

SERVING CRIME VICTIMS THROUGH RESTORATIVE JUSTICE

A Resource Guide for Leaders and Practitioners



Produced by:



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OVERVIEW

Restorative justice is being embraced by many communities within Alberta, Canada and internationally as a promising approach to criminal harm and victimization. The growth and development of this field requires ongoing efforts by its advocates to maintain fidelity to its core values and principles. A central principle of restorative justice is to support the involvement and voice of crime victims and survivors in justice. *Serving Crime Victims Through Restorative Justice: A Resource Guide for Leaders and Practitioners* is an expression of this commitment.

This Guide, composed by a team of restorative justice researchers and practitioners, is based on interviews with crime victims and key stakeholders throughout Alberta, a review of international research examining the role of victims in restorative justice, and the authors' decades of combined professional experience supporting people in the aftermath crime through restorative approaches. The Guide describes the central themes of this research and explores in detail how these findings can inform the ways in which restorative justice programs and practices may be shaped with care and attention to the needs of crime victims. The Guide is organized in the following broad sections:

1. **Setting the Context** (Introduction, Focus and Language, Methodology and Interview Findings)
2. **Literature Review** (Defining Restorative Justice, The Principle of Victim-Centredness, Victims' Satisfaction with Restorative Justice, Victims' Justice Needs, and the Search for Best Practices in Restorative Justice)
3. **Victims and Restorative Justice: A Program and Practitioner Guide** (Navigating Restorative Justice with Integrity; Working Restoratively with Victims of Crime)

Within this exploration, an overriding focus is the attempt to understand what victims may need from justice: not as mere witnesses, nor as instruments in achieving goals of offender wellness or community safety, but as the "focal point" for justice itself. As the Native American writer Ada Pecos Melton describes,

Restorative principles refer to the mending process needed to renew damaged personal and communal relationships. The victim is the focal point, and the goal is to heal and renew the victim's physical, emotional, mental, and spiritual well-being.¹

¹ Melton, Ada Pecos (2005). "Indigenous Justice Systems and Tribal Society", in Wanda D. McCaslin (ed.), *Justice as Healing*, Pp. 108-109.

Victims' needs identified through interviews in Alberta are largely consistent with the themes highlighted in academic literature. The need for information – for example, about the context of the crime, the person responsible, or the future – stands out as a fundamental and pressing need for many victims. Needs for victims around telling their stories and sharing the impacts of harm were common, as was the desire to have choices in decision-making and outcomes. Emotional healing, safety, empowerment, hearing acknowledgment that what happened to them was wrong, financial compensation and other forms of reparation were also important justice needs for many victims.

Despite the central place of victims and survivors within much of the literature on restorative justice, research demonstrates that restorative justice programs and practices have sometimes fallen short of their promise to victims. These experiences are explored within the Guide, in order to inform restorative justice advocates about specific areas of concern that may require special attention in the planning, implementation and delivery of restorative justice programs and services.

Based on victims' justice needs identified within the research, the Guide offers strategies for developing and managing restorative justice services from a leadership and administrator's perspective. A guiding invitation within this discussion is to forge partnerships with crime victims along with their advocates and service partners. Restorative justice programs are more likely to be responsive toward victims' needs when those voices play a meaningful role in organizational development, governance and change processes.

The final sub-section of the Guide offers practical tools and approaches for restorative justice practitioners involved in direct service to victims. It provides several overarching considerations relating to the mindset and skillset of restorative justice practitioners, which challenge the idea of facilitator neutrality in favour of deliberate relationship-building. The Guide then applies these principles within three specific areas of restorative justice practice: case development, facilitation, and follow up. While the Guide does not substitute for hands-on training in restorative justice practice, the intent is to stimulate reflection, insight and further dialogue which may strengthen and enhance restorative justice service to victims in Alberta and beyond.

SETTING THE CONTEXT

1 INTRODUCTION

What is the purpose of justice? Crime, violence and victimization demand a response from our social systems, institutions and communities. How do we choose to respond? Our choices are ultimately expressions of the core values we subscribe to as communities. Who we become, or reveal ourselves to be, provides a window into uncomfortable truths about our collective priorities. However, the pursuit of justice offers a great opportunity for humble deliberation and growth. We offer this Guide to provide this opportunity.

The late US-based restorative justice advocate Dennis Maloney was known to present the following scenario for his audiences: Imagine you are taking the bus home late one night and you come across a troubling scene: a woman is lying by the street curb crying, surrounded by three small children huddled over her, also in tears. Off in the shadows you see someone slipping away. Based on your intuition as a responsible neighbour and community member, who is the first person you attend to in this scenario?

Most of us would immediately attend to the woman lying on the curb, and then the children surrounding her. Lastly, once their immediate needs had been met, we might turn our attention toward the person responsible for the act of victimization. This order of operations is a common and intuitive outgrowth of neighbourliness. Why then are these priorities reversed in some of our systemic responses to victimization and crime?

Restorative justice (RJ) describes an approach to justice based on common-sense neighbourliness, in contrast to the state-centred and offender-oriented logic behind much of our criminal justice apparatus. Justice as a response to victimization (rather than a response primarily to law-breaking) is not a new concept, and is found in many Indigenous, spiritual and humanistic traditions. Now it is a response that is finding increasing resonance with communities and institutions in Alberta, Canada, and across the globe. As the world takes notice of RJ, this field might want to take stock of itself. What kind of justice are we promising? Who is this justice for? To whom are we as a discipline accountable? A strength of the field is its continued focus on the question of principles. Principles provide a most useful platform for particular justice processes such as victim offender dialogue, conferencing or peacemaking circles. These principles will be

explored in this Guide as a philosophical and practical basis from which to approach the question of victimization.

In RJ, as in any emergent discipline, theory and practice do not always align. In RJ practice, this gap sometimes takes shape in how programs and practitioners emphasize the wellness and reintegration goals of offenders instead of, or even at the expense of, victims' needs and concerns. In the late 1990s, a group of early pioneers within the RJ and victim assistance movements in the United States jointly undertook a Listening Project "specifically designed to confront the significant deficiencies of RJ practice pertaining to victim participation and impacts for victims, their advocates and victim services generally."² As documented in the Project's final report,

Very often, restorative justice not only reflects offender needs—making amends, and changing and rehabilitating offenders—but is driven by such needs. Restorative justice may be offender initiated, and may be oriented to an offender timeline. Such needs and practices may not be compatible with victim needs, however. Where offenders are provided with help to change their lives, but victims are not provided help to deal with their trauma, victims feel betrayed by the offender orientation of restorative justice.³

The pioneering trauma theorist Judith Lewis Herman echoed this critique in 2005, stating:

...restorative justice principles offer the potential for vindication of the victim that conventional justice so conspicuously lacks. In practice, however, the restorative justice movement has evolved out of religious or progressive concerns for the fate of criminal defendants, an abhorrence of punishment, and an idealistic longing for harmony and community consensus. Because the movement has been highly defendant oriented at the grassroots level, it has reproduced many of the same deficiencies as the traditional justice system with respect to victims' rights.⁴

These types of concerns remain alive today and must be taken seriously if the potential of RJ is to be realized. Taking stock of the shortcomings of a well-intentioned movement is not easy. However, RJ is clearly not immune to the fixation with offenders that has characterized criminal justice. The destruction, turmoil and pain of victimization is scary for bystanders to witness. RJ

² Zehr, Howard et al (2004) "Listening to Victims – A Critique of Restorative Justice Policy and Practice in the United States", *Federal Probation: A Journal of Correctional Philosophy and Practice*, Vol. 68, No. 1, P. 1.

³ *Ibid.*, P. 5.

⁴ Herman, Judith Lewis (2005). "Justice from the Victim's Perspective", *Violence Against Women*, Vol. 11, No. 5, P. 578.

providers are not immune to this natural trepidation. Many RJ-based programs in Alberta and beyond mainly receive referrals of non-violent offences. In some of these cases the impact of the crime itself is less easily detectable by us outsiders than the individual and social factors – such as addiction, poverty, trauma and family breakdown – which contributed to the offending behaviour, and the response is thus weighted toward the needs of offenders. Moreover, many do RJ work (at least initially) from a desire to help young people at risk. It thus becomes easy to see how the practice of RJ may sometimes raise concerns within the victim community.

A premise of this Guide is that a primary purpose of any approach to justice should be to reduce suffering.⁵ As in Dennis Maloney’s scenario, RJ will be true to this purpose when it is grounded in the needs of victims. The major focus of this Guide is to offer considerations in how to effectively meet the needs of people who have been victimized. We hope this Guide will be beneficial for three types of readers. First, the Guide is intended for people administering and providing leadership within RJ programs; Board members, Executive Directors, Program Coordinators, Supervisors, Managers and the like. Second, we hope it will be a resource for practitioners in dialogue and encounter programs grounded in an RJ approach to justice: conferencing, peacemaking circles, victim-offender mediation/dialogue, and related practices within community-based, governmental and Indigenous organizations. Finally, we offer the Guide as a reference for partners to RJ programs including referral agents, victim services, funders, evaluators and others seeking information about avenues for victim care through RJ.

Questions Addressed in Literature Review

- How is restorative justice defined in the literature?
- What is the principle of victim-centeredness?
- What are the experiences of victims who have participated in restorative justice processes? What are the elements that impact their experience?
- What might victims need from justice?
- What are effective practices for working restoratively with victims?

This Guide is organized into three major sections. Part 1, “*Setting the Context*,” outlines the purpose of this Guide, significant language and framing decisions made by the writers in the development of the Guide, the research methodology used, and a summary of the targeted interviews conducted in Alberta and nationally through this project.

Part two, “*Literature Review*,” focuses on an in-depth analysis of the academic

⁵ Schelkens, Wim (1997). “Community Service and Mediation in the Juvenile Justice Legislation in Europe”, in Walgrave (ed.), *Restorative Justice for Juveniles: Potentialities, Risks and Problems for Research*, P. 159.

literature providing research, evidence and insight into this topic.

Part three, *“Victims and Restorative Justice: A Program and Practitioner Guide,”* is an exploration of the implications of the research on RJ programming and practice. This begins with programmatic considerations such as program partnerships, program design, funding, referrals, program integrity, policy, training, evaluation, and public communication. The Guide then moves to issues facing the RJ practitioner. This includes an exploration of the mindset and skills of the practitioner as applied in case development/preparation, facilitation and case follow-up. The Guide does not constitute a comprehensive training resource for facilitators. Rather, it is intended to augment the victim-related knowledge and reflection of practitioners that have existing background and experience in RJ work.

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2 FOCUS AND LANGUAGE

In any exploration of victims’ needs in RJ, the fact must be acknowledged that many people who offend criminally have experienced victimization long before they perpetrated harm. A narrow focus on crime victims’ needs, without the recognition that many of these same needs are present for those who offend, will ultimately fail to produce the safe and just communities we seek. This narrowing of focus will also fail to acknowledge and address the role of social and systemic injustices – inequality, discrimination, and the many institutional legacies of colonization, for example – in undermining community safety. As agents of justice, RJ advocates cannot approach victimization selectively. We are invited and challenged by the values and principles of our work to respond with care to victimization in all forms - harms caused by crime, revealed by crime, bigger than crime, and unrelated to crime.

We are invited and challenged by the values and principles of our work to respond with care and as we can to victimization in all forms; harms caused by crime, revealed by crime, bigger than crime, and unrelated to crime.

The contents of this Guide, however, are intentionally and specifically framed around crime victims. Many readers will be practicing RJ in a context where crime, when reported, sets the process in motion. RJ requires a type of moral “solidarity” with the victim, from a recognition that the victim’s personhood and rights have been violated and that others have obligations to repair what was broken.⁶ Solidarity of this nature must not result in dehumanization toward those who offend or an adversarial stance toward them by practitioners. Orienting toward victims can benefit offenders profoundly. Therefore, building a justice response with victims’ needs and offender obligations as a starting point provides a template for justice that signals to offenders both their own agency and, that of the people responsible for any prior victimization.

As the Literature Review will explore in detail, many writers in RJ promote the idea of “victim-centred” practice. Others use terms like “victim-sensitive,” “victim-friendly,” “victim-focused,” and other derivatives.⁷ Regardless of the preferred framing, we see value in these terms as corrective mechanisms to offender-focused RJ practice. When the concept of “victim-centredness” is used in the context of this Guide, it is best understood as a reminder to RJ practitioners of the importance of victims’ needs as an essential starting place for the broader exploration of stakeholder needs that is implied by the term RJ. However, such terms would be unhelpful if they led us to de-emphasize meeting the needs of offenders and communities, envision an individualistic “win/lose” scenario for justice, turn a blind eye to the systemic drivers of crime, or abandon the RJ principles of voluntariness and consensus for all participants.

There are other challenges that our language presents in this exploration. The word “victim,” will be used often within this Guide, which some readers will find problematic. “Victim” may suggest a state of stigmatized helplessness, and says nothing of the courage, resilience and resourcefulness of people living in the aftermath of victimization. Some (especially in the context of serious physical and sexual harms) prefer “survivor,” while other terms in restorative justice discourse and practice have included, “affected person,” “harmed party,” “receiver of harm,” “complainant,” and others. To be clear, “victim” is an inadequate term, yet it is used here primarily because it remains a common self-identifier for people who have experienced a range of victimization. While the term can feel disempowering for some, for many others it serves simply to name and acknowledge the unjust power relationship that was enacted by the crime.

⁶ Herman, Judith Lewis (2005). “Justice From the Victim’s Perspective.” *Violence Against Women*. Vol 11, No. 5, Pp 571-602. Found at P. 585.

⁷ See e.g. Garbett, Claire (2016). “And focused upon victims’ needs”: towards an assessment of the victim-friendly principles of restorative justice practice”, *Contemporary Justice Review*, Vol. 19, No. 3, Pp. 307-324. Available at: <http://dx.doi.org/10.1080/10282580.2016.1185948>.

We also use the word “offender,” which has often been used to stigmatizing effect by the criminal justice system. Our intention is not to stigmatize people who offend by binding their identity to their harmful choices. Indeed, neither “victim” nor “offender” should be thought of as commentary about the nature or character of either party. Rather, our intention is to attempt to capture a person’s position within a time-limited interaction. Importantly, while these terms may provide some shorthand for the sake of learning and dialogue, we should clarify that in the work of RJ we consistently try to use the terminology of identity offered to us by participants themselves.

The language of “restorative justice” itself is contested. At its best, the concept stands for a particular principled approach to achieving justice that transcends any specific program, tool or model. Despite this wider meaning, the term has so often been associated with dialogue mechanisms meant for achieving this kind of justice – victim offender dialogue, conferencing, circles, and the like – that it has for many people become practically synonymous with such processes. This is also true of much of the research into RJ. To refer to an “RJ process” or “RJ practitioner,” as this Guide does very often, fails to differentiate between principles and practice or to recognize the variance in how “restorative” a given process might be for its participants and their communities. Still, for the sake of simplicity and alignment with other research literature, the Guide takes this common linguistic shortcut.

This Guide is written in the spirit of humility. The RJ field is constantly evolving and developing, and the concepts advanced here should remain subject to criticism and debate. Rather than a static set of guidelines, we hope that the following pages will be the basis for much future dialogue on the purpose of justice and a caring approach to victimization.



3 METHODOLOGY

3.1 RESEARCH TEAM

This Guide was developed by a team of contracted practitioners/researchers with extensive experience working with victims in the restorative justice field. The team worked collaboratively to identify and analyze research related to work being done with victims in RJ, to develop and make available a resource guide for RJ programs and practitioners in Alberta.

Research Team

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3.2 GUIDE RESEARCH METHODOLOGY

The programmatic and practice considerations for working with victims discussed in this Guide are informed by existing national and international literature and anecdotal data relayed by select victims and representatives working in or connected to RJ and victim services.

A literature review of existing academic research and grey literature in Canada and internationally was completed. The scope of the literature review included conceptual and empirical scholarship in the field with a focus on victim experiences, needs and issues in RJ, as well as an analysis of how definitions of RJ impact practitioners' understandings of the intended nature of victim involvement.

Interviews with victims and key representatives connected to restorative justice and/or victim services were conducted by a research team member by telephone or in person. The purpose of these interviews was to gain localized information and a variety of perspectives on working with victims in RJ across diverse contexts. A more extensive consultation of representatives and stakeholders was beyond the scope of this project.

Interviews were conducted with crime victims as well as representatives from the following sectors:

- Community-based Restorative Justice Programs
- Indigenous Peacemaking
- Victim Services (national and provincial)
- Indigenous Victim Services
- Restorative Justice Practitioners
- Youth Justice Committees
- Police
- Government Officials
- Different areas within Justice and Solicitor General
- Student Conduct and Accountability at the University of Alberta

Twenty semi-structured interviews were conducted during May and June of 2018. These interviews assisted the research team in better understanding the current context and operation of RJ in Alberta. This methodology involved exploration of a common set of questions and issues with each interviewee while including flexibility to pursue related questions relevant to the research, given the responses of the interviewee. This methodology was chosen to elicit specific expertise and knowledge of the interviewees as related to the project.

Interviewees were identified through various channels. Recommendations were received from the project manager at the Alberta Restorative Justice Association and

from select members of the Advisory Committee. Some recommendations were also requested during interviews to address identified gaps. Many factors were considered in choosing interviewees, including geography, gender, and culture. Programs and individuals using different RJ service models and approaches, working with youth and adults were also sought out. These included approaches such as circles, conferences (both scripted and unscripted), victim offender dialogues and peacemaking. Interviewees practicing RJ were working with referrals from a multitude of sources, including schools, university, police, crown, judges, corrections and victim services. Interviews from those in victim-serving organizations represented community, police-based and government victim services, at both the provincial and national levels.

Interviews were conducted with crime victims as well as representatives from the following sectors: Community-based Restorative Justice Programs, Indigenous Peacemaking, Victim Services (national and provincial), Indigenous Victim Services, Restorative Justice Practitioners, Youth Justice Committees, Police, Government Officials in different areas within Justice and Solicitor General, and Student Conduct and Accountability at the University of Alberta.

4 INTERVIEW FINDINGS

Perspectives were sought regarding victim needs, why victims consider RJ processes or not, safety and support for victims in RJ, program structure, partnerships and practitioner considerations.

4.1 VICTIM NEEDS

Common Victim Needs Highlighted in Stakeholder Interviews

- Information
- Voice
- Healing
- Safety
- Empowerment
- Acknowledgement of Wrongdoing
- Financial Compensation

Victims' needs identified through the interviews were consistent with the literature, highlighting that information was the most common need articulated. This was not to say that all victims want all information, but they wanted access and the ability to choose to receive it. As one victim noted in an interview, "It is unanswered questions that continue to create pain." The second most cited need was for victims to have a voice. This included the ability to tell their stories and share the impacts of harm as well as having choices and a say in decision-making

and outcomes. Additional needs identified were for healing, safety, empowerment and to hear that what happened to them was wrong. Financial compensation for damages to property, loss of wages, or the many other costly aspects of crime were also noted.

"It is unanswered questions that continue to create pain."

Victim Interviewee

4.2 WHY VICTIMS CONSIDER PARTICIPATING

Interviewees described victims' need for information (particularly getting answers to their specific questions), the need to voice their experiences, and the need to have a say in what happens, as key motivators for participation in RJ processes. In grade school matters, one person spoke of the difficulty victims have getting information. Issues of confidentiality and adherence to the Freedom of Information and Protection of Privacy Act limit the information school officials can share with families. Participating in an RJ process can provide a venue not normally available for those directly involved to share relevant information. Healing and empowerment were also common reasons given for the participation of victims.

In rural communities, it was suggested that for people likely to know each other, RJ can provide space to discuss harms, increase safety and perhaps come to more meaningful outcomes. In some conversations with victims, interviewees said participants had expressed a lack of faith in the criminal justice system, or hoped for quicker timeframes if they went through an RJ program.

Assisting young offenders to “go down the right path” was a common reason given for some victims’ participation in restorative justice processes, according to two restorative justice service providers. Both cautioned that in the context of this desire (assisting young offenders), they made efforts to ensure victims were participating in the restorative justice process to meet individual needs of their own as well, as they perceived a risk for victims to feel re-victimized if they hoped for changes that were not realistic or that the offender was not ready to undertake.

4.3 WHY VICTIMS DO NOT PARTICIPATE

Several interviewees expressed concern that many programs are running RJ processes that rarely include victims. They felt this was misleading for the public and were concerned that both the needs of victims were not being considered and also that RJ will become seen to be only about rehabilitating offenders. Some representatives were hesitant to define which justice responses should be considered ‘restorative justice’, as they said it would depend on how RJ is defined. Other interviewees were more focused on community involvement in addressing harm than victim involvement. Further exploration would be required to understand the extent of invitations to victims for involvement in RJ programs in Alberta.

Reasons given for victims choosing not to participate in restorative justice processes varied. Some interviewees in the area of victim services said that the term RJ is often associated with forgiveness. Believing that RJ has to do with (re)building a relationship with the offender led some victims to choose not to explore restorative

justice. Other concerns included seeing RJ as “soft on crime,” or only a way to deal with reducing court time in criminal matters. For some types of crime, interviewees shared that victims had described their fear of the offender or that they had been influenced by friends, family or community members not to engage in restorative justice. One practitioner who was actively

Reasons given for non-participation in restorative justice process.

- Association with forgiveness
- Soft on crime
- Focus on reducing court time
- Fear of the offender
- Influence from friends, family or community members
- Not worth the time necessary
- Lacking information

seeking victim participation in the program was unclear why some victims who had initially told police they were interested in RJ would then decline as soon as the RJ program contacted them to provide more information. In other circumstances, victims did not feel an RJ process would be meaningful or worth spending their time doing.

A number of interviewees believed the public has no idea that RJ options are available to them – and with no overall strategy for how to get that message out and provide access to services, it would remain underutilized.

Specific concerns were raised by some victim services representatives about whether and how RJ services are introduced to victims. Questions existed around what RJ is, whether there are credible RJ programs operating in their area that include work with victims, and whether it is appropriate to mention RJ resources to victims of homicide, sexualized violence or domestic violence, given that victims might experience even the idea of communicating with the offender in these circumstances offensive.

Some other victim services interviewees however, described strong collaborations with RJ programs and a few understood that the Canadian Victims Bill of Rights requires them to provide information regarding these services to their clients.

4.4 SAFETY AND SUPPORT IN RESTORATIVE JUSTICE

Preparation of participants and practitioner training were two of the primary areas of discussion concerning the safety and support of victims engaging in RJ processes. Exploring issues of safety and appropriate support for victims was said to occur in initial conversations practitioners have with victims. It was thought to be important to clarify victim needs and hopes for an RJ process, as well as the risks they perceive. Identifying resources and potential support people for the victim throughout the RJ process was considered key to managing safety. The preparation of offenders was also noted as important for gauging the risks of possible re-victimization through exploring and understanding offender motivation, responsibility-taking and levels of remorse.

Several RJ practitioners interviewed stressed the importance of asking victims direct questions about risks, what would make them feel safe or more comfortable, and working to address those needs. Conversations with victims about whether to involve family members, friends or professionals, in the preparation for and/or during the RJ dialogue were also considered important. These conversations specifically cover issues of safety and comfort for victims as they explore RJ options, if they choose to proceed to a face to face encounter, and after

communication has occurred. Some interviewees suggested that flexibility is critical in an RJ process and that there should be opportunities for victims to have input and decision-making power.

Training and competencies of RJ practitioners factored in to safety and support conversations for some interviewees. They felt that victims could easily be re-victimized if practitioners were not knowledgeable about RJ, victim-sensitivity and working with offenders. Understanding trauma, grief, shame, the developmental stages of children (if working with youth), and Indigenous intergenerational trauma were also highlighted.

Most RJ practitioners interviewed work within programs that are limited in the types of referrals they receive. Crimes of domestic violence, sexualized violence and sometimes assaults with a weapon are generally not considered. The cause of this limitation was attributed to the complexity of these cases. Available practitioners may not have sufficient background, knowledge or skills to take these cases on.

Voluntary participation of both victims and offenders was communicated as a core principle and an important guard against re-victimization.

Voluntary participation of both victims and offenders was understood to be a necessary requirement of RJ processes. This was often communicated as a core principle of the program and an important guard against re-victimization. It was noted by several RJ practitioners that inevitably participants experience a range of pressures to either participate or not. If completion of the RJ program included a possibility of avoiding a criminal record, that was seen as an incentive to participate for many offenders. However, interviewees still believed that participation of offenders is voluntary as they still have a choice to continue through the criminal justice process.

4.5 RESTORATIVE JUSTICE PROGRAMS AND PARTNERSHIPS

Most individuals interviewed working in RJ programs did not have meaningful partnerships or connections to victim services. Programs tended to have stronger partnerships with schools, police or crown, on occasion the courts and sometimes with other community or workplace organizations. One victim services professional expressed curiosity about whether there are disconnects between some RJ and victim services organizations because of the timing and severity of most of the cases that are handled by victim services. So many victim service clients are either very recent crime victims, and therefore not ready to consider an RJ process, or they

are victims of homicide, domestic violence or sexual violence, for which most RJ programs do not provide service.

