

**Moving Beyond the “Right to Be Heard”:
The Crime Victims’ Right to Personal Accountability and Understanding**

by

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Introduction

The Victims’ Rights Movement in the United States, and in particular in Arizona, has achieved what many thought would be impossible – victims now have certain recognized and guaranteed rights in the criminal justice process. After a long history of exclusion and marginalization, victims are starting to appear and have their voices heard in court. However, even with these inroads, victims remain, in most cases, without the opportunity to hold the offender personally accountable for the harm done to them. If the belief motivating the Victims’ Rights Movement is that “empowering crime victims with rights mitigates many of the injustices that crime victims face while the government prosecutes the cases against offenders,”¹ I would take this a step further and argue that empowering victims with the right to personally seek accountability and understanding has as much, if not more, of a chance at mitigating injustice for crime victims. To this end, I propose that the Arizona Legislature amends the Victims’ Rights Implementation Act to include for crime victims the right to participate in a Victim-Offender Mediation program.

The History of Victims' Rights

The criminal justice system in the United States has undergone significant changes throughout its history, particularly with respect to its primary goals and its characterizations of victims. During the Colonial era, the crime victim played the role of “policeman, prosecutor, and punishment beneficiary,”² and the principle goal of the criminal justice system was to rectify private harm.³ To this end, a sense of social responsibility prevailed and the community assisted the victim in searching for and punishing criminals.⁴ Though retributive principles played a role in criminal justice, the community heavily prioritized restitution and restoration of the victim.⁵ During the Enlightenment, however, a notion developed that the criminal justice system “arose from a social contract, [and thus] should serve the interests of society, not the individual victim.”⁶ Society came to value retribution and deterrence;⁷ the “purpose” of the criminal justice system shifted to punishing the offender;⁸ and the prosecutor came to represent the state rather than the victim.⁹ Ironically, although this system characterized the crime as one against both the state and *society*, the retributive aims created a need for formal institutions, and the community-based solutions fell to the wayside; in its place, an adversarial system of criminal justice developed. With the advent of the police state, public prosecutions, and the new notion of “State v. Defendant,” the victims’ role became more and more obsolete. When the 1960s Warrant Court issued a series of opinions protecting and constitutionalizing defendants’ rights, crime victims were in danger of being almost completely marginalized.¹⁰ It wasn’t until the dawn of the Victims’ Rights Movement towards the end of the twentieth century that victims were acknowledged to have some rights in the process.

Recognizing that the traditional criminal justice system left little room for, and little acknowledgement of, the role of victims, every state has now enacted legislation, and over a

majority of states has passed constitutional amendments, enumerating and guaranteeing certain rights for victims in the criminal justice process.¹¹ Further, on the federal level, in 2004, the United States Congress passed the Scott Campbell, Stephanie Roper, Wendy Preston, Louarana Gillis and Nila Lynn Crime Victims' Rights Act,¹² which "guarantees crime victims both participatory and substantive rights that are enforceable in federal court, including rights to notice of proceedings, the right to be present, notice of release or escape, restitution, speedy trial, safety, and the right to be heard."¹³

The Limitations of the Current State of Victims' Rights

Though the Movement has accomplished much by way of victims' rights, the limitations inherent in the rights themselves, and the difficulty of enforcing the rights, convince me that the Victims' Rights Movement can, and must, do more for victims. Even with legislation and constitutional amendments, victims risk being lost in the abyss that is, for some, the criminal justice process. In the traditional adversarial system, "the victim's interest may be subordinated to the more amorphous administrative objective of making the most of the prosecutor's limited resources, or keeping the court's dockets from being clogged, or keeping the prisons from overflowing."¹⁴ From the beginning of the process, victims may find themselves without recourse when faced with the prosecutor's almost unfettered discretion in whether to bring charges against the offender.¹⁵ Although some states, including Arizona, have passed legislation guaranteeing victims the right to discuss the charging decision with the prosecutor,¹⁶ the fact remains that the United States Supreme Court itself recognized that "in American Jurisprudence, a private citizen lacks a judicially cognizable interest in the prosecution or nonprosecution of another."¹⁷ When victims feel so removed from the process that they see little incentive to

cooperate with the prosecutor,¹⁸ and when victims see themselves as mere *witnesses* to a crime that affected their lives so extensively— when they see themselves as “another piece of evidence, a mere exhibit to be discarded after trial”¹⁹ – I would argue that even the current approach to victims’ rights cannot restore the victim. In fact, this may not even be the goal.

