

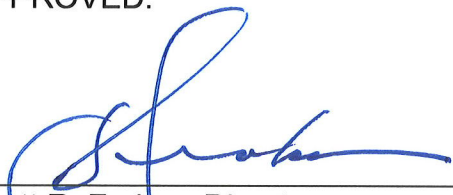
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EFFECTIVE: May 31, 2002
 REVISED: March 15, 2012
 REVISED: March 29, 2013
 REVIEWED: August 11, 2014
 REVISED: March 31, 2015
 REVIEWED: March 31, 2016
 REVIEWED: March 31, 2017
 REVISED: March 31, 2018
 REVIEWED: March 31, 2019
 REVISED: November 30, 2020
 REVISED: July 31, 2021
 REVISED: July 31, 2022


SUMMARY of REVISION/REVIEW

Renamed from VICTIM/OFFENDER DIALOGUE. Complete rewrite. GENERAL – Language updated. PURPOSE – Language updated. DEFINITIONS – Language updated. PROCEDURE – I. – New section, Incorporated Accountability Letter Bank and expands NDCS Restorative Justice Program. II. – Victim/Offender Dialogue language updated.

APPROVED:



 Scott R. Frakes, Director
 Nebraska Department of Correctional Services

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PURPOSE

To provide policy for the Nebraska Department of Correctional Services (NDCS) Restorative Justice programs. This policy affords crime victims an opportunity to voluntarily participate in the Accountability Letter Bank (ALB) Program to potentially receive an Accountability Letter from his/her inmate. This policy allows crime victims the opportunity to participate in the Victim-Offender Dialogue (VOD) program, which is a victim-initiated process where the crime victim can participate in a structured, face-to-face meeting with his/her inmate perpetrator for a dialogue about the crime and its impact on the victim.

GENERAL


NDCS Restorative Justice Programs offer crime victims of the inmates incarcerated within NDCS a victim-centered approach to justice and healing that focuses on the needs of the crime victim, in a safe and secure environment. These programs offer crime victims an avenue of healing that otherwise would not be obtained. NDCS Victim Services Program oversees and maintains NDCS Restorative Justice Programs, including the ALB and VOD programs.

The NDCS ALB provides inmates incarcerated within NDCS a structured, voluntary Restorative Justice process in which he/she takes full accountability of their crime(s) as well as the harm they caused to their crime victim.

In the VOD Program, the trained facilitators address the needs of each party and assists in helping them communicate his/her thoughts and feelings about the crime and its aftermath by answering the crime victim's questions, expressing their feelings, and moving toward restoration and healing.

Each NDCS Restorative Justice program will adhere to the following key objectives:

- I. The crime victim and his/her best interest shall be at the center of the entire process as well as allowed to participate in an active role throughout the process.
- II. Safety and security of participants will be maintained at all points during any restorative justice programming.
- III. The inmate must take full responsibility for their actions and harm caused.
- IV. All information shared within NDCS Restorative Justice programs, as well as personally identifying information, will remain confidential; except information that falls under Limitations of Confidentiality within policy 005.02.
- V. Voluntary program for both the crime victim and inmate.
- VI. The inmate receives nothing in return for participating in NDCS Restorative Justice programs, including but not limited to:
 1. No early release.
 2. Not used to overturn conviction and/or reduce sentence.
 3. Not used within parole hearings.
 4. Not used to move between NDCS facilities.

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5. No removal of misconduct reports, disciplines, sanctions.
6. Any other means to benefit him or her.
- VII. Will not be used as a means for ongoing communication between the crime victim and inmate.
- VIII. Facilitated by trained NDCS SERVES team members who are in an active status on the team and in good standing.
- IX. Program oversight through the Victim Services Program.


