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# Victims' Reflections on the Protective and Proactive Approaches to the Offer of Restorative Justice: The Importance of Information

**Tinneke Van Camp\***

Department of Criminology, California State University, Fresno

**Jo-Anne Wemmers**

School of Criminology, University of Montreal, Montreal

*Des études indépendantes dévoilent que, lorsque la justice réparatrice (JR) est correctement pratiquée, elle réussit mieux que les procédures pénales à considérer les préoccupations des victimes en matière de compréhension, de voix et d'équité. Par conséquent, elle peut avoir un effet thérapeutique. Par contre, seul un petit nombre de cas est aiguillé vers la JR, et la JR initiée par la victime demeure un cas d'exception. La JR n'intéresse pas toutes les victimes, mais nombre d'entre elles n'en connaissent même pas l'existence, ce qui les empêche d'en tirer des avantages potentiels. Il est évident que la présentation de la JR aux victimes de crime devrait se faire de façon responsable et, par conséquent, il est important de comprendre si les victimes veulent en connaître l'existence, puis de savoir comment la présenter. Nous avons interviewé 34 victimes de crime grave en Belgique et au Canada, et nous leur avons demandé s'elles ont apprécié le fait d'avoir été invitées à participer à la JR. Nous avons comparé les expériences avec ce que nous avons appelé une offre proactive et protectrice. L'approche proactive prône une offre systématique et un choix informé. Une approche protectrice se caractérise par une offre individualisée. Elle manque des renseignements systématiques au sujet de la JR. Nos résultats démontrent que les victimes de crimes violents préfèrent être informées de leurs choix de manière proactive, tant et aussi longtemps que l'offre respecte certaines conditions, notamment une garantie de participation volontaire et la JR en tant que procédures complémentaires.*

\* Please direct correspondence to Tinneke Van Camp, Department of Criminology, California State University, Fresno, 2576 E San Ramon Ave., M/S 5T104, Fresno, CA, 93740-8039, USA; [vancamp@csufresno.edu](mailto:vancamp@csufresno.edu)

*Mots clés : victimes de crime violent, justice réparatrice, choix éclairé, Belgique, Canada.*

*Independent studies reveal that when done properly, restorative justice (RJ) practices outperform criminal justice proceedings in meeting victims' concerns for insight, voice, and fairness and, as a result, can have therapeutic value. However, only a small number of cases are referred to RJ, and victim-initiated RJ remains exceptional. Not every victim is interested in RJ, but many victims are unaware of it and hence miss out on its potential benefits. Introducing RJ to victims of crime should be done responsibly, and, therefore, it is important to understand whether and how victims want to be informed about RJ. We interviewed 34 victims of serious crime in Belgium and Canada and asked them what they had thought about being invited to participate in RJ. We categorized their experiences into what we labelled a "protective" and a "proactive" approach. A protective approach is characterized by an individualized offer and lack of systematic information about RJ, while a proactive approach favours a systematic offer and informed choice. Our findings indicate that victims of violent crime prefer to be proactively informed about their restorative options as long as the offer respects certain conditions. These include a guarantee of voluntary participation and RJ that is a complementary approach to criminal justice proceedings.*

*Keywords: victims of violent crime, restorative justice, informed choice, Belgium, Canada*

## Introduction

Restorative justice (RJ) programs invite victims and offenders of a particular crime to play a central role in the response to this crime through liaised written or oral communication or face-to-face dialogue, with the support of a facilitator (Van Ness 1997; Zehr and Mika 1998; Roche 2001). This approach is inspired by the idea that crime is not merely an infraction of the law, but also an injustice or a harm that needs to be addressed (Zehr 1990). Examples of RJ programs are victim-offender mediation (VOM), conferencing, and victim-offender encounters (VOE). VOM builds on the voluntary involvement of the victim and offender of a particular crime, brought together by a trained mediator who facilitates shuttle mediation and potentially a face-to-face meeting or written communication. Conferencing brings together the offender and the victim as well as their supporters and a representative of the community to work toward reparation. VOE also involve meetings

between victims and offenders; however, victims meet not with their own offenders, but with offenders who have committed similar crimes. In these meetings, victims and offenders present their experiences to each other in the presence of a facilitator.

These three forms of RJ are being used around the world in response to property crime and violent crime, committed by juvenile and adult offenders, and either at various stages of the criminal justice process (e.g., before a trial in court, before and after sentencing, during the execution of a sentence), as diversionary or complementary procedures, or in the absence of judicial proceedings (Van Ness 2005).

Independent evaluative research, including randomized controlled trials, reveals that restorative practices that comply with certain standards (such as voluntary participation, voluntary outcome agreement, and support from a trained mediator before and during the victim-offender dialogue, which takes place in a safe setting) (Shapland 2014) outperform criminal justice proceedings in meeting victims' need for information, insight, and voice (Poulson 2003; Sherman et al. 2005; Sherman and Strang 2007; Ruge and Scott 2009). The restorative procedure is generally found to be fair and to improve victims' satisfaction with conventional criminal justice procedures (Shapland, Robinson, and Sorsby 2011; Van Camp 2014). In addition, by promoting truth telling and recognizing victimization, restorative dialogue can have therapeutic effects, especially in cases of violent crime (e.g., Strang et al. 2006; Choi, Green, and Kapp 2010; Shapland, Robinson, and Sorsby 2011).

