

VOM SERVICE OF THE PALACE OF JUSTICE OF BARAKALDO. BASQUE COUNTRY (SPAIN)

THE EXPERIENCE OF THREE YEARS: What we're learning

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DESCRIPTION

- The Victim Offender Mediation Services are a governmental initiative taken by the Direction of Justice of the Department of Justice and Public Administration of the Basque Government.
- Non governmental Organizations are in in charge of the daily operation of the services
- Barakaldo was born in 2007, and it was the first VOM service in Basque Country,

Political frame

- Commitment of the Governmental Agreement for present legislation term between Government parties
- Basque Government, member to EFRJ
- Importance of research and evaluation of programs
- Tendency to extension in the whole Basque Country
- Difficulties of the lack of specific legislation

VOM IN BASQUE COUNTRY

BARAKALDO – JULY 2007

BILBAO – OCTOBER 2008

OCTOBER 2008



DESCRIPTION

- It is a free service for the local population, located in the Palace of Justice, on the same floor with other complementary and assistance services developed by the Basque Government in the field of Justice:
 - The service for assistance to victims
 - The service for assistance to offenders
 - The service for social reinsertion for convicts




POLITICAL AIMS

- To promote a better and humanized justice
 - Offering a process of dialogue that can take into account a different subjective themes, normally forgotten in the criminal justice process.
- To facilitate communication, negotiation and dialogue between the victim and offender in order to resolve their conflict.
 - Giving an opportunity to take responsibility of the harm and to repair it.
- The need to create this service is in accordance with the Framework Decision of the European Union of 15th. March 2001 with respect to the position of victims in criminal proceedings.




THE JUDICIARY OPEN-DINAMIC PROTOCOL

- Built by different agents: Department of Justice, Judges, Prosecutors and Mediators.
 - In a continue process of improvement.
 - Give to the judiciary agents a clear and known process to give the opportunity to the mediation.
 - The different judicial agents have the opportunity to good understanding about the mediation process and the professional guaranties of the mediator team.
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OUR DISCIPLINES

- **Law**
 - Contact with lawyers, court officials, prosecutors, judges
 - Restorative dialogues
 - **Psychology**
 - Lenses of psychological damages, importance of listening of emotions
 - Restorative dialogues
 - **Social work**
 - Lenses to extend the participation to family, friends, social space.
 - Restorative dialogues
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SOME ESTADISTICS



CASES REFERED - VOM BARAKALDO

Instruction period	468
Trial period	216
Criminal enforcement	10
<i>OPEN</i>	45
TOTAL	739



Dates from 1st July 2007 to 9TH October 2010

WORK WITH CASES

We started the mediation/expedient	N	%
Yes	439	63 %
No	255	37 %

Reasons for no starting the mediation process	N	%
The charged person doesn't want	91	35,69
The victim doesn't want	64	25,10
Charged person not located	36	14,12
The victim and charged person doesn't want	22	8,63
Decision of the VOM Service	10	3,92
Other reasons	8	3,14
Both of them don't want	6	2,35
The victim is not located	6	2,35
The victim and charged person not located	5	1,96
Decision of the Court	3	1,18
Inhibition of the Court	3	1,18
Decision of the charged person's lawyer	1	0,39

THE WORK WITH CASES

Type of restorative dialogues	N	%
Direct mediation	220	49,44 %
Shuttle mediation	183	41,12 %
Mixed mediation	34	7,64 %
Conference	7	1,5 %
Videoconferencing	1	0,22 %

WORK WITH CASES: OUTCOMES

Outcomes of restorative dialogues	N	%
Agreement	366	82 %
No agreement	79	18 %

WORK WITH CASES: TIME

Time of restorative dialogue when agreement	N	%
< 1 month	136	37,16
1 - 2 months	129	35,25
3 - 6 months	100	27,32
> 6 months	1	0,27

Type of agreements	%
Renouncing to civil or penal actions	89,07
Formal apology	63,66
Personal commitment that the facts won't happen again	57,10
Mutual respect	41,26
Direct payment to the victim	25,41
Therapeutic treatment	15,85
Commitment to dialogue	15,57
Personal written reflections	4,64
Hours of community service	3,83
Withdrawal of the complaint	3,01
Donation of money or goods to charity	0,55

