

NEBRASKA Good Life. Great Mission. DEPT OF CORRECTIONAL SERVICES	POLICY RESTORATIVE JUSTICE SERVICES		
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SUMMARY OF REVISION/REVIEW

Inmate” changed to “Incarcerated Individual”. “Staff” changed to “Team Member”. “Institution” changed to “Facility”. “Victim Services Coordinator” changed to “Human Talent Director/designee” throughout. PURPOSE – Language updated. PROCESS – I. Language updated. I.B.1.a. – Language updated. I.D. – Language updated. I.F.1.b. – Language updated. II.A.9. – Language updated. II.C.1. – Language updated. Minor grammar changes throughout.

APPROVED:


 Rob Jeffreys, Director
 Nebraska Department of Correctional Services

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PURPOSE

To provide policy for the Nebraska Department of Correctional Services (NDCS) restorative justice services. These services afford crime victims an opportunity to voluntarily participate in the Accountability Letter Bank (ALB) program to potentially receive an accountability letter from his/her incarcerated perpetrator. and allow crime victims the opportunity to participate in the Victim-Offender Dialogue (VOD) program, a victim-initiated process where the crime victim can participate in a structured, face-to-face meeting with his/her incarcerated perpetrator for a dialogue about the crime and its impact on the victim.

NDCS restorative justice services offer crime victims of the incarcerated individuals 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 services offer crime victims an avenue of healing that otherwise would not be obtained. The human talent director/designee oversees and maintains NDCS Restorative Justice services, including the ALB and VOD programs.

The NDCS ALB provides incarcerated individuals 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 assist 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 service 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 program.
- III. The incarcerated individual must take full responsibility for their actions and harm caused.
- IV. All information shared within NDCS Restorative Justice services, as well as personally identifying information, will remain confidential; except information that falls under Limitations of Confidentiality within policy 005.02, *Victim Services Program*.
- V. Voluntary program for both the crime victim and incarcerated individual.
- VI. The incarcerated individual 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. Shall not be used as a means for ongoing communication between the crime victim and incarcerated individual.
- VIII. Shall be facilitated by trained NDCS victim services representatives who are good standing.
- IX. Program oversight through the human talent director/designee.

DEFINITIONS

- I. **FACILITATOR** – A specially trained NDCS victim services representative who will guide and oversee the specific Restorative Justice service.
- II. **GROUND RULES** - These are standards for restorative justice services between the victim and the incarcerated individual. 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. **INCARCERATED INDIVIDUAL** – The offender whom a judge sentenced to a period of incarceration within (NDCS) no parentheses due to the crime(s) she/he committed.
- IV. **RESTORATIVE JUSTICE** – Focuses on repairing the harm caused by the incarcerated individual. It requires the incarcerated individual to take full accountability for his/her actions. It allows those affected by the crime, crime victim and incarcerated individual, 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 are included within this policy.
- VI. **VICTIM-OFFENDER DIALOGUE** – A victim-initiated and victim-centered process in which the victim and incarcerated individual 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 incarcerated individual’s responsibility for that harm. (ACI-5F-08, ACRS-6D-01)

PROCESS

I. ACCOUNTABILITY LETTER BANK PROGRAM

The NDCS ALB program provides incarcerated individuals incarcerated within NDCS a structured, voluntary restorative justice process in which the incarcerated individual takes full accountability for their crime(s) as well as convey their understanding of the harm they caused to the crime victim. The NDCS human talent director/designee provides oversight and monitoring of the accountability

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letters NDCS incarcerated individuals submit to ensure no further harm is caused to the victims who choose to receive the Accountability Letter deposited for him or her.

The NDCS ALB program will be used solely for incarcerated individuals within NDCS facilities who have completed NDCS victim impact class. Once NDCS victim impact class is completed incarcerated individuals must contact Human talent director/designee to be considered for participation.

Crime victims of incarcerated individuals 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 Incarcerated individual
 - 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 Incarcerated Individual Accountability Letter Screening

1. NDCS Incarcerated Individual
 - a. The NDCS human talent director/designee will review each incarcerated individual'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 incarcerated individual accountability letter will be screened for the following, but not limited to:
 - 1) Does not blame the victim or others

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- 2) Does not cause further harm in any foreseeable way
- 3) Does not make excuses
- 4) Does not request forgiveness
- 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 incarcerated individual's accountability letter is deemed inappropriate, it will be returned to the incarcerated individual along with a detailed explanation why. The incarcerated individual 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 incarcerated individual deposits an accountability letter into the ALB, the human talent director/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 and if they decide at any time they would like to receive a copy of the accountability letter from his/her incarcerated individual, they can do so.