While most states, including Arizona, recognize a victim’s right to be present, and to be heard, at every major proceeding,²⁰ and while this represents a significant step on the path toward victim involvement, victims still face a risk that these rights will not be enforced. The Arizona Legislature sought to remedy this with a provision that “the victim has standing to seek an order, to bring a special action or to file a notice of appearance in an appellate proceeding seeking to enforce any right or to challenge an order denying any right guaranteed to victims.”²¹ However, even if the rights are enforced, victims are limited by what they can say and do while enforcing their rights. For example, victims in Arizona have the right to be heard – to “present any information or opinions that concern the victim or the victim’s family, including the impact of the crime on the victim, the harm caused by the crime, the criminal offense, the defendant, the need for restitution, or the sentence to be imposed.”²² But a right to *be heard* does not translate into a right to *ask*, or a right to *hear* – victims may state the impact of the crime on their lives, but they are not allowed to ask questions about why that crime happened in the first place.

In an adversarial system of criminal justice, victims generally do not have the right to ask, and offenders generally do not have incentive to answer, questions about the crime that in many cases must be answered before the victim even has a chance to heal from the situation.²³ The traditional, adversarial, retributive justice system places great emphasis on the offender’s guilt; the state is the victim, restitution is rare, and victims’ rights are primarily ignored.²⁴ Further, the offender has every incentive to either deny any involvement in the crime, or to “use

their ‘rights’ to take the least amount of responsibility possible.”²⁵ Though the Victims’ Rights Movement has succeeded in providing victims with some protections and rights throughout the process, victims’ involvement is still limited; further, a convincing argument exists that the purpose behind the Victims’ Rights Movement has been to “gain a more advantageous position for victims (as compared to offenders) and to even out a perceived inequality in the playing field.”²⁶ I would argue, however, that despite the advancement of victims’ rights in the courts, a system that attempts to hold offenders criminally accountable to the *state*, but that never holds offenders personally accountable to the *victims*, does not level the playing field at all.

A Different Approach

Victims must have access to another approach – to a system of justice that seeks to meet the needs of victims who need answers, and that seeks to “repair the harm that is caused by criminal behavior.”²⁷ Victims must have access to a system of justice that “recognizes crime as being directed against individual people,”²⁸ and that “is grounded in the belief that those most affected by crime should have the opportunity to become actively involved in resolving the conflict.”²⁹ A victim-centered restorative justice approach, such as Victim-Offender Mediation, provides victims with an opportunity to seek greater understanding and to hear the offender personally acknowledge the effect his crime had on the victim.

One such program – the Victim-Offender Reconciliation Program (VORP), founded by North Carolina attorney Marty Price – “bring(s) offenders face-to-face with the victims of their crimes with the assistance of a trained mediator, usually a community volunteer.”³⁰ “Crime is personalized as offenders learn the human consequences of their actions, and victims (who may

be ignored by the criminal justice system) have the opportunity to speak their minds and their feelings to the one who most ought to hear them, contributing to the healing process of the victim.”³¹ When an offender sits face-to-face with the victim – when the victim asks him: “Why did you do this to me?”³² – the offender becomes personally accountable to the victim in a way the traditional adversarial system does not allow. The crime becomes personal; rather than hiding behind his Constitutional protections³³, he comes forward, faces his victim, and the process of understanding each other begins.

In Arizona, victims have the right “to be treated with fairness, respect, and dignity.”³⁴ In a criminal justice system where the offender is not held accountable for the actual harm he caused the victim, I would argue that the victim has little chance of truly being treated with “fairness, respect, and dignity.” On the one hand, guaranteeing victims the right to be heard, or to be present, or to have notice, certainly acknowledges the victims’ important role in the criminal justice process. On the other hand, without the offender’s personal accountability to the victim, the crime declines to be personal, and the person directly affected by the crime – the victim – risks remaining unnoticed. Without the offender’s apology – or at least a face-to-face acknowledgment that he directly harmed the victim, and that the victim’s claim is not without merit, the system does not truly uphold the victim’s right to be treated with fairness, respect, *or* dignity.

