

SB 16 (2017) Confidentiality of Facilitated Dialogues and Responsibility Letters

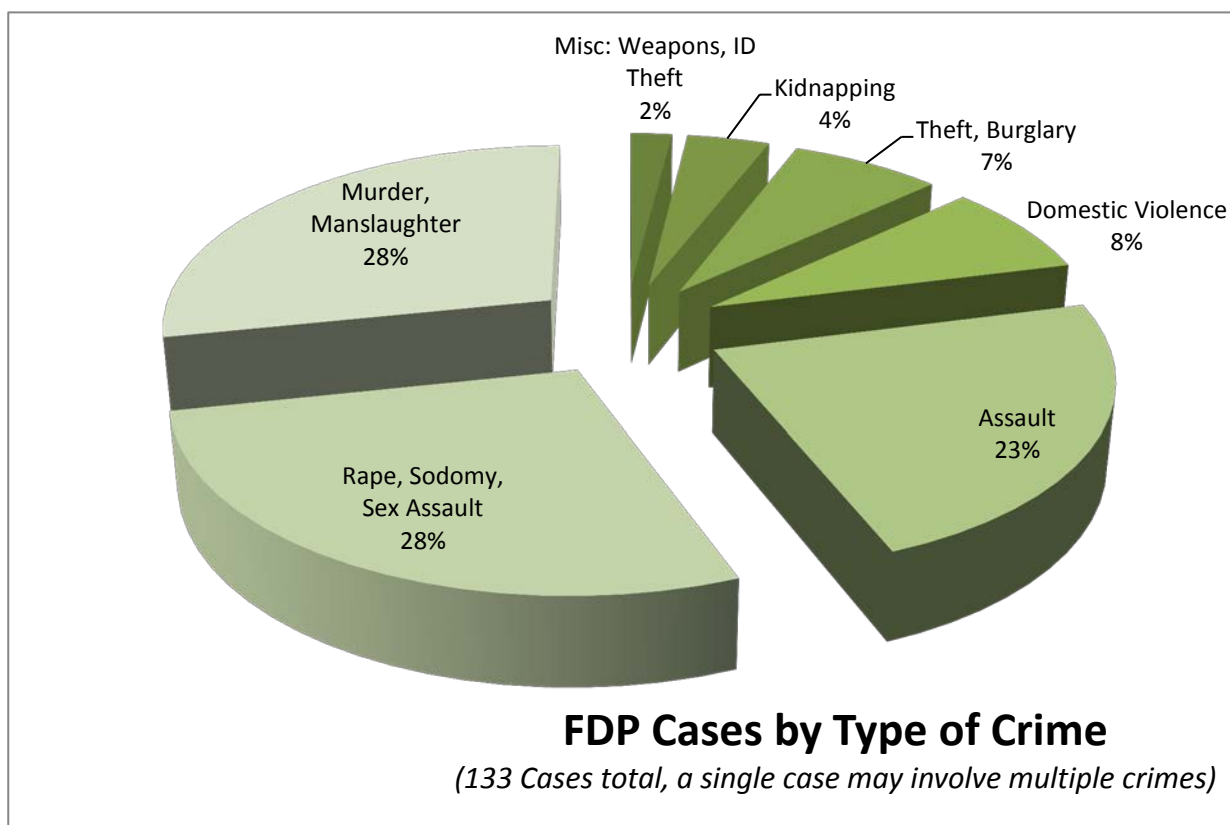
Senate Bill 16 (2017) provides for the confidentiality necessary for victims of crime to have a facilitated dialogue with, or receive a letter of responsibility from, their offender. These victim-offender interactions, administered by the Oregon Department of Corrections, are referred to as the Facilitated Dialogue Program (“FDP”) and the Responsibility Letter Bank Programs respectively.

The DOC Responsibility Letter Bank Program

Many states offer some type of Responsibility Letter Bank process for crime victims and their offenders. The Oregon Department of Corrections is prepared to make such a Letter Bank available here in Oregon if the Department is able to ensure that an offender letter is only disclosed to a crime victim at the victim’s request. SB 16 will provide the confidentiality needed to prevent the media from publishing an inmate’s letter to a victim when the victim has no desire to see such a letter. For the victim who does want to receive a letter, SB 16 will allow the victim or survivor to receive the letter and have control over how it is shared and with whom.

The DOC Facilitated Dialog Program

A Facilitated Dialogue is a face-to-face meeting, facilitated by a specially trained third-party, between a victim/survivor and their incarcerated offender. A dialogue can only be initiated at the request of a victim or survivor. In order for the Facilitated Dialogue Program to be successful, all the participants must be able to speak openly and honestly about the crime and its impact, knowing that what they communicate will not be shared with other people or used against them later, except as required by law. Accordingly, it is the policy of the Department of



Corrections to maintain all Facilitated Dialogue Program communications as confidential to the maximum extent permitted by law. Currently this confidentiality is achieved by cooperation of the participants (victim and inmate) and the execution of pre-dialog agreements. With the experience of 13 years and over 133 cases through this program we know that these existing protections are not sufficient, particularly in high profile cases, where there is significant media interest in the matter or where the communication is oral. SB 16 will provide confidentiality protections for these dialogs that is similar to the confidentiality provided to parties to a mediation. Exceptions to confidentiality will be developed through agency rulemaking in order to ensure institutional and public safety and program effectiveness.

SB 16 also provides for limits on the civil liability for the program facilitators, most of whom are volunteers. This limited liability makes it easier to keep and maintain volunteers and supports the confidentiality aims of the program by making it less likely a facilitator will be compelled to appear in or testify at certain civil proceedings.

The Confidentiality provided by SB 16 will help ensure that victims have an authentic dialogue that achieves the victim's goals. Based on past cases, these goals have included:

- Wanting the offender to **know how the victim feels**. The victim/survivor might, for example want the offender to know what impact the crime has had on the victim/survivor or what the victim/survivor's life has been like since the crime. Some victim/survivors choose to offer the offender an expression of forgiveness.
- Wanting some additional information from the offender regarding the **details of the crime**.
- **Wanting to know more** about the offender's current thinking or feelings: What the offender's life was like prior to the crime? What are the offender's current goals or motivations? What are the offender's feelings about the victim? Is he/she remorseful? What are the offender's spiritual beliefs?
- **Wanting some action** from the offender. The victim might want to talk about tangible and constructive things that the offender can do while incarcerated or when they get released. The victim might want to know what steps the offender will take to ensure that they don't hurt someone else.
- **Wanting to navigate a complex offender relationship** (e.g., offender was a former spouse or is the victim's parent.)
- Wanting to **mitigate some of the emotional impacts** of the crime experienced by the victim/survivor.