DEFINITIONS

- I. **FACILITATOR** – A specially trained NDCS SERVES Team Member who will guide and oversee the specific Restorative Justice program.
- II. **GROUND RULES** - These are standards for Restorative Justice Programs between the victim and the inmate. Ground rules include, but are not limited to: no name calling, no physical and emotional violence, and no intimidating to include verbal and nonverbal behavior; one person speaks at a time; and other guidelines that are provided for both parties.
- III. **INMATE** – The offender whom a judge sentenced to a period of incarceration within Nebraska Department of Correctional Services due to the crime(s) she/he committed.
- IV. **RESTORATIVE JUSTICE** – Focuses on repairing the harm caused by the inmate. It requires the inmate to take full accountability for his/her actions. It allows those affected by the crime, crime victim and inmate, an avenue of healing. Restorative Justice is also linked to lower recidivism rates.
- V. **VICTIM** – A person who has suffered physical, financial, or emotional harm as a result of the commission of a crime. Victim may also include the immediate family members of a victim, members of a victim’s household, and/or witnesses. In the event the victim was killed during the crime or as a result of the crime, the crime victim’s surviving family will be included within this policy.
- VI. **VICTIM-OFFENDER DIALOGUE** – A victim-initiated and victim-centered process in which the victim and inmate meet in order for the victim to discuss the impact of the crime has had on him or her. This process focuses on the harm done to the victim and the inmate’s responsibility for that harm. (ACI-5F-08, ACRS-6D-01)

PROCEDURE

I. ACCOUNTABILITY LETTER BANK PROGRAM

The NDCS ALB program provides inmates incarcerated within NDCS a structured, voluntary restorative justice process in which the inmate takes full accountability for their crime(s) as well as convey their understanding of the harm they caused to the crime victim. The NDCS Victim Services Program provides oversight and monitoring of the Accountability Letters NDCS inmates submit to ensure no further harm is caused to the victims who choose to receive the Accountability Letter deposited for him or her.

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The NDCS ALB Program will be used solely for inmates incarcerated within NDCS facilities who have completed NDCS Victim Impact Class. Once NDCS Victim Impact Class is completed inmates must contact Staff Advocacy and Victim Services Coordinator.

Crime victims of inmates incarcerated within NDCS must voluntarily opt-in to participate in this program and will only receive a letter deposited for them in the NDCS ALB with their affirmative consent.

A. Participation Requirements

1. NDCS Inmate

- a. Complete NDCS Victim Impact/Empathy Class
- b. Voluntarily and willingly choose to participate in the ALB Program.
- c. Participation will not, including but not limited to, affect his/her sentence, custody status, release date, parole hearing (including not be used at parole hearings), or other conditions of incarceration.

2. Crime Victims

- a. Must opt-in to participate
- b. Be 18 years of age
- c. Participation is voluntary
- d. NDCS registered crime victims will be offered a second opportunity to affirm participation in the NDCS ALB program after an Accountability Letter is deposited for him/her

B. NDCS inmate accountability letter screening

1. NDCS Inmate

- a. The NDCS Victim Services Coordinator will review each inmate's letter for appropriateness, accountability, and the potential for any harm to be caused to the victim.
- b. Prior to being deposited into the NDCS ALB, each inmate accountability letter will be screened for the following, but not limited to:
 - 1) Does not blame the victim or others
 - 2) Does not cause further harm in any foreseeable way
 - 3) Does not make excuses
 - 4) Does not request forgiveness

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5) Acknowledges full responsibility for the crime(s) they committed against the victim

6) Communicates an understanding of the harm they have caused

c. If an inmate's accountability letter is deemed inappropriate, it will be returned to the inmate along with a detailed explanation why. The inmate will be allowed to re-work and resubmit his/her accountability letter.

C. Notification and Distribution of approved accountability letters

1. Victim Notification

a. If an inmate deposits an Accountability Letter into the ALB, the Victim Services Coordinator or designee will contact the crime victim only if the crime victim has registered with NDCS Victim/Witness Notification Program and has selected to OPT-IN to receive notice that a letter has been deposited for him/her.

b. The crime victim will be afforded the opportunity to decide if they would still like to receive the Accountability Letter or not.

c. If the crime victims states "no", it will be explained that the Accountability Letter will be stored with the NDCS Victim Services Program and if they decide at any time they would like to receive a copy of the Accountability Letter from his/her inmate, they can do so.