2. Accountability Letter Distribution

If the crime victim responds in the affirmative, the human talent director/designee will make arrangements with the crime victim to receive a copy of their incarcerated individual'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 human talent director/designee's office with the human talent director/designee

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3. Accountability Letter Retention

- a. A copy of each NDCS incarcerated individual accountability letter deposited into the NDCS ALB program will be securely stored in an area identified by the human talent director/designee.
- b. Once a NDCS incarcerated individual deposits their accountability letter into the NDCS ALB, it will be stored until the NDCS incarcerated individual is released from NDCS custody on the sentencing order that the NDCS incarcerated individual wrote the accountability letter. Retention policies will be followed for all NDCS incarcerated individual letters deposited into the NDCS accountability letters after the incarcerated individual 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 representatives 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
- e. The limitations to confidentiality as designated within NDCS policy 005.02, *Team Member Support*, will apply to the NDCS ALB Program

E. Contact

1. Incarcerated Individual

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

2. Victim

The NDCS ALB is not a means for ongoing communication between the crime victim and his/her incarcerated individual 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

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regarding NDCS victim-offender dialogue program from NDCS human talent director/designee.

F. Additional Oversight

1. Incarcerated individual

- a. The incarcerated individual'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 incarcerated individual violates any NDCS rule or policy.
- b. If an incarcerated individual submits an accountability letter into the NDCS ALB program and that incarcerated individual has a current court order, condition, or policy restricting that incarcerated individual from contacting his/her crime victim, the accountability letter will remain deposited on file and no contact with the crime victim will be made. 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 incarcerated individual's ability to contact his/her crime victim
 - 4) NDCS directive to a NDCS incarcerated individual 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 incarcerated individuals 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 incarcerated individual 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

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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 incarcerated individual 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 incarcerated individual. The process will be terminated at any point where it is determined to be inappropriate or unsafe for either the victim or the incarcerated individual. At no time will this policy be interpreted as to allow for an appeal of the professional judgment of the human talent director/designee.
2. Participation in the NDCS VOD is strictly voluntary. The facilitators, the victim or the incarcerated individual may choose to discontinue participation in the VOD at any time, for any reason.
3. In order for an incarcerated individual 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 incarcerated individual's status or programming. This includes facility, 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. NDCS victim services only pursues requests initiated by the victim. Any incarcerated individual-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 incarcerated individual'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

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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 victim services representatives in good standing .
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 incarcerated individual.
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 will be available on NDCS public website.

C. Facilitator Selection and Training

1. Recruitment/Screening

The human talent director/designee will select potential VOD facilitators from current victim services representatives who are in good standing o 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 an experienced 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 NDCS human talent director/designee prior to completion. Each facilitator will be monitored by the NDCS human talent director/designee for the quality of work, integrity, ethical conduct, timely completion of assignments, and status at his/her facility.

D. Victim/Offender Dialogue Process

1. Interested victim(s) contacts the NDCS human talent director/designee. 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 Services*, answer questions, perform an initial VOD screening,

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and open the file and record VOD information and provide the appropriate VOD paperwork to the victim

3. The human talent director/designee will talk with the unit manager, unit team members, and mental health team members to determine if there are reasons the incarcerated individual would not be appropriate for VOD. After discussions with mental health team members, unit manager, and unit team members, the human talent director/designee 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 human talent director/designee will meet with the incarcerated individual to describe VOD process and ask the incarcerated individual if they are accepting full responsibility for the crime they committed against the victim. If the NDCS incarcerated individual accepts full responsibility, they will be asked whether or not he/she will agree to participate in the VOD. At this time, the incarcerated individual will be provided with a copy of policy 005.03, *Restorative Justice Services*. If the incarcerated individual agrees to participate, he/she will sign the appropriate victim/offender dialogue paperwork which will become part of the VOD file.
5. If the incarcerated individual agrees to the VOD and all provided information meets all the principles set forth in this policy, the NDCS human talent director/designee 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 incarcerated individual 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 incarcerated individual must understand the dialogue process is victim centered and not intended to focus on the incarcerated individual feelings in dealing with the crimes they have committed. The facilitators will then begin the VOD process related to the incarcerated individual.
8. Meetings will continue until the facilitators, victim and incarcerated individual 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 NDCS human talent director/designee.
10. If the NDCS human talent director/designee is in agreement with the recommendation from the facilitators, the human talent director/designee will contact the appropriate warden to seek approval for the in-person dialogue phase.

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Facilitators will coordinate scheduling the dialogue session with the victim, the facility, the incarcerated individual, and the incarcerated individual's unit manager. The participating facility 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, incarcerated individual 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 incarcerated individual 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 incarcerated individual within 12 hours after completion of the VOD and provide the information to the incarcerated individual's unit manager.
15. One facilitator will conduct a follow-up contact with the victim within 30 days.
16. The human talent director/designee 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 incarcerated individual 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*.

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4. When materials are used for research or training purposes, the facilitators and/or human talent director/designee 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 human talent director/designee at the conclusion of each VOD. The human talent director/designee will maintain confidentiality in the storage and disposal of VOD records.

REFERENCE

I. STATUTORY REFERENCE AND OTHER AUTHORITY

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

II. NDCS POLICIES

- A. Policy 005.02, *Team Member Support*

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