The visibility and integration of an RJ option inside a criminal courtroom is not the norm in Alberta. As one interviewee commented, “Significant change needs to occur in our approach to include RJ in the province – doing things piecemeal will not work.” Some suggestions for expanding RJ services included regional RJ models and a provincial pamphlet that could provide basic information about RJ and links to more information.

One example of strong partnership exists in an Indigenous Justice Program where there is a Peacekeeping program that is present in the courtroom. Victims were centrally involved from the outset and collaboration with victim services is evident in this structure, as victims are asked if they would like the criminal matter to go through the peacemaker and they have options as to whether and how they may want to be involved. Victim participation is said to be very high in this program.

4.6 PROCESS AND PRACTITIONER CONSIDERATIONS

Interviewees recognized many different RJ process structures occurring in Alberta and several individuals noted that it is important for different communities to use models or create approaches that best meet the needs in their communities. Practitioners seemed to agree that preparation is key to successful and safe restorative justice work and that each case needs to be approached as unique in its circumstances. Despite differing models, those working with victims seemed to agree that building relationships of trust with participants is important to successful RJ practice.

Key attributes of RJ practitioners, as described by one victim, were said to include professional conduct, attentiveness, sensitivity to the content of what people are dealing with and sensitivity to the abilities of participants to engage. Knowledge about the dynamics of crime and victimization, the risks victims perceive, and the pain victims experience were also noted as critical.

Many detailed and specific suggestions were given on programmatic and practitioner considerations from interviewees. More of these have been incorporated under those headings in later sections of the Guide.

LITERATURE REVIEW

As restorative justice programs and practitioners continue to learn and refine our work, it is vital that we maintain a consistent connection between our practice and the world of ideas and teachings surrounding restorative justice. Bringing together theory, research and practice enables us to continually examine how the concepts and theories laid out in foundational RJ literature square with our practice, and vice versa. In this spirit, then, the authors of this Guide offer this literature review, with the aim of assisting restorative justice proponents to discover a cross-section of ideas put forward in the literature on working with victims in restorative justice. The invitation is to think critically about these ideas, wrestle with their implications for practice, and be open to looking critically at one's own RJ work.

The issue of what place victims should occupy in restorative justice practice has been the source of considerable discussion in the RJ field, since at least as early as the publication in 1990 of Howard Zehr's pivotal and globally influential book, *Changing Lenses*. Should victims and their needs, in the aftermath of crime, be "central" to restorative justice practice? Should the work of RJ practitioners be to strive for "balance" between addressing victim needs, offender needs, and community needs? If victim needs become central, what becomes of the principle of balance? While many theorists and practitioners strive to accurately discern and describe the important role that victims should have in restorative processes, research continues to accumulate that suggests a lack of involvement of victims in much RJ practice, and inadequate attention paid by practitioners to victim needs.

This review of restorative justice literature looks at this issue by reviewing what the foundational books and papers in the field say about the place of victims, and victim needs, in the restorative vision of justice. We will also examine the research about victims' experiences in RJ, and how practitioners do and do not succeed in meeting victims' needs. We will look then at what victims need out of a justice process generally, and from a restorative dialogue process specifically. From there, we will look at research about aspects of RJ practice that are seen to best address these needs. This research forms much of the theoretical foundation for the practical strategies offered later in this Guide.

1 DEFINING RESTORATIVE JUSTICE

It is well known in the RJ field that there is no universally agreed-upon definition of restorative justice.⁸ Definitions of restorative justice fall into one of three categories – RJ as a set of values that inform an approach to harm and crime; RJ as a process; and RJ as a way of life. Given the specific topic of this review, this third approach to defining restorative justice will be treated as outside the scope of this Review.

Looking at two of the most widely quoted definitions of restorative justice, we see that it is the values and principles that bring vital clarity to an understanding of RJ. These definitions come from Tony Marshall and Howard Zehr. Marshall defines restorative justice as

*... a process whereby parties with a stake in a specific offence collectively resolve how to deal with the aftermath of the offence and its implications for the future.*⁹

Recognizing the limitations of such a concise definition, Marshall identifies the values and principles that underlie the definition, thus bringing important clarity to how a justice response that is both *restorative* and *just* ought to be approached. By way of answering the question “what is restorative justice for?”, Marshall observes that “the primary *objectives* of RJ are:

- to attend fully to victims’ needs – material, financial, emotional and social (including those personally close to the victim who may be similarly affected)
- to prevent re-offending by reintegrating offenders into the community
- to enable offenders to assume active responsibility for their actions
- to recreate a working community that supports the rehabilitation of offenders and victims and is active in preventing crime

⁸ See, for example: Doolin, Katherine (2007). “But What Does It Mean? Seeking Definitional Clarity in Restorative Justice”, *Journal of Criminal Law*, Vol. 71, No. 5, Pp. 427-429; Gavrielides, Theo (2008). “Restorative justice—the perplexing concept: Conceptual fault-lines and power battles within the restorative justice movement”, *Criminology & Criminal Justice*, Vol. 8, No. 2, P. 166; Daly, Kathleen (2015). “What Is Restorative Justice? Fresh Answers to a Vexed Question”, *Victims & Offenders*, Vol. 11, No. 1, Pp. 1-2; Wood, William R. and Masahiro Suzuki (2016). “Four Challenges in the Future of Restorative Justice”, *Victims & Offenders*, Vol. 11, No. 1, Pp. 150-151; Garbett, Claire (2016). “ “And focused upon victims’ needs”: towards an assessment of the victim-friendly principles of restorative justice practice”, *Contemporary Justice Review*, Vol. 19, No. 3, P. 309.

⁹ Marshall, Tony F. (1999). “Restorative Justice: An Overview”, P. 5. Available at: <http://fbga.redguitars.co.uk/restorativeJusticeAnOverview.pdf>

- to provide a means of avoiding escalation of legal justice and the associated costs and delays.”¹⁰

Like Marshall’s, Howard Zehr’s definition of restorative justice cannot be contained in a few short sentences. Zehr’s definition of restorative justice, modified in 2015, reads: “Restorative justice is an approach to achieving justice that involves, to the extent possible, those who have a stake in a specific offense or harm to collectively identify and address harms, needs, and obligations in order to heal and put things as right as possible.”¹¹

Zehr makes clear that values and principles are the elements defining this approach. He defines the RJ paradigm, in part, as being about what questions we ask. The first of these questions in the restorative justice vision is “Who has been hurt and what are their needs?” One of the most fundamental principles of restorative justice, then, is that justice starts with victims and their needs. For Zehr and many others who give shape and substance to the idea of a restorative justice by articulating the importance of its values and principles, victims and their needs must be central to restorative justice thinking and responses.¹²

*“Who has been hurt and
what are their needs?”*

Howard Zehr

Lode Walgrave, another architect of contemporary restorative justice philosophy, clarifies that “[a] focus on repairing harm and not on what should be done to the offender is the key to understand restorative justice and to distinguish it from both the punitive and the rehabilitative justice responses.”¹³ Elsewhere, Walgrave notes that, in RJ, “the main focus is ... on repairing as much as possible the harm caused. Support for the victim, then, is the first and foremost important action in doing justice through reparation.”¹⁴

This account is echoed by Ada Pecos Melton (2005) who, in exploring the connection between Indigenous justice and RJ principles, writes that:

¹⁰ Ibid., P. 6.

¹¹ Zehr, Howard (2015). *The Little Book of Restorative Justice*, Revised and Updated. P. 48.

¹² This makes it all the more important to victims that restorative justice practitioners to be fully knowledgeable in and committed to the practice of these principles and values. As we will discuss later, when that knowledge and commitment are lacking (or absent) on the part of practitioners, there is a price that victims pay when they participate in RJ processes.

¹³ Walgrave, Lode (2009). “Advancing Restorative Justice as the Ground for Youth Justice”, P.5. Available at: <https://www.unicef.org/tdad/2lodewalgrave.pdf>

¹⁴ Walgrave, Lode (2008). “Restorative justice: An alternative for responding to crime?”, in Shoham, Beck, and Kett (eds.), *International Handbook of Penology and Criminal Justice*, P. 628.

Restorative principles refer to the mending process needed to renew damaged personal and communal relationships. The victim is the focal point, and the goal is to heal and renew the victim's physical, emotional, mental, and spiritual well-being. The mending process involves deliberate acts by the offender to regain dignity and trust and to return to a healthy physical, emotional, mental, and spiritual state. These are necessary for the offender and the victim to save face and to restore personal and communal harmony.¹⁵

Canadian Provincial governments' focus and attention on victims in restorative justice have been varied. The Alberta government defines restorative justice as "... a voluntary process that focuses on the victim's needs and the offender's responsibility to repair the harm."¹⁶ In

"The victim is the focal point, and the goal is to heal and renew the victim's physical, emotional, mental, and spiritual well-being."

Ada Pecos Melton

2015, the Government of Manitoba announced its "Strategy for Victim-Centred Restorative Justice", a strategy to offer RJ processes ensuring that "... the victim is at the centre of the process [which] may help him or her feel in control of the situation, gain closure and guarantee that appropriate reparations are part of the case outcome."¹⁷ The government of Nova Scotia, while stopping short of such victim-centred language, nevertheless offers that "[e]very effort will therefore be made to provide the victim with the information, preparation, and support they need in order to participate in a restorative justice process."¹⁸ Most other provincial governments mention victims as among the principal stakeholders in RJ processes, and also generally mention that RJ processes make room for victims to tell the offender how the crime has impacted them, ask questions of the offender and, perhaps, receive an apology. Across the country, then, government definitions of victim involvement range from 'central' to 'included with other stakeholders'.

¹⁵ Melton, Ada Pecos (2005). "Indigenous Justice Systems and Tribal Society", in Wanda D. McCaslin (ed.), *Justice as Healing*, Pp. 108-109.

¹⁶ Alberta Justice and Solicitor General. Restorative Justice. Available at: https://solgps.alberta.ca/safe_communities/crime_prevention/Publications/restorative-justice-booklet_2013_07_18.pdf

¹⁷ Government of Manitoba (2015), "Manitoba's Strategy for Victim-Centred Restorative Justice". Available at: https://www.gov.mb.ca/justice/restorjus/pubs/restor_jus_booklet.pdf

¹⁸ Government of Nova Scotia Restorative Justice Program website, FAQ. Available at: <https://novascotia.ca/just/RJ/faq.asp#00>

One way of approaching the issue of how and whether RJ is or should be victim-centred might involve interrogating whether victims are ‘stakeholders’ in the same way that offenders and community members are. An answer to that question may require, in part, a meaningful understanding of what needs arise for victims in the aftermath of harm and wrongdoing. We will explore those needs later in this section.

2 THE PRINCIPLE OF VICTIM-CENTREDNESS

The first articulation of holding victims and victim needs as central in RJ theory and practice may be in Zehr’s *Changing Lenses* (1990). Zehr summarizes the restorative paradigm as beginning with three questions:

When a crime occurs (regardless of whether an “offender” is identified, the first questions ought to be, “Who has been harmed?” “How have they been harmed?” [and] “What are their needs?”¹⁹

Unpacking the significance of the priority given to these questions and what they mean for RJ, he concludes:

The first goal of justice, then, ought to be restitution and healing for victims. Healing for victims does not imply that one can or should forget or minimize the violation. Rather, it implies a sense of recovery, a degree of closure. The violated should again feel like life makes some sense and that they are safe and in control. ... Healing encompasses a sense of recovery and a hope for the future.²⁰

Zehr and Harry Mika (1998) add clarity and emphasis to this point, in their document “Fundamental Concepts of Restorative Justice”²¹:

3.1 The needs of victims for information, validation, vindication, restitution, testimony, safety and support are the starting points of justice.

3.1.1 The safety of victims is an immediate priority.

¹⁹ Zehr, Howard (1990). *Changing Lenses: A New Focus for Crime and Justice*. USA: Herald Press. P. 191.

²⁰ *Ibid.*, Pp. 186-187.

²¹ Zehr, Howard and Harry Mika (1998). “Fundamental Concepts of Restorative Justice”, *Contemporary Justice Review*, Vol. 1, No. 1, Pp. 47-55. Also available at: http://www.cehd.umn.edu/ssw/RJP/Projects/Victim-Offender-Dialogue/RJ_Principles/Fundamental_Concepts_RJ_Zehr_Mika.PDF

3.1.2 The justice process provides a framework that promotes the work of recovery and healing that is ultimately the domain of the individual victim.

3.1.2 Victims are empowered by maximizing their input and participation in determining needs and outcomes.

And, in the next section:

3.2 The process of justice maximizes opportunities for exchange of information, participation, dialogue and mutual consent between victim and offender.

3.2.2 Victims have the principal role in defining, and directing the terms and conditions of the exchange.

Susan Sharpe (1998) similarly views victims as the fulcrum of restorative justice practice, as she details the nuanced connections between RJ values and practice. Here, she begins a list of six fundamental ways that programs can stay true to RJ values:

A restorative justice program is faithful to its purpose when it:

1. Holds victim involvement as central.²²

Mark Umbreit and Marilyn Peterson Armour (2010) further explain,

[c]ore to restorative justice principles is the understanding that it is a victim-centered process. This means that the harm done to the victim takes precedence and serves to organize the essence of the interaction between the key players. Although victim-centered, the process is not victim controlled. This allows the process to address the needs of all the various stakeholders.²³

Jennifer Llewellyn and Robert Howse (1999) also stress the importance of “the distinction between restorative justice as a victim-centered process and a victim-controlled process. Restorative justice, we have argued, is victim-centered. It places the victim and the harm she experiences at the centre of the process.”²⁴ But, they caution, “... [o]ne cannot talk about restoration of the victim in isolation.”²⁵

²² Sharpe, Susan (1998). “Six Touchstones for Restorative Justice Programs”, in *Restorative Justice: A Vision for Healing and Change*, P. 49.

²³ Umbreit, Mark and Marilyn Peterson Armour (2010). *Restorative Justice Dialogue: An Essential Guide for Research and Practice*, P. 7.

²⁴ Llewellyn, Jennifer and Robert Howse (1999). “Restorative Justice – A Conceptual Framework”, P. 69.

²⁵ *Ibid.*, P. 70.

Llewellyn and Daniel Philpott (2014) echo the importance of addressing the needs of all participants in an RJ process, cautioning that, "... as a description of restorative processes in their own right, "victim-centered" is problematic *if it creates the impression that restorative justice is focused on victims at the exclusion of the wrongdoer or community*" (emphasis added).²⁶ Being victim-centred, then, is not at all akin to the idea that RJ is "all about the victim"; practitioners have obligations to address the needs of all participants, even as they bring centrality to the victim's needs.

Zehr re-emphasized the principle of victim-centredness in 2015, when he wrote that "[s]ince justice should seek to put right, and since victims have been harmed, *restorative justice must start with those who have been victimized and their needs.*"²⁷ (emphasis in original)

Being victim-centred, in RJ casework, does not mean that victims control the dialogue process; it means that victim needs are the starting place, the focus that any process is designed around. Victim needs help determine the extent of the offender's responsibility, help decide what is discussed, influence who is in the room, how the dialogue proceeds, and so on. There are many expressions of victim-centrality. One such example is from Mary Koss (2018) who, in the RESTORE program, saw that victims deserved the status of being the first to consent to the process.²⁸ This challenges the standard practice of meeting offenders first to determine whether the victim should be contacted.

Given how consistently victim involvement is highlighted in so much of the foundational RJ literature, it may be helpful to look at what research reveals about victims' actual experiences in RJ.

What happens when victim needs are not held as central in RJ processes? Looking at research into victims' experiences in RJ processes may shed light on this question.

²⁶ Llewellyn, Jennifer and Daniel Philpott (2014). "Restorative Justice and Reconciliation: Twin Frameworks for Peacebuilding", in Llewellyn and Philpott (eds.), *Restorative Justice, Reconciliation, and Peacebuilding*, P. 35, footnote 19.

²⁷ Zehr, Howard (2015). *The Little Book of Restorative Justice, Revised and Updated*, P. 42.

²⁸ Mary Koss (2018). "The RESTORE Conference Model Perspective, Q&A" PowerPoint, NCRDV Webinar, February 15, 2018.

3 VICTIMS' SATISFACTION WITH RESTORATIVE JUSTICE

Numerous studies, over time and across continents, highlight what is generally termed “victim satisfaction” with their experience in RJ processes. Early evaluations conducted by Mark Umbreit regularly showed victim satisfaction rates ranging from 75-90%. These numbers suggested that RJ was doing right by many victims. Umbreit’s early studies are similar to many other studies of participants’ experience in RJ processes. For example, Umbreit, Coates, and Vos (2002) conducted a review of 63 studies of RJ processes – mostly conferences and what was then called victim offender mediation (VOM), in 5 countries. The reviewers confirm that “Expressions of satisfaction with VOM is consistently high for both victims and offenders across sites, cultures, and seriousness of offenses. Typically, eight or nine out of ten participants report being satisfied with the process and the resulting agreement. ... For example, a recent multi-site study of victim offender mediation in six counties in Oregon found an aggregate offender satisfaction rate of 76% and an aggregate victim satisfaction rate of 89%.”²⁹

In 2011, New Zealand’s Ministry of Justice released a study of 154 victims of crime who participated in RJ processes with adult offenders. The results showed:

*A large majority (82%) of victims were satisfied with the restorative justice conference they attended. Taking part in the restorative justice conference usually had a positive impact, with 74% of attendees saying they felt better afterwards. More than three-quarters (77%) said they were satisfied with their overall experience of restorative justice, before, during and after the conference. The four factors found to best predict overall satisfaction were the victim’s concerns and questions being treated seriously at the conference, the facilitator being fair to everyone at the conference, the offender’s completion of the plan, and the facilitator contacting the victim after the conference.*³⁰

Sherman, et. al. (2015) conducted longitudinal research into the effects on victims and offenders of their participation in police-led restorative justice conferences (RJs); these conferences were led by facilitators who were all trained by the same trainers and used the same script for every

²⁹ Umbreit, Mark S., Robert B. Coates, and Betty Vos (2002). “The Impact of Restorative Justice Conferencing: A Review of 63 Empirical Studies in 5 Countries”. Center for Restorative Justice and Peacemaking, Pp. 3-4. Available at:

https://www.researchgate.net/publication/255647653_The_Impact_of_Restorative_Justice_Conferencing_A_Review_of_63_Empirical_Studies_in_5_Countries

³⁰ New Zealand Ministry of Justice (2011). “Victim satisfaction with restorative justice: A summary of findings”. Available at: <https://www.justice.govt.nz/assets/Documents/Publications/Restorative-Justice-Victim-Satisfaction-Survey-Summary-of-Findings.pdf>

conference. Both short-term and long-term effects were studied. The scope of criminal cases covered non-domestic and non-sexualized violent crime committed by offenders under the age of 30 years, property crimes committed by offenders under the age of 18, and DUI (driving under the influence of alcohol) for adult offenders. Results for victims who participated in RJs were compared with victims in the control groups, whose cases were adjudicated through the Court system. Victims whose cases went through RJ programs demonstrated reduced prevalence of post-traumatic stress symptoms in comparison to the control groups, reduced emotional impact from the crime, reduced desire to seek violent revenge, more satisfaction with their justice experience, and were more likely to receive offender apologies.³¹

Positive evaluations of RJ dialogue processes have continued to be published although, as time has passed, researchers have expanded the scope of their work. Some have oriented to studying what is happening that causes RJ processes and practitioners to end up being considerably less successful than in studies like the ones cited above.

Much research has surfaced detailing the struggles of processes for youth offenders, processes that are considered to be, and are usually advertised as, restorative justice.

In one such study by Hoyle and Rosenblatt (2016), of police-run conferences involving youth offenders, one of the main conclusions was that “only 2 of the 23 cases observed could be labelled “restorative justice” *because in the majority of cases facilitators tended to dominate the exchanges that took place and some participants, notably offenders’ supporters, were sidelined.* While dominating the discussion, police officers often asked questions that took the form of judgmental statements or moral lectures—this occasionally meant sending a message that the offender was perceived as a persistent offender or someone at risk of becoming so.”³²

3.1 VICTIMS' CONCERNS ABOUT PARTICIPATION IN YOUTH JUSTICE RESTORATIVE JUSTICE

One of the most significant shifts for victims in their experience of restorative justice in Canada has been the introduction of justice processes to divert youth offenders from the court system. Some explanation of this shift may be beneficial.

³¹ Sherman, Lawrence W., et al. (2015). "Twelve experiments in restorative justice: the Jerry Lee program of randomized trials of restorative justice conferences." *Journal of Experimental Criminology*, Vol. 11, No. 4, Pp. 501-540.

³² Hoyle, Carolyn and Fernanda Fonseca Rosenblatt (2016). “Looking Back to the Future: Threats to the Success of Restorative Justice in the United Kingdom”, *Victims & Offenders*, Vol. 11, No. 1, P. 42.

On April 1, 2003, The Youth Criminal Justice Act came into force in Canada. The Preamble to the Declaration states that “[t]he youth justice system should take into account the interests of victims and ensure accountability through meaningful consequences, rehabilitation and reintegration.” Further, the “youth justice system should reserve its most serious interventions for the most serious crimes and reduce the over-reliance on incarceration.” The Declaration of Principle sets the framework around what diversion to restorative justice programs should consider:

The youth justice system is intended to protect the public by (i) holding young persons accountable through measures that are proportionate to the seriousness of the offence and the degree of responsibility of the young person, (ii) promoting the rehabilitation and reintegration of young persons, and (iii) supporting crime prevention by referring young persons to programs or agencies in the community to address the circumstances underlying their offending behaviour.

The sole mention in the Declaration of Principle of those victimized by young offenders is, “...courtesy, compassion and respect for victims; the opportunity for victims to be informed and to participate...”³³ The Legislative priorities, then, for programs who would receive referrals under this Act are to reduce incarceration, promote rehabilitation and reintegration, and address the underlying causes of offending behaviour. It seems these have indeed become the priorities for many youth justice RJ programs.

Since the introduction of the Youth Criminal Justice Act in Canada, there has been a proliferation of RJ programs that focus on cases in which the offender is a youth. According to data collected by Correctional Service Canada, in the fiscal year 2009/10, there were 21,504 referrals to RJ programs of cases involving young offenders. During the same time period, there were 12,277 cases referred to RJ where the offender was an adult.³⁴ Youth justice RJ programs represent the predominant form of restorative justice practice in Canada. The growth in the number of RJ programs focused on young offenders is similarly reflected in many other countries.³⁵ So, given the high volume of youth justice RJ programs nationally and internationally, it is worth asking

³³ Government of Canada, Department of Justice (2003). “The Youth Criminal Justice Act: Summary And Background”, P. 1-2. Available at: <http://www.justice.gc.ca/eng/rp-pr/cj-jp/yj-jj/pdf/back-hist.pdf>

³⁴ Federal-Provincial-Territorial Working Group on Restorative Justice, Correctional Service Canada (2016).

“Restorative Justice in the Canadian Criminal Justice Sector”. Available at: <http://www.csc-scc.gc.ca/restorative-justice/003005-4012-eng.shtml#3.1>

³⁵ Bouffard, Jeff, Maisha Cooper, and Kathleen Bergseth (2017). “The Effectiveness of Various Restorative Justice Interventions on Recidivism Outcomes Among Juvenile Offenders”, *Youth Violence and Juvenile Justice*, Vol. 15, No. 4, pp. 1-16.

about victims' experiences of this relatively new approach to justice. How successful is youth justice RJ in meeting victims' needs?

The conferencing approach was well-established in Australia by the time Canada's legislation was enacted, and research was slowly becoming available. One of the early studies yielded disappointing results. In 2004 Kathleen Daly published her longitudinal research regarding participants' experiences in 89 youth justice conferences. Participant evaluations were completed immediately following the conferences, and then again one year later. Among victims who reported feeling post-crime (but pre-conference) distress such as sleeplessness, nightmares, loss of self-confidence or self-esteem, or increase in feelings of mistrust, 47% reported one year later that their participation in the conference "... was not at all helpful in overcoming these difficulties" and only "...19 per cent said the conference was helpful or very helpful."³⁶ Rather than leading to discouragement, such studies should be examined in order to better understand their implications for practice.

3.2 WHAT ACCOUNTS FOR VICTIM SATISFACTION AND DISSATISFACTION?

In Daly's analysis, the results demonstrate that "... [a] process like RJ, and indeed any legal process (such as court) may do little to assist victims who have been deeply affected by crime."³⁷ This claim seems to lack nuance, given the many forms of restorative justice work that fall outside of her study. There is no analysis in the study of any role that possible limitations of the conference process itself may have played in how poorly victims fared in it. Clearly, much research exists demonstrating powerful benefits of RJ for victims of more serious crime,³⁸ who can quite reasonably consider themselves "deeply affected by crime." Second, one could wonder whether the lack of success of the conferencing process for distressed victims could be ascribed to the knowledge and skill levels of the facilitators who, for many possible reasons, may have been less attentive to victim needs than to offender needs. Daly did not factor facilitator orientation or competence into her study, but nevertheless concludes that "...[i]mproving practices by conference facilitators may help at the edges, but this too is unlikely to have a major impact."³⁹

³⁶ Daly, Kathleen (2004). "A Tale of Two Studies: Restorative Justice from a Victim's Perspective", P. 7. Available at: <https://pdfs.semanticscholar.org/65ec/fb322ac8461885c2785346cdbc514ede9ac3.pdf>

³⁷ Ibid., P. 9.

