

RESEARCH ARTICLE

State of knowledge: Four decades of victim-offender mediation research and practice: The evidence

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This paper provides an overview of 40 years of victim-offender mediation evaluation research. This research demonstrates that victims and offenders are more satisfied with the process and outcomes than with the courts, they are more likely to draft and complete restitution agreements, they derive psychosocial benefits, the process is less expensive, crime victims are more likely to receive apologies from offenders, and offenders are less likely to recidivate. These benefits are not necessarily uniformly distributed. This “first wave” research provides a platform for the second wave, currently underway. To contextualize these findings, current and future victim-offender mediation practices are outlined.

1 | INTRODUCTION

This paper considers empirical evidence demonstrating the effectiveness of victim-offender mediation, as well as some disparate impacts that the process may have on different types of victims and offenders. The evidence provided parallels key findings that have emerged over the course of the 40-year career of Mark Umbreit, a restorative justice scholar and pioneer in victim-offender mediation (starting in the 1970s when it was known as the Victim-Offender Reconciliation Program), who has considered the effectiveness of victim-offender mediation throughout his career. In order to establish the strength of this evidence, the practice of victim-offender mediation is briefly outlined. Empirical evidence of the impacts of victim-offender mediation for victims, offenders, and society are then detailed. These victim-offender mediation findings originate from what we have identified as the first wave of restorative justice research, which has paved the way for the second wave of research just now getting under way. The paper also considers some differential impacts and concerns that have emerged in studies of victim-offender mediation, as well as some means that have been demonstrated to mitigate those concerns. It is important to note that this analysis does not consider the process of victim-offender mediation in cases of severe violence, such as in attempted homicide and murder

[Correction added on 12 September, 2018, after first online publication: “State of knowledge” was added to the title.]

cases with family survivors (Umbreit, Vos, Coates, & Brown, 2003). That type of criminal justice intervention is analytically distinct, although more minor incidents of violence, such as assault, are considered here. Ultimately, this paper contends that there is abundant evidence to support the use of victim-offender mediation in juvenile and criminal justice systems around the world but there are also many elements of practice that could be further illuminated by the second wave of restorative justice research, and the practice of victim-offender mediation will continue to evolve.

2 | WHAT IS VICTIM-OFFENDER MEDIATION?

Victim-offender mediation first formally surfaced in the criminal justice system in Elmira, Ontario, in 1974, as an innovative initiative called the Victim Offender Reconciliation Program (VORP) (Zehr, 1995). This VORP program was then replicated in Elkhart, Indiana, in 1978 (Coates & Gehm, 1985; Umbreit & Armour, 2011; Zehr, 1995). Subsequently, the process of assisting victims and offenders to come together to discuss wrongdoing, its impacts, and ways to “make things right” in a safe setting according to the principles of restorative justice was termed victim-offender mediation (Umbreit, 1994, 2006; Umbreit & Armour, 2011; Umbreit & Hansen, 2017). This process can vary widely, also being called victim-offender conferencing or victim-offender dialogue (Umbreit & Armour, 2011). What distinguishes victim-offender mediation from other forms of restorative justice practice, such as family group conferencing and restorative circles, is the strong emphasis that the process has on the interaction between the victim of a crime and the offender of that crime, rather than other interactions with family members, support people, or members of the wider community (although such support people can and do participate in mediation sessions) (Umbreit & Armour, 2011). Sherman, Strang, Mayo-Wilson, Woods, and Ariel (2015) also characterize family group conferencing as being less structured and providing less emphasis on restitution than some victim-offender mediation programs, with conference facilitators playing a less prominent, “negotiator-like” role than mediators (p. 5).

Victim-offender mediation is a term that has transformed over the years. As indicated above, guided experimental encounters between crime victims and juvenile offenders in Ontario, Canada, and Indiana in the 1970s that were offered as an alternative to juvenile and criminal justice systems were termed “Victim-Offender Reconciliation Programs” (Umbreit & Armour, 2011; Zehr, 1995, 2004). These kinds of encounters were later called “victim-offender mediation,” which corresponded well with the broader alternative dispute resolution movement's use of the mediation process (Zehr, 2004). This terminology was later challenged under the premise that mediation came with some potentially damaging connotations, including a focus on settlement or resolution (rather than ameliorating harms and meeting needs), a concern by victims that the term meant moral neutrality among victims and offenders, and a belief that this might emphasize a more legalistic approach to practice (Zehr, 2004). Therefore, in recent years, more restorative justice programs involving victim-offender encounters have used the terms “conferencing” (as distinct from “family group conferencing,” which is outlined as a unique form of practice above) or “dialogue” to refer to their restorative practices, there has been more hybridization of different restorative practices (blending mediation, conferencing, and circles in innovative ways), and victim-offender mediation has been folded into broader programs in juvenile and criminal justice systems, schools, and community mediation centers (Umbreit & Armour, 2011; Zehr, 2004). For example, in a recent evaluation of Nebraska's juvenile restorative justice programming, Blevins (2016) used the term “victim youth conferencing” to study various types of victim-offender restorative encounters. Methodologically, this creates a challenge for this research, as fewer studies are conducted using the term “victim-offender mediation,” which we

adhered to for this study, skewing our results somewhat toward some findings from older studies that employed the term victim-offender mediation.

