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Restorative justice

Getting fair outcomes for victims in Canada's criminal justice system

PUBLIC ENGAGEMENT ON THE FEDERAL GOVERNMENT'S
CRIMINAL JUSTICE SYSTEM REVIEW

OFFICE OF THE FEDERAL OMBUDSMAN FOR VICTIMS OF CRIME
NOVEMBER 2017

Context

In August 2017 the Office of the Federal Ombudsman for Victims of Crime launched a national engagement process to hear from those with lived experiences of victimization, victim service providers, victim advocacy organizations, and other victims' issues experts about how Canada could better support victims and survivors of crime.

The engagement was undertaken in response to the Government of Canada's commitment to reviewing the criminal justice system, with the intention of providing timely, relevant and informed options to the Minister of Justice and Attorney General of Canada for how to transform federal laws, legislation, services and policies. The engagement focused on areas of interest to the Government, such as: bail reform, administration of justice issues and restorative justice; as well as on the *Canadian Victims Bill of Rights (An Act for the Recognition of Victims Rights)*.

The following document is one in the series of *Getting fair outcomes for victims and survivors* papers that present what was heard, along with research, best practices and options for change. The papers focus on:

- > Bail reform
- > Administration of justice offences
- > Restorative justice
- > The *Canadian Victims Bill of Rights*
- > Canada's criminal justice system

The full suite of documents can be found on the Office's website (victimsfirst.gc.ca). The Office would like to thank all of those who contributed to this project.

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RESTORATIVE JUSTICE



What is restorative justice?

Restorative justice (RJ) is a way of looking at and thinking about crime and the criminal justice system – one that is meant to take a holistic, collaborative, and humanizing approach. It views crime not only as a violation of the law but also of people, relationships, and communities.¹

RJ can be understood as a form of justice that focuses on repairing the harm caused by crime by:

- holding offenders accountable for their actions;
- providing parties affected by the crime an opportunity to address their needs and seek a resolution that lends itself towards reparation; and
- preventing further crime, harm, and victimization.

While many of the concepts of RJ philosophy find their origins in the legal systems of Indigenous peoples around the world², it must be acknowledged from the outset that there are important differences between these systems and “western approaches” to RJ.³

As well, RJ is not to be confused with “restitution”, which can be an element of RJ but refers to an order made for the offender to pay the victim for financial losses the victim suffered because of the offender’s crime.

Referral to RJ in Canada can occur at various entry points within the criminal justice system – for example, pre-charge (referral by police), post-charge (Crown), pre-sentence (courts), post-sentence (corrections), or pre-revocation (parole).⁴

As well, in Canada, as elsewhere, RJ can take many forms, such as:

- *Victim-offender reconciliation or mediation programs* use trained mediators to bring victims and offenders together in order to discuss the crime, its impact, and any agreement to address it. More indirect variants also exist (e.g., where

there is instead an exchange of letters between the victim and their offender).

- *Conferencing*, where the victim, the offender, their supporters (e.g., family members), and community members work toward reparation, facilitated by an independent third party.
- *Victim impact panels* bring together a group of victims who speak to an offender about the impact that a crime has had on their lives.
- *Victim-offender panels* bring together victims with offenders who have committed a similar crime to that which they have experienced (also sometimes referred to as “surrogate RJ”).
- *Circles* (e.g., *sentencing, healing, releasing*), which can vary according to the specific community and context but may include elements such as bringing together members of the community (e.g., accused person, Elders, and often the victim(s)) to discuss the offence, its underlying causes and its impacts – not only on the victim but on the community and relationships – and identify a path forward.

Ultimately, RJ initiatives will vary from one community to another, and from case to case. This is because every community’s needs are different, every victim is different, and every crime is different (e.g., the offender and victim may know each other well or may be strangers; the crime could be a first-time offence or a repeat offence).

What rights do victims currently have with respect to restorative justice?