³⁸ See, for example, Susan L. Miller's book *After The Crime* (2011), Tinneke Van Camp's book *Victims of Violence and Restorative Practices* (2014), and the Mark S. Umbreit et al. book *Facing Violence: The Path of Restorative Justice and Dialogue* (2003).

³⁹ Daly, Op. Cit., P. 9.

In contrast to Daly's research, practitioner skill and orientation play a significant role in the analysis of victim satisfaction in what may be the largest, most inclusive collection of research on victims' experiences in RJ. Choi, Bazemore et al. compiled dozens of studies detailing victim dissatisfaction with their experiences of RJ in youth justice settings.⁴⁰ A commonality in their findings is that,

*While these findings confirm that inconsistencies between actual practice and RJ principles often exist, this does not appear to be a fundamental problem with RJ processes. Instead, it appears to be driven by misunderstanding or careless application of RJ principles by some practitioners or organizations.*⁴¹

In other words, the success or failure of RJ processes in youth crime may depend largely on the level of skill and competence of the facilitators. The researchers conclude,

*...best practices in RJ require: practitioner training, thorough preparation of victims, offenders and their supporters; victim-centered and victim sensitive practices; dialog-driven processes (not outcome-driven); open, honest and respectful interactions where offenders feel safe enough to accept responsibility for their actions rather than guided by strictly scripted processes; and, opportunity for expression of genuine feelings...*⁴²

In distilling themes from the most frequently occurring dissatisfactions of victims who have participated in RJ processes, the main theme is titled "Inconsistencies between actual practice and principles: offender-centered RJ,"⁴³ by which they mean specifically "... the marginalization of victims during restorative processes because of a lack of experience, lack of training, fundamental misunderstanding of RJ theory among practitioners, or case processing pressures for quick disposition."⁴⁴ The authors conclude that,

*... [m]aximizing the sensitivity of practitioners toward victims could result in adequately prepared participants, thoughtfully planned sessions, and competently conducted dialog processes that are consistent with RJ theory, values and principles. This could substantially increase the odds that the promises of restorative justice will be realized.*⁴⁵

⁴⁰ Choi, Jung Jin, Gordon Bazemore, and Michael J. Gilbert (2012). "Review of research on victims' experiences in restorative justice: Implications for youth justice", *Children and Youth Services Review*, Vol. 34, No. 1, Pp. 35-42.

⁴¹ Ibid., P. 39.

⁴² Ibid., P. 40.

⁴³ Ibid., P. 39.

⁴⁴ Ibid., P. 39.

⁴⁵ Ibid., P. 40.

Additional themes of victims' dissatisfaction with their RJ experiences, as the researchers collect and synthesize the literature, include:

- inadequate preparation of victims for the RJ process;
- victims feeling used by the RJ program as instruments for offender rehabilitation;
- victims feeling pressure – to participate, to forgive the offender, to under-represent the intensity of their emotions, to move quickly through the RJ process;
- re-victimization in the RJ process; and,
- concerns about practitioner competency.

The authors summarize their report by observing that "...RJ processes can produce adverse outcomes for some victims when they become offender focused or insensitive to the needs and concerns of victims. For the most part, research findings suggest that the gaps between the ideal and real result from poor practice — inadequate preparation for victim participants, lack of training for practitioners, and structural obstacles."⁴⁶

Margarita Zernova has documented numerous cases of victims encountering offender-centric RJ processes. In her paper entitled "Aspirations of Restorative Justice Proponents and Experiences of Participants in Family Group Conferences" (2007), she notes that the oft-touted goal of "empowerment," in youth justice RJ, often has meant participants being empowered "... only to a degree that did not endanger the achievement of the objectives of the criminal justice system. Indeed, in some ways, stakeholders were 'empowered' to *facilitate* the attainment of the system's goals."⁴⁷

"... like being hit by a car and having to get out and help the other driver when all you were doing was minding your own business."

Crime Victim

In this environment, then, it is not surprising that victims would frequently be marginalized in ways that echo their marginalization in the criminal justice system. Declan Roche (2003) quotes a victim who characterized his experience in an RJ process as "... like being hit by a car and having to get out and help the other driver when all you were doing was minding your own business."⁴⁸

Zernova's research into victims' experiences in RJ echoes this theme of victim-as-tool-of-offender-rehabilitation. Interviewing 47 conferencing participants in England, she noted that

⁴⁶ Ibid., P. 41.

⁴⁷ Zernova, Margarita (2007). "Aspirations of Restorative Justice Proponents and Experiences of Participants in Family Group Conferences", *British Journal of Criminology*, Vol. 47, No. 3, P. 506.

⁴⁸ Roche, Declan (2003). *Accountability in Restorative Justice*, P. 14.

"...[h]alf of victims interviewed during this study felt that the motivation of conference organizers in inviting them to the conference was less to benefit them and more to benefit offenders."⁴⁹ Examples of this included having offenders speak first in a conference, creating "an impression that the offender was the most important person in the room, and the victim did not even deserve an inquiry if she was ready to start the conference."⁵⁰ Further evidence of an offender-centric RJ practice in this study is that "... a considerable number of conferences went ahead, even though victims did not attend. Yet, no conference occurred without the offender attending. It is noteworthy that in a significant number of cases it is assumed that a conference without victim participation could benefit offenders. Yet, it seems it was never believed that a conference without offender participation would be beneficial to victims."⁵¹ Zernova concludes that "...[e]ven if in reality victims were not used in order to benefit offenders, the victim perception that offenders were primary – or even the only – beneficiaries of the conferencing process is significant in itself, given the difficulties many restorative justice practitioners face when persuading victims to take part in restorative interventions."⁵²

"... [h]alf of victims interviewed during this study felt that the motivation of conference organizers in inviting them to the conference was less to benefit them and more to benefit offenders."

Margarita Zernova

"This means that restorative justice should not be limited to young offenders, because if there is any benefit for the victim, this should not be dependent on the offender's birthday."

Martin Wright

Some argue that the very concept of youth justice RJ programs preferences offenders over victims. As Martin Wright astutely notes, "[a]n essential part of the restorative concept is that it is to help the victim; it is not merely a new way of dealing with offenders. This means that restorative justice should not be limited to young offenders, because if there is any benefit for the victim, this should not be dependent on the offender's birthday."⁵³ This perspective is consistent with

Zernova's discussion of her research, wherein she concludes "... [t]he fact that the age of offenders determined the entitlement of victims to benefit from restorative justice programmes

⁴⁹ Zernova, Margarita (2007). Restorative Justice: Ideals and Realities, P. 70.

⁵⁰ Ibid., P. 71.

⁵¹ Ibid., P. 71.

⁵² Ibid., P. 71n.

⁵³ Wright, Martin (2001). "How restorative is restorative justice?", Pp. 7-8. Available at: <http://restorativejustice.org/10fulltext/wrightmartinhowrestorative>

does not fit well with the aspiration to make the interests of victims paramount. If needs and interests of victims were indeed of fundamental importance, the age of offenders would seem a rather illogical basis for allowing some victims to take part in restorative justice encounters and denying others a chance to benefit from restorative justice".⁵⁴

This sidelining of victims in youth justice RJ processes is scarcely limited to the Canadian experience. As Jane Bolitho (2017) concludes from her own research, "The majority of government-run RJ programs in Western criminal justice systems are aimed at juveniles and young adults who have committed minor or moderately severe crime. These programs work within a rubric that emphasizes the benefits of diversion from court ... and are usually offender oriented in that the RJ process can go ahead with or without the victim present."⁵⁵

Casey, et. al (2014) find a similar diminishment in the scope of RJ in youth-offender cases. They observe that "... restorative practices can often become little more than an alternative means of providing a consequence or penalty, with programmes skewed towards short-term outputs such as predetermined outcome plans, rather than opportunities for long-term sustainable behavioural change."⁵⁶

When victims of crime are marginalized, their needs are often ignored or downplayed, frequently in an attempt to bring greater focus to the rehabilitation and desistance of the young offender. What needs for justice do victims bring with them, hoping to have them met by their participation in RJ dialogue processes?

4 VICTIMS' JUSTICE NEEDS

Restorative justice theory, as discussed early in this review, suggests that victims and victim needs are held as central concerns in practice and, even in those definitions that waiver from this view, victims and their needs are to be held on at least an equal footing with offender and community needs.

⁵⁴ Zernova (2007), *Restorative Justice: Ideals and Realities*, P. 71.

⁵⁵ Bolitho, Jane (2017). "Inside the restorative justice black box: The role of memory reconsolidation in transforming the emotional impact of violent crime on victims", *International Review of Victimology*, Vol. 23, No. 3, P. 234.

⁵⁶ Casey, Matthew, William Curry, Anne Burton and Katherine Gribben (2014). "A Necessary Discovery: Why the Theory is Important", in Kelly and Thorsborne (eds.), *The Psychology of Emotion in Restorative Practice*, P. 154.

Research into victims' justice needs has usually centred on what are considered more serious crimes such as sexualized violence, domestic violence, and homicide. This tendency has several advantages. First, it is important that survivor victims' needs in these situations be known, not only within the restorative justice field but in any situation in which their justice needs might be a relevant consideration. Second, the gravity of these crimes provides sharp clarity about what needs emerge in the aftermath of the crimes; this clarity can be beneficial when it makes sense to extrapolate these needs into other crimes. Third, lawmakers and their policymaking colleagues can use this information in the creation of laws and procedures that are more oriented towards victims and could also use the information to inform the creation and funding of services to assist victims and survivors.

Victims' justice needs vary from person to person based on many factors, including how they are affected by what happened to them, how possible earlier victimization impacted them, and the presence of other stressors in their life. We know also that the severity of the impact of victimization does not always align with how crimes are classified in terms of seriousness. What follows is a summary of victims' justice needs, drawn from several studies related to the experience of victimization.

Judith Lewis Herman's "Justice from the Victim's Perspective" (2005) reports on research comprising interviews with 22 survivor/victims of sexualized violence and of domestic violence, examining their justice perspectives and needs in the aftermath of the crimes against them.

In Herman's research, the needs most acutely felt by survivors was for acknowledgement, validation and vindication: "Whether the informants sought resolution through the legal system or through informal means, their most important object was to gain validation from the community. This required an acknowledgment of the basic facts of the crime and an acknowledgment of harm."⁵⁷ Herman continues,

Beyond acknowledgment, what survivors sought most frequently was vindication. They wanted their communities to take a clear and unequivocal stand in condemnation of the offense. Community denunciation of the crime was of great importance to the survivors because it affirmed the solidarity of the community with the victim and transferred the burden of disgrace from victim to offender.⁵⁸

⁵⁷ Herman, Judith Lewis (2005). "Justice from the Victim's Perspective", *Violence Against Women*, Vol. 11, No. 5, P. 585.

⁵⁸ *Ibid.*, P. 585.

Survivors canvassed in Herman's study were fairly evenly divided regarding the value of hearing an apology from the offender. Some very much wanted to hear words of remorse, regret and responsibility, while others expressed deep skepticism that any apology from the person who so harmed them would be genuine. Others spoke about wanting an apology not only from the offender, but also from the community and/or family members who, through their inaction, were seen by some survivors as complicit in the violence and abuse.

Jo-Anne Wemmers (2002) has published a collection of research data, summarizing the needs of victims as follows:

Information	This refers to the need to be informed about the justice process they will participate in and also about what they should expect from their participation.
Compensation	Compensation and other forms of reparation can hold both practical and symbolic value for victims.
Validation	This speaks to the emotional dimensions of victimization. Wemmers cautions that "the gravity of the offence according to the criminal code is not necessarily a good indication of its emotional impact" and that "[t]alking about the crime and how it has affected him/her may be helpful to some victims. ⁵⁹ Being able to express their feelings, and having their feelings validated by others can contribute to the healing process." ⁶⁰
Participation	Wemmers details two expressions of this need. One is active participation, counteracting the disempowerment that accompanies victimization, and enhancing their sense of personal autonomy and personal power; the other is passive participation, in which victims may prefer a consultative role in the justice process but would see active participation as only adding to their burden.
Protection	This refers to protection from being re-victimized by the offender and from other crimes and criminals generally.
Practicalities	Victims have practical needs in the aftermath of crime – transportation if their car was stolen, assistance replacing stolen items, money to repair property damaged in the crime, and so on.

⁵⁹ Wemmers, Jo-Anne (2002). "Restorative Justice for Victims of Crime: A Victim-Oriented Approach to Restorative Justice", all quotations used in this paragraph are drawn from P. 45.

⁶⁰ Ibid., P. 45.

Wemmers concludes with a brief analysis of the extent to which RJ successfully addresses these needs, finding significant room for improvement concerning many of them.

Mary Koss researched victim participation in the RESTORE Program. RESTORE was a conferencing program in the early 2000s, based in Arizona, adapted to prosecutor-referred adult misdemeanor and felony sexual assaults. Koss interviewed 22 victims about aspects of their participation in the program, including their justice needs.

As part of her research, which she detailed in a 2014 paper, she sought to illuminate aspects of victims' justice needs. She divided victim needs into ones that they identified before the conferencing process took place and ones that they identified, looking back on their experience, post-conference.

According to Koss, prior to conferencing victims reported that they wanted to participate in RJ to “say how I was affected/explain my side”, “make the responsible person accountable”, and “have input into punishment”, “hear an apology/apologize”, and “participate in an alternative to court.” Similar needs were reflected post-conference, along with new needs that emerged in retrospect. These were “make sure the RP [responsible person] gets help/to understand what happened,” “making sure that the RP doesn’t do this to anyone else,” “put this behind me,” and “take back my power.”⁶¹ A noticeable shift occurred between the weight victims placed on “say how I was affected/explain my side” in their pre-conference reflections, and their reflections on the importance of this post-conference. Victims did not perceive this need to be as significant for them pre-conference as they experienced it as having been post-conference.⁶²

4.1 VINDICATION AND THE ‘WRONG’ OF CRIME

Herman’s reference to survivor/victims’ need for vindication points to another element of RJ theory and practice seldom discussed, but possibly important to victims nonetheless.

Christopher Bennett promotes the understanding that victims of crime don’t experience only harm; they experience being wronged by the offender.⁶³ The act of committing a crime inflicts a moral injury upon the victim, an injury distinct from “harms.” This injury is a violation by the

⁶¹ Koss, Mary P. (2014). “The RESTORE Program of Restorative Justice for Sex Crimes: Vision, Process, and Outcomes”, *Journal of Interpersonal Violence*, Vol. 29, No. 9, P. 1643.

⁶² *Ibid.*, P. 1644.

⁶³ Bennett, Christopher (2007). “Satisfying the needs and interests of victims”, in Johnstone and Van Ness (eds.) *Handbook of Restorative Justice*, Pp. 247-264.

offender of another person (the victim) and requires denunciation as being an injury or “damage to a relationship between the offender and victim.”⁶⁴ In this view, victims require both vindication from the offender and vindication from the community. Bennett concludes, “Thus a victim centred form of justice ought to be concerned, not just with relieving harm but with ‘righting wrongs.’”⁶⁵

In line with this idea, several participants in Herman’s research speak to the importance of a justice process in which denunciation of the crime occurs. Herman quotes philosopher and justice theorist Jean Hampton to summarize their view: “By victimizing me, the wrongdoer has declared himself elevated with respect to me, acting as a superior who is permitted to use me for his purposes. A false moral claim has been made.”⁶⁶

Similarly, Stephen Garvey (2003) argues,

When my car is stolen, my house burned down, or my person assaulted through the intentional or reckless action of another, I suffer more than just material harm. Someone who engages in such conduct says something about his value or worth compared to mine. He says, in effect: ‘I’m better than you. Your rights are subordinate and secondary to my interests, and I’m free to run roughshod over them as I wish.’ Crimes therefore convey a message of insult or contempt for their victims ... This expressive or moral injury is what constitutes the wrong of a crime, and the wrong of a crime is what makes it a crime.⁶⁷ (emphasis in original)

This resonates strongly with James J. R. Guest (2005) who, in his paper “Aboriginal Legal Theory and Restorative Justice”, explains that “[i]n an Aboriginal society, when a crime is committed, a debt is created that is owed to the victim, not to the state. Because the victimizer has lowered the victim’s status, the victimizer must restore the victim’s previous status – namely, of being equal with all others in the society.”⁶⁸

These elements – that victims sustain a moral injury through victimization, that the power dynamic in committing the crime elevates the status of the offender at the expense of the victim, that the power dynamic must be re-balanced in a justice process by elevating the victim, and that

⁶⁴ Ibid., P. 253.

⁶⁵ Ibid., P. 253.

⁶⁶ Herman, Judith Lewis (2005), “Justice from the Victim’s Perspective”, Pp. 597-598.

⁶⁷ Garvey, Stephen P. (2003). “Restorative Justice, Punishment, and Atonement”, *Utah Law Review*, No. 1, P. 306.

⁶⁸ Guest, James J. R. (2005). “Aboriginal Legal Theory and Restorative Justice”, in Wanda D. McCaslin (ed.), *Justice as Healing*, P. 338.

the community plays an important role in this re-balancing by vindicating the victim and denouncing not only the harm but the moral injury –are what Wenzel, et al. (2008) call “value restoration.”⁶⁹ Victims and communities (and hopefully well-prepared offenders) take a stand in a justice process for the moral and societal values that have been jeopardized by a particular crime; their support for the victim includes a vindication of the victim and a denunciation of the wrong that the offender committed, standing instead for the restoration of the value – respect for people, individual safety, respect for people’s right to be safe in their own home, etc. – that the offender’s crime threw out of balance. Value restoration is seen within the literature as an important element of restorative justice theory and practice.

5 THE SEARCH FOR BEST PRACTICES IN RESTORATIVE JUSTICE

Restorative justice is a comparatively new name for a set of ideas and principles steeped in Indigenous custom and tradition. Yet, despite the long history of those customs and traditions, it is only recently that writers have started conducting research into best practices in RJ processes. A report from 2018 documents Canada-wide consultations about criminal justice reform, observing that,

*...restorative justice programs are most successful when they take a trauma-informed and victim-focussed approach. A victim-focussed restorative justice program, for example, would ... make sure that the victim’s voluntary participation is central to the process, and allow the victim to choose how to communicate with the offender (such as in person or in writing) and how long to stay engaged.*⁷⁰

In 2009, researcher Jung Jin Choi compiled extensive research on best practices in RJ.⁷¹ His research gathered feedback from three main groups – he named them “consumers” (namely, participants who had been through an RJ process), “practitioners” (facilitators), and “experts” (by which he means researchers). Using four search engines and seven key search terms, he

⁶⁹ Pemberton, Antony and Inge Vanfraechem (2015). “Victims’ victimization experiences and their need for justice”, in Vanfraechem et al. (eds.), *Victims and Restorative Justice*, Pp. 24-25; Wenzel, M., TG Okimoto, NT Feather, and MJ Platow (2008). “Retributive and Restorative Justice”, *Law and Human Behavior*, Vol. 32, No. 5, P. 385.

⁷⁰ Department of Justice Canada (2018). “What we heard - Transforming Canada's criminal justice system: A Report on Provincial and Territorial Stakeholder Consultations”, P. 24. Available at: http://www.justice.gc.ca/eng/rp-pr/other-autre/tcjs-tsjp/WWH_EN.pdf

⁷¹ Choi, Jung Jin (2009). “Best Practices for Achieving Restorative Justice Outcomes for Crime Victims and Offenders in the United States”, in Petr (ed.), *Multidimensional Evidence-Based Practice*, Pp. 154-178.

collected information on what these three groups see as best practice in RJ currently. He reports that the three most consistent best practices regarding the qualities of facilitators are:

1. exercising a nondirective and unobtrusive style to maximize the involvement of participants (e.g. neither pressuring nor pushing, respecting silence, and allowing sufficient time for the process);
2. playing a background role by being empathetic, respectful, patient, calm, and understanding and showing good listening skills as well as treating participants fairly; and
3. committing to restorative justice philosophy and principles by fostering empathy, a sense of shared humanity, peace, and relationship.

The three most consistent best practices identified by Choi regarding program and process qualities are:

1. a need for careful, compassionate preparation for both victims and offenders by using reflection and self-awareness;
2. demonstrating victim sensitivity (e.g. victim chooses who speaks first, respecting victims' choices throughout the process, a need for offender screening, providing a continued contact with victims for, if necessary, referrals, ongoing support and services); and,
3. maximizing victim sensitivity to minimize the possibility of re-victimization.

Choi further identifies the “humanistic” approach to RJ practice⁷² (a term coined by Mark Umbreit in the 1990s) as the approach that is most consistent with best practice. The humanistic approach places central importance on victim healing, offender accountability, and restoration of loss. This is in contrast to a “settlement-driven” approach, which focuses mostly on agreements, sanctions, and other outcomes.

Choi's research highlights several important themes in practitioners' work with victims. First, it emphasizes the importance of the facilitator's choice to be compassionate toward victims. Second, it highlights the need to maximize sensitivity and responsiveness toward victims. Finally, and most broadly, the findings highlight the need for RJ practitioners to be anchoring their practice in RJ values and principles.

Choi's research into best practice for RJ facilitators reflects a central point: victimization is an intensely personal experience – the breadth, depth, intensity, and lifespan of the effects of victimization are unique to each person harmed. If victims' needs are particular to each victim and also change over time, victims cannot simply be plugged into an inflexible, unresponsive,

⁷² Ibid., P. 156.

one-size-fits-all “process” and occupy a prescribed role. Holding victim involvement as central in RJ means facilitators being prepared to share power and leadership with them in the co-creation of a justice process that orients to the particular harms and wrongs of their victimization. It also means that facilitators must have the skill, capacity, and compassion to support them through their experience in our programs.

One explicit example of the intersection of best practice and victims’ needs can be found in the research that Jane Bolitho (2014)⁷³ conducted in cases of serious, violent crime. Basing her research on a program devoted to only such cases and that used a (victim-centred, flexible) scripted Victim Offender Conferencing (VOC) process, Bolitho focused her research on “how victims (particularly after serious harm) understand their experience of RJ, and consequently, how this may inform what we know about how RJ works.”⁷⁴ Focusing on victims’ unmet justice needs after the offender’s conviction, these are framed as needs for: relationships & safety, empowerment, information, venting, growing, accountability, and meaning.⁷⁵

Bolitho notes that, in the program she is researching,

*[t]he specific objectives of VOC are to ‘meet the unmet justice needs of victims of crime’; facilitate a consensus about how to reduce the harm caused by the offending; address the issues left unresolved by the court system; provide a process for converting hostility into dialogue; provide the people who are victims of crime with a space to have a voice and ask questions, to express how they feel, and have a say on how the harm can be repaired; and hold the offender accountable for their offending.*⁷⁶

Bolitho found that “the majority of articulated unmet justice needs as identified before the VOC were met in 95 per cent of all cases (70/74).”⁷⁷ Unpacking what accounts for such success, Bolitho identifies several factors:

- extensive preparation of and debriefing with participants (the average “length of time from referral to VOC was eleven months with a range of one month to 43 months”)⁷⁸

⁷³ Bolitho, Jane (2015). “Putting justice needs first: a case study of best practice in restorative justice”, *Restorative Justice: An International Journal*, Vol. 3, No. 2, Pp. 256-281.

⁷⁴ Ibid., P. 258.

⁷⁵ Ibid., Pp. 268-9.

⁷⁶ Ibid., P. 261.

⁷⁷ Ibid., P. 270.

⁷⁸ Ibid., P. 263.

- the victims' trusting relationship with the facilitators ("... 100 per cent of victims and offenders interviewed in this research were satisfied with the facilitator's preparation, process and de-briefing.")⁷⁹
- as well as the qualities of the facilitators themselves, who ("... consistently displayed Rogers's three core conditions for therapeutic growth: 'unconditional positive regard' (accepting the person as they are, not who they might wish them to be), 'empathy' (being comfortable enough in the self to enter another's perceptual world to better understand the here and now), and 'congruence' (having a presence which is firm and authentic but not overly professionalised)."⁸⁰

Bolitho concludes that,

*... explicitly prioritising victim needs can inform the application of core assumptions in RJ practice, for example that an offender must present with a certain level of responsibility taking. Where a victim has a very specific unmet justice need (such as for specific information about, for example, the manner of death) and where the RJ practice is explicitly victim-oriented and designed to meet unmet justice needs, it is possible to bring the parties together in a tightly choreographed VOC encounter to address those needs even when the offender does not meet the RJ 'ideal.'*⁸¹

This ethic is captured well by Ontario-based academic and writer Melanie Randall in a paper from 2013, in which she observes:

*[i]n a victim-centred restorative justice approach the victims are the drivers of a process designed to repair the harm they have suffered. This approach is certainly more respectful and potentially quite empowering for victims, whose consent and participation is essential and central and whose injury is a critical focus of the process.... The victim-centred starting point should not be controversial if restorative justice takes its own values seriously.*⁸²

The literature reviewed in this section strongly suggests that victims' positive experiences with restorative justice depend on being treated with respect, commitment, compassion, and skill; the

⁷⁹ Ibid., P. 273.