In Arizona, crime victims also have the right “to receive prompt restitution from the person or persons convicted of the criminal conduct that caused the victims’ loss or injury.”³⁵ On the one hand, when offenders have no opportunity, and no incentive, to meet with the victims of their crimes, they also have less incentive to comply with court-ordered restitution agreements.³⁶ On the other hand, “offenders are much more likely to fulfill their settlement

obligations when they have had a hand in their formation.”³⁷ One study shows that while only 57 percent of juvenile offenders complied with their court-ordered restitution contracts, 81 percent of juvenile offenders participating in a Victim-Offender Mediation program complied with the agreement.³⁸ Another study reports that 80% to 90% of restitution contracts had been completed.³⁹

A University of Minnesota study⁴⁰ demonstrates how important restitution is to crime victims, and how the legislature, in implementing the right to restitution, must look to creative solutions to ensure victims have a greater chance to actually receive restitution. The study asked: “Suppose that while your home is burglarized and \$1,200 worth of property is stolen. The burglar has one previous conviction for a similar offense. In addition to four years on probation, would you prefer the sentence include repayment of \$1,200 to you or four months in jail?”⁴¹ The study found nearly 75 percent would rather have the offender pay restitution.⁴²

Cross-State Analysis

Many states have enacted legislation that recognizes the victim’s need for accountability, and that the parties to a crime can work together to restore the victim and to repair the harm that was caused. In Missouri, the Department of Corrections may create a restorative justice program that “requires that offenders offer acts and expressions of sincere remorse for the offense committed and its impact on the victims and the community ... (including) participation in victim-oriented programs.”⁴³ Further, the department *shall* “administer a community corrections program ... to promote accountability of offenders to crime victims ... (and) to ensure that victims of crime are included in meaningful ways in Missouri’s response to crime.”⁴⁴

The Minnesota legislature provides that the Executive Director of the Center for Crime Victim Services “shall award grants to non-profit organizations to create or expand mediation programs for crime victims and offenders”⁴⁵ Further, “community-based organizations, in collaboration with a local government unit, may establish a restorative justice program, ... in order to (1) discuss the impact of the offense on the victim and the community; (2) provide support to the victim and methods for reintegrating the victim into community life; (3) assign an appropriate sanction to the offender; and (4) provide methods for reintegrating the offender into community life.”⁴⁶

For certain crimes, Alaskan courts may “permit the victim and offender to submit a sentence for the court’s review based upon a negotiated agreement between the victim and the offender ... if that sentence otherwise ... accomplishes the goals of restoration of the victim and the community and rehabilitation of the offender.”⁴⁷ The Kansas Legislature provided that “the commissioner of juvenile justice may make grants to counties for the development, implementation, operation, and improvement of juvenile community correctional services including ... victim services programs ... and restorative justice programs.”⁴⁸

Tennessee and Delaware share a very similar approach in their respective comprehensive legislation providing for victim-offender mediation centers. With nearly identical language, both legislatures declared: (1) “The resolution of felony, misdemeanor, and juvenile delinquent disputes can be costly and complex in a judicial setting where the parties involved are necessarily in an adversary posture and subject to formalized procedures; and (2) Victim-offender mediation centers can meet the needs of (Tennessee’s/Delaware’s) citizens by providing forums in which persons may voluntarily participate ... in an informal and less adversarial

atmosphere.⁴⁹ Each state provides a detailed plan of action, with provisions for confidentiality, eligibility, costs, and procedures.⁵⁰

In Oregon, “law enforcement agencies, city attorneys, and district attorneys...may propose mediation through a qualified mediation program.”⁵¹ The legislation details particular factors the agencies or attorneys must consider before proposing any form of mediation, including “the nature of the offense; any special characteristics of the offender or the victim; whether it is probable that the offender will cooperate with and benefit from mediation; and the recommendation of the victim.”⁵² “Courts may “(1) Authorize, in a pretrial release order, contact between a defendant and a victim as part of mediation between the defendant and the victim; (2) Consider mediation as the basis of a compromise of crimes; or (3) Include participation in mediation as a condition of probation.”⁵³

In Indiana, “a prosecuting attorney or a victim assistance program *shall* ... in a county having a victim-offender reconciliation program (VORP), provide an opportunity for a victim, if the accused person or the offender agrees, to: (A) meet with the accused person or the offender in a safe, controlled, environment; (B) give to the accused person or the offender, either orally or in writing, a summary of the financial, emotional, and physical effects of the offense on the victim and the victim’s family; and (C) negotiate a restitution agreement to be submitted to the sentencing court.”⁵⁴

The Texas legislature appears to be the only state legislature to specifically include the right to request mediation services in the “Rights of Crime Victims” section of the Code of Criminal Procedure.⁵⁵ “The victim services division of the Texas Department of Criminal Justice *shall* (1) train volunteers to act as mediators between victims, guardians of victims, and

close relatives of deceased victims and offenders whose criminal conduct caused bodily injury or death to victims; and (2) provide mediation services through referral of a trained volunteer, if requested by a victim, guardian of a victim, or close relative of a deceased victim.”⁵⁶ The significance of this legislation cannot be understated – by requiring the victim services division to provide mediation even where offenders “*caused bodily injury or death,*” the Texas legislature acknowledged that Victim-Offender Mediation can play a significant role in more than just minor property crimes. Interestingly, legislation in Texas is currently pending “to provide for official input from victims . . . relating to the establishment, operation, and funding of victim-offender mediation programs.”⁵⁷ Whether or not this amendment is passed, the underlying law remains untouched, and victims in Texas have a legal *right* to seek mediation.