2. Accountability Letter Distribution

If the crime victim responds in the affirmative, the Victim Services Coordinator will make arrangements with the crime victim to receive a copy of their inmate's Accountability Letter in one of the following methods:

a. U.S. Postal Mail

b. Email

c. Advised orally by phone

d. In person at the Victim Services Coordinator's office with the Victim Services Coordinator or designee

3. Accountability Letter Retention

a. A copy of each NDCS inmate Accountability Letter deposited into the NDCS ALB Program will be stored in the office of the NDCS Victim Services Coordinator.

b. Once a NDCS inmate deposits their Accountability Letter into the NDCS ALB, it will be stored until the NDCS inmate is released from NDCS custody on the sentencing order that the NDCS inmate wrote the

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Accountability Letter. Retention policies will be followed for all NDCS inmate letters deposited into the NDCS Accountability Letters after the inmate is released from NDCS custody.

D. Confidentiality

1. Victim

- a. All crime victim information will remain confidential
- b. Contact between crime victims and NDCS Victim Services Program will remain confidential
- c. No personal information of the crime victim will be shared with anyone in custody within NDCS
- d. Accountability Letters deposited into the NDCS ALB will remain confidential and locked within the NDCS Victim Services Office
- e. The limitations to confidentiality as designated within NDCS Policy 005.02, Victim Services Program, will apply to the NDCS ALB Program

E. Contact

1. Inmate

The NDCS ALB is not a means for ongoing communication between an inmate incarcerated within NDSC and his/her crime victim

2. Victim

The NDCS ALB is not a means for ongoing communication between the crime victim and his/her inmate who is incarcerated within NDCS.


3. NDCS Victim-Offender Dialogue

If the crime victim decides he/she to further address the impact the crime(s) has had on them, the crime victim can request to receive information and paperwork regarding NDCS Victim-Offender Dialogue Program from NDCS Victim Services Coordinator.

F. Additional Oversight

1. Inmate

- a. The inmate's release date, parole eligibility date, parole hearing status, parole hearing decision, programming, disciplines, movement, canteen, or any other service, program or condition of his/her incarceration will not be affected by participation the NDCS ALB Program, unless the inmate violates any NDCS rule or policy.

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- b. If an inmate submits an Accountability Letter into the NDCS ALB Program and that inmate has a current court order, condition, or policy restricting that inmate from contacting his/her crime victim, the Accountability Letter will remain deposited on file and NDCS Victim Services Program will NOT contact the crime victim with notification of the deposited Accountability Letter. The Accountability Letter will remain on file until the court order or policy is expired or no longer valid. A court order, condition, and policy includes, but not limited to:
 - 1) Any valid Nebraska Protection order or equal court order granted in any other state or territory
 - 2) A no contact order
 - 3) Any other court order restricting the inmate's ability to contact his/her crime victim
 - 4) NDCS directive to a NDCS inmate to have no contact with his/her crime victim,
 - 5) A condition or stipulation as part of or given by, but not limited to, parole, probation, post-release supervision, law enforcement, attorney, or similar.
- c. NDCS inmates are not allowed to mail their Accountability Letter directly or indirectly to his/her crime victim, family, friend, or any other third party in order to facilitate delivery of the Accountability Letter to the crime victim.
- d. Violating any portion of this policy may result in receiving a misconduct report and/or criminal charges.

II. VICTIM-OFFENDER DIALOGUE PROGRAM

Victim/Offender Dialogue (VOD) is a victim-initiated process of bringing together the victim of a crime and his or her inmate, incarcerated within a NDCS facility, in the presence of trained facilitators for dialogue about the crime and its impact. The facilitators address the needs of each party and assists him/her communicate their thoughts and feelings about the crime and its aftermath. The purpose is to provide an opportunity for the victim and inmate to discuss the crime, get answers to their questions, express their feelings and move toward restoration and healing to the extent possible, in a safe, secure environment. (ACI-1B-24, ACRS-6D-02)

A. Principles


- 1. The safety and security of participants will be maintained at all points throughout the VOD. Requests for a VOD will be carefully screened on a case-by-case basis to ensure that the VOD process is appropriate and safe for the victim and inmate. The process will be terminated at any point where it is determined to be inappropriate or unsafe for either the victim or the inmate. At no time will this policy be interpreted as to allow for an appeal of the professional judgment of the Victim Services Coordinator.