Victim-offender mediation is a unique form of mediation that is based on a humanistic approach to dialogue, meaning: victims are given as much choice and voice as possible, the mediator prepares both the victim and offender prior to a mediated session and contacts them after the session to check in with them, the process is dialogue-driven (rather than settlement-driven) with participants directly sharing their narratives and listening deeply to each other, from the heart, in a face-to-face format (although, silence also naturally emerges in dialogue at times), the mediator is authentic, centered, nondirective, and fully “present” to profoundly connect with the participants, and the mediation is emotionally and physically safe, if not sacred (Lewis & Umbreit, 2015; Umbreit, 2006; Umbreit & Armour, 2011; Umbreit & Hansen, 2017). Lewis and Umbreit (2015) report that this approach is designed to deepen communication and connection among the parties, as well as the mindfulness and presence of the mediator, in order to maximize the potential for the encounter to be healing. Furthermore, this form of mediation is predicated on the assumptions that people are all interconnected, share a common humanity, learn from their mistakes and misfortunes, have and draw on their inner strengths, desire to live peaceably, and achieve healing by telling others their truths, having those truths acknowledged, and experiencing genuine human encounters with one another (Lewis & Umbreit, 2015; Umbreit, 2006; Umbreit & Armour, 2011; Umbreit & Hansen, 2017).

According to Umbreit and Armour (2011), victim-offender mediation is the most common, most researched, and most widespread form of formal restorative justice practice in juvenile and criminal justice systems around the world. Victim-offender mediation has been integrated into juvenile and criminal justice systems around the world, on all continents, including North America (see, e.g., Latimer, Dowden, & Muise, 2005), South America (see, e.g., Rosenblatt & Fernandez, 2015), Western Europe (see, e.g., Jacobsson, Wahlin, & Andersson, 2012), Eastern Europe (see, e.g., Vos, Umbreit, & Hansen, 2006), Asia (see, e.g., Syukur & Bagshaw, 2015), Africa (see, e.g., Dissel, 2002), and Oceania (see, e.g., Larsen, 2014). There are over 300 victim-offender mediation programs in the United States alone (Umbreit & Armour, 2011). Illustrating its worldwide acceptance, the United Nations Congress on Crime Prevention went so far as to draft the *UN Basic Principles on the Use of Restorative Justice Programs in Criminal Matters* in 2000, which was later adopted by the United Nations' Economic and Social Council (United Nations, 2002). As victim-offender mediation is so widespread, it is also the restorative justice practice that is the most researched and empirically supported (Umbreit, 1994; Umbreit & Armour, 2011). This research consistently demonstrates that victim-offender mediation is at least as effective as traditional juvenile and criminal justice responses to crime and is commonly shown to be far more effective (Larsen, 2014).

As described in *Restorative Justice Dialogue* (Umbreit & Armour, 2011), victim-offender mediation is a four-step process. In Step 1, which could be termed referral or intake, the mediator contacts the victim and offender prior to a mediated session to ensure that they are well suited to the mediation process and choose to participate voluntarily (for instance, that the offender takes responsibility for the crime, minors are given permission to participate, and there are no mental health concerns that could inhibit the process). In Step 2, the mediator gets to know the victim and offender separately, gaining their trust, explaining the mediation process to them, and ensuring that their expectations are realistic. Step 3 is the mediated session itself, where the mediator supports the victims and offenders in telling their narratives to the one another, their questions are asked and answered, and they may ultimately choose to craft agreements, which are reached by consensus. Finally, Step 4 is called follow-up, when the mediator later contacts the victim and offender to check-in with them in order to

ensure that they are following through with their commitments and are doing well more generally, bringing the victim-offender mediation process to a close.

In 1999, a national survey of 116 victim-offender mediation programs in the United States was conducted by Umbreit and Greenwood (1999). The study found that victim-offender mediations were more frequently offered to juvenile offenders than to adults, with 45% of programs offering services exclusively to juvenile offenders and 46% of programs offering services to both juveniles and adults, while only 9% exclusively served adults. A total of 43% of victim-offender mediation programs were offered by private nonprofit organizations, 33% were offered directly by the justice system, and 23% were offered by faith-based organizations. Two thirds of the cases that were referred to the programs were misdemeanors, while one third were felonies. The four most common offenses were (in order from the most common to the least): vandalism, minor assault, theft, and burglary. A total of 3% of the programs were offered only prior to any court involvement, 34% of the programs were diversion programs (described in more detail below), 28% of the programs provided mediations after adjudication but before sentencing, 28% of the programs were offered only after sentencing, while 7% were provided at any point in the court process. A total of 78% of the programs reported that mediation participants were contacted and received preparation prior to mediations being conducted (included in Steps 1 and 2 above).