- > Under the *Canadian Victims Bill of Rights* (CVBR), every victim has the right – on request – to information about the services and programs available to them, including RJ programs.
- One challenge is that the CVBR provides only that a victim has a right to information about RJ “on request”. But if a victim doesn’t know about RJ in the first place, how could they possibly

know to inquire about it? The CVBR is also silent with respect to whose role or responsibility it is to provide such information to victims.

- > The ability for victims to access information about RJ is included in the *Corrections and Conditional Release Act* (CCRA). The CCRA requires the Correctional Service of Canada to inform registered victims about its RJ programs and its victim-offender mediation services (though participation is voluntary).
- > RJ is also addressed in the current *Criminal Code*. Section 717 of the current *Criminal Code* permits what are referred to as “alternative measures”, which, in some instances, can be based on RJ. It clearly provides that, for alternative measures to be deemed appropriate, the needs of the alleged offender must first be considered, along with the interests of a victim and society. As well, some of the sentencing objectives outlined in section 718⁵ express the principles of RJ, such as: “to provide reparations for harm done to victims or to the community” and “to promote a sense of responsibility in offenders, and acknowledgement of the harm done to victims or to the community”.
- > RJ is dealt with as well in the *Youth Criminal Justice Act* (the YCJA). The YCJA is the law that governs Canada’s youth justice system and applies to youth who are at least 12 but under 18 years old who are alleged to have committed criminal offences. It includes several provisions at the youth court level that are consistent with RJ principles and practices. The YCJA encourages the recognition and reparation of harm done to victims and communities, invites participation by victims, and encourages the involvement of families and communities in the young person’s rehabilitation and reintegration⁶.

Considerations

Usage

- > The Minister of Justice and Attorney General of Canada’s mandate letter⁷ notes the increased use of RJ processes as an important priority for Canada’s criminal justice system review and reform.
- > In May 2016, at the 25th Session of the United Nations Commission on Crime Prevention and Criminal Justice, a resolution tabled by Canada on the issue of RJ in criminal matters was adopted. It builds on a July 2002 resolution (RJ principles) and proposes to convene a meeting of RJ experts to review the use and application of the principles, along with innovative approaches in the area of RJ.
- > Governments in several jurisdictions have adopted RJ as an approach to criminal justice, for example, in England and Wales, the United States, France, Japan, and New Zealand.
- > In 2015, Manitoba became the first province to pass legislation specifically addressing RJ. Its *Restorative Justice Act* aims to increase the use of RJ and promote public safety by providing resolution that affords healing, reparation and re-integration. The Act provides that RJ programs may be used before or after a person is charged with an offence. It establishes an advisory council, made up of community and government representatives, to provide advice and recommendations on the design and content of RJ programs, and the most effective means of implementing, delivering and monitoring them.

Impact of RJ

- > A multi-site study⁸ of victims of crime and criminal justice professionals across Canada found that criminal justice professionals surveyed believed that RJ would be most effective in cases involving: youth in conflict with the law; first-time offenders; minor property offences; where the whole community is affected; where the victim consents to participate; and where the offender is motivated to participate.
- > Several studies have concluded that both victims and offenders have high levels of satisfaction with RJ processes and outcomes. Analysis of several studies

done by the Department of Justice Canada⁹ found that RJ was more successful than traditional justice approaches in improving satisfaction of both victims and offenders and getting offenders to comply with restitution. There was also a modest but statistically significant reduction in recidivism.

- > Amongst the potential benefits of RJ cited for victims are the opportunities it can provide to the victim to: communicate with the offender who harmed them, should they wish to do so; speak to their lived experience¹⁰; express the impact the crime has had; ask for answers to questions that matter to them¹¹ and/or a sincere apology; and hold the offender accountable.
- > RJ may be a more flexible or procedurally-just approach – one that can be more readily adapted to meet the needs of participants, provide care and support, create dialogue and enable victims to take on a more active role in decisions and outcomes.¹²
- > The view that RJ offers improvements over the traditional, adversarial criminal justice system is, however, not without controversy. Some have expressed concerns with the notion that victims would participate in RJ because of the challenges inherent in the existing criminal justice system; it is argued that the system itself should change to better meet victims' needs.