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2. Participation in the NDCS VOD is strictly voluntary. The facilitators, the victim or the inmate may choose to discontinue participation in the VOD at any time, for any reason.
3. In order for an inmate to participate in the VOD, he or she must admit full responsibility and accept accountability of the crime(s) he/she committed. (ACRS-6D-01)
4. The choice to participate or not to participate will not affect the inmate's status or programming. This includes institutional, custody promotion, parole status, personalized plans, discharge considerations and any type of community or rehabilitative programming.
5. Support for participants, such as participation by victim advocates, case managers and/or counselors during dialogue, will be considered and may be incorporated into the process as long as it is in line with best practices and does not interfere with the process. When a support professional is approved to accompany the victim, his/her role is a silent observer and is not allowed to participate in the VOD.
6. All steps in the VOD process (referral, intake, preparation, dialogue and follow-up) will be conducted in a victim-centered manner.
7. The NDCS Victim Services Program only pursues requests initiated by the victim. Any inmate-initiated requests will not be considered. See Policy 005.02, *Victim Services Program*.
8. The length of time that has passed since the commission of the crime as well as the length of time since the inmate's sentencing shall be considered when determining if a VOD request shall move ahead in the VOD process. While there is no specific timeline that is outlined by this policy, it is expected that no VOD request shall be pursued if the facilitators and Victim Services Coordinator feel either participant can be harmed by the process, either participant is not ready, or not enough time has passed in order for the VOD to be completed in a meaningful way.
9. VOD cases will be co-facilitated by two VOD-trained facilitators who are on the SERVES Team through NDCS Victim Services Program and remain in good standing with the SERVES Team and their respective NDCS facility.
10. The VOD face-to-face meeting, will take place one time only. VOD is not intended to establish a relationship or continuing dialogue between the victim and the inmate.
11. Victims shall be at least 18 years of age at the time of the request for VOD.

B. Victim and Public Awareness

Information regarding NDCS Victim-Offender Dialogue Program through NDCS Victim Services Program will be available on NDCS public website.

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C. Facilitator Selection and Training

1. Recruitment/Screening

The Victim Services Coordinator will select potential VOD facilitators from current NDCS SERVES Team Members who are in good standing on the NDCS SERVES Team as well as at their respective facility, and based on need.

2. Facilitator Training

NDCS will provide training for new and existing VOD facilitators to gain the information and skills necessary to professionally conduct VOD's. New VOD Facilitators will complete the necessary training and shadowing experiences with current VOD facilitators prior to any VOD facilitation . When feasible, newly trained VOD facilitators will be paired with a seasoned VOD facilitator.

3. Maintaining Facilitator Status

Existing VOD facilitators are required to annually complete 10 hours of additional continuing education that apply to victim-offender dialogue processes in order to maintain facilitator status. These hours must be approved through the Victim Services Coordinator prior to completion. Each facilitator will be monitored by the Victim Services Coordinator for the quality of work, integrity, ethical conduct, timely completion of assignments, and status on the NDCS SERVES Team, as well as status at his/her facility.


D. Victim/Offender Dialogue Process

1. Interested victim(s) contacts the NDCS Victim Services Coordinator. NDCS will only pursue requests initiated by victims.

2. The Victim Services Coordinator will provide the victim with a copy of Policy 005.03 *Restorative Justice Programming*, answer questions, perform an initial VOD screening, and open the file and record VOD information and provide the appropriate VOD paperwork to the victim

3. The Victim Services Coordinator will talk with the Unit Manager, Unit Staff, and Mental Health staff to determine if there are reasons the inmate would not be appropriate for VOD. After discussions with Mental Health staff, Unit Manager, and Unit staff, the Victim Services Coordinator will seek approval from the facility Warden to move forward with the VOD. If the request is deemed not appropriate, the VOD file will be closed and the requesting victim will be notified.

4. The Victim Services Coordinator will meet with the inmate to describe VOD process and ask the inmate if they are accepting full responsibility for the crime they committed against the victim. If the NDCS inmate accepts full responsibility, they will be asked whether or not he/she will agree to participate in the VOD. At this time, the inmate will be provided with a copy of Policy 005.03, *Restorative Justice Programming*. If the inmate agrees to participate, he/she will sign the appropriate Victim/Offender Dialogue paperwork which will become part of the VOD file.