Quite commonly, victim-offender mediations result in crime victims receiving a restitution agreement and/or an apology. Umbreit and Armour (2011) report that apologies are a common element in restitution agreements and a study by Umbreit (1994) (including over 1,000 interviews and 28 observed mediation sessions) found that apologies were among the top three reasons why both victims and offenders perceived victim-offender mediation to be fair (Umbreit, 1994). Comparing the results from numerous studies, overall, about 90% of victim-offender sessions reach a restitution agreement (Dissel, 2002; Spriggs, 2009; Umbreit, Coates, & Vos, 2001, 2004). One study of 228 cases used a comparison group and found that restitution agreements were four times more likely in victim-offender mediation than in traditional court processes (Nuffield, 1997). Based on the results of a variety of studies, of the restitution agreements coming out of victim-offender mediations, 80–90% are completed satisfactorily, which compares favorably to a 57% completion rate for traditional court processes in a study involving 868 interviews and comparison groups (Umbreit et al., 2004; Umbreit & Armour, 2011; Umbreit & Coates, 1992). One study from six countywide programs in California using comparison groups even reported that offenders who participated in victim-offender mediation paid victims 95% or more on average in their restitution agreements (depending on the program) above what the victims that went through traditional court processes were paid (Evje & Cushman, 2000).

3 | VICTIM IMPACTS

When victims are invited to participate in victim-offender mediation, many of them welcome the opportunity to participate in a mediated session. Various studies have found that about 40–60% of crime victims choose to participate in restorative justice programs, when given the opportunity, and victim participation rates of up to 90% have been reported in certain locations (Coates, Umbreit, & Vos, 2002; Umbreit et al., 2001, 2004). The mediation process clearly does not suit all crime victims. Considering a study of 73 victims who participated in VORP in Indiana, who were compared with a matched sample of those who did not participate, and another study of 240 mediation participants and comparison group members, of the crime victims who refuse to participate in victim-offender mediation, the most common reasons that they choose not to participate are: because the crime seems too trivial to invest the time, they fear meeting with the offender, they want the offender to receive a

harsh punishment, or too much time has elapsed since the crime occurred (Coates & Gehm, 1985; Umbreit, 1996). It is critical that the participation of crime victims is voluntary, rather than mandatory, as victim-choice is necessary to ensure that victim-offender mediation is victim-centered and does not revictimize people in any way (Choi, Green, & Kapp, 2010; Umbreit, 2006; Umbreit & Armour, 2011; Umbreit & Hansen, 2017). In a study of 37 individuals who participated in victim-offender mediations, of the victims who chose to participate, they most commonly chose to participate in order to answer important questions about the crime, receive a genuine apology, share their narratives about their experiences of victimization with the offender, and help offenders to improve their lives (Choi et al., 2010). A victim-offender mediation session provides victims with the chance to speak directly to offenders, ask them important questions about a crime and why it happened, tell them about the effects a crime had on their lives, and discover ways that offenders can make amends for their actions (Umbreit & Armour, 2011).

Victims who participate in victim-offender mediation therefore come into mediated sessions with hopes and expectations, which are not always achieved. Victims are sometimes disappointed with the process because the mediation session seems too long or too short, the mediator does not meet their expectations (for instance, they were overbearing or did not allow for sufficient victim participation), or, particularly, if victims receive an apology that seems incomplete or insincere (Choi et al., 2010; Choi & Gilbert, 2010; Choi & Severson, 2009). In various studies, victims have also reported disappointment with the interaction itself, when they felt pressure to accept an apology or agreement, their emotional expressions of anger and pain were stifled, the process rushed them to agreement, or they felt inadequately prepared for the encounter (Choi et al., 2010; Choi & Gilbert, 2010; Choi, Gilbert, & Green, 2013; Jacobsson et al., 2012). These potential concerns can be mitigated with proper in-person preparation prior to the mediated encounter (including coaching offenders on potential apologies), a nondirective mediation style, taking time to discuss and process difficult topics and emotions, and victim-sensitivity (Choi et al., 2010, 2013; Choi & Gilbert, 2010; Choi & Severson, 2009; Umbreit & Armour, 2011).

It is clear though that most victims who participate in victim-offender mediation are satisfied with their participation in the process. In virtually all studies conducted, crime victims report being satisfied with victim-offender mediation more than 80% of the time and 9 of 10 crime victims state that they would recommend victim-offender mediation to a friend (McGarrell, Olivares, Crawford, & Kroovand, 2000; Umbreit, 1994, 1999; Umbreit et al., 2001; Umbreit & Armour, 2011). This compares favorably to satisfaction with traditional court processes, including a study of 323 victims who reported a satisfaction rate of 48%, for example (Umbreit, 1999). In the same study, over 80% of the time victims reported being satisfied with the outcomes of mediation (Umbreit, 1999). In a step-wise multiple regression analysis of data coming from two studies ($N = 215$ and $N = 197$), three predictor variables explained 40% of the variation in the victim satisfaction variable: the victim felt good about the mediator, the victim perceived the restitution agreement as fair, and the victim had a strong initial desire to meet the offender (Bradshaw & Umbreit, 1998; Umbreit & Bradshaw, 2003). Over 80% of the time in various studies, victims also state that they find the mediation process and any resulting agreements to be fair, compared to 37–62% of those attending court processes (Umbreit, 1994, 1999; Umbreit et al., 2001, 2004; Umbreit & Armour, 2011). Victims have also reported that they believe that offenders have been held accountable for their actions (Umbreit & Armour, 2011). Furthermore, two studies in England demonstrated that even when victims participate in shuttle diplomacy (whereby they do not meet directly with the offender but the mediator acts as a go-between), crime victim satisfaction rates have still been in the range of 62–74% (Dignan, 1990; Umbreit & Roberts, 1996).