Despite such beneficial outcomes, referrals to RJ are low (Laxminarayan 2014), and few restorative interventions are initiated by victims. Instead, RJ is predominantly initiated by offenders or dependent on referrals from judicial authorities. For instance, the service that provides VOM in response to adult offending in Flanders, Belgium, reports that 5% of the total number of requests it received for VOM in 2012 had been initiated by a victim or by a support worker on the victim's behalf (Suggnomé 2012). Its counterpart in Wallonia, Belgium, reports a slightly larger, but still relatively small, proportion of victim-initiated VOM of 13% in its annual report of 2012 (Médiate 2012).

RJ is not of interest to everyone, but low caseloads and a low rate of victim initiation could also be due to a lack of information about good RJ practices. Participation in such practices is voluntary, and it cannot be expected to appeal to every victim. Unfortunately, there is little

research into what sets apart victims who agree to participate in RJ from those who do not. One of the few studies in this regard is Bolivar's (2013) comparison of victims of interpersonal violence who refused or agreed to participate in direct or indirect VOM. She concludes that non-participating victims resemble victims who refuse to do face-to-face VOM and opt for indirect VOM instead. In particular, they were more likely to report that they were still afraid of the offender and had an unequivocally negative image of the perpetrator when compared to victims who had agreed to do face-to-face VOM. Non-participating victims differed from participating victims in that they did not wonder why the offence happened. Wemmers and Cyr (2005) found that non-participating victims in their study did not place great importance on the offence and did not want to invest their time in VOM.

An important additional reason for non-participation is lack of awareness of RJ (Laxminarayan 2014). Generally, victims are not very familiar with their rights and the services available to them (Reeves and Mulvey 2000). Several researchers report that when they provided victims with a description of RJ and then asked them to consider participating in it, victims of all types of crime expressed an interest (Mattinson and Mirreles-Black 2000; Tufts 2000; Wemmers and Canuto 2002; Strang et al. 2006). For example, Mihorean and colleagues report that 51% of the victims in their study replied that they would have been very or somewhat interested in VOM (Mihorean et al. 2001).

In light of victims' favourable attitudes toward RJ, the main question is not whether RJ programs that meet good practice standards should be offered to victims but how this should be done (Wemmers 2002). An offer made without regard for victims' concerns, we suspect, could be unsettling and less likely to be taken up. An attractive offer is one that is compatible with victims' concerns. The victimological literature generally refers to a need for information, protection, reparation, emotional support, practical help, and recognition. Among these, the need for information is the most common (Wemmers 2003). Information can help victims feel less uncertain because they know what to expect and what is expected of them as their case is being dealt with (Baril et al. 1983; Wemmers 2003). It is also associated with being better able to cope (Wemmers and Cyr 2006). In addition, because victimization, especially in cases of violent crime, can leave an individual feeling vulnerable and insecure (Perreault and Brennan 2010), victims often need to recover their sense of security (Baril 1984; Lurigio 1987). Victims may fear intimidation and retaliation by the offender (Baril 1984;

Reeves 1989) and may worry about the ability of the criminal justice system to protect them (Lurigio 1987; Van Dijk 1999).

It appears that the offer of RJ conforms either to the need for protection or to the need for information. Under what we call the "protective" model, information is not systematically distributed to victims; instead, information may be withheld from victims in an effort to shield them from any possible risk of distress. This concern is commonly adopted by victim support services, associated with or independent from police and judicial services (Laxminarayan 2014). These services generally deal with victims who are suffering emotionally (Goodey 2000), and their priority is to deal with the emotional consequences of victimization and work toward empowering victims and re-establishing their control over their daily routine. Out of a legitimate concern that victims need to heal first before they can be in a suitable state to meet with an offender, many victim support workers are rather hesitant about their clients getting involved in a victim-offender dialogue. Moreover, victim support workers often perceive restorative programs to be offender-oriented and aimed at offender rehabilitation (Wemmers and Cyr 2002).

Of course, victim support services are not the only services that can provide information about RJ: Police and judicial services are equally important sources of information for victims of crime. However, when they are not obliged to provide information about RJ, whether they distribute information depends on their attitudes toward RJ and their awareness of its potential to be beneficial (Laxminarayan 2014). Also, police and judicial services might believe that victim support services are better suited to informing victims. While a concern for secondary victimization seems to underpin reluctance among victim support workers to refer victims to RJ, it does not necessarily explain why police and judicial authorities would neglect to provide information. Rather, a concern for data protection (Laxminarayan 2014) as well as perceptions, convictions, and possibly even lack of awareness of RJ may prevent them from systematically informing victims about RJ.

In some countries, police and judicial services are encouraged to distribute information about RJ through policies and RJ-related legislation (Van Ness and Nolan 1998). These countries have introduced what we would call a "proactive" approach, which prioritizes victims' need for information – about support, criminal justice, and restorative services. The principal aim of the proactive model is to systematically provide every victim with clear and complete information about RJ to allow

him or her to make an informed decision about participating in RJ. An example of this model is found in Belgium, where the use of RJ is promoted by two laws: the Law of 22 June 2005, which introduced certain provisions concerning mediation into the Preliminary Title of the Code of Criminal Procedure and the Code of Criminal Procedure, and the Youth Act of 15 May 2006 (see discussion in Van Camp and De Souter 2012).