Victims' needs and concerns

- > RJ's increasing use – whether as an additional, alternative, or complementary form of justice – has sparked ongoing dialogue and debate as to the both the opportunities and challenges it presents for victims and survivors.
- > Some of the central concerns for victims participating in RJ include risks of re-victimization or secondary victimization, pressure to participate, safety and confidentiality.¹³
- > Another key concern that has been raised is that RJ too often takes as its starting point an offender-centred rather than a victim-centred (or evenly balanced) point of view.¹⁴

- Where an offender-centred approach is taken, victims' needs for supports within the process, such as counselling and follow-up care, may be overlooked.

- > Some victims express concern about possibly forfeiting the opportunity to see the offender prosecuted in the criminal justice system should RJ be used.¹⁵
- > Concerns have been expressed where RJ appears to go hand-in-hand with expectations for reduced offender penalties.¹⁶
- > The available literature emphasizes that careful consideration is required to ensure that adequate information, resources, choices, options and safeguards are in place, and that the needs and concerns of victims and survivors are fully addressed.
- > There are a few international examples where a victim-centred approach to RJ has been specifically adopted. Such examples have shown promising results, with victims feeling more respected, heard and satisfied.¹⁷

Appropriateness

- > There is ongoing debate about the suitability of RJ in certain situations – for example, gender-based violence.
- > Most RJ programs are not equipped to deal with serious cases involving power inequalities, such as sexual assault or abuse, or domestic violence. Some programs have devoted extensive effort to training, consultation and partnership with appropriate supporting agencies to offer RJ in some of these cases, but that is not the norm.
- > A number of countries are exploring options for developing guides or standards to assist practitioners in assessing risk and applying RJ in cases of interpersonal violence and sexual assault.

Awareness

- > In a Canadian study, 102 victims in cases where a charge had been laid¹⁸ were asked if they had been given information about RJ processes after the crime. Just three of these victims said that they were given such information.

- > In public opinion research commissioned by the Department of Justice Canada in 2016¹⁹, 80 percent of those surveyed thought that criminal justice system officials should be required to inform victims/survivors and accused people of the availability of options focused on the acceptance of responsibility and reparation of harm, such as RJ.
- > A study on the RJ experiences amongst 34 victims of serious crime in Canada and Belgium²⁰ identified two main approaches to providing information to victims about RJ options: a *protective approach* (i.e., victims were told about RJ only if they explicitly asked about it) and a *proactive approach* (victims were provided the information about RJ in a systematic way). The researchers found that victims preferred to be proactively informed about their RJ options, as long as certain conditions were respected (i.e., a guarantee of voluntary participation and use of RJ as a complement to criminal justice proceedings).

PARTICIPANT PERSPECTIVES



The Participant Perspectives section provides an overview of what we heard from those who contributed either in person, in writing or by phone.

One participant summed up a perspective we heard repeated clearly across the country about restorative justice (RJ):

“RJ must be victim-centred, voluntary, evidence-based, and those programs that are evidence-based must receive adequate funding, and the mandate must not include to reduce penalties.”

NEED TO CONSIDER VICTIMS CAREFULLY

- It must be *an option*. Victims must have the choice, not everyone would want to participate in RJ.
- The majority of participants felt that the RJ process was imbalanced in favour of meeting the needs of offenders, rather than victims.
- We hear all the time that RJ is “community based”, but have we really considered who is in the community and whether we have ensured their voices on RJ are heard? Are we properly involving them in RJ?

AWARENESS AND UNDERSTANDING

- Stakeholders felt there was generally very little awareness and understanding of RJ and that the onus fell on victims to do their own research. More proactive information sharing, awareness and outreach needs to occur.
- Some felt the term “restorative” justice to be problematic or even offensive – implying the ability to “restore” someone to the life they had before the crime. They would like to see a different term used.