In Arizona, extensive legislation already exists allowing courts to use creative, informal, community-based approaches in an attempt to restore crime victims financially, legally, and emotionally. The Arizona Legislature has granted the courts significant discretion in establishing community punishment programs in both adult *and* juvenile criminal cases. In particular, these programs are designed to “promote accountability of offenders to their local community by requiring financial restitution to victims of crime . . . (and) community punishment monies may be used to implement victim’s rights and services.”⁵⁸ Further, the “county attorney may divert the prosecution of a juvenile . . . to a community based alternative program.” Significantly, the Legislature recognized that crime has a very personal and significant effect on victims, when it provided that “the presiding judge of the juvenile court in each county may establish and provide voluntary victim reconciliation and restitution services to assist victims of juvenile crimes.”⁵⁹

When Arizona amended its State Constitution in 1990 to include a Victim's Bill of Rights, the Arizona Legislature, in 1991, responded with the Victims' Rights Implementation Act⁶⁰ – legislation “to define and implement the rights accorded to victims of crime.”⁶¹ As I discussed above, victims in Arizona have, among other rights, the right “to be heard at “any proceeding involving a post-arrest release decision, a negotiated plea, and sentencing;”⁶² “To be present at, and upon request, to be informed of all criminal proceedings where the defendant has the right to be present;”⁶³ “To be treated with fairness, respect, and dignity, and to be free from intimidation, harassment, or abuse, throughout the criminal justice process;”⁶⁴ and “To receive prompt restitution from the person or persons convicted of the criminal conduct that caused the victim's loss or injury.”⁶⁵

Arizona should follow Texas' lead and amend its own Crime Victims legislation to include the right to participate in a Victim-Offender Mediation program. This concept fits well within Arizona's already-existing statutory scheme, both inside and outside the Victims' Rights Implementation Act. By allowing judges to establish victim reconciliation programs and to divert juveniles to community punishment programs, Arizona has already recognized that certain situations require alternative methods. Further, with its extensive legislation implementing the Arizona Victims' Bill of Rights, the Arizona legislature has clearly acknowledged the important role victims must, and have the right to, play in the criminal justice system. Thus the right to seek mediation, as a way to implement those rights guaranteed in the State Constitution, clearly has a basis in the current statutory scheme. Further, the right to seek mediation would provide victims with the opportunity to hold the offender personally accountable and could foster in the victim a greater understanding about the crime. This not only fits within, but also extends,

victims' rights in Arizona, to account for victims' needs that are not sufficiently addressed under the current criminal justice system.

Response to Possible Criticism

One possible argument against a restorative justice approach and the right to seek mediation is that victims “need the vindication of a public finding that the offender is guilty.”⁶⁶ This may be true for some victims; however, “instead of focusing upon the weaknesses or deficits of offenders and crime victims, restorative justice attempts to draw upon the strengths of these individuals and their capacity to openly address the need to repair the harm caused.”⁶⁷ Not all victims need vindication – and not all victims wish for reconciliation, understanding, or accountability. Therefore the Victim-Offender Mediation process must be completely voluntary. Although some victims may wish to speak directly with offenders, regardless of any admission of guilt, the only way the offender will truly be personally accountable to the victim is if the offender goes to the table completely by his own volition. Further, the offender must plead guilty, because any denial of guilt in the mediation process risks harming the victim when she listens to the offender “insult her intelligence and sanity.”⁶⁸ If offenders deny their responsibility, victims may be “forced to re-live the psychological harm caused by the offenses, as well as having to deal with recalcitrant offenders.”⁶⁹ Therefore, “there is a line of persuasion over which mediators, lawyers, and judges may not step in recommending the victim attend the session, no matter how appropriate or beneficial they feel the session would prove.”⁷⁰ The process must be voluntary for both the victim and the offender; if either wishes to withdraw from the mediation session, they must be allowed to do so.⁷¹