⁸⁰ Ibid., P. 273.

⁸¹ Ibid., P. 276.

⁸² Randall, Melanie (2013). "Restorative Justice and Gendered Violence? From Vaguely Hostile Skeptic to Cautious Convert: Why Feminists Should Critically Engage with Restorative Approaches to Law", *Dalhousie Law Journal*, Vol. 36, No. 2, P. 478.

literature also demonstrates that it matters greatly to victims that practitioners' choices are congruent with the principles and values of RJ. This Guide will now transition from discussions of theory and research toward discussions about how restorative justice program and practitioner choices can meaningfully enhance the quality of victims' experiences in restorative justice.

VICTIMS AND RESTORATIVE JUSTICE: A PROGRAM AND PRACTITIONER GUIDE

1 NAVIGATING RESTORATIVE JUSTICE WITH INTEGRITY

We now turn to what this all means for us as program administrators and restorative justice practitioners.⁸³ In the following pages, we will be going on a journey together to explore the implications of the research on restorative justice programs and practice. Together, we will attend to questions like:

What program policies and procedures can help ensure victims' needs are addressed through restorative justice?

How do our partnerships within the criminal justice system impact victims' experiences?

How does an understanding of victimization inform our restorative justice practice?

What training, skills and attributes do victims need from restorative justice practitioners?

How do we evaluate the extent to which victims find meaning and justice through their involvement in restorative justice?

In the exploration of these questions, this Guide aims to chart some of the complex terrain through which your journey may lead you. Navigation relies on the ability to stay oriented despite weather patterns, cliffs or other hazards; we cannot always rely on a pre-established path. The same logic applies to this Guide, which ultimately attempts to provide tools with which to stay oriented toward principles, rather than a prescribed formula for practice. The strategies, skills and tools are offered in the hope that they may help each practitioner and agency make their own important decisions with a keen



⁸³ For the purposes of this section, we are referring to program administrators as those who develop and manage restorative justice programs but may not be providing direct service delivery. Practitioners are those providing direct service delivery for victims and offenders within a restorative justice context. Sometimes individuals are involved with both roles.

understanding of their environment and a strong orientation toward the values of restorative justice.

In describing the journey we find ourselves on, we will make use of two metaphorical tools to highlight particularly important statements.

1.1 THE TOPOGRAPHIC MAP: SEEING THE LAY OF THE LAND



When you see the topographic map, it is our attempt to highlight the information that is important in meaningfully and effectively attending to victims' needs.

When navigating in the wilderness, understanding where you are and what surrounds you is a critical skill to be able to reach your destination safely. Topographic maps show geographical features such as hills, rivers, valleys, cliffs, overlooks, etc. Throughout this guide we will highlight information that is

important for us to understand on this journey. When you see the topographical maps, it is our attempt to highlight the information that is important in meaningfully and effectively attending to victims' needs.

1.2 THE COMPASS: ORIENTING TO VALUES AND PRINCIPLES

Most of us in restorative justice believe we are on the 'right track' most of the time – but is it possible that unconsciously, we may stray from our restorative values? The values expressed in our dominant culture, the nature of our partnerships with criminal justice institutions, and our unacknowledged biases represent powerful and sometimes destabilizing forces. Like wandering through the wilderness, we can unintentionally find ourselves engaged in practices that are astray from the values and principles of restorative justice. The compass represents opportunities to reflect on our practice and then get back on track. So, whenever you see a compass throughout the Guide you will be invited toward approaches that may help maintain orientation toward values and principles in your restorative justice work.



Whenever you see a compass throughout the Guide, you will be directed to mechanisms, policies, procedures, and practices that will help you to maintain an orientation toward values and principles in your restorative justice work.

2 WORKING RESTORATIVELY WITH VICTIMS OF CRIME: A PROGRAM ADMINISTRATOR'S GUIDE

2.1 INTRODUCTION AND PURPOSE OF THIS SECTION

Crime victims generally access restorative justice services through some form of established program or agency. Though practitioners provide the direct service, their practice is strongly influenced by organizational culture and policies. Staff and volunteers' capacity to serve victims well relies on an agency's commitment to generating and supporting effective practice.

This section will explore how these commitments toward the well-being of victims and survivors can inform organizational processes of program design, development and change. This includes a discussion of such topics as program partnerships; strategies for program development and re-visioning; referral processes; service options for victims; policies and procedures; and, training, monitoring and evaluation.

As a guiding consideration for these discussions, we might ask ourselves: how comfortable would we as program leaders and administrators feel with a victim/survivor being witness to any given aspect of our structure and operations? To what extent would they see their needs and experiences reflected in these decisions?

Funding is almost always a limiting factor in restorative justice work. Naturally, this reality can sometimes stifle creativity or lead to feelings of futility. While acknowledging this limitation, this section is also intended to stimulate reflection on how programs may work within these constraints toward achieving restorative outcomes for victims. As will be explored, creative

Preview of Questions Ahead

1. How does program design impact our capacity to effectively serve victims?
2. How might existing programs engage in effective change processes to better serve victims?
3. What policies and procedures can guide practitioners toward effective service delivery for victims?
4. How can programs create training requirements to enhance service to victims?
5. What role does evaluation play in ensuring victims' experiences with programs align with what we say we are doing?
6. How do our communication and marketing strategies impact how victims understand and experience our services?

partnerships and collaboration may help to fill the gaps in service for victims and survivors without putting unreasonable demands on restorative justice service providers.

The following discussion is intended for leaders who are either in the process of envisioning and creating new restorative justice programming, or re-developing (“re-visioning”) aspects of their current programming. At the core of a restorative approach are principles of inclusion, accountability, relationships, empowerment and community-building. Whether steering existing programs or starting new ones from the ground up, these core principles can be brought to life in the process.

2.2 EFFECTIVE PARTNERSHIPS

Program partnerships are a critical element in ensuring that programs have the infrastructure to effectively serve victims and survivors. This includes the choice of program partners, the terms on which partnerships are established, and what these relationships look like in practice. Partnerships pertain to referrals, funding, advice, co-operation or governance. A partner is defined as an organization with whom an RJ provider has a formal relationship.

WHO ARE YOUR PARTNERS?

It is important to consider how the relationship between restorative justice agencies and their partners impact the restorative justice movement. If our referral and funding partners are

If our referral and funding partners are focused primarily on those who cause harm, it is natural that our priorities will be oriented in this direction as well.



focused primarily on those who cause harm, it is natural that our priorities will be oriented in this direction as well.

Effective partnerships exist when there is alignment in the vision and outcome goals of the partners. This is true, to some extent, of restorative justice and criminal justice agencies, as both aspire to create the conditions for offenders to desist from crime. However, there are also important points of divergence in approach between restorative justice programs and their criminal justice partners. These have been well documented from the inception of the restorative justice movement,⁸⁴ and include the role of victims and the broader community, the value of



⁸⁴ See for example: Zehr, Howard. (1990). Changing Lenses: A New Focus for Crime and Justice.

punishment (as the deliberate infliction of pain), and even the goals of justice itself.⁸⁵ For our purposes, it must be acknowledged that the criminal justice system was built with little structural focus on attending to victims' needs. Without intentionally and explicitly differentiating restorative goals from other priorities observed within the criminal justice system, our agencies can be inadvertently guided toward the aims of our partners as we attempt to maintain funding, increase referrals, or be "good" partners. This tendency drives well-documented concerns about the cooptation of restorative justice.⁸⁶ On the other hand, diversifying our partnerships can help our programs stay oriented toward a restorative vision of justice rooted in the needs of victims/survivors.

Partnerships present an opportunity not only for restorative justice programs, but for communities and the criminal justice system. If we enter into partnerships aiming at inclusivity and empowerment for all justice stakeholders – the criminal justice system, directly impacted individuals (e.g. victims, offenders and families), service providers, and the broader community – restorative justice programs can effectively become conveners toward a broad, inclusive, and restorative vision for justice. The work of building and maintaining programs aligned with restorative justice values and principles can have a bridging effect on the siloed criminal justice system, creating the potential for redirecting each partner's focus toward justice responses and goals that attend to the needs of all impacted stakeholders.

With these advantages in mind, a vital recommendation in designing restorative justice programs is to invite the participation of victims and associated service providers into our leadership, program advisory committees, and trainings. Victim representation is urged at every level of organizations to ensure these perspectives help to shape decisions along the way. This representation helps to minimize the potential for harmful unintended consequences, and is an important first step to building and maintaining victim-centred practices.



Victim representation is urged at every level of organizations to ensure these perspectives help to shape decisions along the way.

⁸⁵ Llewellyn, J.J; Archibald, B.P.; Clairmont, D.; Crocker, D. (2013). "Imagining Success for a Restorative Approach to Justice: Implications for Measurement and Evaluation." *Dalhousie Law Journal*, Vol. 36, No. 2, P. 281.

⁸⁶ McAlinden, Anne-Marie (2010), "Transforming Justice: Challenges for Restorative Justice in an Era of Punishment-Based Corrections", *Contemporary Justice Review*, Vol. 14, No. 4, Pp. 383-406; Masahiro Suzuki & William Wood (2017), "Co-Option, Coercion, and Compromise: Challenges of Restorative Justice in Victoria, Australia", *Contemporary Justice Review*, Vol. 20, No. 2, P. 277.

HOW TO GROW PARTNERSHIPS WITH VICTIMS AND THEIR SERVICE PROVIDERS

As the Literature Review and interviews conducted for this Guide have suggested, we as a field have sometimes lost track of the centrality of victim needs in our restorative justice work. This has, on occasion contributed to negative perceptions and stereotypes of restorative justice. How then do we now reach out to victims and their service providers in a way that invites authentic partnership?



Whether inviting someone to be a part of an agency's board, or asking for direct mentorship, the approach taken will directly impact success. This approach can be guided by values well known to our field – curiosity, humility, acknowledgement, responsibility and accountability. When starting new relationships with victim service providers, we may begin with curiosity regarding their experience and perceptions of restorative justice. These conversations can be approached with humility and a readiness to take responsibility for the ways that our agencies and programs (or those of others), may have resulted in unintended harms toward victim clients. We might ask ourselves: How can our agency, as part of the restorative justice field, be accountable? What needs to be done to make things right?

When starting new relationships with victim service providers, we may begin with curiosity regarding their experience and perceptions of restorative justice.

Further, we may invite ongoing guidance from victim-serving professionals through Board appointments, advisory committee participation, training for ourselves and our service providers, and/or individual mentorship. This approach to building new and authentic partnerships with victim service providers can help to align the delivery of our services with the needs of victims/survivors.

Strategically, it is often helpful to begin this work of partnership internally (e.g. within the agency's board of directors) and work outwards (with stakeholders and clients). The following table indicates a potential strategy for expanding the diversity of partnerships within an agency.

Possible Goals	Possible Action Steps	Possible Outcomes
Align internal agency structures toward effective services for victims	<ol style="list-style-type: none"> 1) Find/develop an ally from within victim services to be on your agency’s Board. 2) Conduct an internal assessment to establish any structural hurdles to effective services for victims. 3) Adjust structures as necessary. 	<ol style="list-style-type: none"> 1) Board representation expanded. 2) Funding sources diversified and expanded. 3) Contracts renegotiated in relation to expectations, funding, referral parameters, services delivered, etc.
Foster guidance and voice by victim services through expanded partnerships	<ol style="list-style-type: none"> 1) Establish relationships with victim-serving agencies in your community. 2) Create/convene or participate on (if already existing) a victim-serving committee that envisions meaningful services for all victims. 3) Formalize partnerships with victim-serving agencies through Memorandums of Agreement or other mechanisms. 	<ol style="list-style-type: none"> 1) Increased awareness of the services available. 2) Role clarification for your agency in relation to services for victims. Agency becomes a strategic and important contributor to the local strategy for attending to crime victims’ needs.
Develop mechanisms with partners to evaluate and maintain alignment with restorative justice values and principles.	<ol style="list-style-type: none"> 1) Determine and articulate program’s shared values, principles, and outcome goals. 2) Develop tracking mechanisms to monitor fidelity of practice with articulated policies and procedures (i.e. are procedures and policies being adequately adhered to?). 3) Develop evaluation mechanisms for comparing real outcomes with outcome goals. 4) Establish ongoing partnership meetings to collaboratively reflect on the data gained through evaluation. 	<ol style="list-style-type: none"> 1) Shared outcome goals for restorative justice programming that is context and culturally specific. 2) Increased credibility with community and system partners. 3) Practices and programs that evolve toward stronger services through learning achieved by evaluation.
Assess and re-vision existing programs, and/or develop new programs to attend to victims’ needs	<ol style="list-style-type: none"> 1) Develop diverse program working committee (representing victims, offenders, community, justice system) for program assessment or development. 2) Assess existing programs effectiveness at meeting victims’ needs and/or what needs are currently going unmet for victims in your community 3) Engage committee in a re-visioning or development process for existing or new programs. 	<ol style="list-style-type: none"> 1) Establishment of community-based and representative advisory committee. 2) Informed assessment of program’s capacity to attend to victims’ needs. 3) Re-visioned or new program developed and driven by representative working committee. 4) Program manual articulating program structure, policies and procedures.

2.3 PROGRAM DEVELOPMENT⁸⁷

The *Guide for Developing Restorative Justice Programs in Alberta*, developed by the Alberta Restorative Justice Association, provides important understandings and elements of program design and development that can assist in the stages of development and re-visioning described in the following pages.⁸⁸ The current Guide attempts to expand upon and nuance the concepts in this earlier piece, with specific attention to serving victims.

The following describes a process of wholistic program re-visioning. When agency and program leaders take a collaborative approach to assessing and re-visioning their programs toward integrity with restorative justice values and principles, the natural result should be more meaningful service to victims. That said, these recommendations should also benefit others served, including offenders, families, communities and referral agents. Thus,

CASE STUDY: RE-VISIONING JUSTICE IN A US COUNTY

The following case study occurred in the United States between 2015 and 2017. At the time the following process was initiated, there were 10 “Diversion Panels” operating throughout the County with over 12 years of history and experience. The Panels were administered and facilitated by non-profit agencies in partnership with the county’s youth justice agency. They were locally based programs, utilizing community volunteers as panel members to provide a diversion from the formal court process of the youth justice agency.

Though originally developed as “restorative justice programs”, these programs had diverged significantly from the values and principles of restorative justice as described in this Guide. An assessment process was initiated by the youth justice agency’s Restorative Justice Coordinator. Several observations were highlighted including a lack of victim involvement or outreach, use of authoritarian tactics with youth and families, lack of capacity to attend to victims needs when victims were involved, lack of equity in process or representation, and implicit goals more aligned with youth rehabilitation than attending to overarching justice needs of all stakeholders. The facilitators and many of the volunteers had over 10 years of experience with the panels and had been operating throughout that time under the understanding that what they were doing was “restorative justice.” The first important decision was to steer away from focusing on whether the practice was restorative justice, and toward the question of whether or not the program could be enhanced through a re-visioning process aimed at expanding the community’s involvement and representation – particularly focused on enhancing the

⁸⁷ This section is grounded in the work of the following articles: Hartman, Matthew (2017). “Diversion from the Ground Up: Part 1 of 3”, *RJCO Quarterly*, P. 2. Available at: https://s3.amazonaws.com/media.cloversites.com/cc/cc7f2f79-a45f-4d3e-8eb3-f826ee58513d/documents/RJCO_Quarterly_Winter_2017_Final.pdf; and, Hartman, Matthew (2017). “Diversion from the Ground Up: Part 2 of 3” (2017), *RJCO Quarterly*, P.2, Available at: https://s3.amazonaws.com/media.cloversites.com/cc/cc7f2f79-a45f-4d3e-8eb3-f826ee58513d/documents/2017F_RJCO_Quarterly.pdf

⁸⁸ See “Guide for Developing Restorative Justice Programs in Alberta” (2015), Alberta Restorative Justice Association. Available at: <https://www.arja.ca/copy-of-videos-articles-research>

while the focus here is on strengthening service to victims, the process works to strengthen the restorative justice service as whole.

The work ahead is to imagine effective and meaningful service to victims and other stakeholders – and to engage program partners, participants, volunteers and staff in this process. In the process, you may hear from some of those involved that the program is already “restorative,” and may thus be questioned why you are trying to “fix something that isn’t broken.” As will be discussed, this resistance and skepticism should be engaged actively, carefully, and with compassion, as it can otherwise disrupt progress significantly. The case study presented may be helpful in illustrating the potential of these partnerships.

A PRINCIPLED APPROACH TO PROGRAM DEVELOPMENT

As an initiator of a re-visioning process, it is possible that you have the most experience and clearest understanding of why the existing practices are not as effective and restorative as they could be; and, the most practical knowledge about what does and doesn’t work in restorative justice service delivery in your community. With this experience, it would be easy and efficient to re-vision the program, rewrite the manual, and implement any changes as the leader and person responsible for your agency . . . right? Not necessarily!!



There are two reasons to be cautious of this approach. First, this method of change management can add fuel to existing skepticism. Those who have partnered, invested, and given to the program are likely to experience this approach as

CASE STUDY (CONT.)

services provided to victims. The intentional framing helped but was not enough to disrupt the resulting frustration and resistance from the program facilitators (paid staff) and the volunteer panel members. Concerns regarding government overreach, losing local agency, and change without meaning were expressed throughout the re-visioning process.

This resistance and concern, coupled with the intentional efforts to align the re-visioning process with restorative justice values, led the coordinators/facilitators of the re-visioning process to assure a community-development model of change that emphasized local agency, diverse representation, iterative development, and transparent process.

The coordinators started with two of the Panels as “Pilot” re-visioning locations. As described in this Guide, the coordinators worked in partnership with local non-profits to convene a representative working committee to re-vision the local program according to restorative justice values and principles, and the local character and ethic of the community in which services were being provided. Over the course of two years, these working committees (one in each pilot community) developed full program manuals that outlined the purpose, values, policies and procedures of their local programs. The revised programs were significantly more aligned with restorative justice values and principles and had the unanticipated effect of an emergent community ownership and buy-in that did not previously exist.

devaluing what they have to offer, and more importantly, what they *have* offered or contributed already. They may experience it as a judgment toward all the work that has come before and take exception with this perceived judgement. This can result in the loss of key allies and stakeholders, or at best, a longer and more painful re-visioning process than necessary.



It is the moments most challenging for administrators/coordinators that we must reflect on, and practice these values to maintain integrity, trust and right-relationship with our stakeholders throughout the process.

Second, taking a unilateral approach misses an opportunity to bring the values and principles of restorative justice to life in the program. Some values commonly associated with restorative justice include respect, interconnectedness, empowerment, listening, dialogue, humility, and curiosity - to name a few. Placing these values at the heart of our service suggests an invitation toward program development or re-visioning processes that give expression to these values. It is the moments most challenging for administrators/coordinators that we must reflect on, and practice these values to maintain integrity, trust and right-relationship with our stakeholders throughout the process. Howard Zehr and Harry Mika compiled a list of detailed principles for restorative justice. A few that are particularly relevant to this discussion are included below.⁸⁹

Selected Fundamental Principles of Restorative Justice

Victims, offenders and affected communities are the key stakeholders in justice.

The community's obligations are to victims and to offenders and for the general welfare of its members.

The justice process belongs to the community.

Community members are actively involved in doing justice.

The justice process draws from community resources and, in turn, contributes to the building and strengthening of community.

If we are to align our development and re-visioning work with these select principles, the following conclusions might be made.

Implications on Development and Re-visioning

Developing or changing restorative justice programs impacts the community. Therefore, the process must involve community members who have a stake or will be affected by the changes.

⁸⁹ Zehr, Howard and Harry Mika (1998). "Fundamental Principles of Restorative Justice," *Contemporary Justice Review*, Vol. 1, No. 1, Pp. 47-55. Available at: http://www.cehd.umn.edu/ssw/RJP/Projects/Victim-Offender-Dialogue/RJ_Principles/Fundamental_Concepts_RJ_Zehr_Mika.PDF

If the justice process belongs to the community, then the affected community itself needs to be the primary architects of any programs offering justice responses to harm.

For programs to be restorative, community needs to play a primary role in the program’s development, oversight, service delivery, and evaluation.

Diagram 1 (below) highlights a series of stages in the evolving relationship between the criminal justice system and community. This progression also suggests a vision for program development and re-visioning. How might the process of developing or re-visioning a program help set a foundation for an evolved role of the community in the administration of justice? Restorative justice advocates have an opportunity to encourage systems toward a different understanding and view of community; this may begin with modeling authentic partnership and engagement with the community. As community-based organizations, we have unique access to both the system and community stakeholders. We may, therefore be well situated as conveners and facilitators toward the vision articulated in this diagram.

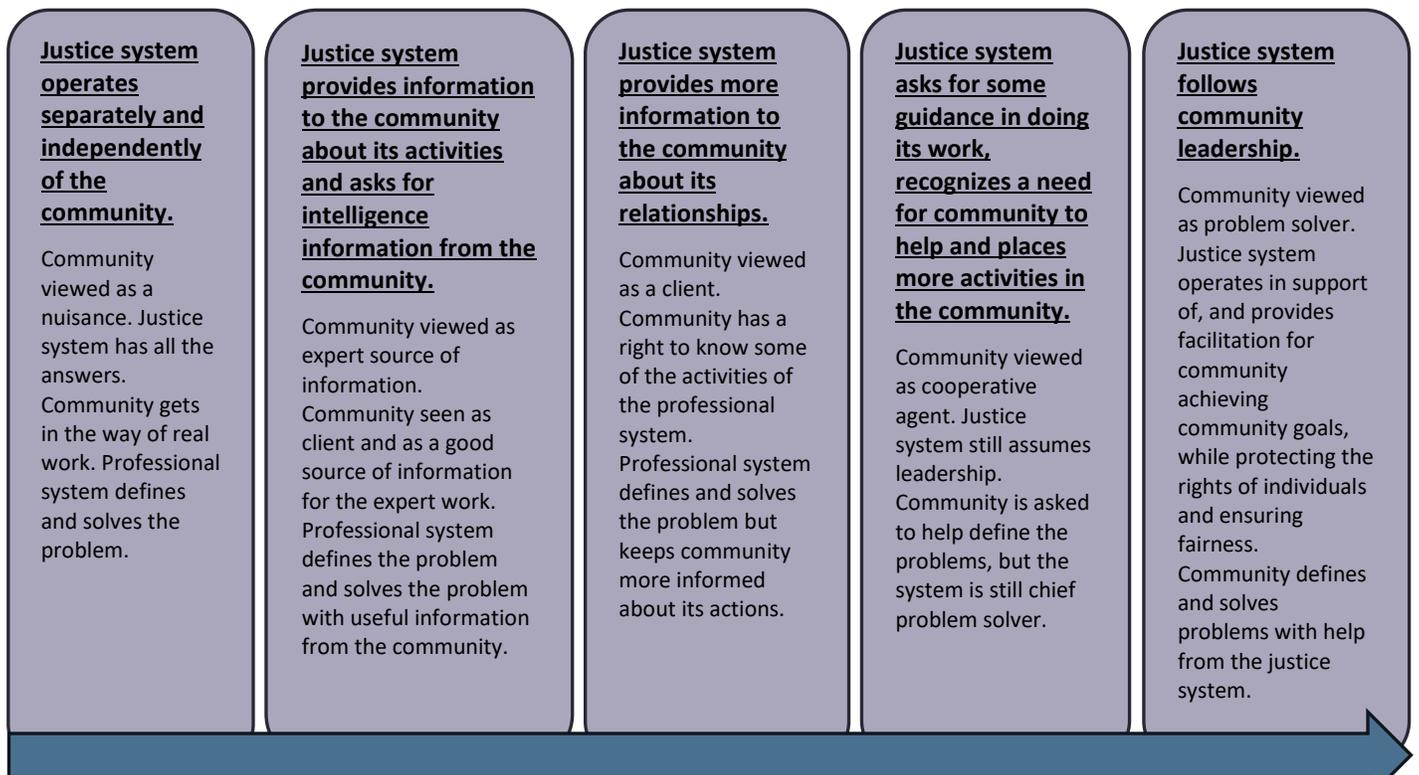


Diagram 1⁹⁰

⁹⁰ United States Government, National Institute of Corrections (2001). “Restorative Justice: Principles, Practices and Implementation.” Section 4: Building Community Resource Capacity, Pp. 239-240.