Victims participating in victim-offender mediation also commonly experience a variety of psychosocial benefits. For instance, in a study involving 323 victims, Umbreit (1999) found that 66% of crime victims who were referred to mediation but did not participate remained upset afterward, which compared to 53% who participated in victim-offender mediation. In the same study, Umbreit (1999) discovered that only 11% of victim-offender mediation participants retained a fear that they would be revictimized, compared to 31% who were referred to victim-offender mediation but chose not to participate. In a study with over 1,000 interviews, crime victims also indicated that they experience feelings of empowerment, that they are pleased about being a part of the offender's rehabilitation process, and that they felt that the mediation process humanized the offender for them (Umbreit, 1994). For instance, one crime victim indicated that victim-offender mediation, "minimized the fear I would have as a victim because I got to see that [the offenders] were real people diminishing a fantasy of what they would be like" (p. 97) and another stated that "it was a pleasure to work with [the offender] who was willing to take responsibility for his actions" (Umbreit, 1994, p. 95).

4 | OFFENDER IMPACTS

Offenders are motivated to participate in victim-offender mediation in order to clean their criminal record, impress the court, move on with their life, tell victims why they did what they did, apologize, pay back victims, and help victims move on with their lives (Choi et al., 2010; Umbreit & Armour, 2011). Voluntary participation by the offender is also considered a core element of victim-offender mediation in most settings; however, it is not always clear to juvenile offenders that the process is voluntary (Abrams, Umbreit, & Gordon, 2006). In two separate studies, Gerkin (2009) and Jacobsson et al. (2012) also noted that offender participation in the mediated session itself was sometimes impeded by victims dominating the discussion and lecturing offenders, offenders feeling pressured to approve an agreement that they did not agree with, and offenders generally lacking an understanding of the mediation process (although all of these concerns can be experienced by crime victims as well). In order to ameliorate these concerns, mediators need to pay attention to power-dynamics and speech patterns between victims and offenders in mediated sessions, ensure that the needs of both victims and offenders are discussed in mediation sessions, sufficiently explain the mediation process and prepare mediation participants in advance of mediated sessions, and make sure that participants are aware that final agreements are made by consensus (Gerkin, 2009; Jacobsson et al., 2012).

When participating in victim-offender mediation, offenders have generally found it to be more satisfying than the traditional criminal justice system (Latimer et al., 2005). In a meta-analysis of offender satisfaction involving 22 studies of 35 programs, comparing offenders who participated in victim-offender mediation to those who went through the traditional justice system, Latimer et al. (2005) found that victim-offender mediation had a statistically significant impact on offender satisfaction when compared to that of other offenders, with an aggregate effect size of 0.17. Another analysis of 287 offenders from four restorative justice programs found that 74% of offenders were satisfied with the victim-offender mediation process, compared to 53% of those who attended court, and 91% of offenders were also satisfied with the outcomes of their mediation sessions (Umbreit, 1999). In the same study, 80% of offenders felt that the mediation process was fair, compared to 53% of those offenders who were referred to mediation and chose to attend court proceedings instead. This is comparable to another study ($N = 1,153$) that found over 80% of offenders were satisfied with the mediated encounter, mediated outcomes, and the fairness of the process (Umbreit, 1994). In this same study, one offender said, "[the crime victims] were affected to know that I cared... to hear that I'm not just this no-feeling monster that destroyed their stuff and didn't care. Once they actually saw that

I was a person, that was really helpful for me” (Umbreit, 1994, p. 251). Another described victim-offender mediation as “an awakening... This is where you take a step in life... it was good to let them know that I was hurting, and to see that I hurt so many people” (Umbreit, 1994, p. 252). This study made it clear that offenders who took part in victim-offender mediation tended to be more empathetic toward the victims of their crimes.

Offenders derive many tangible and intangible benefits from participating in victim-offender mediation. One study that matched 73 adult and juvenile victim-offender mediation participants with comparable offenders going through the court system found that those participating in mediation spent less time incarcerated than offenders who attended court and those who were incarcerated were more often sent to lower-level correctional facilities (county jails rather than state prisons) (Coates & Gehm, 1985). Offenders who participate in victim-offender mediation are also held accountable for their actions directly to crime victims (this may include explaining what they did, why they did it, and apologizing for their actions), which is a core need that many offenders have, although it can be very challenging (Choi et al., 2010; Umbreit & Armour, 2011). This accountability results in offenders undertaking concrete actions that demonstrate that they are taking responsibility for making things right for victims to the greatest extent possible, by providing them with answers to their questions, making genuine apologies to them, and offering them restitution (Umbreit et al., 2004; Umbreit & Armour, 2011). In a study with over 1,000 interviewees, offenders also stated that victim-offender mediation met many of their other psychosocial needs, including dealing with their feelings and understanding victims' feelings, seeing victims changing their attitudes toward them, correcting their mistakes, having a safe and fair communication process, avoiding jail or court, interacting directly with victims, feeling empowered, and apologizing (Umbreit, 1994). For example, one offender who participated in victim-offender mediation stated, “I was able to understand a lot about what I did. I realized that the victim really got hurt and that made me feel really bad” (p. 102) and another offender said, “I was able to work instead of paying a fine, and it felt good to do it. I showed that I could do something good. It was a fair way to work it out. It helped me a lot” (Umbreit, 1994, p. 103). Therefore, the best victim-offender mediation sessions provide the space to balance the need for offender accountability for wrongdoing with compassion for offenders as people (Choi et al., 2010; Choi & Gilbert, 2010; Gerkin, 2009; Jacobsson et al., 2012; Umbreit & Armour, 2011).