The objective of the Belgian legislators was to maximize access to restorative practices that are provided by designated restorative services for all types of crime and at all stages in the criminal justice process. Under this model, restorative processes are complementary to criminal justice proceedings for both adult and young offenders. Restorative outcomes do not replace judicial decisions, and the facilitated victim-offender dialogue is confidential. Belgian judicial authorities are encouraged to systematically provide victims with information about the availability of RJ programs, although the manner in which this is done differs across judicial districts. For instance, information can be included in standardized documentation about the judicial services or in an invitation to present oneself at court; or victims might receive a personalized invitation to consider RJ. Despite the legal framework that promotes RJ in cases involving an adult offender and prioritizes a restorative response to youth offending, only a fraction of eligible crime cases land in the hands of RJ facilitators (Médiant 2012; Put, Vanfraechem, and Walgrave 2012; Suggnomé 2012). Put differently, the proactive requirements might not always be met in the field, and some forms of information are more personal and direct than others.

In this paper, we explore how the protective and proactive models are implemented in practice and which model victims of violent crime prefer. Do they feel that the protective offer is overly cautious and the proactive offer overwhelming? In this respect, our research objectives were to record and understand the views of victims of violent crime about an offer of RJ that is either personalized or systematic as well as about the indicators and contraindicators of the offer.

## Method

Data was collected through open, unstructured interviews. We did not present respondents with a checklist of criteria with which an offer might have to comply; instead, we recorded what they spontaneously mentioned in relation to their experiences and ideas of what a

considerate offer would look like. We transcribed the interviews verbatim and analyzed them inductively. We coded each transcript, then compared the codes across individual interviews and categorized them thematically.

We interviewed adult victims of violent crimes (including adult relatives of someone who had passed away as the result of a crime<sup>1</sup>) who had participated in RJ. The crimes – such as (aggravated) assault, sexual assault, homicide, (attempted) murder, manslaughter, and (armed) robbery – had been committed by a juvenile or adult offender. Because of practical and ethical difficulties,<sup>2</sup> we had no access to victims who had chosen not to take part in a restorative intervention. We acknowledge that victims who refuse to participate in RJ would undeniably have very meaningful things to say about the way RJ is offered (e.g., they might refuse because the offer is upsetting), but also victims who agree to participate in RJ are able to advise us on the best way to offer RJ. Victims who are proactively invited to participate might initially feel concerned about the offer. Likewise, victims who experience the protective approach might actually prefer an outreach-oriented approach.

We chose to limit our sample to victims of violent crime because we assumed that they would have been most likely to suffer negative emotional effects from the crime and experience additional stress when asked to consider communicating with an offender. Respondents were recruited in Canada and Belgium with the help of RJ services that facilitate VOM, conferencing, and VOE.<sup>3</sup> The sample includes 34 respondents, 21 of whom are Belgian and 13 of whom are Canadian. Their ages range from 23 to 74 (with an average age of 47), and most ( $n = 25$ ) are women.

Of the 34 respondents, 26 had participated in VOM, of which the majority ( $n = 20$ ) had had a face-to-face meeting with the offender. Two victims had participated in conferencing, and six had participated in VOE, both of which had involved face-to-face communication between victims and offenders. Five cases had involved a juvenile offender. Eleven respondents were related to the victim of a violent crime, and 10 of them were family members of homicide victims. In another case, the respondent was related to the offender of a crime that had resulted in a person's death. Twenty-one respondents had known the offender before the crime was committed; this is not surprising given that violent offences are often committed by someone familiar to the victim (Gannon and Mihorean 2005; Van Dijk, Van Kesteren, and

**Table 1: Country, RJ program, and timing of RJ in the protective and proactive approach subsamples**

Sample Description (n = 33)	Protective Approach (n = 14)	Proactive Approach (n = 19)
Country		
Belgium	8	12
Canada	6	7
RJ program		
VOM	10	15
Conferencing	0	2
VOE	4	2
Timing of RJ in relation to criminal justice process		
Before adjudication	2	12
After adjudication	10	4
Unsure	2	3

RJ = restorative justice; VOM = victim-offender mediation; VOE = victim-offender encounters.

Smit 2007). Finally, 14 respondents had participated in a restorative intervention before adjudication (i.e., a criminal conviction, acquittal, sentencing, or decision not to prosecute), and 14 had participated after adjudication.<sup>4</sup> In all the cases in our sample, RJ had been complementary to conventional criminal justice proceedings and decision making.

For the purpose of this study, cases were considered to follow a protective approach when victims had not been given systematic information about RJ, while a proactive approach was followed when victims had been systematically given information about RJ without having to ask or search for it. As a result, 14 cases were classified as protective and 19 as proactive.<sup>5</sup> Both subsamples include VOM and VOE cases; in the two cases using conferencing, referral to the RJ service had been proactive. Variations of the two models were found in both countries (see Table 1).

