified in Section I are incorporated into the practices and procedures of these three programs, including requiring voluntary VOM participation and using a neutral and trained mediator.¹⁰

VOM in the three counties with the largest VOM programs do not necessarily serve as a diversionary measure from deeper penetration into the juvenile justice system since a majority of juveniles referred were placed under supervision after mediation. VOM programs operating in Dallas, Tarrant, and Travis Counties do not appear to reduce recidivism. The one year re-referral rate of VOM juvenile participants in fiscal year 2006, is higher than the equivalent rate for all juveniles disposed in each of the three departments during that same time period.

Recommendations

TJPC recommends the expansion of dispute resolution centers. There are currently 18 centers in Texas.¹¹ These centers recruit mediators, provide training and, in some cases, facilitate the scheduling of mediations. Juvenile probation departments in counties served by dispute resolution centers have access to impartial, trained, volunteer mediators who provide mediation services for their programs. The expansion of dispute resolution centers will allow more juvenile probation departments access to the resources needed to operate an effective victim offender mediation program.

TJPC recommends that, if guidelines for victim offender mediation programs are established, the following requirements be included for all programs serving juvenile offenders:

- All programs should utilize trained impartial mediators. If these mediators are employees of the juvenile probation department, they should not work with juveniles in a supervisory capacity;

¹⁰ Dallas' mediator is employed by the Dallas Juvenile Probation Department, but does not engage in other duties.

¹¹ The Center for Public Policy Dispute Resolution is not included in the total. This dispute resolution center is part of The University of Texas School of Law, is not county-funded, and focuses on public policy mediations.

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- Mediators should be trained in accordance with recognized mediation training standards in order to ensure usage of consistent guidelines;
 - Mediators should have a thorough understanding of the juvenile justice system and the rights of all parties involved in the mediation;
 - Program participation must be voluntary for both juveniles and victims; and
 - Program participation should not be limited to pre-disposition, but should be available to all juvenile offenders both prior to disposition and while under supervision.

In recognition of the need to incorporate best practices in Texas VOM programs, TJPC has begun to develop a victim offender mediation best practice program guide to be used by Texas juvenile probation departments. The guide will be completed in Spring 2009 and will contain information about victim offender mediation programs in general and offer proven strategies to juvenile probation departments wishing to develop their own VOM program. TJPC staff will provide technical assistance to juvenile probation departments wishing to implement a successful program.

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Appendix 1. Summary of Victim Offender Programs in Texas