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5. If the inmate agrees to the VOD and all provided information meets all the principles set forth in this Policy, the Victim Services Coordinator will assign the VOD to two NDCS trained facilitators. The VOD information and related forms will be shared with the facilitators.
6. The facilitators will meet with the victim first to explain the process, discuss general ground rules, confidentiality, limitations to confidentiality and address any concerns. The facilitators will then begin the VOD process with the victim.
7. The facilitators will then meet with the inmate to insure he/she is prepared to be confronted about the impact of the crime without making excuses and without becoming confrontational themselves, discuss general ground rules, confidentiality, limitations to confidentiality and address any concerns. The inmate must understand the dialogue process is victim centered and not intended to focus on the inmate feelings in dealing with the crimes they have committed. The facilitators will then begin the VOD process related to the inmate.
8. Meetings will continue until the facilitators, victim and inmate believe are prepared for the dialogue, or until one of the participants terminate the process.
9. Once preparation is complete, facilitators will make the final recommendation to continue to the in-person phase of the dialogue to the Victim Services Coordinator.
10. If the Victim Services Coordinator is in agreement with the recommendation from the facilitators, the Victim Services Coordinator will contact the appropriate Warden to seek approval for the in-person dialogue phase. Facilitators will coordinate scheduling the dialogue session with the victim, the institution, the inmate, and the offender's Unit Manager. The participating institution will provide a location for the dialogue and security consistent with the requirement for privacy and safety. The victim may suggest the seating arrangements of all participants, facilitator(s) and observers. The facilitator may comply with these suggestions unless security or other concerns exist that prohibit such an arrangement. The facilitators, victim, inmate and all other participants will abide by all rules, regulations and procedures of the facility to include NDCS search policy.
11. The facilitators will bring all participants together and review the ground rules for the meeting. The victim shall decide who speaks first, the inmate or the victim.
12. Throughout the dialogue, if at any time the facilitators believe that participants are unwilling to participate meaningfully or safely in the dialogue, the facilitators will suspend/pause or terminate the session. Long periods of silence will be considered as part of the natural development of this dialogue.
13. One facilitator will conduct follow-up with the victim within 12 hours after completion of the VOD.
14. One facilitator will conduct follow-up with the inmate within 12 hours after completion of the VOD and provide the information to the inmate's Unit Manager.
15. One facilitator will conduct a follow-up contact with the victim within 30 days.

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16. The Victim Services Coordinator will perform a 60-day follow-up evaluation with both participants. This may consist of an interview in person, over the telephone or through the mail.
17. VOD closed.

E. Confidentiality and Exchange of Information

1. All information and materials within the NDCS VOD are confidential including the victim and inmate as both parties are ensured a confidential process at the initial stages of the VOD process. The limitations of confidentiality will apply as detailed within NDCS Policy 005.02, *Victim Services Program*.
2. The facilitators will foster confidentiality throughout the VOD process and after, but will submit written reports of any NDCS policy, rule or law violations.
3. The facilitators will inform the parties at the initial meeting of limitations on confidentiality as detailed within NDCS Policy 005.02, *Victim Services Program*.
4. When materials are used for research or training purposes, the facilitators and/or Victim Services Coordinator will maintain confidentiality and render anonymous identifying information.
5. The facilitators will follow confidentiality during individual meetings as detailed within NDCS Policy 005.02, *Victim Services Program*.
6. The facilitators will turn in all notes and materials collected throughout the course of the VOD process to the Victim Services Coordinator at the conclusion of each VOD. The Victim Services Coordinator will maintain confidentiality in the storage and disposal of VOD records.

REFERENCE

I. STATUTORY REFERENCE

- A. Full Faith and Credit Clause: Article IV: Section 1 of the United States Constitution
- B. Nebraska Revised Statute: 42-924. Protection order; when authorized; term; renewal; violation; penalty; construction of sections.
- C. Nebraska Revised Statute: 28-311.09. Harassment protection order; violation, penalty; procedure; costs; enforcement.
- D. Nebraska Revised Statute: 28-311.11. Sexual assault protection order; violation; procedure; renewal; enforcement.

II. NDCS POLICIES

- A. Policy 005.02, *Victim Services Program*

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III. ATTACHMENTS – None noted

IV. AMERICAN CORRECTIONAL ASSOCIATION (ACA)

A. Expected Practice for Adult Correctional Institutions (ACI) (5th Edition): 5-ACI-1B-24, 5-ACI-5F-08

B. Standards for Adult Community Residential Services (ACRS) (4th Edition): 4-ACRS-6D-01, 4-ACRS-6D-02