## Findings

### Victims' perceptions of the protective and proactive approaches

The 14 respondents grouped under the protective approach had received information about RJ either because they had been actively searching for a way to meet with their offender or because they had heard about RJ only after someone else had initiated it. This often occurred despite having been in contact with a victim support service

**Table 2: Forms of protective approach**

Form of Approach (n = 14)	Belgium	Canada	Total
Respondent asked about how he or she could meet offender(s)	4	1	5
Respondent contacted offender or prison	1	2	3
Offender initiated RJ	3	0	3
Therapist sent respondent an individualized invitation to participate	0	3	3
Total	8	6	14

RJ = restorative justice.

(either an independent service or one associated with police or judicial services) and with police and judicial services ( $n = 11$ ). Different pathways to RJ services emerged from their discourses, some more direct and less dependent on the efforts of the victim than others (and, therefore, approximating the proactive approach).

Five respondents had not known about RJ but had eventually mentioned to a victim support worker or to the prosecutor assigned to their case that they wanted to meet the offender. In addition, three victims (two of whom had not been in contact with victim support services) had written a letter to the offender in prison or inquired about visiting opportunities before becoming aware of RJ. The prison services had then referred them to local RJ services. In three cases (including one in which the victim had not been in contact with victim support), the offender had initiated a VOM procedure, after which the mediator had contacted the victim to explore his or her willingness to get involved. Finally, three victims had been selected to participate in VOE by their therapist, who was involved in a VOE program. Hence, the RJ offer had been integrated into victim support and had not required these three victims to ask about the possibility of a victim-offender dialogue. However, receiving an offer to participate in VOE was not the norm: Only victims who were deemed ready to talk about their experiences to a group of offenders and for whom it was thought to be beneficial had been invited.

Only these latter three respondents said they were pleased with the way they had found out about RJ. They explained that when they had been invited to participate, it had felt like being selected to do VOE.

Their caseworker must have judged that they were ready and would benefit from it, and they had trusted their caseworker's judgment.

I immediately accepted. . . . I was at the right place [at the victim support service]. . . . I trusted them. . . . If [the support worker] asks you to go to [VOE], it's because it'll serve a purpose. . . . That's why I told myself, "If she asks me to go, it's not for nothing." (Participant 1)

In contrast, the remaining 11 victims in this subsample of 14 were dissatisfied with the protective approach. For instance, victims' request to meet their offender had been (sometimes repeatedly) ignored. The services that respondents had approached with their request at times only reluctantly referred them to RJ because they had assessed that a victim-offender meeting would not be a good idea. As a result, victims had felt misunderstood and disregarded. Being able to communicate with their offender, which they had expected would help them move on, and finding their way to RJ services had required an enormous effort on their part. One respondent said,

[Quoting the reaction of the judicial authority when she had requested to meet the offender] "No, that is not going to happen; that is impossible. We don't know what you might do. What if your intentions are to kill him?" That was an unacceptable reaction! (Participant 5)

In addition, victims who had only heard about RJ after the offender had initiated VOM, or because they had contacted the prison and were then told about RJ, wondered why it seemed that only offenders and offender services had access to information about restorative opportunities. They argued that victims and offenders should have equal access to such resources.

Mediation, we didn't know what that was. . . . That's what I would call a negative side of justice, is that mediation is offered [to offenders]. Prisoners seem to know about mediation. Victims don't know about it. And that has nothing to do with mediation, but with the justice system, that offers better support to prisoners than to victims. (Participant 18)

The 19 respondents who had experienced what we have classified as the proactive approach had received information about RJ without having to request or search for it. Only the manner in which this proactive information had been provided varied. Some methods had relied

**Table 3: How proactive information was provided**

Type of Information (n = 19)	Belgium	Canada	Total
Referral to RJ <sup>a</sup> by judicial authorities	10	0	10
Unsolicited information about RJ through victim support	1	4	5
Unsolicited information about RJ through Parole Board of Canada	0	3	3
Unsolicited information about RJ in documentation from judicial services	1	0	1
Total	12	7	19

Note: <sup>a</sup> RJ = restorative justice

more on the victims' efforts to get in touch with RJ services than others (thereby tending toward the protective approach).

For half of the respondents in this group ( $n = 10$ ), their cases had been referred to the RJ service by the prosecutorial services or court judge (as a parallel procedure to the judicial proceedings); the mediator had then contacted them directly and asked whether they would be interested in participating in RJ. The mediator had first written them a letter, then followed up with a telephone call; respondents were always free to decline the offer. Five other victims had got in touch with the RJ service through a victim support worker. This type of referral did not depend on the support worker's assessment of the victims' readiness for RJ, and the respondents had not explicitly indicated that they wanted to meet their offender either. Instead, the victim support worker had spontaneously informed them about RJ or suggested that particular concerns could be addressed through communication with the offender.

In the remaining four cases in this subsample, the RJ offer had depended somewhat on the victims' own efforts. More specifically, three victims had been informed about RJ after registering with the Parole Board of Canada to receive information about parole and the sentence being served by the offender.<sup>6</sup> The fourth respondent had contacted the mediator after reading information about the local RJ service in the documentation provided by judicial services. In many Belgian judicial districts, this is common practice: Victims receive a form letter that includes information about, and contact information for, victim support and RJ services. It is a routine form of information, but one that

requires victims to contact the RJ service. Only one respondent spontaneously recalled having received information about RJ this way; the others did not mention it.