4.1 | Societal impacts

The recidivism rate of offenders participating in victim-offender mediation is a critical factor in determining its success as a crime reduction strategy for society as a whole. For example, one study ($N = 455$) compared the recidivism rates of juvenile offenders in the Pacific Northwest who participated in victim-offender mediation to juveniles who participated in the traditional juvenile justice system and found that the juvenile offenders had less than half the recidivism rate (20.3%) of those participating in the traditional juvenile justice system (41.6%) within a year of arrest (Stone, 2000). Two large studies ($N = 1,298$ and $9,307$) of victim-offender mediation demonstrated its success in reducing offender recidivism and/or decreasing the severity of subsequent offender offenses (Nugent, Umbreit, Wiinamaki, & Paddock, 2001; Nugent, Williams, & Umbreit, 2003). These findings, stemming from meta-analyses combining the results of 15 studies, found that offenders who participated in victim-offender mediations were up to 30% less likely to reoffend (Nugent, Williams, & Umbreit, 2004) and, in another meta-analysis of 22 studies, there was a mean effect size of 0.07 in decreasing recidivism, when victim-offender mediation participants were compared to comparable offenders (Latimer et al., 2005). In fact, a reduction in recidivism has sometimes been found to be higher, including findings of 32% ($N = 1,298$) (Nugent et al., 2001), 34% ($N = 9,172$) (Bradshaw,

Roseborough, & Umbreit, 2006), or even as high as 60–70% or higher for some programs (Umbreit et al., 2001, 2004). It is important to note that not all programs have found such a reduction in recidivism though (see, e.g., Spriggs, 2009).

The cost-effectiveness of victim-offender mediation is another essential consideration for policy-makers. In general, victim-offender mediation has been found to be cost-effective, due to both the immediate cost savings related to the process (it is less expensive than court proceedings), as well as the long-term savings resulting from decreased incarceration and recidivism (Umbreit et al., 2001, 2004; Umbreit & Armour, 2011). For instance, Coates and Gehm (1985) found that when 73 offenders who participated in victim-offender mediation were matched with similar offenders who did not participate, the mediation group was less likely to spend time incarcerated than the comparison group and, when incarcerated, were more likely to be incarcerated at the county, rather than the state level. In addition, in a study involving 799 juveniles, Stone, Helms, and Edgeworth (1998) found that referrals to victim-offender mediation took one third less time to process (with a corresponding cost savings) than cases going through the traditional justice system. It is also clear that the efficiency of victim-offender mediation programs increases over time, leading to greater cost savings as programs mature, and cost-effectiveness is increased when community mediation centers provide resources such as mediators (Spriggs, 2009). For example, Niemeyer and Shichor (1996) evaluated a large VORP program in Orange County, California, and determined that the cost per mediation in a victim-offender mediation program dropped dramatically as the option of victim-offender mediation became better known throughout the justice system and more cases were referred, ultimately leading to a cost of \$250 per mediation.

Victim-offender mediation also brings about a further societal benefit, increasing the use of diversion in the criminal justice system. Diversion is the process whereby first-time offenders can avoid going through the traditional criminal justice system, being prosecuted, and getting a criminal record, which can greatly impact their future prospects for employment and participation in society more broadly. Victim-offender mediation has been used in conjunction with diversion, supporting and enhancing its use. For example, one 3-year study in England found that, when compared to a matched sample from a neighboring county, approximately 60% of the offenders who participated in victim-offender mediation were diverted from the criminal justice system (Dignan, 1990). This same study also considered the potential concern of net-widening (bringing more individuals into the criminal justice system because programs appear to accommodate a wider range of social concerns) and found that there was a lower-than-expected net widening effect of 13%. A similar study conducted in three different counties in North Carolina found that a victim-offender mediation program had no impact on diversion in two of the counties that were studied but it had a dramatic impact on the third county, also reducing trials by as much as 67% (Clarke, Valentine, & Mace, 1992).

5 | DISCUSSION: FINDINGS, DISPARITIES, CONCERNS, AND THE FUTURE

The research findings that are illustrated above have demonstrated the effects of the victim-offender mediation process as a whole. To summarize, several key findings about victim-offender mediation have emerged: (a) victims and offenders both generally report higher levels of satisfaction with the process, outcomes, and the fairness of the process than those who participate in court proceedings; (b) victims and offenders tend to derive psychosocial benefits from participating in the victim-offender mediation process; (c) most victim-offender mediations result in restitution agreements that are more likely to be fulfilled than those coming out of traditional juvenile and criminal justice

processes; (d) victims who participate in victim-offender mediation are likely to receive a direct apology from offenders, which they often value; (e) victim-offender mediation tends to reduce the likelihood of offender recidivism; (f) victim-offender mediation is typically less expensive than the traditional criminal justice system, producing immediate cost-savings associated with the process itself (when compared to court proceedings), as well as long-term financial benefits from decreases in recidivism and incarceration; and (g) more offenders tend to be diverted away from the traditional criminal justice system when victim-offender mediation is made available. However, these benefits are not necessarily uniformly experienced across diverse programs, countries, ethnic groups, genders, races, ages, types of crimes, or other intervening variables, all of which need to be more thoroughly researched. However, researchers are increasingly discovering in more detail how victim-offender mediation works, with whom, and under what circumstances (Larsen, 2014).