INFRACTIONS IN RESTORATIVE DIALOGUES

Type of penal infractions	N	%
Crimes	296	37,85
Misdemeanors	486	62,15

TYPE OF MISDEMEANORS RESTORED IN DIALOGUES (62 %)

	N	%
Injuries	126	26,5
Threats	71	14,9
Violation of visitation rights	70	14,7
Injuries	78	16,4
Injuries in domestic violence	35	7,4
Threats in domestic violence	25	5,3
Coercion	29	6,1
Abuse	19	4,0
Damages	18	3,8
Against the public order	5	1,1
Against general interests (3), theft (2), resisting authority (1), insults (1) fraud (1)		

TYPE OF CRIMES REFERRED (37 %)

Injuries	104	35,1
Injuries in domestic violence	71	24,0
Damages	28	9,5
Non-payment of alimony	14	4,7
Burglary	11	3,7
Threats in domestic violence	10	3,4
Threats	10	3,4
Misappropriation	9	3,0
Breach of penalty (9), Theft (6), Fraud (6), Resisting authority (3), Robbery and car theft (2), False report (2),		

PEOPLE

Role	Sex	In Files	In the dialogues
Charged	Females	191	128
	Male	503	298
Charged and victim	Females	90	58
	Males	174	126
Others	Females	53	49
	Males	50	45
Victims	Females	324	194
	Males	371	249
		1756	1147

AGREEMENTS AFTER 6 MONTHS

Perception of compliance of the agreement	N	%
Totally	210	71,67
Without answer	46	15,70
Partially	27	9,22
No	10	3,41
Given answers by phone	293	100,00

AGREEMENTS AFTER 6 MONTHS

Perception that conflict was restored - resolved	N	%
Totally	144	61,28
Partially	42	17,87
Without answer	36	15,32
No	13	5,53
Given answers	235	100,00

Satisfaction with the process		
	N	%
High	162	68,94
Without answer	35	14,89
Medium	31	13,19
Low	7	2,98
Given answers	235	100,00

Satisfaction with the outcome		
	N	%
High	155	65,96
Medium	35	14,89
Without answer	35	14,89
Low	10	4,26
Given answers	235	100,00


EXTERNAL RESEARCH : OUTCOMES

- Positive evaluation of participants about their participation in the process of mediation
- Qualitative conclusion: partial and potentially restorative
- The program follows international standards about VOM
- The positive effects overcome the possible negatives.
- With better coordination with judicial agents and more resources better outcomes.
- The Service
 - can be declared as a social innovation service that contributes to the quality of the Administration of Justice.
 - gives good answers and respond adequately to social needs, dialogue and justice

Carried out by the Dr. Gema Varona




What we're learning 1/4

- The process is as much important than the outcomes
 - Victims every times give thanks to the facilitator when they're leaving the service
 - The first call is the most important moment for making a good contact with parties. Many times it's necessary a good listening process.
 - The interests of the Prosecutor are closer to us
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What we're learning 2/4

- The time of the Court is not the time of victims and offenders.
 - The pressure of more agreements and being more productive is going against human process and spirit of RJ.
 - The importance of external research, with qualitative methodology
 - The difficulties with lawyers and judges due to the lack of legislation must overcome with dialogue
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What we're learning 3/4

The restorative process offers some victims the opportunity to:

Learn about the offender who committed the crime against them


Ask the offender questions, through the facilitator or face to face

Express their feelings and needs after crime

Receive an apology and/or appropriate reparation

Make the offender understand the effects of their offences

Victims of serious crime may find mediation therapeutic in coming to terms with what has happened to them



What we're learning 4/4

The mediation process offers some offenders the opportunity to:

Take responsibility and acknowledge their crime

Become more aware of the effect of their crime on the victim

Reassess their future behavior in the light of this knowledge

Apologies and/or offer appropriate reparation

Mediation can make a contribution to alleviating the harm caused by crime.



Thoughts, feelings