Overall, respondents grouped under the proactive approach were more positive about their experience than respondents grouped under the protective approach. In particular, they had appreciated being informed about the services available to them without having to track them down themselves. The information had enabled them to make choices. The proactive invitation to RJ was upsetting for one respondent because the referral from prosecutorial services had come too soon. The emotional scar left by the crime had still been very raw, and so the invitation to meet the offender had been distressing. However, this respondent had been happy to start VOM months later, when the offender had initiated it. The respondent had perceived the offender's initiative as a sign of remorse, and this had swayed the respondent's decision to accept the offer the second time around – in other words, favouring a protective approach. The respondent concluded that

[there are] victims [who] maybe should be allowed more time before sending them [an invitation to consider RJ], and then there are cases [that mediators] can immediately start working on. (Participant 12)

One respondent remarked how he had particularly appreciated that the suggestion to do VOM had come from the prosecutor. It had indicated that it was a creditable offer. Furthermore, most respondents remembered that they had been immediately interested in the restorative offer, despite the fact that only two of them had been familiar with RJ or the program. However, three respondents had initially hesitated to accept the invitation to engage in a restorative intervention.

I just got this letter, at one point, a letter [from the mediation service] saying, "You have been the victim of . . . [and would you consider VOM]?" I said, "Oh, that is something I would like to do." And I immediately, you could say almost immediately, responded. . . . Yes, I thought that was a terrific idea. (Participant 17)

### **Contraindicators to the offer of RJ**

When we asked respondents whether RJ should be offered to every victim, only a few mentioned that some cases might not be suitable for RJ. Contraindicators were related to the seriousness of the crime and emotional distress.

### **Seriousness**

Four respondents mentioned the seriousness of a crime as a contraindicator to the offer of RJ. They thought that crimes that were more serious than the one they had fallen victim to would not be appropriate for RJ and that victims in more serious cases would likely be unsettled by an invitation to consider RJ. For this reason, they assumed that murder and sexual assault would not be suitable for RJ.

There are cases . . . for mediation, I don't think. . . . For instance, should someone have killed our child, in that case . . . I think that if you have to meet the offender [who killed someone you love] . . . I don't think I would do it. (Participant 10)

Meanwhile, six respondents spontaneously rejected this assumption and insisted that no type of offence should be excluded from the restorative offer. Four of these respondents are family members of murder victims, and one is a sexual abuse victim.

[In] any crime, usually, they have taken something from you. Whether it be property, whether it be a loved one – they've hurt you. And I think any type of crime where you can face that . . . it brings closure, you can get it off your chest, you can ask the questions you want to ask. (Participant 31)

### **Emotional distress**

One respondent mentioned the distress following victimization as a contraindicator for the offer of RJ. Emotional distress was the reason this respondent had initially refused to participate in VOM.

As soon as the file was transferred to start a judicial procedure, I got a letter from [the mediation service]. . . . From my point of view, it would have maybe been advisable . . . in these types of cases, victims need more time. . . . Being a victim, there are other things, especially when there is a psychological trauma involved, that you're preoccupied with. (Participant 12)

Several other respondents indicated that they too had been profoundly and emotionally affected by the violent victimization. Yet despite this emotional state, they had not rejected the invitation to consider participating in a restorative program. This shows that even when victims are distressed, RJ can serve a purpose. Nevertheless, several respondents

( $n = 10$ ) emphasized that it is important that victims make some recovery before communicating with the offender.

You cannot just jump into it, in the sense that. . . . When you've never taken steps [toward healing], you cannot just go to [RJ] to start [your healing process]. Because it will overwhelm you. (Participant 32)

The issue, then, is determining how to assess victims' readiness. One respondent suggested that a victim support worker should make this assessment; two respondents insisted that victims themselves often know best what is good for them. Another respondent proposed a compromise: Victims themselves should have the last word on whether they are ready to confront an offender, but victim support or RJ facilitators should help them make that decision.

Not everyone can take these steps [by themselves]; not everyone is able to talk about it. . . . Others would tell me, "I'm not interested in it." To each his own. . . . But to know that [VOM] exists is important. Whether it is accepted or not, that is not important. What's important is to know that it exists. . . . Give us the choice. Don't impose everything on us all the time. All the procedures, they are imposed on us. We undergo things all the time, you see. . . . When I meet people, I tell them, "If you are capable of doing [VOM], when you feel the need to . . . do it!" (Participant 9)

[The offer] should be done to everyone. . . . The people that manage these meetings are probably able to see whether a person is ready. Well, they should not feel embarrassed to tell this person, "Listen, maybe it's better to wait." But also to explain why. In the end, everyone should be free to choose to do it. . . . It should not be [up to] the support worker to decide. (Participant 3)

### **Indicators in favour of an offer of RJ**

#### *Age of offender*

Our sample includes five cases in which the offender was a youth. The victims in two of these cases insisted on how useful RJ is in cases involving a juvenile offender – the other three respondents did not comment on it. They argued that the restorative approach works particularly well with young offenders because they might be receptive to being encouraged to do better. But they would not limit the restorative offer to young offenders.