Another possible criticism of the right to seek mediation is that the process is “too forgiving,”⁷² and that placing offenders and victims at the same table neutralizes the situation⁷³ and therefore doesn’t truly acknowledge the crime committed or the harm felt. As to the former statement, I would argue that for some victims (if not all), forgiveness can play a very significant role in the healing process. In any event, the fact that the parties are removed from the traditional adversarial process does mean the mediation is completely neutral.⁷⁴ Instead, mediators are to be trained to “work out a proper restorative punishment to which both sides agree, fully aware that the offender caused an injury and a score must be settled.”⁷⁵ The idea that this can be done cooperatively and without hostility may be a novel one, but it exists nonetheless.

A third potential criticism is that the victim’s safety may be jeopardized by placing her in the same room with the person who harmed her during the crime. As this is a very serious criticism and a concept that is worth a great concern, proper procedures must be in place to ensure the victim’s safety. These may include “techniques to address status and power imbalances, and the importance of creating a safe environment that is conducive to meaningful dialogue between the parties.”⁷⁶ Further, although the process must be voluntary, the Legislature should place discretion with the judge to disallow mediations where the offender poses a risk to the victim’s safety. In the end, the goal is to empower victims; if a mediation process that aims at accountability and understanding helps the victim feel safer, the mediation will have achieved part of its goal. On the other hand, if the mediation process serves only to allow one or both sides an arena for aggression, the goal will not be achieved and the mediation should not occur.

Of course, there are particular concerns that must be addressed when implementing legislation that amends the current victims’ rights law to include a right to seek mediation. In order to ensure the process works for victims, and that offenders do not use this as an opportunity

to re-victimize the victim, the legislature could determine what types of situations would be eligible for mediation. Congress could leave this to the discretion of the judge, who may be better equipped to decide if mediation would be suitable given the particular crime and the particular parties. I would argue, however, that victims should have an absolute right to seek mediation, even in cases of violent crime, so long as both the victim and the offender willingly choose to participate, and procedures are put in place that ensure victims' safety and reduce the risk of re-victimization.

Conclusion

Restorative justice has existed in one form or another since well before the state-modeled adversarial system of criminal justice.⁷⁷ Victim-Offender Mediation, with its recognition that accountability and understanding makes crime more personal, offers victims the ultimate opportunity for involvement – victims can ask “Why?” and may actually hear the answer. The Victims' Rights Movement aims to give victims a voice and empower them as they move through the criminal justice process. A restorative justice approach to the Victims' Rights Movement will take this a step further and will aspire to actually *repair* the harm that was done to the victim. Having “the right to be heard” in a formal court proceeding is a valuable right, but it is not always enough. For some victims, having the right to sit face-to-face with the offender, to share how the crime impacted her, and to ask questions only the offender can answer – in effect having the right to hold the offender *personally accountable* – could prove extremely valuable in helping the victim to heal.