The effects that race and ethnicity have on the victim-offender mediation process are important to consider more deeply. Some studies have revealed that people of color are less likely to participate in victim-offender mediation (Abrams et al., 2006; Choi, 2009). For instance, one study of victim-offender mediation in Wisconsin, Indiana, and Oregon found that victims were more likely to participate in mediation if the offender was white (Gehm, 1990); however, another study in California determined that mediation was just as likely if an offender was white or Hispanic (Wyrick & Costanzo, 1999). Overall, there is very little research considering the effects of race or ethnicity on the victim-offender mediation process, which is a major research gap, especially considering the disproportionate representation of people of color in criminal justice systems around the world (Umbreit & Armour, 2011). In general, victim-offender mediation programs need to be more culturally sensitive (Umbreit & Armour, 2011). In order to strive toward this goal, Choi (2009) suggests increasing the number of mediators coming from communities of color to better represent the communities that they work in, having mediation sessions in locations that work well for participants of color, having program advisors representing communities of color, and providing translation services when required.

An additional form of diversity that needs to be considered, now that the practice is truly global, is the differential effects of victim-offender mediation have in different locations around the world. Many findings related to the effectiveness of victim-offender mediation are broadly confirmed in Europe, for example, where victim-offender mediation is now available in most countries (Dunkel, Grzywa-Holten, Horsfeld, & Parosanu, 2015). In her study in Austria ($N = 162$), Pelikan (2010) demonstrated that over 80% of victims who participated in victim-offender mediation were satisfied. This research reflected similar findings in Finland, where over 80% of victims were satisfied with their agreements and in Belgium, where 76.3% were satisfied (Bolivar, Pelikan, & Lemonne, 2015). This research also confirmed that 70–80% of victims in the Netherlands and Finland received an apology, of which 88% and 66%, respectively, took as sincere. Bolivar et al. (2015) also considered the psychosocial benefit of “feeling better,” with 62% of victims in Finland, 61% of victims in Austria, and 51% of victims in the Netherlands reporting that they felt better after mediation, and only 6–10% felt worse. Overall, 68% of the victims in Austria, 63.4% of the victims in Finland, 50% of the victims in Belgium, and 35.2% of the victims in the Netherlands reported that the mediation “repaired the harm” for them (Bolivar et al., 2015). Another study in Belgium ($N = 54$) found that generally victims who participated in victim-offender mediation felt physically and emotionally safer as a result of taking part in mediation (De Mesmaeker, 2011).

Another potential disparity with respect to the benefits of victim-offender mediation is that people of different ages may benefit differentially from the mediation process. A study of an adult victim-offender mediation program found that older participants under certain circumstances may benefit more from victim-offender mediation than younger participants (Verde, Berger, Yepes-Baldo,

Ortiz, & Lovelle, 2014). For instance, in a study with 213 participants, Verde et al. (2014) found that older participants, both victims and offenders, were more satisfied with victim-offender mediation than younger participants. These results are not definitive but suggest that researchers should consider the relationship between age and the effects of victim-offender mediation more closely.

It also appears that there are variables that impact the mediation process itself, thereby influencing potential victim-offender mediation outcomes. For example, Gerkin (2009) determined in a study (including 14 observed mediations and 249 postmediation surveys) that high levels of participation from both victims and offenders are required in order to achieve the best mediation outcomes. This finding needs to be tempered somewhat as domination by victims (victim lecturing) or by offenders (offender evasion or control) can also undermine the mediation process, so balanced participation is also required (Abrams et al., 2006; Gerkin, 2009; Jacobsson et al., 2012). As mentioned above, victim-sensitivity in the mediation process is critical (Choi et al., 2010, 2013; Choi & Gilbert, 2010; Choi & Severson, 2009; Umbreit & Armour, 2011). Victims must be able to freely express their emotions, experience apologies as genuine, feel like agreements are consensual, and not be rushed, or the possibility that they will feel revictimized will increase (Choi et al., 2010, 2013; Choi & Gilbert, 2010; Choi & Severson, 2009; Umbreit & Armour, 2011). In their meta-analysis of 15 studies, Bradshaw et al. (2006) also determined that the length of time that mediators continue to follow up with victims and offenders after mediations was correlated to the maintenance of benefits coming from mediation, so follow-up is essential for the benefits to continue after mediation. Clearly, victim-offender mediators need to have a great deal of skill and receive ongoing training to ensure that victim-offender mediation is as effective as it can be (Choi et al., 2010, 2013; Choi & Gilbert, 2010; Choi & Severson, 2009; Umbreit & Armour, 2011).