I might even do [VOM] in case of [a crime committed by] an adult offender, but especially [in the case of a crime committed by a] juvenile. I thought, "Dammit, they only just started to live their life, and already they're in trouble." But now that I have this experience with young people, I would probably also do [VOM] with adult offenders. (Participant 20)

#### *Relationship between victim and offender before the crime*

Three respondents mentioned that RJ is especially, but not exclusively, useful in cases where victim and offender have known each other before the crime occurred. For example, they had known their offenders and thought that this had been a significant factor in their decision to participate in RJ. Victim and offender might (want to) meet in the future and, through mediation, they could discuss how to deal with such future (chance) encounters – e.g., would they shake each other's hand or speak to each other when they happened on each other after mediation? These respondents also did not rule out the usefulness of RJ in cases in which victim and offender are strangers.

[VOM] certainly has been positive for my relationship [with the offender, who is a family member]. Because, and this was very positive, we were able to express our feelings to one another. . . . We have learned to respect each other's feelings and have been able to accept them, to some extent. So it has been very important, that communication, for our relationship now. . . . But someone who does not know his offender also has questions that need answering [by the offender]. (Participant 15)

#### **Victims want to be informed**

The above findings suggest that our respondents largely seem to favour a general offer of RJ. Many victims ( $n = 18$ ) spontaneously reported that although participation in a restorative intervention is not something every victim will want to do or be capable of doing, RJ should at least be offered to them. They argued that victims should be able to decide for themselves whether they want to become involved in a restorative intervention.

There should be more advertisement, more pamphlets, and what-not. I had no idea it existed. . . . It is fairly unknown! There is too little information. . . . Take prosecutors: They should inform victims, especially victims of sexual assault, about the support



available to them. Often, you get involved in the system not knowing what support services are available. (Participant 26)

I strongly believe that if every victim could be aware of how this program can work for them, they would do it. No matter what the crime is. (Participant 28)

### Conditions

Nevertheless, conditions apply to how such a general offer should be made. The first is that to be able to make a decision about participating in RJ, victims need clear and complete information. Only two respondents in the present study had heard about RJ before being invited to consider VOM, VOE, or conferencing. Insight into the steps involved in the restorative procedure and what is expected of them was crucial and had helped respondents make an informed decision.

It should be offered to everybody. . . . It should not be imposed, but proposed. Propose it to everybody and explain what it is. . . . [Provide] good information in order for people to know what they are getting involved in. And explain that it can be beneficial. (Participant 3)

A second condition is a guarantee of voluntary participation. For example, none of the respondents in this study had felt obliged to accept the RJ offer. Voluntary participation includes the option to not only decline the invitation but also withdraw from the intervention at any time, without consequences. Our respondents had been reassured by the fact that they could opt out of a restorative program. In the same vein, respondents suggested that it is important to allow victims to revise an initial refusal to participate. They argued that there is not one ideal moment that is most suitable for every victim to consider RJ; some might want to know about it soon after the conviction, while others might need more time.

Even if they refuse it right now, maybe down [the line] . . . maybe they'll think about it for a year or two and then decide to do it. . . . You may not want that chance today, you may be so emotionally caught up in your situation that you just want it over with at that point. But maybe down the line, you do want that option. (Participant 28)

It is about timing. You know, it wouldn't have worked. . . . I wouldn't have been ready before. . . . So it is about timing. (Participant 33)

Third, regardless of whether they had participated in RJ before or after the conviction, respondents appreciated that RJ had been complementary to judicial proceedings and decision making. After all, they argued, restorative and judicial procedures and outcomes had helped them achieve different goals, and therefore, both had mattered. In particular, while respondents described their participation in RJ in terms of finding empowerment, getting answers to private questions, receiving a personal apology, or holding the offender informally accountable, criminal justice proceedings and outcomes served to formally hold the offender accountable.

[The offender] was still summoned to appear in court. And I'm all for that. . . . I simply wanted that what he did was recognized. . . . And that there was a trial. Because mediation cannot do everything either. The mediator is not a judge. A mediator needs to reconcile the parties involved, but it is not up to the mediator to impose a sanction. . . . For me, the mediator needs to appease and needs to try to reconcile the people involved. Well, that is my opinion. Meanwhile, a judge's role is to register a sanction in the judicial case file, to record a judicial trace. So both are very different and at the same time very complementary. (Participant 24)

A fourth condition is that respondents want services to reach out to them. Generally, they had not known what different services were available, and they argued that victims do not always find their way to support services. They suggested that there should be more publicity about RJ. Four respondents emphasized that standardized written information might not be enough and that the victim might lose it in the stress and confusion following the crime. Interpersonal and personalized communication would be preferable.

Nobody likes asking for help. . . . I did not have the habit of asking for help. . . . I had to chase after everything. And that was embarrassing, really. Instead of services reaching out to me and telling me, "This is the support we can offer you. All you have to do is let us know what we can help you with." (Participant 21)

Information is mentioned on the back of the police report, but nobody is going to read that, right? [At the police station] you read the police report and then you sign it. When you come home, you are not going to read it again. . . . Maybe they should oblige lawyers to inform their clients about mediation. (Participant 10)

## Discussion

Victims of crime have a strong need for clear and timely information (Wemmers 1999; Reeves and Mulley 2000; Carr, Logio, and Maier 2003); this includes being notified about restorative opportunities. Increasing accessibility to restorative programs is one of the challenges that restorative scholars and practitioners face after decades of experimentation and research (Shapland 2014). Meanwhile, the way in which information about RJ is provided also matters. Some victims experience the offer of RJ as liberating, others as an additional and unwelcome burden (Reeves and Mulley 2000). An appropriate offer of RJ balances victims' desire for information against protection from additional distress. In this study, we compared victims' experiences with a protective approach, which uses an individualized offer, and a proactive model, which favours a systematic offer.