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- ² William F. McDonald, *Towards a Bicentennial Revolution in Criminal Justice: The Return of the Victim*, 13 Amer. Crim. L. Rev. 649 (1976), as reprinted in *Victims of Criminal Procedure*, at 5 (Douglas E. Beloof, et al. eds., Carolina Academic Press 2d ed. 2006).
- ³ *Id.* at 7.
- ⁴ *Id.* at 6.
- ⁵ *Id.* at 6.
- ⁶ *Id.* at 7.
- ⁷ Christa Obold-Eshleman, *Victims' Rights and the Danger of Domestication of the Restorative Justice Paradigm*, 18 Notre Dame J.L. Ethics & Pub. Pol'y 571, 576 (2004).
- ⁸ Gail Heriot, *An Essay on the Civil Criminal Distinction with Special Reference to Punitive Damages*, 1 J. Contemporary Legal Issues 43, 49-50 (1996), as reprinted in Beloof et al., *supra*, at 13.
- ⁹ Kristin Henning, *What's Wrong with Victim's Rights in Juvenile Court?: Retributive Versus Rehabilitative Systems of Justice*, 97 Cal. L. Rev. 1107, 1110 (2009).
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- ¹² Crime Victims Rights Act, 18 U.S.C. § 3771.
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- ¹⁴ Abraham Goldstein, *Defining the Role of the Victim in Criminal Prosecution*, 52 Miss. L. Rev. 515, 518-519 (1982), as reprinted in Beloof et al., *supra*, at 21.
- ¹⁵ Sarah Welling, *Victims in the Criminal Process: A Utilitarian Analysis of Victim Participation in the Charging Decision*, 20 Ariz. L. Rev. 85, 114 (1988), as reprinted in Beloof et al., *supra*, at 260.
- ¹⁶ Beloof et al., *supra*, at 260.
- ¹⁷ *Linda R.S. v. Richard D.*, 410 U.S. 614 (1973), as reprinted in Beloof et al., at 303.
- ¹⁸ Goldstein, as reprinted in Beloof et al., *supra*, at 22.
- ¹⁹ Andrew A. Karmen, *Who's Against Victims' Rights? The Nature of the Opposition to Pro-Victim Initiatives in Criminal Justice*, 8 St. John's J. Legal Comment. 157 (1992), as reprinted in Beloof, *supra*, at 29.
- ²⁰ Ariz. Const. art II § 2.1.
- ²¹ Ariz. Rev. Stat. Ann. § 13-4437 (West, 2009).
- ²² Ariz. Rev. Stat. Ann. § 14-4426 (West, 2009).
- ²³ Marty Price, J.D., *Crime and Punishment: Can Mediation Produce Restorative Justice for Victims and Offenders?*, <http://www.vorp.com/articles/crime.html>.
- ²⁴ Harry Mika, *The Practice and Prospect of Victim-Offender Programs*, 46 SMU L. Rev. 2191 (1993), as reprinted in Beloof et al., *supra*, at 510.
- ²⁵ Obold-Eshleman, *supra*, at 593.
- ²⁶ *Id.*
- ²⁷ W. Reed Leverton, *The Case for Best Practice Standards in Restorative Justice Processes*, 31 Am. J. Trial Advoc. 501, 504 (2008).
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- ³⁰ Price, *supra*.
- ³¹ *Id.*
- ³² *Id.*
- ³³ Obold-Eshleman, *supra*, at 593.
- ³⁴ Ariz. Const. art II § 2.1.
- ³⁵ *Id.*

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- ³⁹ Mark S. Umbreit et al., *supra*, at 540.
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- ⁴² *Id.*
- ⁴³ Mo. Ann. Stat. § 217.440 (West 2009).
- ⁴⁴ Mo. Ann. Stat. § 217.777 (West 2009) .
- ⁴⁵ Minn. Stat. Ann. § 611A.77 (West 2009).
- ⁴⁶ Minn. Stat. Ann. § 611a.775 (West 2009).
- ⁴⁷ Alaska Stat. § 12. 55. 011 (West 2009).
- ⁴⁸ Kan. Stat. Ann. § 75-7038 (West 2009).
- ⁴⁹ Tenn. Code Ann. § 16-20-101 (West 2009); Del. Code. Ann. tit. 11 § 9501 (West 2009).
- ⁵⁰ Tenn. Code. Ann. § 16 -20-102-105; Del. Code. Ann. tit. 11 § 9502-9304 (West 2009).
- ⁵¹ Or. Rev. Stat. § 135.951 (West 2009).
- ⁵² *Id.*
- ⁵³ Or. Rev. Stat. § 135.953 (West 2009).
- ⁵⁴ Ind. Code Ann. § 35-40-6-4 (West 2009).
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- ⁵⁹ Ariz. Rev. Stat. Ann. § 8-419 (West 2009).
- ⁶⁰ Ariz. Rev. Stat. Ann. § 13-4401-4440 (West 2009).
- ⁶¹ Victims' Rights, [http:// www.azvictims.org/victimRights/default.asp](http://www.azvictims.org/victimRights/default.asp)
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- ⁶³ *Id.*
- ⁶⁴ *Id.*
- ⁶⁵ *Id.*
- ⁶⁶ Jennifer Gerarda Brown, *The Use of Mediation to Resolve Criminal Cases: A Procedural Critique*, 43 Emory L.J. 1247 (1994), as reprinted in Beloof et al., *supra*, at 518.
- ⁶⁷ Mark S. Umbreit et al., *Restorative Justice: An Empirically Grounded Movement Facing Many Opportunities and Pitfalls*, 8 Cardozo J. Conflict Resol. 511, 516 (2007).
- ⁶⁸ Drake, *supra*, at 661.
- ⁶⁹ Leverton, *supra*, at 515.
- ⁷⁰ Drake, *supra*, at 665.
- ⁷¹ Leverton, *supra*, at 514.
- ⁷² Drake, *supra*, at 651.
- ⁷³ *Id.* at 664
- ⁷⁴ *Id.*
- ⁷⁵ *Id.*
- ⁷⁶ Leverton, *supra*, at 519.
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