REPRESENTATIVE WORKING COMMITTEE

For the process to have integrity, it is important to involve the broadest representation of those who will be impacted by the program in its assessment, development, and or re-visioning. Victims/survivors and their service providers must be represented. Once stakeholder groups are identified, work with local leaders to identify the other formal and informal leaders in your community that can represent each group identified. The aim is to create a working committee to assess and re-vision the existing program toward one that is maximally aligned with restorative justice values and principles – with an emphasis on ensuring victims' needs are being effectively addressed through programming.

Possible Stakeholder Groups

- Victims/Survivors
- Victim Services
- Criminal Justice System
- Youth Justice
- Law Enforcement
- Youth
- Indigenous Communities
- Parents/Families
- Faith Community
- Non-Profit Agencies
- Small Business
- Schools
- Local Government

COMMITMENTS FROM KEY PARTNERS

When inviting busy stakeholder representatives into this work, attention should be paid to maximizing the efficiency of the process. To this end, it is wise to ensure commitment from local leaders and agencies with leverage and power over local policy and procedure. This means that those partaking in the process can realistically implement the revised program envisioned by the working committee.

In the case study provided earlier in this section, success depended on a commitment from the Director of the County's Youth Justice Director that she was willing to do what was within her power, and within the law, to implement the Diversion Programs as the community envisioned them. This included being willing to explore changes to the Youth Justice Agency's internal policies and procedures if necessary. For the Director to achieve this level of buy-in and commitment, the Youth Justice Agency was invited as an equal participant in the development of the program. The participation of their Deputy Director allowed them to identify unrealistic ideas emerging from the working committee, or those that needed to be phased in over time. Because these negotiations happened within the context of a process where all stakeholders had a voice, the outcomes were not experienced as a surprise or betrayal to the larger group of stakeholders developing the program.

Possible Orientation Topics

- Victim Services Orientation
- Youth Justice 101 and/or Criminal Justice 101
- Defining Justice (Specifically Analyzing Community's Role)
- Impacted Parties' Needs
- Trauma and Resilience
- Shame and Punishment
- Restorative Justice:
 - Values and Principles
 - What Restorative Justice is Not
 - Restorative Justice Practice Models

STARTING FROM THE SAME TRAILHEAD

Once you have commitment from stakeholder representatives, the next step is to ensure the group is working from the same premise regarding restorative justice values and principles. This can be accomplished through a recommended one to three-day Working Committee orientation. Though a significant commitment, taking the time to align understandings, find common language, and buy-in to a common set of values and vision will save the Committee time over the long term.

The goal of the orientation is to provide a foundation of understanding, language and vision upon which assessment and re-visioning

can be built. It is important that participation in the orientation be an expectation for stakeholders involved in the working committee. Without this common understanding, differing assumptions can impede progress.

The Guide for Developing Restorative Justice Programs in Alberta contains additional information which may help to guide and inform the processes recommended here.⁹¹ Section II, "Restorative Justice," provides a further orientation to the principles and practices of restorative justice which may provide the reader with considerations on what could be included in an initial working committee orientation. Section III, "Developing a Restorative Justice Program," contains additional details and recommendations to consider in program development and administration.

ASSESSMENT

A recommended first step in the change process is to identify, to the extent possible, tangible and objective information regarding your agency or program's alignment with its intended goals. The outcome of this assessment can guide both the process used to re-vision, and the outcomes and decisions made in the re-visioning process. There are many approaches to the assessment of

⁹¹ See Alberta Restorative Justice Association (2015), "Guide for Developing Restorative Justice Programs in Alberta", Pp.7-16. Available at: https://docs.wixstatic.com/ugd/adb2db_63a135b633d548518d9c69ff5515f6c4.pdf

programs and processes. This can be as informal as process observation, or can take the form of more formal evaluation processes.⁹² The process of re-visioning can also be a form of program assessment, in that it involves taking stock of a program's practices through the lens of what might be adjusted to be more aligned with program principles.

RE-VISIONING

Once you have observed areas of misalignment and/or the gaps in service, the working committee can enter the collaborative process of re-visioning the program. Depending on the availability of your committee, it could take one to two years for the re-visioning process. Again, avoid the temptation of shortcuts for the sake of efficiency. It is likely that shortcuts taken may result in delays and unsustainable decisions that resurface in the future administration of the program.

Strategies for an Effective Re-Visioning Process

To keep the discussion and process oriented to deep presence and listening, consider having all meetings begin and end with a circle process utilizing a talking piece. A circle could also be used whenever the Committee runs into complex issues that elicit multiple viewpoints.

Consider using consensus to make all programmatic decisions.

When necessary, take the time necessary to meaningfully respond to process concerns, experienced harm, etc. Pay great attention to 'walking the talk' to respect everyone's experience. Recognize and find patience for having to revisit topics previously concluded to either confirm or adjust decisions made. It likely will not be a linear process.

Carefully consider the logistics and format of the process with the impacts on committee members in mind. Consider using a central location, consistent process facilitator, and careful recording of process outcomes and decisions.

On the following page, Diagram 2 provides a possible meeting progression for iterative and elicitive committee engagement.⁹³ The process may begin with introducing literature to help

⁹² See for example Billingham, Stephanie G. (2012), "A Victim-centered Appraisal of Restorative Justice Victoria". Available at:

https://dSPACE.library.uvic.ca/bitstream/handle/1828/5070/Billingham_Stephanie_MA_2013.pdf?sequence=1&isAllowed=y

⁹³ In this context, "iterative" means cyclically returning to topics to produce the most effective and sustainable outcomes. Often in engaging on a given issue, new ideas emerge for issues already addressed previously in the process. It is important for the facilitator to allow participants to revisit these issues to infuse new learning. "Elicitive," in the context of this Guide, means to bring forth or evoke local, internal, and historical wisdom and experience. An elicitive process is one that is structured and facilitated in a way so as to be as non-prescriptive as possible, allowing the participants to become the authors of their own solutions to problems they have identified.

inform committee members of the topics at hand. For example, if a topic to be discussed is how to effectively invite victims into the process, you might provide parts of the Practitioner-oriented section of this Guide for committee members to review prior to the meeting itself.

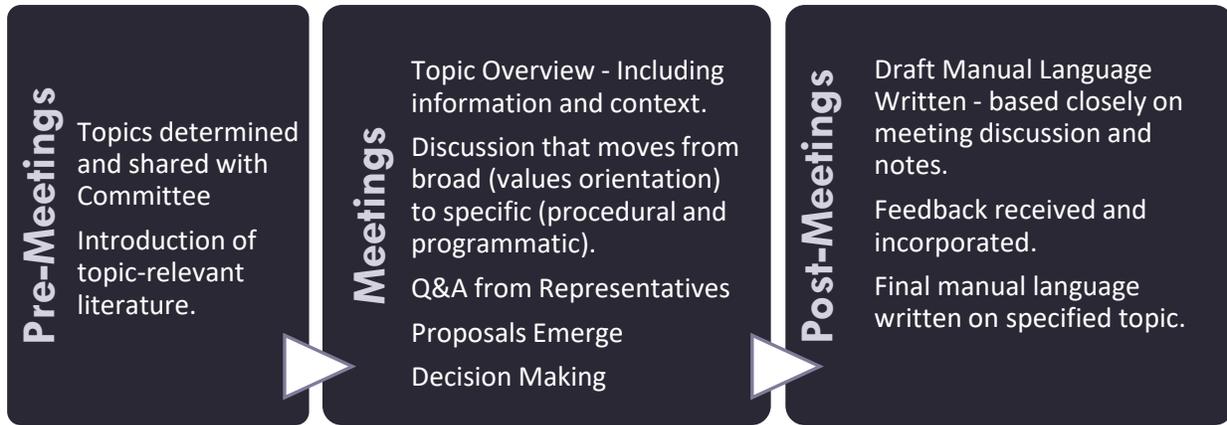


Diagram 2

During meetings, participants can be provided with a short overview or summary of the literature’s main points regarding the topic at hand. The facilitator can then guide exercises or discussions that support the development process. It is important to begin broadly with questions based on values. On the topic of initial contact with victims, for example, an opening question could be: What values would you like to see communicated in the initial letter that is sent to the victim? As these foundational values are named, the facilitator can guide the discussion to the more specific using open-ended questions aimed at eliciting critical thinking. Procedural questions might include:

How might the value of empowerment play out in our initial letter for the victim?

How can we explicitly avoid coercion in the introductory process?

How might a trauma lens inform this procedure?

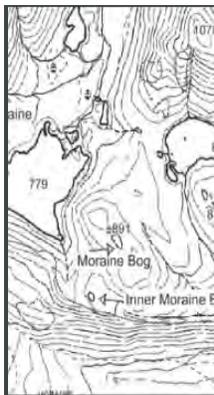
How might our value of equity inform this policy?

In the process of eliciting ideas and direction, conceptual proposals emerge from the group regarding the policy, procedure, or practice. These proposals are debated and explored extensively, ultimately leading to consensus about the proposed concepts.

The focus of this process is on conceptual understanding, not on wordsmithing manual language. Wordsmithing can be done after meetings, asking for feedback and edits from the committee. Ideally the convener can arrive at manual language that the committee can approve via

consensus at the beginning of the following meeting. Often, the manual language can create new questions, ideas or concerns that can only be addressed through further dialogue. This is where patience and commitment to the process is essential.

As a discipline, restorative justice promotes the importance of relationships. This process will test our commitment to that knowledge. Our desire to act – to move forward – will tempt us to minimize or ignore concerns that surface. It is crucial that facilitators invest in and maintain relationships with Committee members. A commitment to authenticity, vulnerability, regular one-on-one check-ins, proactive outreach to address concerns or questions, and consistent and dependable communication are critical requirements for the success of re-visioning efforts.



A commitment to authenticity, vulnerability, regular one-on-one check-ins, proactive outreach to address concerns or questions, and consistent and dependable communication are critical requirements for the success of re-visioning efforts.

In conclusion, the process outlined in this section can help restorative justice programs invent or re-invent themselves in ways that reflect the local character, ethic, and culture of the communities they serve. The process may also build the foundation of a committed and sustained cohort to guide the growth, development and accountability for the programs.

Ensuring victim and victim service representation on this committee is a critical step in maintaining a program's capacity to effectively attend to the needs of victims in your community.

2.4 MONITORING AND EVALUATION

One aspect of program development to be prioritized in the re-visioning process is evaluation. So often we are testing theories of change in our interventions – i.e. “if we provide x, then y will occur or change.” For example, we may believe



Monitoring and evaluation are mechanisms for ensuring that the outcomes we seek are truly the outcomes that our clients experience.

that if we provide victims a spectrum of options for their involvement, victims will experience more agency in the process. This is a sound theory, yet how can we be sure that our services are resulting in the outcome of victim agency? Monitoring and evaluation are mechanisms for ensuring that the outcomes we seek are truly the outcomes that our clients experience.

Common evaluation measures attending to victims' experiences in restorative justice include:⁹⁴

- victims' perceptions of "fairness;"
- levels of fear and anger before and after a restorative justice intervention;
- receiving agreed-upon reparation or compensation;
- changes to trauma-related symptoms;
- feelings of being "heard" or "recognized" by the offender and/or others;
- consistency between what the victim expects and what is experienced in the process;
- quality of interactions with facilitators; and/or,
- victims' achievement of their relational goals.⁹⁵

Evaluation can be more than simply a process of finding out whether your program and practices are "working" to achieve their goals. Evaluation at its best is an ongoing process of learning and reflection, in which evaluation results feed into ongoing plans for adaptation.

Effective evaluation begins with establishing shared objectives and goals for our program. To determine the activities necessary to provide, we need to have a vision for the change and impact that we seek. (This may be a logical starting place for the working committee described in the previous section). It is critical that a portion of these objectives and outcome goals are specific to the needs of victims. If you have representation of victims and their service providers on the working committee, then this will likely be addressed through their inclusion. The work of articulating restorative justice objectives and goals can also help to maintain integrity in service delivery with the values and principles of restorative justice. The work of developing these objectives and goals, along with mechanisms to ensure they are maintained as the focus of the program, is a core part of maintaining the integrity of restorative justice practice. These efforts may include pre- and post-program participant evaluations, regular reflection on the outcomes of these tools, and a commitment to use this information to adjust activities and practices to more fully achieve the objectives articulated by the committee.

⁹⁴ Van Camp, Tinneke and Jo-Anne Wemmers (2013). "Victim satisfaction with restorative justice: More than simply procedural justice". *International Review of Victimology*, Vol. 19, No. 2, Pp. 117-143.

⁹⁵ For example, measuring changes in the relationship between the victim and offender, and/or between the victim and a community of support. For a more in-depth treatment of the topic of evaluation from a relational perspective, readers are encouraged to see Llewellyn, J.J; Archibald, B.P.; Clairmont, D.; Crocker, D. (2013). "Imagining Success for a Restorative Approach to Justice: Implications for Measurement and Evaluation." *Dalhousie Law Journal*, Vol. 36, No. 2, P. 281.

2.5 REFERRALS

The notion of “referrals” to restorative justice suggests a high level of disconnection between our programs and the wider criminal justice system: restorative justice as an “offramp” from a separate system. Victims would be well served by expanded partnerships between our programs and other components of the criminal justice system, based on a shared appreciation and commitment to the values and principles of restorative justice. Nevertheless, referrals remain an important step in initiating restorative justice services.

The conversation on referrals has often been one that focuses narrowly on who “deserves” restorative justice services, as determined by the nature of offenders and their offences. This focus does not honour the perspective, experience or needs of



The conversation on referrals has often been one that focuses narrowly on who “deserves” restorative justice services, as determined by the nature of offenders and their offences.

persons that have been harmed by these actions. These offender-oriented structures and parameters can contribute to unbalanced and restrictive access to restorative justice services. On the other hand, in broadening how, when and from whom you receive referrals, you can significantly expand the victim orientation of your program.

THE TIMING OF REFERRALS

Victims often feel displaced by the criminal justice system, not only by what services are offered to them, but by when they are offered. Restorative justice referrals are often made on court or law-enforcement timelines, which contributes to a sense by victims that the process is offender-oriented. Sometimes the referral comes after too much time has passed since the crime, and the victim has already moved on from the incident. Conversely, in other scenarios the referral to restorative justice is made on tight timelines for which the victim is not ready. In either case, the



For programs to be attentive to victims’ needs, local jurisdictions would need to find ways to offer restorative justice processes at any point of the justice systems’ response and based on the needs of victims.

timing of what we have to offer often does not align with the timeline of victims’ needs. Victims are often powerless in those scenarios.

For programs to be attentive to victims’ needs, local jurisdictions would need to find ways to offer restorative justice processes at any point of the justice systems’ response and based on the

needs of victims. Whether it is pre-charge, pre- or post-sentence, during supervision, or even

post-supervision, dialogue/encounter services could be available to victims if and when they need them, not when it suits the justice system or our program.

BY WHOM REFERRALS ARE MADE

Enhancing victims' access to restorative justice requires looking closely at referral sources. Criminal justice system partners (youth justice personnel, law enforcement, Crown, etc.) often hold the keys to restorative justice access. Opening the door more widely for victims may require creating avenues for them to be able to initiate referrals themselves or through their victim service providers. This kind of access will require strong ties between our programs and victim service providers in our communities. This goes beyond building relationships or providing an occasional brief presentation, toward engaging victim services as allies and partners. If we can open the door in our referral protocols for victims to be able to initiate referrals, and we have program flexibility to be able to serve these victims restoratively regardless of the choice or readiness of the offender, we will have taken a significant step forward in our capacity to effectively serve victims in our programming.

2.6 PROGRAMS OFFERED

The types of programs that are offered through our agency will significantly affect the kinds of referrals we can receive. Whether through partnerships with victim services, or through the creation of new programs within our own agencies, we should aspire to ensure that victims needs are being meaningfully and restoratively attended to, whether or not a police report has been recorded, the offender chooses to participate, or a restorative encounter is anticipated.

If our agencies are to be effective in attending to the needs of victims, our programs need to be diverse and flexible enough to respond to these needs in various contexts. In an ideal scenario, whether a case is received from the formal court process, or a victim walks into our office off the street without having contacted law enforcement,



If our agencies are to be effective in attending to the needs of victims, our programs need to be diverse and flexible enough to respond to these needs in various contexts.

our agency could respond meaningfully to the existing needs. This requires some creativity and flexibility within our agencies regarding how we operate and view our programs, along with proactive and persistent efforts to build partnerships with victim services in our community. Victim-specific restorative programming might include circles of support (involving community-volunteers and/or other crime victims), surrogate processes (in which victims engage in dialogue

with a person who commit a similar crime as the one perpetrated against the victim), or other avenues.



A restorative response to victims' needs requires multiple avenues for victims to access support and services.

A restorative response to victims' needs requires multiple avenues for victims to access support and services. Our agencies can be an integral part of this through our program design and partnership development, and the recruitment of other partners to help fill service gaps.

2.7 POLICY AND PROCEDURE

Most restorative justice advocates are more passionate about human dynamics than about standards, policies, manuals and the like. Sometimes we make the mistake of believing that creating manuals, and/or clarifying expectations and support mechanisms through policies and procedures will give rise to mechanized, inauthentic, and unresponsive practice. However, this position can have the effect of preventing our agencies from administering a sustainable service that maintains its integrity with restorative justice values and principles. In our prioritization of flexibility, human relationship and context over program infrastructure, sometimes we may overlook the realities of staff and volunteer turnover, system cooptation, funding volatility, and misaligned practice habits that can inevitably occur within programs.

The creation of program infrastructure through policies and procedures, ideally collected in a program manual, need not come at the expense or loss of relationality, authenticity or flexibility to context and culture. If approached carefully, program infrastructure can enhance the capacity of practitioners to operate responsively and safely within a set of well-articulated values and principles. Program manuals can provide a protective membrane around a program, guarding against many of the risks previously mentioned. This is an important step in our commitment to serving victims.



If approached carefully, program infrastructure can enhance the capacity of practitioners to operate freely, authentically, and safely within a set of well-articulated values and principles.

2.8 TRAINING, COACHING AND MENTORING

A frequent critique of the restorative justice field is that training expectations are not adequate for the significance of the work we do. As indicated in the Literature Review, lack of training has

a direct correlation to services that are not attuned to victims' needs, resulting in ineffective or even harmful service.⁹⁶ If we intend to address victims' needs in meaningful ways, our programs must put energy and resources into providing proper training for practitioners and facilitators. This section outlines some basic recommendations and guidance on this topic.

TRAINING REQUIREMENTS

Addressing the training needs of our staff and volunteers ensures that they have the capacity to effectively respond to the emergent needs of our clients. Programs may consider creating protocols and expectations aligned with the following components of training requirements.

PRE-REQUISITE TRAINING

Pre-requisite training focuses on foundational concepts and skills necessary for any practitioner to do the work of your program. This is training that should be required prior to a practitioner providing direct service to any of your clients, even under the supervision of a coach and/or mentor. Across North America, a minimum requirement of time for pre-requisite training is often in the range of 35-40 hours, although the specific content of what this training looks like in each jurisdiction varies (See below "Topics for Training" for examples).

CONTINUING EDUCATION, COACHING, AND MENTORSHIP

Continuing education focuses on expanding practitioners' knowledge and skill beyond the foundational or entry level, while also conveying material and skills that cannot be effectively covered in the time provided for the pre-requisite training. It is important to have clear expectations of continuing education required for practitioners. Continuing education frameworks often include a combination of training, practice/role-play groups, coaching, and mentoring. Consider partnering with local victim service providers to provide coaching in role-plays or case observation specific to ways to strengthen the services provided to victims.

PRACTICE AND EVALUATION

Programs will often require a certain number of service hours within any given time-frame to maintain skills and knowledge. For new practitioners, this can be coupled with requirements of whom they facilitate with (co-facilitation is typically regarded as best practice), and specific mechanisms for collaborative debriefing, mentoring and evaluation. Some programs require each practitioner to co-facilitate at least once per year with the Program Coordinator and receive

⁹⁶ Choi, Jung Jin, Gordon Bazemore, and Michael J. Gilbert (2012). "Review of Research on Victims' Experiences in Restorative Justice: Implications for Youth Justice," *Child and Youth Services Review*, Vol. 34, No. 1, P. 40.

an evaluation afterwards that may include recommendations for additional training or mentoring.

Creating clear expectations, structures, and tracking mechanisms for these elements of capacity development is a crucial part of developing and maintaining programs with capacity to effectively serve victims.



Creating clear expectations, structures, and tracking mechanisms for these elements of capacity development is a crucial part of developing and maintaining programs with capacity to effectively serve victims. Once again, written policies can give staff, volunteers and community partners a clear understanding of the capacity development expectations within your program.

TOPICS FOR TRAINING

The nature of training provided to staff and volunteers depends on what services are provided by the program. Part of re-visioning programs to more effectively attend to victims’ needs is to diversify the services beyond simple encounters. If a program successfully diversifies its service provision, then the training needs will change as well. It is also important to recognize the areas in which we are not best suited to provide training. This is where strong partnerships with victim services and others can be essential for the provision of advanced and continuing training to our staff and volunteers. Following is a sample list of recommended topics to be included in a program’s orientation training.

SAMPLE PRE-REQUISITE TOPICS FOR VICTIM-OFFENDER ENCOUNTER PROGRAMS (E.G. DIALOGUE, CONFERENCING, OR CIRCLES)

<ul style="list-style-type: none"> Philosophy, values and principles of restorative justice 	<ul style="list-style-type: none"> Legal parameters for restorative justice in criminal cases
<ul style="list-style-type: none"> Process Guidelines 	<ul style="list-style-type: none"> Victim Sensitivity
<ul style="list-style-type: none"> Facilitation skills 	<ul style="list-style-type: none"> Impact of trauma
<ul style="list-style-type: none"> Basic understandings of the criminal justice system, along with partnered services and supports for victims and offenders 	<ul style="list-style-type: none"> Engagement knowledge and skills for working with offenders, victims and community members
<ul style="list-style-type: none"> Understanding power and skills for navigating power imbalances 	<ul style="list-style-type: none"> How to elicit needs and interests of participants

<ul style="list-style-type: none"> • Basic understandings of the root causes of crime and working with offenders 	<ul style="list-style-type: none"> • How to design process to address elicited needs
<ul style="list-style-type: none"> • Interpersonal and communication skills 	<ul style="list-style-type: none"> • Introduction to Equity Issues in Restorative Justice Practice
<ul style="list-style-type: none"> • Cultural Humility and Responsivity 	

SPECIFIC TRAINING OPPORTUNITIES TO ENHANCE VICTIM ORIENTATION

<ul style="list-style-type: none"> • Trauma-Informed Care 	<ul style="list-style-type: none"> • Orientation to Victim Services
<ul style="list-style-type: none"> • Basic Introduction to Counseling Skills and Tools 	<ul style="list-style-type: none"> • Importance of agency and autonomy in trauma resiliency
<ul style="list-style-type: none"> • Crisis Response 	<ul style="list-style-type: none"> • One-on-one coaching skills
<ul style="list-style-type: none"> • Specific training for victims served (children/youth, elders, women, LGBTQ2 people, etc.) 	<ul style="list-style-type: none"> • Culturally specific training

2.9 COMMUNICATING PUBLICLY ABOUT RJ

As a restorative justice field, we have sometimes struggled with effectively communicating our work to others. Walk up to just about any victim service provider and ask them what restorative justice is, and they will likely describe a victim-offender dialogue, conference or circle. They may even simply say it is when a victim and offender come together to discuss a crime. You might even hear things like “restorative justice . . . that’s that program for youth offenders.” Overall, messaging about restorative justice tends to focus more on dialogue mechanisms than on principles of justice, and more on offenders than on victims.

In training workshops or presentations, restorative justice advocates have often proclaimed that RJ is not a program, but a framework or philosophy for how we choose to respond to harm in our communities. In the next breath, we



may give explanations of *doing* restorative justice in terms of facilitated dialogue. This inconsistency in our framing can make it difficult for victims and others to understand what we mean by our terms. It can even be difficult for us internally (as a movement) to separate

philosophy from process in our communication. Where such confusion exists, a lack of buy-in or referrals to RJ is not surprising.

Restorative justice programs demonstrate an orientation toward victims by ensuring that victims’ concerns are present in communication, marketing, and outreach materials. One way to ‘check’ our communication is to assume that there are survivors of serious and violent crime in the group you are speaking to (and likely there are!) How will your communication sit with them? If you have concerns about how you would answer this, consider adapting how you are talking about your work and/or operate your practice. If we are having difficulty maintaining a communication strategy that emphasizes our program’s capacity to respond to the needs of victims, this may signify that our program itself may require re-visioning toward this emphasis. More often than not, our language reveals important truths about our work.