In each model, we found that information had been offered in a variety of ways. Respondents who had experienced a protective approach were generally less satisfied with how they had learned about RJ than respondents who had experienced a proactive approach, and they thought that not being offered RJ had placed them at a disadvantage. This includes a few respondents who had actively sought to meet their offender but had been ignored. Other respondents had not been actively looking for restorative options, yet had found it unacceptable that offenders seemingly had better access to services and information than victims. Put differently, it is unrealistic to expect that every victim is interested in RJ, yet it is presumptuous to assume that victims do not want to know about the option to communicate with their offender with the assistance of a trained facilitator.

While the proactive approach seems generally more satisfactory, not every form of proactive distribution of information was equally forthcoming. For example, form letters, a common way of distributing proactive information about RJ in Belgium (Van Camp 2014), do not seem sufficient. Many Belgian victims in this study did not recall receiving any standardized information; this could have been a lapse of memory, or it could mean that not all victims were offered information on RJ, despite the proactive ideal described in the laws promoting the use of restorative practices in Belgium.

We recommend that a more direct and outreach-oriented approach, combined with personalized information, is preferable to form letters. The proactive offer had sparked an interest in RJ among our

respondents and generally did not disturb them, even though RJ was largely unknown to them. Moreover, Bolivar (2013) argues that fear does not necessarily result in victims declining RJ altogether; it can motivate victims to choose indirect instead of face-to-face RJ. This corresponds with the observation by Wemmers and Cyr (2004) that victims in their study who had refused to participate in RJ had done so mainly because they had not felt strongly affected by the crime or had not had time, not because they were afraid. Moreover, RJ appears to be suitable for a wide variety of offences, including serious violent crimes (Kustec 2011). When we asked our respondents whether there were situations in which an RJ offer should not be made, they identified very few contraindicators. Most favoured a general offer of RJ, regardless of the type of offence, who committed the crime, or the particular consequences of victimization.

Overall, it seems that victims want to know about their restorative options sooner rather than later (Shapland, Robinson, and Sorsby 2011; Van Camp 2014), and they would rather decline an RJ offer than not know about it. The opportunity for choice and information is empowering and gives victims a sense of control (Wemmers 1996; Cyr 2008). To reinforce freedom of choice, a general offer is subject to certain conditions. For instance, participation in a restorative program should never be imposed on victims (see also Umbreit et al. 2006; De Mesmaecker 2013). Informed choice requires that victims receive clear and complete information about the restorative process, their role in it, and what they can reasonably expect from it as well as the freedom to opt out at any time. Strang (2002) also argues that while the offer of RJ does not negatively affect victims, it is important that information is made available to victims in an open, honest, and non-threatening manner.

Victims also appreciate being contacted. They receive a lot of information in the aftermath of the crime and have to deal with many challenges; this can be overwhelming, so having someone reach out to them helps them manage potential confusion. In addition, an offer of RJ should allow victims to participate at a time most suitable to them. Such flexibility means that RJ, at least in cases of serious violent crimes, should remain independent of the criminal justice process. As Shapland et al. (2006: 519) point out, "A restorative justice process situated within criminal justice can rarely be sensitive to the stage the victim has reached." Criminal procedures cannot follow the victim's pace, while RJ can and should respect it (Van Camp 2014). A general offer obviously also requires that RJ services be available that comply with good practice standards.

As in other studies (e.g., De Mesmaecker 2013), our respondents appreciated that RJ had been complementary to judicial proceedings and decision making. As a complementary measure, restorative interventions can focus on healing. Coincidentally, this complementary approach might attenuate victim support workers' reservations about RJ because of its therapeutic potential. The role of victim support can be to give victims clear and complete information about RJ and help them choose whether or not to participate.

At the same time, victim support workers should not be solely responsible for informing victims of their restorative options. Overall, only a minority of victims of violence seek professional victim support (Gannon and Mihorean 2005); hence, front-line professionals, including police officers and judicial authorities, also play a central role in providing information. The Belgian legislation promoting RJ, and the proactive model it endorses, acknowledges this, although the implementation of this model can leave a lot to be desired. Overall, collaboration among RJ services, victim support, and justice system professionals as well as continuous sensitization about RJ are essential. Collaboration should be reinforced; its benefits are invaluable (Aertsen 2007; Laxminarayan 2014).

Based on the above, we can propose a model procedure. It follows the general principles found in the Canadian Statement of Basic Principles of Justice for Victims of Crime of 2003, the United Nations Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, and the European Union's directive on RJ (Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012). It goes further than the 2015 Canadian Victims Bill of Rights, which declares that every victim has the right, *upon request*, to information about the criminal justice system and services available to them. Our model favours an outreach-oriented approach, early information, and informed choice. Victim services would contact victims as soon as they report a crime to the police and offer them information about the different services available to them, including restorative services. Thus, in principle, all victims who report a crime to the police would receive basic information about victim support and restorative practices. Furthermore, victims who do not think they need victim assistance would still have the opportunity to receive general information about the criminal justice system, victim assistance, and RJ. If victims then indicate that they are interested in the restorative offer, they can be referred to a local RJ program and offered a chance to talk to an RJ practitioner. This also avoids the issues associated with victims receiving a cold call from an RJ service. Moreover, such an

initial interest should be non-binding: While victims are offered a chance to talk to a mediator, they have to be able to pull out of it at any time. On the other hand, an initial refusal to be contacted by a mediator is not permanent: Should victims become interested in the restorative offer later, they can re-initiate it at any time.