One essential element of the victim-offender mediation process that ensures the best possible mediation outcomes is the preparation of victims and offenders prior to participating in a mediated encounter with one another. Mediators must meet with victims and offenders separately prior to the mediation process to build rapport with them, explain the mediation process, learn about their circumstances, discover their hopes, expectations, and fears regarding the mediation, as well as to ensure that their participation in a mediation session will be voluntary (Gerkin, 2009; Lewis & Umbreit, 2015; Umbreit, 1994, 2006; Umbreit & Armour, 2011; Umbreit & Hansen, 2017). This form of pre-mediation preparation provides an important means to increase the extent to which the process is victim-sensitive (Choi et al., 2010, 2013; Choi & Gilbert, 2010; Choi & Severson, 2009; Umbreit & Armour, 2011). This also illustrates the broader point that the best impacts of the process can only be realized if programs and mediators are faithful to the victim-offender mediation practice guidelines. The benefits of victim-offender mediation will be reduced if programs attempt to become overly efficient and eliminate key elements of the process like the in-person preparation stage (Choi et al., 2010, 2013; Choi & Gilbert, 2010; Choi & Severson, 2009; Umbreit, 2006; Umbreit & Armour, 2011).

A final ongoing concern with victim-offender mediation is the extent to which victims and offenders might be giving up their rights in order to participate in the process. For instance, one important foundation for a successful mediation session is that the offender must take responsibility for their wrongdoing. However, the criminal justice system is predicated on due process rights such as an offender being “innocent until proven guilty,” the right to an attorney, and “the right to remain silent,” so the offender must necessarily give up some legal protections in order to participate in the mediation process (at least, in cases where the mediation occurs prior to or in lieu of any legal proceedings) (Marshall, 1988). Likewise, victims must give up their right to let the state speak on their behalf and take control of the legal process (Marshall, 1988). Victim-offender mediation can mitigate

some of these concerns when there are legal statutes protecting the process and making sure that the legal system is not compromised in any way (Umbreit & Armour, 2011). Another critical step that protects victims and offenders is to ensure that they participate in the process voluntarily (and have the permission of their parents when they are minors) (Jacobsson et al., 2012; Lewis & Umbreit, 2015; Umbreit, 1994, 2006; Umbreit & Armour, 2011; Umbreit & Hansen, 2017). This is one reason that it is so important that the participants understand the victim-offender mediation process in advance of mediated sessions and agree to participate in them voluntarily (Abrams et al., 2006). This does complicate the research process somewhat, because it introduces the self-selection bias of mediation participants and makes finding a comparable group of individuals who did not participate in victim-offender mediation all the more difficult (Latimer et al., 2005).

This paper has outlined what we term the “first wave” of victim-offender mediation research, providing a platform for the second wave of research to follow. While the research illustrates that victim-offender mediation is broadly effective, more research must be done to demonstrate who it works best with, under what circumstances. Some older research must also be replicated in contemporary circumstances to illustrate that the effects of victim-offender mediation are just as powerful or even more powerful in dealing with current challenges in the criminal justice system. For instance, Niemeyer and Shichor's (1996) seminal study on the cost-effectiveness of mediation was conducted in 1996. This study should be replicated in contemporary criminal justice systems. Restorative justice has grown opportunistically as a movement from its earliest experiments with VORP in the 1970s, when Howard Zehr, with the support of Mark Umbreit and other restorative justice pioneers, first began the restorative justice movement (Coates & Gehm, 1985; Umbreit & Armour, 2011; Zehr, 1995). As such, practice, theory, and research have not always grown parallel to one another, with one area outpacing the others at different times, in different locations (Umbreit & Armour, 2011; Umbreit, Vos, Coates, & Lightfoot, 2005). Currently, the second wave of restorative justice research may be just catching up to the mainstreaming and proliferation of victim-offender mediation, the hybridization and increasing complexity of restorative practices, as well as the expansion of restorative practices in juvenile and criminal justice systems around the world.

Looking forward into the future, second wave restorative justice research can continue to expand our knowledge of the victim-offender mediation process, disparate effects on different types of victims, offenders, and communities around the world, and concerns emerging out of practice. For example, Paul and Schenck-Hamlin (2017) illustrate the diverse motivations behind the decision of victims to participate in restorative conferencing or not. This research has important implications regarding how victims are approached to participate in victim-offender mediations, how the process should be explained to them, and how to make them more comfortable with it. In addition, Verde et al. (2014) discovered that older mediation participants may benefit more from the process, but is this the case in many different settings or across demographic groups? Gerkin (2009) determined that more high-quality participation in victim-offender mediation produces better outcomes, but is that true for all kinds of victims and offenders, in a variety of settings, and if so, who might be more likely to participate at that level and what can mediators do to foster such high-quality participation? In this edition of *Conflict Resolution Quarterly*, Gavin and MacVean (2018) present new evidence illustrating police perceptions of restorative justice, while Nowotny and Cararra (2018) provide some promising preliminary results considering the utility of restorative justice in dealing with gang violence in prisons. These studies provide tantalizing results that can be built upon with future research.