As will be explored in the following section of the Guide, restorative justice proponents may have a tendency to communicate their aims in offender-focused and system-oriented terms. Instead, we recommend victim-focused messaging. Examples of two approaches to messaging are as follows:

Offender and System-Focused Messaging	Victim-Focused Messaging
Giving young people a second chance.	The accused/offender’s responsibility toward the victim
Avoiding punitive measures and criminal records.	The community’s concern for the well-being of victims
Helping the accused learn from mistakes and gain empathy.	Opportunities for the victim to meet needs that often go unmet in other justice processes, such as: <ul style="list-style-type: none"> • being heard; • receiving answers to questions; • holding the offender accountable for specific harms; • having a say in how the situation is addressed; and/or, • gaining reparation.
Saving the courts time and costs.	
Helping address the root causes of crime.	
Reducing recidivism.	
Transforming the criminal justice system.	

Communication, marketing and outreach is another area where having victims and their service providers in your leadership can be of benefit. They have experience of knowing what

communication resonates with victims and their service providers, and therefore can provide significant input into how to communicate your programs' work.

2.10 CONCLUSION



... central theme: the importance of building meaningful, authentic and sustained partnerships with victims and their service providers.

Throughout this discussion of program administrator considerations, we have emphasized a central theme: the importance of building meaningful, authentic and sustained partnerships with victims and their service providers. Build

these connections to the point where you become allies for each other. Find ways to rally the restorative justice movement around the legislation for victims' rights they are working on. Take the work of justice reform for victims as seriously as you are taking the work for justice reform for offenders. Recruit victims and their advocates for your leadership, staff and volunteers. Invite them as coaches for your facilitation training. If we commit to this kind of partnership, the result will be more holistic and effective services for the people harmed within our communities.

3 WORKING RESTORATIVELY WITH VICTIMS OF CRIME: A PRACTITIONER'S GUIDE

3.1 INTRODUCTION AND PURPOSE OF THIS SECTION

Crime is disorienting. As victims begin a process of seeking assistance, recovery and justice, the quality of response they receive from people around them can be a fundamental factor in their recovery. An encounter with restorative justice programs and practitioners can, for some victims, be the first time they receive validation for the harm suffered and begin to explore their own individual and family's needs apart from the goals and requirements of the justice system. This encounter can be a welcomed experience of caring human contact and relationship amid a backdrop of uncertainty and isolation. Being a companion to victims in these times requires a combination of mindset, presence and skills, grounded in an awareness of the experience of victimization. It is assumed that some readers will identify their practice as "victim-centred" or similar terminology, while others will describe their philosophy in different terms. Welcoming this diversity in approach, this section is intended as a practical resource for any practitioner or facilitator in restorative justice to reflect, explore and develop their capacities in service to victims.

3.2 CRIME AND RECOVERY

Serving victims in restorative justice begins with asking, "what do crime victims need in the aftermath of victimization?" Our first task as practitioners is to seek an understanding of the



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Crime affects victims' lives in sometimes unexpected ways. Whether a "property" offence or an act of physical violence, the experience can alter the victim's

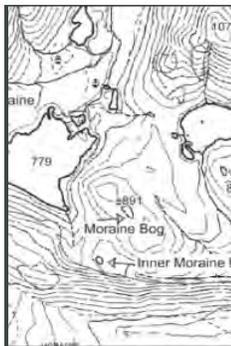
experience of many aspects of life. For the victim of a break and enter for example, the loss of property may be one small factor amid a much larger experience of loss: loss of a sense of security, predictability and trust for others. Similarly, the physical injury of an assault may heal more quickly than the shock of the incident and the continued expression of that shock in the mind and body through the symptoms of psychological trauma. So, beyond the tangible impacts

of crime – physical injury, property damage/loss, financial costs and the like – victimization is often experienced as a crisis within a person’s sense of themselves and the world around them. The “seriousness” of a crime for a victim is really a product not just of the incident itself, but the relationship between the incident and the person’s life experience at the time. Practitioners are well served to begin their engagement with victims in a state of open curiosity rather than certainty when it comes to the victim’s experience.

Psychological trauma may result from the victimization of crime. Traumatic experiences are those that overwhelm a person’s ability to cope with or respond to a threat. Trauma signifies a physiological “survival” response that outlasts the event itself. Common expressions of trauma include:

Withdrawal/Avoidance	Hiding, numbing, difficulty being around others, zoning out, etc.
Arousal	Anxiety, hyper-vigilance, talking fast, trembling, sweating, jumpiness, difficulty concentrating, etc.
Intrusion	Re-experiencing events, flashbacks, nightmares, re-enactment of the trauma, etc.

These kinds of symptoms are normal responses to abnormal events. For some victims, they persist on an ongoing basis without fading or dissipating, a condition known as Post-Traumatic Stress Disorder (PTSD). Not all crime victims undergo trauma, and far fewer retain the symptoms of PTSD. Practitioners (at least those who, like the authors of this Guide, are not clinicians) are wise to remember that our role is not one of making diagnoses or assigning categories to victims. Instead, the invitation is to approach our work with information and awareness of the many layers of victimization. Beyond the important physiological changes that may occur, victimization is experienced emotionally, socially, and even spiritually. It is these intangible dimensions that become the ‘currency’ of justice as healing and recovery.



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The crisis of victimization can in fact undermine essential “pillars” of a person’s experience of wholeness, such as their sense of autonomy, relatedness, and a predictable ‘order’ to life.⁹⁷ We

⁹⁷ Zehr, Howard (2012). “Journey to Belonging”, in Weitekamp and Kerner (eds.), Restorative Justice: Theoretical Foundations, Pp. 23-24. Available at: <https://www.napierlibrary.co.nz/assets/mcelrea/Journey-to-Belonging-by-Howard-Zehr-Massey-University-20000424.pdf>

all need to feel a sense of personal control over our lives; crime violates that personal control by removing our power to choose or influence our circumstances in the moment. Similarly, a basic human need is to feel connected to, trusting of, and valued by others. The experience of victimization often spurs distrust, alienation and isolation. Finally, we all need to believe in a certain degree of order and predictability about the world; crime may disrupt fundamental beliefs about the world as a predictable and safe place.

Put another way, the experience of victimization may bring into question the victim's fundamental relationships: to themselves, to others and the world itself. In relation to oneself, the victim may be compelled to ask "who am I? Why me? Or even, how could I let this happen?" In relation to others, the victim may be searching for answers: "who did this? Who knows about this? What are others thinking about me? Who can I trust?" In relation to the world, the victim may wrestle with fundamental questions: "how do we account for evil? How can a compassionate Creator let this happen? What can I expect of my world?" Related to these fundamental questions, victims experience an enormous array of powerful emotions: shock, grief, confusion, fear, anger, depression, and shame, among others. Zehr summarizes the experience in the three "Ds" of disempowerment, disconnection and disorder.⁹⁸



What does it take for a victim to begin to walk a path toward recovery from the impact of a crime? What might help the journey toward greater wholeness or well-being? Recovery is different for each person, and it is fundamental to restorative justice that "victims should be able to identify their own needs."⁹⁹ Still, Zehr suggests that there are some common waypoints expressed by many victims along their journey. Out of the disempowerment of crime, victims may recover or discover a sense of honour, dignity, autonomy and voice. After the pain of disconnection and isolation, victims may gradually find a new experience of connection and trust based on compassion and solidarity – "vindication," to use Zehr's word – shown by others. And with safety over time, the fragmentation and disorder of the violation may give rise to new ways of seeing the past, present and future that contain the painful story of the harm within a new narrative of

⁹⁸ Ibid., P. 23.

⁹⁹ Ibid., P. 23.

hope. These intertwining paths are referred to by Zehr as the journeys toward honour, vindication and meaning.¹⁰⁰ As he points out,

*Whether we have victimized or have been victimized, the journey from brokenness and isolation to transcendence and belonging requires us to re-narrate our stories so that they are no longer just about shame and humiliation but ultimately about dignity and triumph.*¹⁰¹

How then can justice help to restore or bestow honour to a victim? How can a justice process provide an experience of vindication, or the caring acknowledgement of a victim's blamelessness for the harms committed against them? How can a justice response be grounds for remembrance, discovery, hope and new meaning for victims? And, importantly, how can the restorative justice practitioner be an agent of justice toward these ends?

3.3 A MINDSET FOR RESTORATIVE JUSTICE PRACTICE

Thinking about one's role as an agent of justice requires us to make distinctions between restorative justice work and other types of intervention or facilitation roles. There is certainly some overlap between restorative justice and, for example, counselling, mediation, or coaching roles. Yet there are distinct differences in mindset that guide the way for further exploration of capacities and skills.

Descriptions and definitions of restorative justice provide clues as to the nature of this role. For example, Zehr describes restorative justice as:

*an approach to achieving justice that involves, to the extent possible, those who have a stake in a specific offense or harm to collectively identify and address harms, needs and obligations in order to heal and put things as right as possible.*¹⁰²

Looking closely at this definition, we can see two important facets of restorative justice. First, we can observe a quality of *responsiveness* to the harms and needs of participants. Second, we find within the definition a *vision* of justice as reparation, healing, or "putting right." Practitioners of restorative justice can model these qualities of justice by developing a type of presence that is at

¹⁰⁰ Ibid., Pp. 26-30.

¹⁰¹ Ibid., P. 28.

¹⁰² Zehr, Howard (2015). *The Little Book of Restorative Justice, Revised and Updated*, P.48.

once *responsive* to the needs of victims, and *visionary* in maintaining the possibility of hope and inviting recovery and growth as defined by the victim.



Practitioners of restorative justice can model these qualities of justice by developing a type of presence that is at once responsive to the needs of victims, and visionary in maintaining the possibility of hope and inviting recovery and growth as defined by the victim.

A RESPONSIVE MINDSET

Where crime removes control from victims' lives, justice can be a process to restore to victims a renewed sense of control over themselves and their experience. The trauma specialist Bruce Perry notes that, "Because trauma at its core is one of total powerlessness and loss of control, recovery requires that the patient be in control of key aspects of the therapeutic interaction."¹⁰³ While restorative justice practice differs from therapy, practitioners' responsiveness to victims' needs is a step in a similar direction. Responsiveness in restorative justice practice can apply to both the goals and the design of the process.

RESPONSIVENESS IN GOALS

Restorative justice practice must adhere to the Hippocratic oath, "first, do no further harm." Beyond this principle however, it could be argued that the goals of restorative justice should not be prescribed by practitioners but should ultimately come from the needs identified by the participants themselves.



It must be acknowledged that restorative justice is not an approach by which any and all goals can be met. Restorative justice cannot for example be responsive to goals of vengeance or aggression while maintaining integrity to its principle of reparation. Restorative justice practice must adhere to the Hippocratic oath, "first, do no further

harm." Beyond this principle however, it could be argued that the goals of restorative justice should not be prescribed by practitioners but should ultimately come from the needs identified by the participants themselves.

Aspirations that resonate for one crime victim may be alienating for another. One crime victim survivor expressed, "I don't mind 'recovery,' but don't tell me 'closure.' That one will get you a

¹⁰³ Perry, B. and Szalavitz, M. (2006). *The Boy Who Was Raised as a Dog, and Other Stories from a Child Psychiatrist's Notebook*, P. 245.

black eye!”¹⁰⁴ Similarly, the concept of ‘forgiveness’ may represent emotional freedom for one victim, and for another represent the “F-word” of unjust expectation.¹⁰⁵ ‘Reconciliation,’ another concept often associated with restorative justice, may be a source of hope and justice for one, and to another represent a source of continued oppression by the offender. Even apology, which is often assumed to be a need for victims, may not be desirable for some. As one crime survivor said about the prospect of receiving an apology from the offender,

*I would feel slimed again. I suspect he would enjoy talking about what he did. He wouldn't really be sorry, in the sense of remorse or regret. And I would be wary of an apology because then I would feel pressure to forgive him and have a closer relationship. I don't want a relationship; I want to keep him at a safe distance.*¹⁰⁶

Practitioners demonstrate a responsive mindset in accepting and supporting differences in the victims' goals. A responsive mindset toward victims means being able to prioritize the language and goals of victims themselves ahead of what we or others might believe is good for them.

Being responsive also means supporting victims' choices about whether to participate at all in a restorative justice process. As this section will explore in greater detail, the goal of initial engagement with victims is to provide information, validation and exploration of options; a responsive approach would discourage trying to convince victims of the merits of a restorative approach. Victims' goals in justice may include total disengagement from the offender or the use of adversarial legal processes to achieve justice. While an exploration of the needs underlying these options may be fruitful for many victims, an ethic of responsiveness would guide the practitioner to enter these explorations without a separate agenda of their own. A successful justice process for victims is one which meets the needs of the victim, rather than one that necessarily draws upon the services offered by the practitioner.

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¹⁰⁴ Zehr, Howard (2001). *Transcending: Reflections of Crime Victims*, 38.

¹⁰⁵ Armour, Marilyn Peterson and Mark Umbreit (2005). "The paradox of forgiveness in restorative justice", *Handbook of Forgiveness*, P. 493.

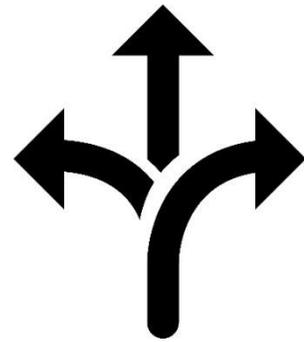
¹⁰⁶ Herman, Judith Lewis (2005). "Justice From the Victim's Perspective." *Violence Against Women*. Vol. 11, No. 5, P. 587.

RESPONSIVENESS IN PROCESS

“The control the restorative justice facilitators gifted to me meant everything. When trauma and its subsequent mini traumas are struck upon you, control is the first thing that is ripped away. In the restorative justice process, control is the first thing that is given back. Next comes respect. Then comes a profound experience of dignity.”

~Carys Cragg, Crime Survivor~

Flexible practice has been shown to be a key element in victims’ satisfaction with restorative justice and was mentioned frequently in interviews for this Guide as central to effective RJ practice.¹⁰⁷ In exploring a responsive approach to process design, it may be helpful to first reflect on the counterpoint to responsiveness, which could be termed a “prescriptive” mindset. In what ways might we currently prescribe elements of the restorative justice process for participants, including victims? For example, how are decisions made about:



-
- When and where do preparation and dialogue meetings happen?
 - How is the room set up? (seating arrangements, using a table/no table, etc)
 - During a dialogue, in what order are participants invited to speak?
 - Who is invited to participate in the dialogue?
 - What questions are explored?
-

As with the goals of restorative justice, responsiveness in practice does not equate with a passive, “anything goes” approach. It is inevitable and appropriate that facilitators will make certain decisions about how to support the process, based both on their expertise and on practical considerations. That said, it is important to provide the victim with opportunities to have choices regarding the process in key areas of importance for them. Through practitioners’ consistent commitment to responsive practice, victims may begin to gain a sense of empowerment that was lost during their experience of victimization.

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¹⁰⁷ See this Guide, P.14.

OFFERING HOPE AND VISION

Many times, victims may look to the practitioner for information and ideas on what may be achieved through a restorative justice process – even before they have gained clarity on what they themselves may wish to achieve. The practitioner then has the opportunity to explain some of the possible benefits of restorative justice. This presents a dilemma: how can we provide some hope and vision without being prescriptive about the goals of restorative justice or being seen to make assumptions about the victim's needs or what might be possible in their specific situation?

One helpful strategy in responding to these inquiries is to focus on the testimonials of other victims as indicated in the possible response to the right.

The framing of the response is about meeting the victim's specific needs – rather than on more abstract wellness goals (wholeness, freedom, acceptance, forgiveness, closure, healing, peace, etc.) which are usually best left unaddressed by the practitioner until the victim has put words to these goals for themselves. Put another way, the focus of explanation is on what tangible opportunities may be present for victims in engaging with offenders and/or others, rather than making assessments of how the victims may feel because of that type of engagement.

Victim: "What are the possible benefits of this process?"

Facilitator: "We find that people come to the process with many different needs. Some people have questions that are unanswered – about the crime, the circumstances behind it, or what will happen in the future. Others enter the process out of a desire to have the person who offended against them understand the damage they have caused and take steps to repair the damage. People often want to know how the person responsible feels about the crime and what if anything they have learned from the experience. If you would like, I would be happy to share with you some literature on what others have said about the process. Fundamentally though, the goal of a process like this would be to attempt to serve your specific needs in a way that is meaningful and helpful for you."

BEYOND NEUTRALITY

"The quality of social responses may be the best single predictor of the level of victim distress."¹⁰⁸

~Allan Wade~

¹⁰⁸ Wade, Allan (2012). "Tell it Like it Is: Developing Effective Social Responses to Violence", PowerPoint.

Imagine you walk up to the home of an assault victim to conduct an initial meeting exploring the possibility of restorative justice. You're invited inside and take a seat in the living room. As you begin to introduce yourself, the victim asks: "so whose side are you on – mine or the guy who assaulted me?" How might you respond to this question?

Borrowing from concepts within the conflict resolution field, some restorative justice facilitators have been taught to imagine their role as being "neutral." The helpful intent of this term is to clarify that facilitators in a restorative justice context should not seek to advance one participants' interests over that of others or helping one side 'win.' The term also helps clarify the fact that facilitators are not in the role of adjudicating agreements.

However, the concept of "neutrality" has some important limitations. First, it may imply a dispassionate or even disengaged stance about people and their concerns or emotions. Second, it suggests a lack of moral or ethical investment in the suffering caused by victimization. And third, true "neutrality" is likely impossible for sentient human beings to achieve. For restorative justice at least, different metaphors and descriptors are required.

In her 2005 study of some crime victims' needs, Herman found that:

*Beyond acknowledgment, what survivors sought most frequently was vindication. They wanted their communities to take a clear and unequivocal stand in condemnation of the offense. Community denunciation of the crime was of great importance to the survivors because it affirmed the solidarity of the community with the victim and transferred the burden of disgrace from victim to offender.*¹⁰⁹

Restorative justice begins with the recognition that a violation has occurred. Instead of being "neutral," the practitioner is an embodiment of a caring community, joining with the community in denouncing acts of violence and harm and vindicating the experience of the victim.



Restorative justice begins with the recognition that a violation has occurred. Instead of being "neutral," the practitioner is an embodiment of a caring community, joining with the community in denouncing acts of violence and harm and vindicating the experience of the victim. This by no means implies the dehumanization of offenders – on the contrary, offenders are encouraged toward accountability through a

¹⁰⁹ Herman, Judith Lewis (2005). "Justice From the Victim's Perspective." *Violence Against Women*. Vol. 11, No. 5, P. 585.

recognition of their own human dignity and worthiness. The practitioner is squarely on the “side” of all participants’ wellness. It does not serve offenders or victims to attempt to overlook or erase wrongdoing; conversely, moral solidarity with victims does not need to compromise the practitioners’ commitments to the wellness of all involved.

CONFLICT VS. INJUSTICE

One step in understanding the role of the facilitator as an agent of justice is to recognize the difference between conflict and injustice. While some crimes may occur in the context of an interpersonal conflict, it would be a mistake to call the harm itself “conflict.” Conflict is interactive, suggesting a mutual contribution to a miscommunication or disagreement. Injustice is perpetrated unilaterally as an act of domination by one person or group over another. In

conflict, disputants sit at a morally balanced table and sort through a disagreement; in a restorative justice process, participants sit at a morally unbalanced table and work to



Conflict does not justify violence or other injustices and should be understood as a separate subject.

understand the impacts of the imbalance and then set things right. Conflict does not justify violence or other injustices and should be understood as a separate subject.¹¹⁰ Unfortunately, the field of restorative justice has often failed to adequately distinguish between these concepts. For example, a scan through some of the literature on restorative justice produces the following:

“Restorative justice is also being expanded to handle conflict and harm in contexts other than crime. For example, this kind of conference or mediation is increasingly being used to deal with workplace complaints and disputes.”¹¹¹

“Atkinson Secure Children's Home has seen a 91% decrease in the use of restraint by using restorative justice – a technique which facilitates communication between victims and perpetrators involved in conflict.”¹¹²

“Conflict Resolution approaches such as Restorative Justice and Mediation are becoming increasingly important in policy and practice with children and young people...”¹¹³

¹¹⁰ Edwards, Alan and Jennifer Haslett (2011) “Violence is Not Conflict: Why it Matters in Restorative Justice Practice.” *Alberta Law Review*, Vol. 48, No. 4 Pp. 893 -904. Available at: <http://www.albertalawreview.com/index.php/ALR/article/viewFile/138/138>

¹¹¹ Found online at: <http://restorativejustice.org/rj-library/restorative-justice-and-prison-staff/4173/>

¹¹² Cook, Ben (2014, February 4) “Restorative Justice Can Drastically Reduce Need to Restrain Young Offenders.” *The Guardian*. Available at: <https://www.theguardian.com/social-care-network/2014/feb/04/restorative-justice-reduce-restrain-young-offenders>

¹¹³ Littlechild, Brian. (2009). “Restorative Justice, Mediation and Relational Conflict Resolution in Work with Young People in Residential Care.” *Practice*. 21. 229-240.

If a violation is understood and treated as a conflict, this may signal to the victim that they are responsible for some part of the harm perpetrated against them. This in turn risks worsening feelings of self-doubt, self-blame, and shame that many victims feel and can lead to their re-victimization. Speaking about and working with injustice as “conflict” leads us away from the kind of vindication that victims have clearly said they need. It is a subject of debate whether “neutral” is a helpful term in conflict resolution; in restorative justice the term is misleading.

ACCOMPANIMENT

If not “neutral,” how might restorative justice practitioners understand their role? Some have used terms like “dually-partial” or “multi-partial,” to capture a quality of care for and investment



in participants' needs and concerns, and to advancing restorative justice principles. Another term, offered by theorist John Paul Lederach, is that of a “companion.” The term comes from the Latin, “one who breaks bread with another,” which points toward an authentic, trusting and equal relationship.

FACILITATOR PRESENCE

An evaluation report of Canada's first victim-offender dialogue program in serious and violent crimes was published in 1995. The report found that there was “unanimous support” for the program among both victims and offenders interviewed and sought to explain this success. The report observed,

For both victims and offenders, it was vital that they were being not only listened to, but heard. This attribute did not come across simply as a professional technique, but as one human being caring about another.¹¹⁴

The interpersonal communication skills associated with restorative justice practice are an important topic and will be explored in the next section of the Guide. Skills are also a focus of many restorative justice training workshops. Yet, as the evaluation referenced above suggests, restorative justice participants value qualities in practitioners that are more primary than “skills.” These qualities can be thought of collectively as the facilitator's “presence.” Most simply, facilitator “presence” refers to a state of being mentally quiet and attuned to another person. Presence begins with attentiveness, open-mindedness, caring and striving for acceptance of the

¹¹⁴ Roberts, Tim. (1995). “Evaluation of the victim offender mediation project, Langley, British Columbia: Final Report”. Victoria BC: Focus Consultants. P. 82.

person and their story. As practitioners we can develop presence by actively aspiring toward personal capacities such as:

“Our steadiness allows our companion to lean into us for support, as our presence provides an environment in which they can be free to move . . .”

Kate Pabst

Steadiness Emotional regulation, acute but relaxed focus, self-awareness, and a quieting of mental and emotional “chatter.” An ability to hear about difficult life experiences without becoming emotionally destabilized.

Unconditional Positive Regard Compassion for people based on a recognition of their inherent value; identifying people with their positive attributes; deep respect.

Radical Curiosity¹¹⁵ A desire to understand the participant on their terms rather than the expectations or mental ‘maps’ we have drawn for them; challenging our pre-conceptions about others and inviting them to challenge our conclusions. Facilitators can work to continually “reboot” their awareness into a state of unknowing.

It may be that the facilitator’s presence is more fundamental than any specific skills. Certainly, such a capacity seems to be a key ingredient in how listening and communication skills will ‘land’ with participants. How do we develop and cultivate these capacities so that they exist as more than ideas or words on a page? This is a complex question, the answer to which probably combines life experience, intention, peer/colleague influence, and the level of stress faced by the facilitator on a day to day basis. Paradoxically, another ‘lead-in’ to the capacity for presence may be learning the tools and skills of listening and communication. As discussed, learning communication techniques is not a substitute for presence. However, when the tools are used in a self-reflective way they can provide a platform for deepened presence by charting a course for what that presence could look like or sound like. For example, asking a lot of open-ended question is not a substitute for



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¹¹⁵Fraser Region Community Justice Initiatives (2012). Inviting Dialogue: Restorative Justice and Victim Offender Conferencing Training Manual (6th Revised Edition), P. 34.

curiosity; however, the practice of asking may result in the questioner becoming more genuinely curious about the experiences of others.

FACILITATOR WELLNESS

No facilitator is free of emotional pain and stress, and many also experience vicarious trauma by hearing numerous painful stories from participants. To some degree our own struggles may allow



us to empathize with others. However, there may come a point when the pain, trauma or stress of the facilitator ceases to be a point of connection with others and instead becomes a barrier. When our own emotions become consuming or overwhelming, it is very difficult for us as facilitators to be a source of support for others. If we as facilitators are experiencing emotional fragility, victims may naturally worry about sharing fully with us out of concern that we will be de-stabilized. Alternatively, if our approach to overwhelming emotions is to avoid

or withdraw from the feelings, victims may not receive the compassion from us that they need.¹¹⁶

Restorative justice work requires the facilitator to maintain qualities of optimism, creativity, hope and a sense of possibility. When facilitators lose perspective and balance, it becomes difficult to

Most of us know what gives us renewed energy, healing, joy or balance – we often just don't do it. In service to victims, as well as ourselves, it is important that we as facilitators prioritize and make space for these activities.



access or communicate these qualities to others.