Some important limitations need to be taken into consideration. This was only an exploratory study; further research is certainly needed. It was also a qualitative study with a small, unrepresentative sample – for example, our sample contained a disproportionate number of female victims of violence. (However, a qualitative study does not aim to have a representative sample as its purpose is to uncover different views and experiences, not to measure the extent of their prevalence.) Also, as acknowledged earlier, the study did not include victims who had declined an invitation to participate in RJ, and thus their views were not addressed. It is also important to bear in mind that respondents in this study could reflect only on what they know and on their own choices; they could only speculate about how victims in other situations might respond to an offer.

Consequently, our findings need to be interpreted in the right context. They represent the views of a small group of victims of serious crimes who were (eventually) interested in a complementary restorative offer and who, from their point of view and following their personal experiences, reflected on what RJ could mean for other victims and how victims should be informed about it. Further research should include the views of victims who are not interested in RJ and have refused to participate in it. A study with a larger, more heterogeneous sample can further explore the extent of support for a general offer.

### Acknowledgements

This research was supported by a grant from Justice Canada's Victims Fund and Quebec's Bureau d'aide aux victimes d'actes criminels. We wish to thank the anonymous reviewers for their constructive comments.

### Notes

- 1 In extant literature, relatives of victims of manslaughter or murder are referred to as secondary or indirect victims or co-victims. The relatives of victims of manslaughter or murder whom we interviewed or encountered at

scientific and professional conferences have raised concerns about this terminology (see, e.g., O'Neill 2000) and take offence to it because it trivializes the impact of losing a person whom one holds dear. We prefer to respect these concerns and have started to avoid using such terminology in our writing.

2 For instance, victims who never respond to an invitation are not registered in the services' caseload. In addition, in Canada, RJ services did not allow us to get in touch with victims whom they had not been able to notify of potential research-related requests following the completion of the restorative intervention.

3 VOE have been included in this study because they are an alternative to VOM and conferencing for victims who are unable to meet with their own offender (because the offender has never been reported, caught, or convicted; because they are afraid to meet their offender; or because their offender is unwilling to meet with them). These are facilitated face-to-face meetings, and they involve intensive preparation of both victims and offenders and a reparative dialogue between them. As such, VOE are better equipped to meet restorative requirements than, e.g., victim awareness programs.

4 In six cases, we could not pinpoint whether the restorative intervention had taken place before or after adjudication. It may be that the respondent could not remember; the restorative intervention may have been initiated before the trial, but the face-to-face meeting between the victim and offender had taken place only after the offender had been sentenced; or the respondent had never filed a complaint against the offender. Three of these cases concerned VOM and three VOE.

5 In one out of the 34 cases (a VOM case in Belgium), the respondent did not remember how she had found out about the restorative offer.

6 This is a victim's right and a service provided to Canadians under the Corrections and Conditional Release Act of 1992. When they register, victims are asked whether they want to be contacted by a mediator. If they say yes, a mediator gets in touch to explain what RJ is and verify whether they are still interested. Victims can always opt out.

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## Public Opinion towards Cannabis Control in Ontario: Strong but Diversified Support for Reforming Control of Both Use and Supply

**Benedikt Fischer\***

Institute for Mental Health Policy Research, Centre for Addiction and Mental Health; Department of Psychiatry, Institute of Medical Science, and Centre for Criminology & Sociological Studies, University of Toronto

**Anca R. Ialomiteanu**

Institute for Mental Health Policy Research, Centre for Addiction and Mental Health

**Cayley Russell**

Institute for Mental Health Policy Research, Centre for Addiction and Mental Health

**Jürgen Rehm**

Institute for Mental Health Policy Research, Centre for Addiction and Mental Health; Department of Psychiatry, Institute of Medical Science, and Dalla Lana School of Public Health, University of Toronto; Institute of Clinical Psychology and Psychotherapy and Centre for Clinical Epidemiology and Longitudinal Studies, Technische Universität Dresden

**Robert E. Mann**

Institute for Mental Health Policy Research, Centre for Addiction and Mental Health; Dalla Lana School of Public Health, University of Toronto

*Au Canada, le contrôle du cannabis est un sujet controversé débattu depuis longtemps. Pourtant, la vente et l'usage récréatif du cannabis demeurent illégaux. Récemment, une « normalisation » croissante de l'usage du cannabis ainsi que des débats sur la meilleure manière de le contrôler a eu lieu, et ce, dans une approche de santé publique; une proportion toujours croissante de Canadiens a indiqué appuyer la libéralisation du contrôle du cannabis. La*

\* Please direct correspondence to Benedikt Fischer, Institute for Mental Health Policy Research, Centre for Addiction and Mental Health, 33 Russell St., Toronto, ON, M5S 2S1; [benedikt.fischer@utoronto.ca](mailto:benedikt.fischer@utoronto.ca)