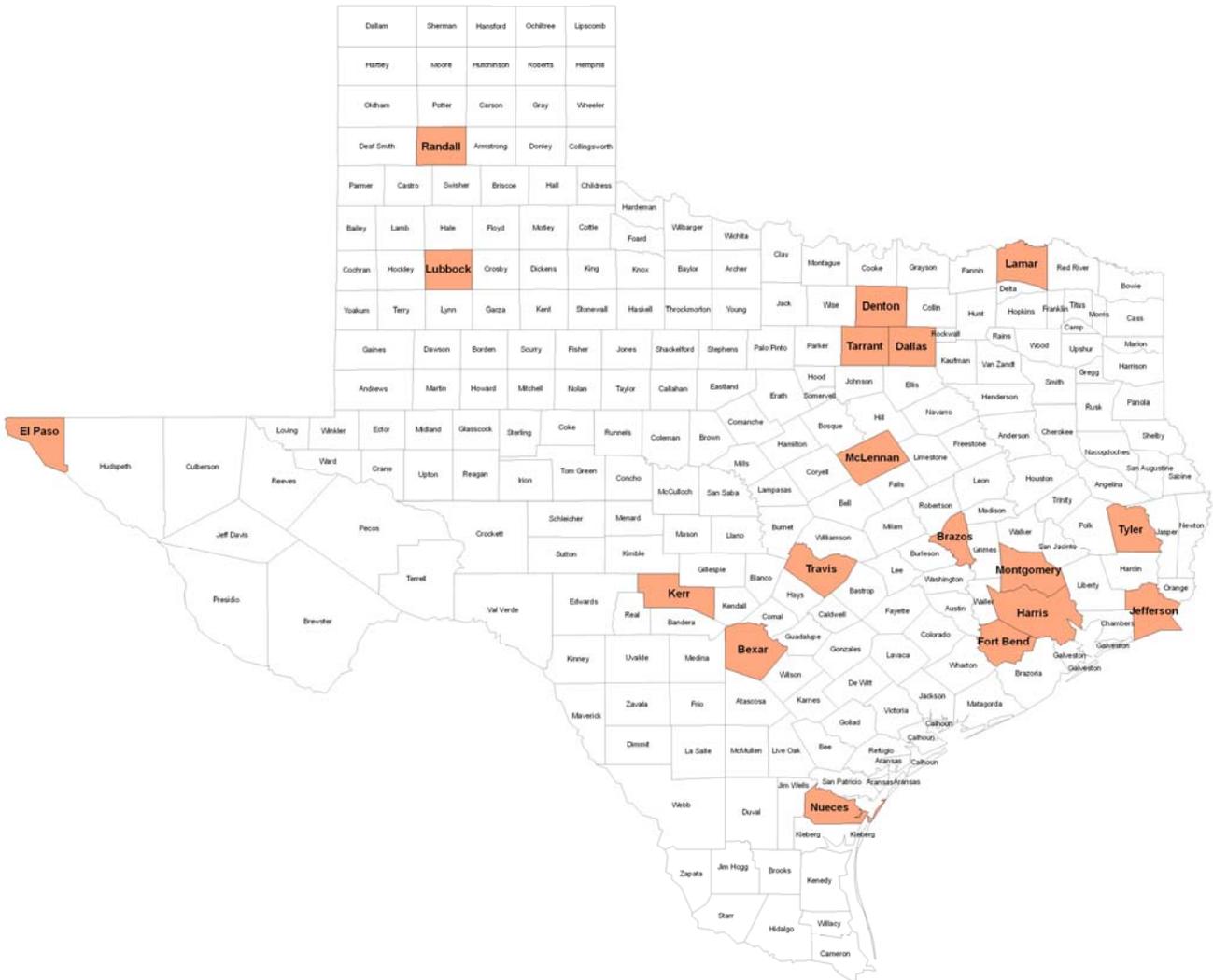
Juvenile Probation Department	Utilizes Dispute Resolution Center Services	Offenses Mediated by VOM						Origin of Referral						Requires Voluntary Participation	Mediator Training Requirements	Avg. Annual Participants*	Program Cost	Additional Details
		Felony	Violent	Mis-demeanor	Domestic Violence	CINS	Property	Police	Parent	Judge	Victim	School	Probation Officer					
Bexar	Yes			Y			Y							Y	Determined by local Dispute Resolution Center	5	Minimal**	
Dallas	No	Y	Y	Y	Y		Y		Y	Y			Y	Y	Determined by department. 40 hours basic training and must observe three or more mediations	492	\$ 58,678	In practice, the majority of mediations are for property offenses. Also offers Victim Impact Panel
Gregg	No	Depends on Judge's Referral								Y				Y	Determined by the department.	2	Minimal	
Jefferson	Yes	Y		Y			Y	Y	Y	Y	Y	Y	Y	Y	40 hours basic training plus 8 hours specific to juvenile mediation	16	Minimal	Reserved for 1st or 2nd time offenders without certain prior offenses. Used mostly for cases requiring restitution. Refers to Teen Court.
Kendall	No			Y		Y	Y	Y	Y		Y	Y	Y	Y	Determined by department. Training in conflict resolution	6	None to department	Mediation program is operated by the multi-agency Restorative Justice Board.
McLennan	No			Y			Y	Y					Y	Offender	Determined by department. Training in restorative justice and mediation	1	Minimal	
Montgomery	Yes	Y	Y	Y	Y		Y		Y				Y		Determined by local Dispute Resolution Center	5	Minimal	Primarily used for cases requiring restitution for property or theft offenses.
Tarrant	Yes	Y	Y	Y	Y	Y	Y	Y	Y				Y	District Attorney	Determined by local Dispute Resolution Center	200	Not Available	In practice, the majority of mediation cases are family violence referrals. Offers Neighborhood Conference Committee, Victim Impact Panels.
Travis	Yes				Y		Y	Y					Y		Determined by local Dispute Resolution Center	124	\$ 5,000	Offers Neighborhood Conference Committee, Victim Impact Statements

*Based on FY2006 estimates.

**Exact amounts are not available.

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Appendix 2. County Location of Dispute Resolution Centers in Texas



Total: 18 centers

Notes:

The Center for Public Policy Dispute Resolution is not included in the total. This dispute resolution center is part of The University of Texas School of Law, is not county-funded, and focuses on public policy mediations.

Most dispute resolution centers will serve neighboring counties.

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