Most of us know what gives us renewed energy, healing, joy or balance – we often just don't do it. In service to victims, as well as ourselves, it is important that we as facilitators prioritize and make space for these activities.

¹¹⁶ For a fuller explanation of “compassion,” see the work of Paul Gilbert, at www.compassionatemind.co.uk

3.4 FACILITATOR SKILLS

This section highlights some essential skills for working restoratively with crime victims. Keep in mind that this is not a comprehensive list of restorative justice facilitation skills and cannot substitute for quality facilitation training.

BUILDING TRUSTING RELATIONSHIPS

A relationship of trust between the victim and the practitioner is often a key component of their feelings of safety in a process.¹¹⁷ As one RJ practitioner noted in an interview, one of the most important skill sets a practitioner can have might be creating trusting relationships very quickly. The skills involved in building these relationships include:

Facilitator Skills

- Building Trusting Relationships
- Silence
- Questions
- Assertion
- Validation
- Practitioner Knowledge and Professionalism
- Reflective Practice
- Training

Integrity Following through with commitments made to the victim.

Honesty Being straightforward about personal limitations, fears, mistakes and quirks; sharing emotion; being a person not a 'role.'

Humour Finding things to laugh about with the victim; self-deprecating humour is usually a safe place to start!

Boundaries Refraining from internalizing the victim's feelings and experiences to the point that they become burdensome; emotional differentiation.

SILENCE

Much communication training has focused on our verbal responses to participants. Yet, the effective use of silence can sometimes convey messages more effectively than words. For example, engaged silence can communicate:

- deep listening/a desire to know more;
- affirmation that the speaker is under no time pressure;
- recognition that the speaker's story defies summary; and/or,
- being 'witness' to truth-telling, painful or healing moments.

¹¹⁷ Note: this was a theme in the stakeholder interviews conducted for this project.

When using silence, it is important to be attentive to how the silence is being perceived. If it appears to be landing as ‘awkward silence’ (even if not intentionally), it is probably time to say something!

QUESTIONS

Questions are a vital tool for gaining information, demonstrating concern, and supporting self-reflection on the part of the victim. Questions are often most effective when paired with reflecting statements.

Types of Questions	Examples
<p>Direct: Questions that can be answered with “Yes” or “No”</p>	<p><i>“Were you angry when you found out Jesse was the one to break in?”</i></p>
<p>Leading: Questions that contain our judgement within the question. The speaker’s tone is often the give-away for a leading question. Leading questions can sound like direct or open-ended questions.</p>	<p><i>“Didn’t you see this coming?”</i></p>
<p>Open-Ended: Questions that encourage the speaker to talk more, and lead to a clarification and deepening of the meaning behind what is being said. Open-ended questions reflect a curious and humble intent.</p>	<p><i>“What was it like for you when you found out it was Jesse who broke in?”</i></p>

As practitioners develop their skills in using questions, there can sometimes be a tendency to rely heavily on the use of questions – a practice that can sometimes raise defensiveness on the part of the speaker. Questions often land most appropriately when used in combination with other conversation and reflective listening skills.

ASSERTION

Victims need to know they are entering into a process where they will be safe from any further harm. It is important that they sense in you as a practitioner a quality of assertion, the ability to set clear limits toward others in order to provide emotional protection or ‘amplify’ the victim’s voice if needed.

Assertion in Restorative Justice

- Firmly and politely interrupting someone who is taking up disproportionate “air-time” in a dialogue at the expense of the victim
- Noticing and addressing power imbalances
- Refusing to allow unwanted interruptions of the victim by other dialogue participants
- Asking tough yet respectful questions of the offender to elicit his or her personal accountability
- Holding out for fair agreements which satisfy the victim

Assertion should not be confused with aggression. Unlike aggression, assertion combines firmness with respect, and is not used with the intention of shaming.

VALIDATION

Validating statements are those that affirm the legitimacy, normalcy or value in a person’s actions or statements. Validation can take many forms, for example:

<i>“I can imagine . . .”</i>	<i>“That makes sense.”</i>
<i>“That was courageous.”</i>	<i>“You’re not alone in thinking that.”</i>
<i>“What happened to you was wrong.”</i>	<i>“A lot of people we work with feel similarly.”</i>



Victims experiencing the symptoms of psychological trauma commonly find themselves questioning whether their symptoms suggest personal weakness or abnormality. It can be helpful and reassuring to victims when an outsider provides validation by ‘normalizing’ these symptoms for them. For example, the trauma-clinician and restorative justice practitioner David Gustafson promotes ‘re-framing’ of common trauma symptoms as adaptive physiological attempts at “survival and mastery.”¹¹⁸

- Intrusion** Mind/body system attempting to bring repressed material to the surface of awareness in order to integrate and achieve mastery.
- Withdrawal/Avoidance** Turning away from the outer world, conserving energy for a period of needed rest and renewal as in hibernation.

¹¹⁸ Gustafson, D.L. (2018). Encountering ‘the Other:’ Victim Offender Dialogue in Serious Crime. Belgium: KU Leuven Faculty of Law. P.475

Arousal Mind/body system increasing vigilance to avoid being taken by surprise again. Organism's attempt to determine appropriate level of attention to possible danger and restore balance in self-protective functions.

Developing a knowledge-base about the effects of trauma and some of the experiences common to many victims can assist practitioners in having the tools to validate a victim's experience.

PRACTITIONER KNOWLEDGE AND PROFESSIONALISM

Victims are well served when facilitators bring a high level of knowledge and professionalism to the work of restorative justice. The following list outlines some key elements of this professionalism.

Knowledge and Professionalism in Practice

Demonstrate confidence and competence in interpersonal communication and facilitation skills.

Manage complexity with confidence and without becoming flustered.

Practice patience.

Present in a mature, skilled, organized and prepared manner.

Strike an appropriate balance between formality and informality.

Demonstrate a breadth of knowledge regarding the criminal justice system, victimology and resources available to crime victims. When answers are outside existing knowledge, the facilitator knows where to turn for answers and takes initiative in finding answers for participants.

REFLECTIVE PRACTICE

Restorative justice is complex work, and even the most experienced practitioner has more to learn. Reflective practice refers to the many ways in which practitioners can study their own experiences to improve the way they work.

There are various models used to outline a process for reflecting on experiences, making meaning of them and planning for the future. A common model is Rolfe et al.'s Reflective Framework, which emerged out of the healthcare professions. The model has three components:¹¹⁹

¹¹⁹ Adapted from: Rolfe, G., Freshwater, D., Jasper, M. (2001). Critical reflection in nursing and the helping professions: a user's guide. Available at: <http://www.scopt.co.uk/wp-content/uploads/2017/10/Rolfe-Reflective-Framework.pdf>

WHAT?	SO WHAT?	NOW WHAT?
What is the problem/difficulty/reason for being stuck/reason for feeling bad/reason we don’t get on/etc...?	So what does this tell me/teach me/imply/mean about me/my client/our relationship/my client’s care/the model of care I am using/my attitudes/my client’s attitudes/ etc...?	Now what do I need to do in order to make things better/stop being stuck/improve my clients care/resolve the situation/feel better/get on better/etc...?
What was my role in the situation?	So what was going through my mind as I acted?	Now what broader issues need to be considered if this action is to be successful?
What was I trying to achieve?	So what did I base my actions on?	Now what might be the consequences of this action?
What actions did I take?	So what other knowledge can I bring to this situation?	Now what planning is required to activate the new direction?
What was the response of others?	So what could/should I have done to make it better?	
What were the consequences? For the client? For myself? For others?	So what is my new understanding of the situation?	
What feelings did it evoke? In the client? In myself? In others?	So what broader issues arise from the situation?	
What was good/bad about the experience?		

Engaging in reflective practice requires humility, commitment and enjoyment of learning. For some, it also requires peer support. For this reason, restorative justice “communities of practice” – physical, telephone or online forums for practitioners to have dialogue on practice issues – have been beneficial in many jurisdictions.

TRAINING

Most helping professions specify higher education and training pre-requisites. As a largely unregulated and volunteer-driven field in Canada, restorative justice practice is under no such requirements. This means that it is up to individual programs and practitioners to decide how much and what type of training will prepare them for safe and effective practice. While many restorative justice practitioners will receive a baseline of in-house training from their program, it is advisable to pursue additional independent training to maximize their service to victims.

Practitioners may benefit from training outside of the restorative justice field. This may include for example training in trauma-informed care, developmental stages of children, trauma

(including historical and intergenerational trauma), crisis response, group facilitation, interviewing, coaching, counselling skills and/or culturally specific training relevant to the practitioner's community. It also may include training oriented to gaining knowledge and awareness about specific victim demographics served (e.g. children/youth, elders, women, LGBTQ2+ people, men, specific cultural groups, etc.).

Restorative justice in Canada is a largely grass-roots justice movement that is strongly influenced by spiritual and Indigenous values and teachings. Globally, restorative justice initiatives are very often an outgrowth of the voices of marginalized peoples. The work has been greatly strengthened by its roots in ways of knowing and seeing the world that are distinct from the Western bureaucratic traditions governing legal, educational and other major institutions. Training in a restorative justice context is therefore rightly understood in both formal terms (such as degrees and certifications) and informal terms (such as life experience, tradition and mentorships). While all practitioners are well advised to rigorously expand and maintain knowledge and skills, an integral principle is to seek knowledge and education about restorative justice from a diversity of sources.



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3.5 ACCOMPANYING VICTIMS THROUGH RESTORATIVE JUSTICE OPTIONS

This Guide assumes that there are many valid and important models of restorative justice practice. The needs of participants in a justice process differ greatly based on the setting, cultures, and the nature of the harm itself. In alignment with the principle of responsive practice, it is assumed that processes are constructed differently based on such variables. Restorative justice is not a “one size fits all” approach.

Another premise is that despite the significant variation in restorative justice practice, processes generally fall within three components: **Case Development, Facilitation and Follow-up**. The following pages will be divided into those categories.

CASE DEVELOPMENT

Case exploration and preparation meetings are of foundational importance in restorative justice. It is through these interactions that victims and other participants:

- build a sense of safety and connection with you as a facilitator;
- gain an opportunity to be heard and acknowledged about their experience of the crime
- explore in detail the harm caused by the crime, and begin to articulate their needs and hopes in moving forward;
- gain an understanding of the restorative justice philosophy and options related to restorative justice;
- make decisions about whether and how to proceed with some form of involvement in your program;
- contribute to the shaping of a restorative justice process; and,
- prepare for next steps.

When these meetings are conducted with the involvement of family members or other support persons they can also represent important opportunities for participants to speak candidly with these supports about their experience and move toward increased social connection.

Facilitators are encouraged to enter case development meetings with victims with open curiosity, and to avoid making assumptions about where the exploration will lead. Many restorative justice programs are constructed with some form of victim/offender dialogue as a core service, and as practitioners we understand the possible benefits of these dialogues. It is therefore of the utmost importance to



Avoid framing the initial engagement with the victim as though dialogue is an end goal.

manage any instinct to coach victims toward such a dialogue. Avoid framing the initial engagement with the victim as though dialogue is an end goal. Unless the victim has stated they wish to pursue dialogue, the purpose of the meeting is to explore their needs, provide information and validation, and to explore areas where their needs may intersect with the services offered by your program. To this end, it may be helpful to draw a mental distinction between a “process-centred” case development meeting, and a “person-centred” one. The goal of a process-centered meeting is to assess the victim’s willingness to participate in a dialogue and help them feel ready for the experience. The goal of a person-centred meeting is to understand the harms and needs of the victim and provide support and options to them as they consider their next steps.

	Process Centred		Person Centred	
1.	Facilitator introduces self and outlines the purpose of the meeting		Facilitator introduces self and outlines the purpose of the meeting	
2.	Facilitator describes the facilitated dialogue process		Facilitator explores the impacts of the crime; reflects back to victim an understanding of the needs being communicated by the victim, checking for accuracy	
3.	Facilitator asks the victim whether this is something they would be interested in attending		Facilitator asks whether the victim would like to learn more about possible options offered by your program	
	If yes, facilitator explores hopes for the process, answers questions, clarifies damages, identifies supports, and plans for next steps.	If no, facilitator thanks the victim for his/her time and concludes the meeting.	If yes, facilitator describes options in general terms, explores which options could best be constructed to meet the victim’s needs.	If no, the facilitator supports the victim in exploring other options (e.g. adversarial process, no process, other referrals, etc; context dependent)

Remember: restorative justice for victims begins from the moment of their first contact with you. If their experience is one of validation, compassion, exploration, relationship and discovery of options, this is a significant service regardless of whether or not they pursue any further steps with your program.

WHOM TO MEET WITH FIRST: OFFENDER OR VICTIM?

After receiving a referral, many restorative justice programs, including most of those we interviewed, make a routine practice of beginning the case development process by meeting with the offender and his/her supporters. The logic behind this practice, at least in part, is to assess the offender’s accountability and ensure the appropriateness of the referral so as not to elevate the expectations of the victim prematurely. This is in many ways a sound rationale.

However, there may also be distinct value in beginning case development by meeting with victims. Meeting with the victim first can inform the facilitator and the process as a whole with a recognition of the victims’ needs as a starting place for justice. The needs expressed during this meeting can help to guide the questions asked during the initial meeting with the offender and help determine appropriateness for a face-to-face encounter or other options. Some victims may also find it symbolically meaningful to have been the first person contacted after their victimization. In addition, the victim may find restorative value in speaking with the facilitator

regardless of any decision to proceed with dialogue – an opportunity that may be lost to them if our contact with them is contingent upon the offender's readiness. That said, it can also be important when contacting the victim first to help them think through their options in advance if, for example, the offender declines to participate or is assessed as unsuitable for a process involving encounter.

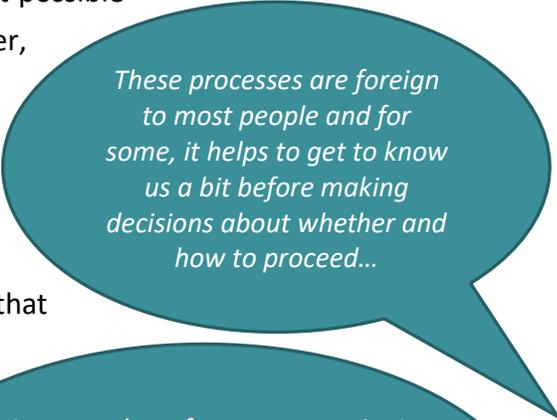
Decisions about whom to meet with first can be understood as programmatic decisions informed by the needs and practicalities of each case, as opposed to a steadfast protocol.

IN-PERSON CONTACT

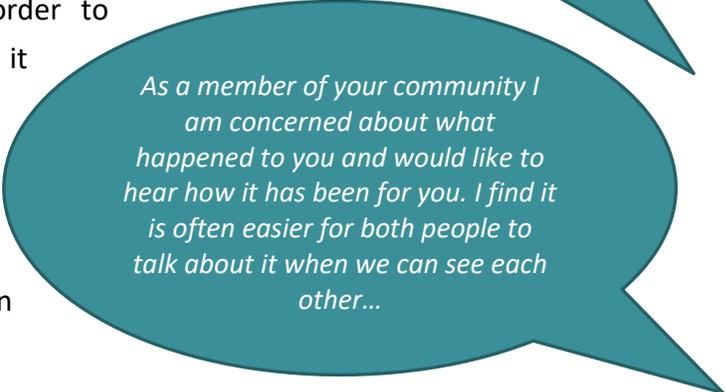
Initial facilitator contact with victims is generally established by mail or telephone. During an initial phone call, where geographically feasible the facilitator's primary goal should usually be to provide enough information to invite an in-person case development meeting with the victim. In-person meetings are usually the most effective form of communication about difficult and complex subjects. They also allow the victim and the facilitator to observe each other's body language and expressions, and come away from the meeting with the highest degree of relationship and understanding of one another.

Sometimes a victim will choose to take the opportunity over the phone to share in detail their experience and feelings about the crime. In this circumstance the facilitator need not discourage this, and instead may attempt to provide the best support possible given the limitations of the telephone. Generally, however, this does not substitute for an in-person meeting and the invitation should still be made.

Victims may sometimes resist the idea of an in-person meeting with the facilitator, either because they do not want to explore restorative justice or because they believe that an in-person meeting is not necessary in order to proceed. These choices are respected, however it is also appropriate for the facilitator to ask, "Can I share with you some of the reasons why I find it helpful to have these conversations in person?" If the answer is yes, the facilitator might share messages such as those contained in quotes to the right.



These processes are foreign to most people and for some, it helps to get to know us a bit before making decisions about whether and how to proceed...



As a member of your community I am concerned about what happened to you and would like to hear how it has been for you. I find it is often easier for both people to talk about it when we can see each other...

WHERE AND WHEN?

The location and timing of case development meetings are a part of the means by which respect and choices are offered to victims. Do you ask the victim to come to your location, do you go to their home, or find a public place to meet? On whose schedule will the meeting occur? Aside from the practicalities of decisions for victims, they often have symbolic value. There are several considerations within these decisions. For example:

How much privacy might the victim want, and how will this be accommodated?

What feelings does the meeting place bring up for the victim? For example, some restorative justice programs are located within a police detachment. Does a detachment setting provide a sense of security for the victim, or does it feel cold and intimidating? Some victims may be most comfortable meeting in their home; others may feel shy or embarrassed to have a relative stranger there.

How accessible is the location for the victim?

Does the victim need to take time off work or make childcare arrangements in order to meet with you?
How flexible are you to accommodate the victim's schedule?

DESCRIBING RESTORATIVE JUSTICE

Most referrals to restorative justice programs begin with the referral of a person accused of a crime. The goals of the referral agent in making the referral may or may not intersect closely with victims' goals. In raising the question of restorative justice with victims, the practitioner has the task of articulating the goals of the process using victim-oriented, rather than offender or system-oriented language.

For example, common framing for the aims of restorative justice include:

- giving young people a second chance;
- avoiding punitive measures and criminal records;
- helping the accused learn from mistakes and gain empathy;
- saving courts time and costs;
- helping address the root causes of crime; and/or,
- transforming the criminal justice system.



Instead, it may be more helpful to focus on:

- the accused/offender's responsibility toward the victim; or,
- opportunities for the victim to meet needs that often go unmet in other justice processes, such as
 - being heard,
 - receiving answers to questions,
 - holding the offender personally accountable,
 - having a say in how the situation is addressed, and/or
 - gaining reparation.



This is not to suggest that gains of restorative justice for people who cause harm, for communities or for the justice system are unimportant. Rather, the intent is to be aware of the needs of the person with whom you are speaking (in this case the victim) and centre your communication around those needs.

OPTIONS FOR VICTIM INVOLVEMENT

When a victim indicates a need for some level of communication with or from an offender, or when other parties see value in talking together, the victim's choice need not be limited to either/or. Some victims may wish to have input on a dialogue process without having the desire or ability to encounter the offender face to face. In these circumstances, it may be helpful to outline a spectrum of possible options for their involvement. These options are outlined on the following page in Diagram 3.¹²⁰

VICTIM SUPPORT PERSONS

As the Research Team heard clearly during interviews with both RJ practitioners and victim service providers, victims involved in a restorative justice process commonly find it helpful to have the support and involvement of others whom they trust. This may take the form of support persons who attend a restorative justice dialogue alongside the victim, those who attend preparation meetings but not the dialogue itself, supporters who play a behind-the-scenes role in helping the victim to prepare for and debrief after the dialogue process, or some combination of these. Supporters can include friends, spouses/partners, relatives, Elders, clergy, mentors and people in a professional or volunteer role such as victim service workers, youth workers, social workers, counsellors, and others.

¹²⁰ Rourke, Jessica, Shanna Grant-Warmald, and Andrew Kerr (2016). Strengthening Ties to Better Serve Victims: A Partnership Guide for Police-Based Victim Services and Restorative Justice Agencies. Restorative Justice Victoria. P. 23. Available at: http://www.comjustice.org/uploads/1/1/7/4/117440886/restorative_justice-victim_services_partnership_guide_from_bc-june_9_2016.pdf.

Limited/None

- 
- The victim does not want any involvement with facilitated dialogue
 - The victim does not want to participate in a dialogue but has made suggestions for the agreement and requested someone bring them up on the victim's behalf
 - The victim does not want to participate in a dialogue but has asked that you contact them after to explain the agreement and then update them throughout on the offender's progress, all the way to agreement completion
 - The victim does not want to participate in a dialogue but does want to write a statement that can be read aloud at the meeting
 - The victim does not want to participate in a dialogue but is sending someone on their behalf (e.g. family member, victim service worker or community member)
 - The victim does not want to participate in a large group dialogue but has asked for you to facilitate a less formal conversation between themselves and the offender apart from the large group session
 - The victim wants to participate in the dialogue but only in a limited role (e.g. just listen, only answer certain questions, only stay for part of the meeting)
 - The victim wants to participate in the case development work, the facilitated dialogue and all follow up

Full

Diagram 3 – Participation in Facilitate Dialogue

During case development work, it may be helpful to raise the issue of supports with the victim regardless of whether the victim has chosen to participate in any form of dialogue. Questions like “who do you go to when you need to talk about difficult subjects?” or “who are the people that bring out the best in you?” or simply, “who are your greatest sources of support?” can help in initiating these conversations.

If a victim has chosen to proceed with a facilitated dialogue, it can be reassuring for them to have the opportunity to invite supporters to the dialogue. It then becomes necessary for the facilitator to speak with these individuals in order to provide information and clarify their role.

“Support” in a restorative justice process has a specific connotation. Supporters should be people whose presence contributes self-assurance, wisdom, and/or comfort to the victim’s experience.

The role of a supporter in dialogue may include:

Sitting silently near the victim

Speaking about their relationship with the victim

Speaking about what kind of person the victim is

Speaking about the impacts or changes they have observed in the victim and wider community as a result of the crime

It is generally not helpful for support persons to:

Speak on behalf of the victim (unless the victim has asked them to do so)

Admonish or lecture the offender

Demand or decline reparation

Introduce an adversarial or hostile tone into the dialogue, verbally or non-verbally

Care should be taken by facilitators to prepare supporters for a constructive role. This may require providing empathic and engaged listening, along with sharing and reflecting about the principles guiding the restorative justice process. If you as a facilitator believe that the dialogue process will be jeopardized by the involvement of a supporter, it is reasonable to slow down, alter or suspend the process until your concerns have been addressed.

In circumstances where victims express a desire for additional support in the process but cannot identify a supporter, it can be appropriate for facilitators to play a role in suggesting a victim support person. This could be a professional, a volunteer (for example another crime victim who has been through a restorative justice process), or another community member, as appropriate and invited by the victim.

REFERRALS

Victims may benefit from psychological and emotional support beyond what can be offered by your program. Familiarize yourself with counselling and related services in your area so that you

are ready to make referrals for victims who wish to explore these avenues. Some victims are eligible for financial support from government agencies.¹²¹

CONFIDENTIALITY AND INFORMATION SHARING

Case development meetings are generally considered confidential except where personal harm may result from maintaining confidentiality. However, it is sometimes helpful to interrupt confidentiality, with the



It is sometimes helpful to interrupt confidentiality, with the participant's permission, for specific purposes. A general principle here is "no negative surprises" for participants (and specifically victims) entering a facilitated dialogue.

participant's permission, for specific purposes. A general principle here is "no negative surprises" for participants (and specifically victims) entering a facilitated dialogue. This means that a dialogue participant should not be hearing new information for the first time during a dialogue if that information is likely to cause alarm, confusion, or heightened tension. Examples of these circumstances might include situations where:

- the offender's account of the crime or his/her responsibility for it differs significantly from what the victim expects;
- the victim's hopes for reparation or restitution are out of step with what you know the offender will be willing or able to offer; and/or,
- the offender has cognitive or other impairments that would affect how s/he will communicate with the victim.

Such scenarios would suggest value in the facilitator gaining the permission of the participants to share information with others during case development. The victim should also be made aware of any support persons identified by an offender to attend the facilitated dialogue. All dialogue participants should be walking into the room with an awareness of who they will encounter there. When sharing otherwise confidential information between participants in advance of a meeting, facilitators may find it helpful to explain the reasoning behind the information-sharing before requesting permission.

¹²¹ For example, in Alberta see "Financial Benefits for Victims of Violent Crime:" https://www.solgps.alberta.ca/programs_and_services/victim_services/help_for_victims/Publications/Financial%20Benefits%20Brochure.pdf or call (780) 427-7217.

INVOLVING VICTIMS IN PROCESS DESIGN

If a victim chooses to participate in a face-to-face dialogue, it becomes important during case development to work with the victim in shaping the process in a way that is comfortable and meaningful for them. Keeping in mind the “responsive” mindset discussed earlier, it can be helpful to consult with the victim about process elements.