Another innovative area of inquiry in this second wave of research on victim-offender mediation (and other forms of restorative justice practice) could also consider the perspectives of mediators themselves and the effects that their work has on them. For instance, in their research, Paul and

Borton (2013) illustrate that restorative justice mediators/facilitators can have different perspectives on outcomes, process, and participants, resulting in four distinct orientations: advocacy, counseling, healing, and peacemaking. In another study focusing on the role of the mediator, Helenek and Downs (2018) use autoethnographic reflection to conclude that “the application of restorative justice makes a major difference in our own lives, and in the lives of those around us” (p. 299). These studies clearly show that there are ample opportunities to learn more about mediators, as well as mediation participants, in the second wave of victim-offender mediation research to come.

Along with this second wave of research, the practice of victim-offender mediation will continue to evolve in a second wave of practice, in response to emergent conditions, at the same time. As mentioned above, hybrid and innovative forms of restorative practice continue to emerge. Zehr (2004) points to the promise of bringing trauma healing work to restorative justice practice and Shank and Schirch (2008) illustrate how the arts can be brought to restorative justice practice. Another new and promising approach to victim-offender mediation builds upon its humanistic roots and its ability to help foster new, powerful meanings for victims, offenders, and community members (Lewis & Umbreit, 2015; Umbreit, 2006; Umbreit & Armour, 2011; Umbreit & Hansen, 2017). This second wave approach, called regenerative justice, builds on restorative justice practice and theory (Hansen & Umbreit, 2018). Regenerative justice combines the restorative focus on repairing people, relationships, and communities, with generating new profound and peaceful life meanings that are associated with wrongdoing, as well as the process of victim-offender mediation itself (Hansen & Umbreit, 2018). This orientation is inspired by the work of existential humanist Viktor Frankl, who developed the practice of logotherapy to help people identify important meanings in their lives as a means to orient them toward a promising future, especially when facing suffering and psychosocial challenges in their lives (Frankl, 2000, 2006).

In practice, this means that, in addition to following the practice guidelines for humanistic mediation outlined above, regenerative mediators should pay specific attention to helping victims and offenders identify what an act of wrongdoing and the mediation process means to them in the context of their life decisions, purpose, and direction (Hansen & Umbreit, 2018). Hansen and Umbreit (2018) state that this meaning-building process should be initiated and led by the mediation participants themselves, particularly in the phases of preparation and follow-up, when they meet with a mediator independently. To this end, mediators engage with participants using dialogue, questioning, and examining their taken-for-granted life experiences more closely, in order to elicit participant strengths, discover peaceful meanings, and identify how those meanings could provide them with helpful goals, direction, and purpose in life. Hansen (2016) states that meanings are peaceful when they exhibit “well-informed caring” for ourselves, each other, and our world.

6 | CONCLUSION

The restorative justice movement and the use of victim-offender mediation have undergone massive changes and growth since pioneers in the field like Howard Zehr began with the first experiments with VORP in the 1970s. One of the most important developments has been the proliferation of research providing evidence demonstrating the effectiveness of victim-offender mediation. Victim-offender mediation has many benefits for the victims and offenders who participate in it, as well as society as a whole. The effectiveness of victim-offender mediation has been empirically demonstrated through numerous studies and meta-analyses, generally demonstrating that: participants are more satisfied with the process, fairness, and outcomes than with traditional juvenile and criminal justice systems, participants derive psychosocial benefits from the process, participants arrive at restitution

agreements most of the time (and offenders are more likely to fulfill those agreements than similar agreements made in the courts), participating victims are likely to receive a direct apology, which they commonly value, participating offenders are less likely to recidivate, victim-offender mediation is less expensive than the traditional justice system, and more cases are diverted from the traditional criminal justice system.

Some of this first wave of restorative justice research is a little dated now and some comes from studies that are relatively small and/or lack a comparison group. However, these victim-offender mediation studies provide a good foundation for the second wave of restorative justice research currently underway, which will build on these findings. Terminology has shifted over the years (away from “victim-offender mediation” and toward broader terms like “conferencing” and “dialogue”) as the restorative justice movement has taken hold and distinctions between various forms of restorative encounters have blurred. These shifts call into question the utility of continuing to conduct research focusing on specific restorative encounter modalities, such as victim-offender mediation (or even thinking about such encounters as “mediation”). Many have found these developments exciting but methodologically challenging.

However, victim-offender mediation is no panacea. The benefits of victim-offender mediation are not uniformly distributed and more research must be done to consider those disparities more closely, as well as any potential concerns with the practice. In addition, there are many causes of crime (such as poverty, substance abuse, gang involvement, and so on) that are beyond the scope of what a one-time mediation can address (Latimer et al., 2005). Therefore, the most effective restitution agreements have to go beyond victims' immediate needs and address the underlying root causes of crime. Hence, victim-offender mediation should be integrated into wider juvenile and criminal justice systems (ideally including the use of other restorative justice practices such as family group conferencing and restorative circles), as well as family and community support systems, to be at its most effective. Overall, the future of victim-offender mediation is very promising, with regenerative justice expanding on its humanist roots, for instance. This new approach illustrates that the practice of victim-offender mediation will continue to expand and develop in the years to come and that evaluation research will need to continue to evolve alongside these developments.

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How to cite this article: Hansen T, Umbreit M. State of knowledge: Four decades of victim-offender mediation research and practice: The evidence. *Conflict Resolution Quarterly*. 2018; 36:99–113. <https://doi.org/10.1002/crq.21234>