Exploring Process Elements with Victims

<ul style="list-style-type: none"> • Where and when the dialogue will be held? 	<ul style="list-style-type: none"> • Will there be a table or anything else between people in the dialogue?
<ul style="list-style-type: none"> • Who will be present? 	<ul style="list-style-type: none"> • How will chairs be arranged?
<ul style="list-style-type: none"> • If there are multiple offenders involved: will there be just one dialogue among everyone, or more individualized meetings? 	<ul style="list-style-type: none"> • How will the victim get to and from the dialogue? For example, given the emotional nature of the process, would they prefer to drive themselves or be driven by someone else?
<ul style="list-style-type: none"> • When will the victim arrive as compared with the offender and/or others? Who will be in the dialogue room first? 	<ul style="list-style-type: none"> • How will the dialogue be opened – is there a role for ceremony, ritual or other methods of creating shared intention?
<ul style="list-style-type: none"> • What do they need from you if strong emotions arise during the process? 	<ul style="list-style-type: none"> • What comforts should be present? – e.g. food, smoking area, a separate room for breaks, etc.
<ul style="list-style-type: none"> • What communication guidelines should be upheld in the process? 	<ul style="list-style-type: none"> • How and on what timeline would they like follow-up to occur after the dialogue?
<ul style="list-style-type: none"> • How would they like to indicate to you if they need a break? 	<ul style="list-style-type: none"> • Who will be the first participant to speak in the dialogue?

Inquiring about and responding to the needs of the victim within the process can contribute to the victim’s feelings of empowerment and ownership over the process. The victim may also want you to outline ‘common practice’ on some of these topics as they form their own perspectives. There is often a balance to be struck between providing them with some structure and assurance on one hand, while at the same time inviting their voice and ideas. One way to think about the appropriate balance is to consider yourself working in partnership with the victim to make these decisions.

In designing a dialogue process, it is important to maintain alignment with the restorative justice values of consensus and voluntariness at all times. Working from an ethic of victim empowerment does not mean that their preferences should be imposed on other participants in the dialogue. Coercion placed on offenders or others would be counterproductive in a dialogue

In designing a dialogue process, it is important to maintain alignment with the restorative justice values of consensus and voluntariness at all times. Working from an ethic of victim empowerment does not mean that their preferences should be imposed on other participants in the dialogue.



setting. If it becomes apparent that participants hold differing views about these process elements, it is important to resolve these differences during case development. This is often done through “shuttle diplomacy,” wherein the facilitator acts as a conduit for indirect communication and information sharing between participants. However, disagreement about these matters is relatively rare, as participants will often defer

to the victim’s preferences when they are made aware of them.

WORKING WITH CHILD OR YOUTH VICTIMS

Working with younger victims requires many of the same competencies, skills, and approaches outlined in this Guide. Youth victims have wisdom and knowledge of what they need in the aftermath of crime. Our communication and engagement with them should not minimize these attributes that we afford adult victims of crime. There are however a few additional considerations to address in this context.

It is generally necessary to engage the parents or guardians of youth victims in the process of case development. If they have guardianship of the youth, they need to be engaged within the context of their legal rights without ignoring the agency and expressed needs of the youth victim(s). Where trust between youth and their parents is low, consider involving other adult support persons with whom trust is greater. Where differences arise between youth and their caregivers, this can sometimes be challenging to navigate and may require mediation and facilitation skills within family units to help them find their way through issues such as (for example) who should be in the room, process design, and requests for restitution.

Additional Considerations for Working with Younger Victims

Simple Language Use simple language to ask questions, describe process, or reflect what the facilitator is hearing. It is appropriate to frequently check understanding as you move along with questions like *“can you share what you heard me just say about your choice to participate?”*

Succinct Process When possible, keep encounters or other alternative processes more succinct. The longer the process goes, the more difficult it is for a youth to maintain focus.

Right-Brain Activities Consider engaging youth in 'right-brain' activities either during communication, or as a method of communication. For example, having pipe-cleaners, molding clay, drawing utensils or other supplies for the youth to have in their hands while talking; walking while talking; or asking the youth to draw a picture of how they feel now about what happened, can all be useful tools.

Indirect Dialogue Explore ways of addressing youths' stated needs that may not require direct dialogue with the person who harmed them. Many youth are likely to go along with whatever an adult with authority offers; if face to face dialogue is presented as the path forward, younger victims are likely to comply. As a facilitator, you are more likely to elicit the true desires of a youth if you provide multiple options for addressing their needs.

Some younger victims will need additional support from therapists, elders, mentors or others outside of the restorative justice process before they feel ready to engage fully with a restorative justice program. These additional support people can play an important role, not only in ensuring that the young person is accompanied skillfully during restorative justice processes but that they receive consistent preparatory and follow-up support even beyond that which is offered by a skilled facilitator. Facilitators can play an active role in helping younger victims and their caregivers to identify and access additional supports within the community.

SUPPORTING VICTIMS ACROSS CULTURES

Many jurisdictions in Alberta possess culturally specific programming for people impacted by crime, and these resources should be accessed where available and requested by victims. Even so, restorative justice facilitators may often find themselves in the position of working with victims and survivors of different cultural backgrounds from their own. For example, many non-Indigenous restorative justice programs and practitioners in both urban and rural Alberta provide services to Indigenous participants (including victims) on occasion.

The principle of responsiveness outlined earlier in this Guide can be considered a guiding principle in these cross-cultural contexts. It is recommended that facilitators consult with victims of other cultures regarding cultural needs. Culture may influence, for example:

- The opening of dialogue processes: what type of opening protocol, prayer or other intention-setting is appropriate? Who should be invited to lead this?
- The use of a talking piece: Where an object is used as a “talking piece” in restorative justice processes, these objects have powerful symbolism. Care should be taken to ensure that the object used is culturally appropriate in the context of the restorative justice process. Some groups have specific negative or positive connotation with certain objects, or specific protocols surrounding their use. Consideration should also be given to the risk of cultural appropriation when selecting talking pieces.
- Meeting locations: Cultural and/or racial dynamics can influence where individual victims may be comfortable or uncomfortable having meetings. Buildings often have historical, religious, political or other symbolism that can dramatically affect the experience of individuals, especially those who have been marginalized by the dominant institutions of Canadian society or who have experienced historical trauma that may be triggered by these symbols.
- Meeting participants: Culture can influence an individual's needs and expectations regarding who is present at case development and/or facilitated dialogue meetings. For example in more collectivist cultures there may be an expectation of a greater number of family support persons present.
- Food: Food served during or after a restorative justice process carries cultural significance. For many cultures, the presence of food (and sometimes specific foods) is a vital ceremonial component of healing work. It is advisable to inquire with victims of different cultures about their wishes regarding food.

In some cross-cultural restorative work, it may be appropriate for restorative justice programs to work in collaboration with cultural elders or leaders in convening restorative justice meetings. Building these bridges, where appropriate and invited, can be an important step both in serving victims and in fostering greater resilience within the community as a whole.

WORKING WITH OFFENDERS TO MEET VICTIMS' NEEDS

Working restoratively with people who offend is an important and rich topic beyond the scope of this Guide. However, it is important to note here that the quality of practitioners' work with

offenders often has a very significant bearing on victims' experiences in restorative justice. Thorough case development work with offenders provides them with opportunities to:

- reflect on their choices and values;
- move toward curiosity and openness regarding victims' experiences;
- grapple with their own experiences of prior victimization;
- develop confidence in the facilitator and the restorative justice process;
- experience vulnerability toward their own emotions;
- develop clarity on their intentions in moving forward; and,
- engage support networks who can provide support and encourage accountability.

One common aspect of working with offenders is exploring the concept of apology. Sincere apologies can be a meaningful form of symbolic reparation for



Effective apologies go beyond the words, "I'm sorry." Meaningful apology is an expression of personal responsibility.

many victims. Effective apologies go beyond the words, "I'm sorry." Meaningful apology is an expression of personal responsibility, which includes:¹²²

- ownership of one's choices and actions;
- remorse;
- acknowledgment of the damage and suffering caused;
- insight into what led to the harmful behaviour and how to prevent it in the future;
- commitment to change;
- offering amends; and,
- invitation to those harmed to express hurts, ask questions, etc.

The words of meaningful apology are accompanied by genuine affect or congruence between what is said and the emotions behind it. Finally, meaningful apology is delivered with a quality of vulnerability and recognition that the apology may not necessarily be accepted.¹²³

DETERMINING WHETHER TO PROCEED WITH DIALOGUE

The case development process should provide facilitators with enough information to determine whether a facilitated dialogue is likely to be constructive. A benchmark for this decision is whether the participants seem to have a reasonably shared expectation of what should happen

¹²² Adapted from Edwards, Alan (2016). *Inviting Responsibility: Moving Toward Values-Congruence in our Work with Offenders*, training manual.

¹²³ David Gustafson – personal communication, 2011.

in the meeting. If expectations remain misaligned after thorough case development, this suggests that a meeting is not currently appropriate.

Despite the apparent simplicity of this benchmark, determining whether to proceed can be complex. Examples of this complexity may include:

- the victim and offender both state they want to meet, but you worry the victim's perspectives or feelings will be overpowered by others in the room;
- the accused youth is taking full responsibility, but you're unsure whether his/her parents will interject with comments minimizing his role; and/or,
- the victim's primary intention for the dialogue seems to be helping the offender, and you're concerned that s/he may be overlooking his/her own needs.

Such circumstances require a mixture of consultation and judgement on the part of the facilitator. While we as facilitators need to feel confident before moving forward with a dialogue, we also need to self-reflect about any instinct we have to protect victims by limiting their choices. If the victim has accurate information about what to expect in the dialogue, and is prepared for



Before making any decisions about terminating a process in the interests of the victim, an important first step is to have a transparent conversation with the victim about the concerns.

this reality, the process can be fruitful even if the conditions do not objectively appear to be ideal. Before making any decisions about terminating a process in the interests of the victim, an important first step is to have a transparent conversation with the victim about the concerns.

VICTIMS' PERSONAL PREPARATION FOR FACILITATED DIALOGUE

Depending on the personal impacts of a crime, victims may require various amounts of time, guidance, and support to prepare for a dialogue with the person that harmed them. This preparation may take the form of dialogue with facilitators, as well as spouses, friends, counsellors, Elders or others. Following are some areas that a victim may explore in preparation for a dialogue.

Victim's Preparation for a Dialogue

Explore Focus/ Purpose	Most victims who choose to pursue facilitated dialogue do so with specific purposes in mind. This sense of purpose may evolve and change through the case development process. Continued exploration of purpose helps to set the stage for achieving these outcomes.
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Identify What to Convey	Victims often have specific messages, feelings, or stories that they wish to convey to the person that harmed them. Spending time identifying what these messages may be, and how they might be communicated, can be an important element of preparation.
Identify Questions or Curiosities	Sometimes a motivator for victims to engage in dialogue with the person who offended against them is to gain information and answers. Preparation may include exploring what information they need in their recovery, and they will elicit that information.
Anticipate Possibilities	Once the victim has determined what they wish to convey, and what information they hope to gain, it can be fruitful to explore how the offender might respond and how the interaction might play out. Exploring these “what-ifs” can help the victim to accomplish a sense of readiness and reduce their anxiety prior to a facilitated dialogue.

FACILITATION

For victims who choose to participate in a facilitated dialogue and are well-prepared for the experience, the encounter often flows smoothly with minimal intervention from the facilitator. Still, even after rigorous preparation the facilitator must be highly attuned to the subtleties of group communication as the process unfolds. There are a number of important considerations to keep in mind when supporting victims through a dialogue process.

NAMING THE CRIME

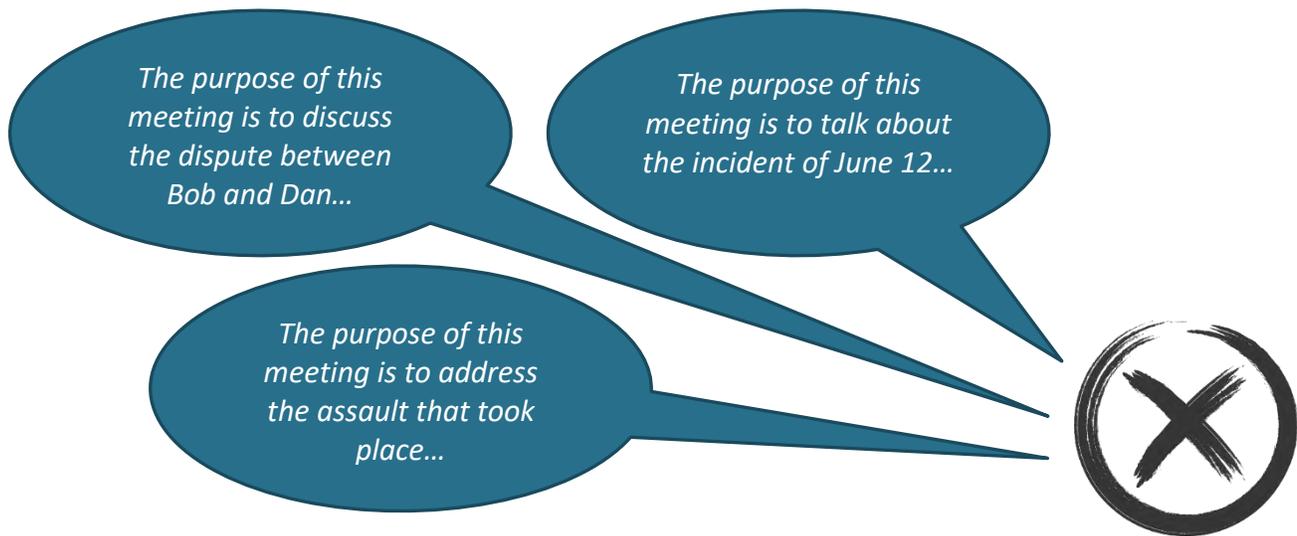
In opening the dialogue, facilitators are encouraged to state the reason for the meeting and in so doing, acknowledge the offence.¹²⁴ This should be done in a direct and active manner in order to acknowledge the victimization (thereby validating victims’ experiences) and set the tone for responsibility-taking. The acknowledgement of the crime is often best done in non-legal terms, unless the legal term accurately captures the harm. “Active” naming of the harm can be contrasted with more passive approaches which tend to obscure responsibility, as depicted to the right.¹²⁵

Bob punched Dan	Active
Dan was punched by Bob	Simple Passive
Dan was punched	Agentless Passive
An assault took place	Nominalization
There was a dispute	Mutualization

¹²⁴ In some jurisdictions, a police officer fills this role by reading a statement of facts.

¹²⁵ Adapted from Coates, Linda and Allan Wade (2014). “Shame On You: Using Language to Conceal Violence and Blame Victims” PowerPoint presentation.

In the case above, the facilitator is advised to avoid phrasing like the following:



Instead, actively naming the crime could sound something like:



MANAGING POWER IMBALANCES

Power dynamics are always at play in some form during group dialogue. Power refers to the innate, ascribed, and learned characteristics that enable a person to achieve their goals. Power comes from multiple sources, spanning gender, race, class, education, position, physical attributes, social networks and much more. Restorative justice dialogue can serve to rebalance power in the limited sense of restoring power to victims who were stripped of their power during the crime. However, given the multiple sources and uses of power, the dynamics of power are usually complex during group dialogue. Just as power was “imbalanced” before the dialogue, imbalances will exist during and after the dialogue – though perhaps in evolving ways. Since many types of power are unalterable, it may be that dialogue is less likely to produce “balanced” power, and instead play a greater role in fostering reflection by participants about how they prefer to use their power.

Power dynamics can often be manifested within a dialogue through how people communicate with one another.

Power-Claiming Behaviours	
<ul style="list-style-type: none"> • <i>raising voices</i> 	<ul style="list-style-type: none"> • <i>becoming hyper-rational</i>
<ul style="list-style-type: none"> • <i>keeping silent</i> 	<ul style="list-style-type: none"> • <i>leaving the room</i>
<ul style="list-style-type: none"> • <i>interrupting</i> 	<ul style="list-style-type: none"> • <i>checking their phone</i>
<ul style="list-style-type: none"> • <i>using aggressive or dismissive body postures, facial expressions and vocal tones</i> 	



Usually, when a person is claiming power in these ways it suggests an underlying fear of powerlessness.

Usually, when a person is claiming power in these ways it suggests an underlying fear of powerlessness. For example, a parent who seeks to dominate a discussion about their child’s

accountability with their views may be dealing with shame and powerlessness over their child engaging in behaviours outside of their family’s values. An offender may seek to claim power if they experience the dialogue as disrespecting their view of what happened or making judgments about their character about which they have no influence.

Similarly, the victim may adopt these behaviours as expressions of coping with or trying to overcome the powerlessness they experienced through their victimization or its aftermath. While no one in a dialogue should have license to verbally abuse others, care should be taken not to confuse a victim’s indignation with abuses of power.



It is appropriate and often necessary for victims to “take the floor” during the process and express feelings that are difficult to hear. Far from co-opting the process, this can be at the core of an effective process.

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If power-claiming behaviours are disruptive or resulting in other people becoming defensive or withdrawn, they need to be addressed. This is especially vital in any circumstance where a crime victim is being intentionally or unintentionally silenced by others.

Strategies for Addressing Power-Claiming Behaviours

Address the Issue Generally *"I imagine many of us in this room are feeling some nerves...that's natural, this is something most of us aren't used to. Let's work together to make sure everyone gets a voice."*

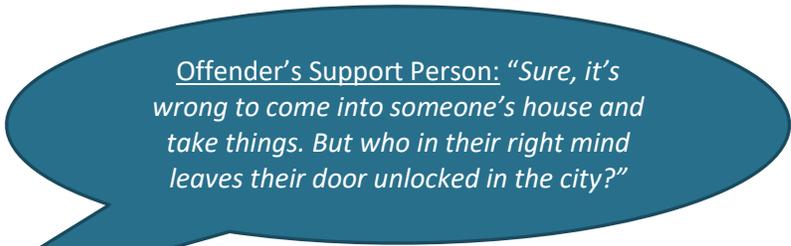
Be Firm with Interruptions Affirm the person, not the behaviour: *"Alex, I understand you have another perspective on this which will be important for us to hear. For now, I'd like to make sure Jenny gets to finish her thought. Thank you."* Or simply, *"I am having trouble hearing Jenny."*

Take a Break Taking a break to meet separately with the participants can allow those claiming power to 'vent' to you, receive acknowledgement, reflect on the process and their role, take a breath, and decide if they will re-commit to listening. Similarly, it can allow those who are being silenced to share their unspoken perspectives with you, receive validation and decide if they will re-commit to offering their voice with your support.

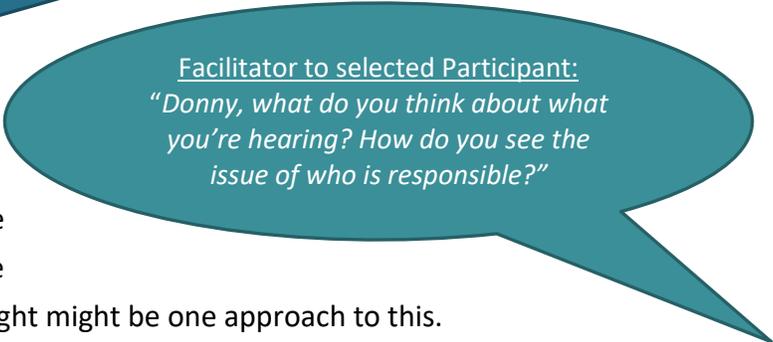
Terminate the Process (if necessary) If you believe that the dialogue process is becoming damaging or dehumanizing to any participant, including the victim, it is reasonable to end the process. Further case development may be required – alternatively, dialogue may not be an appropriate tool to meet participants' needs.

VICTIM-BLAMING AND MINIMIZING HARM

Given thorough case development, it is unusual that participants in a facilitated dialogue would make blameful, dismissive or minimizing statements toward a victim. If they occur, the facilitator may choose to address these sentiments in the dialogue, or separately during a break. If addressing these statements in the dialogue, facilitators may find it helpful to refrain from offering an immediate remedy and instead ask for the specific input of others about the comments. The response offered to the right might be one approach to this.



Offender's Support Person: *"Sure, it's wrong to come into someone's house and take things. But who in their right mind leaves their door unlocked in the city?"*



Facilitator to selected Participant:
"Donny, what do you think about what you're hearing? How do you see the issue of who is responsible?"

A decision like this, of course, relies on the facilitator’s confidence that the person being selected to respond will offer a validating perspective for the victim. This confidence can only be gained through case development. The facilitator could at any time speak up to redirect the conversation toward the offender’s responsibility-taking, however the intervention is more likely to be meaningful to the victim if it comes from the offender or another participant.

It may be appropriate within the dialogue setting to ask the victim how the comments are being interpreted or experienced by them. This inquiry is most likely to be effective if others in the group have already demonstrated a measure of solidarity with the victim, and the victim is aware they are not ‘alone.’ This choice also depends on the victim’s general assertiveness and on how they seem to be reacting to the blameful or minimizing comments – i.e. their apparent level of readiness to address the comments directly.

If calling a break to address the comments, the facilitator would engage separately with the participants, including the victim and the person making blaming/minimization statements. This may include:

Questions for the Victim	Questions for the Blaming/Minimizing Participant
<ul style="list-style-type: none"> ➤ How is the process going from your perspective? ➤ What was it like for you to hear comments about... ➤ What would you like ___ to understand? ➤ What are your thoughts on how to proceed? ➤ What support do you need from me/others? 	<ul style="list-style-type: none"> ➤ How is the process going from your perspective? ➤ When you stated ___, what were you hoping for? ➤ How do you imagine this was interpreted by [the victim]? ➤ My observation of how this landed is ___. ➤ What are your thoughts on how to proceed? ➤ What support do you need from me/others?

REASONABLE AGREEMENTS

Effective agreements emerging out of restorative justice processes generally contain three basic elements:

Reparation: Plans for repairing harm done to victims and the community.
Prevention: Plans for gaining skills or making measurable life changes so that the likelihood of further offending is decreased.
Monitoring: Plans for who will support the offender to carry out his or her obligations.

It is important that victims' needs for reparation do not get 'lost' in the discussion on agreements. Facilitators can work to ensure that reparation toward victims takes a prominent role in the agreement by their framing and inquiry about this topic during these discussions.

Effective agreements include specific timelines, responsibilities, and people involved. They are achievable and include plans for both monitoring and contingencies if responsibilities are not met. They also include



Clear and specific agreements can provide victims with re-assurance that their needs will be addressed without further hassle, uncertainty or complication.

provisions for how information about progress will be communicated to the participants of the dialogue. Clear and specific agreements can provide victims with re-assurance that their needs will be addressed without further hassle, uncertainty or complication.

FOLLOW-UP

Timely follow-up with victims following a facilitated dialogue provides them with opportunities to debrief the dialogue, stay informed of case progress, provide evaluation feedback to the facilitator or program, and plan for possible future involvement in programs and services.

After the dialogue, the facilitators can develop a simple follow-up plan with the victim according to a few basic questions:

- What kind of follow-up support and information would the victim find helpful in moving forward?
- In what format? Email, phone, in person, etc?
- On what timeline will the follow up occur?
- Who will initiate contact?
- How will the facilitator and the victim know when the case is concluded?

3.6 CONCLUSION AND FINAL THOUGHTS

The author and trauma survivor Shannon Moroney said of her experience of recovery, "The number one factor that kept me focused on healthy ways of coping was – and is – the love and support I have from family and friends."¹²⁶ Facilitators in a restorative justice context have a unique relationship with victims, distinct from that of family, friends, therapists or others. Yet through a blend of awareness, mindset, presence, skills and strategies, practitioners can be yet

¹²⁶ Moroney, Shannon (2011). Through the Glass.

another vital source of support and accompaniment to crime victims. The evolutionary theorist Mary Clark has defined love, in its broadest sense, as “the security produced by experiencing nurturing acceptance and guidance toward autonomous development.”¹²⁷ While love may be an uncommon term for describing the role of a facilitator, Clark’s definition may in fact be a reasonable description of what we as facilitators can aspire toward in working with victims in their journey toward justice. By whatever description we choose, to strive toward skilled accompaniment of victims is to undertake a journey of our own. The considerations and strategies highlighted in this Guide are offered in the hopes that they may provide touchstones, food for thought and the grounds for further conversation and reflection along the way.



As you integrate the contents of this Guide, the authors encourage you to continue seeking knowledge about the many theories, ideas, principles, and values that underpin practice. These elements bring clarity to the intricacies of practice and help shape our responses to the challenges of the work. Through this process of reflection, learning and action, the restorative justice field will continue to grow in its capacity to work with knowledge, skill, compassion and commitment with victims who may be interested in a restorative response to the injustices they have experienced.

¹²⁷ Clark, Mary E. (2002). In Search of Human Nature. P. 221.