PURPOSE AND IMPACT

- Key differences exist in how people see RJ. Some are drawn to a faith-based approach whereas others are not; for example, for some, RJ is ultimately about forgiveness whereas others were very clear in expressing that forgiveness must not be understood as an objective of RJ. There needs to be room for more than one approach.
- *“RJ helps us understand that we are all concerned about justice, as a society.”*
- *“RJ can resolve fundamental toxic relationships in families and communities, empower victims, and make meaningful changes.”*
- Some expressed concerns that RJ would become a means for reducing or avoiding penalties.

PARTICIPANT PERSPECTIVES



APPROPRIATE USE

- Some would like to see RJ as a process occurring in parallel to the criminal justice system. In that model, victims would potentially have a choice about participating in a RJ process instead of going through the formal criminal justice system – even in cases of gender-based violence and sexual violence. The rationale provided for such a model was that the current criminal justice system is not working for victims, and we therefore need to have something else in place for victims from the outset – from the time where police meet with the victim and onwards.
- *“What we are talking about is a more relational system. If we can’t move the monolith of the criminal justice system, we need to have something that works around that monolith to take a victim-centred approach until the monolith can change.”*
- Views are divergent regarding whether RJ should be used for serious crimes against persons. Those with concerns cited safety, coercion, intimidation and the dynamics of power imbalance in domestic and sexual violence cases. Others cited potential benefits such as research which demonstrated lower recidivism rates amongst those who committed serious crimes and participated in RJ.
- Some advocates and certain communities of Indigenous women do not believe that RJ is appropriate for dealing with sexual and domestic violence. It is believed that RJ sets back the work that has been done to bring public attention and punishment to sexual and domestic violence by privatizing them. It’s felt that this, coupled with gender-based power imbalances within Indigenous communities (developed as a result of the colonization process), may lead to further suffering for women.
- It cannot be a one-size fits all approach. It needs to be studied and significantly adapted for certain populations – such as children, older adults or Indigenous victims. It may be discouraged altogether in some of these cases in order to reduce further harm.

CULTURAL CONSIDERATIONS

- Terminology is important and must be used appropriately. For example, RJ is not an Indigenous “traditional practice” but a legal system, which differs from community to community.
- We heard that one of the goals of RJ is for the state to relinquish some of its power and return control to the community to deal with certain matters pertaining to justice. This is however problematic for Indigenous communities in that:
 - it assumes or imposes a definition of “community” – communities must be able to define themselves and reflect their identities and community programs should be built from the bottom-up; and

PARTICIPANT PERSPECTIVES



CULTURAL CONSIDERATIONS (CONTINUED)

- it fails to acknowledge certain communities' challenges to deal with their own issue of crime as a result of the devastating endemic effects of colonialism.
- Sentencing circles often displace the burden of "healing" the offender onto their community and family without providing any resources to assist in this. This inadvertently put more emphasis on the healing of the offender vs. victims or community. Many Indigenous women's groups agree that "survivors of violence are not protected and supported in the circle".
- There is value in conflicting perspectives about the development of RJ programming. On the one hand there is the view that for RJ to be of consistent quality and conducted in a manner that takes care not to cause further harm, there should be a basis of agreed upon standards, guidelines or principles. At the same time, we clearly heard about the necessity for practitioners to have the flexibility to develop programs that respond to their community's needs – programs created from the bottom-up without imposed frameworks. Further discussion and study must be done to resolve the contradiction in both valuable ideas.

RESOURCING

- There is a lack of programming in many communities, which was attributed to funding and resource issues. For example, in some areas of the north, prosecutors do not have the option to send a case to an alternative measure, unless the accused is willing to travel back and forth amongst communities, yet it was acknowledged that, if available, such programs could help to address some of the concerns in the victim's life.
- *"My (community-based program RJ program) is well evaluated but survives off of donations through bake sales."*
- Capacity to deliver and sustainability must be carefully considered before anything is rolled out. Practitioners must be carefully trained and, as important, suitable for this work.

RECOMMENDATIONS AND OPTIONS



This section suggests options and makes recommendations to the federal government with respect to restorative justice. The recommendations provided were developed after carefully considering a variety of source material, such as: participant perspectives, the Office's past work and experience, research, literature reviews and more.

INCREASE AWARENESS AND UNDERSTANDING

- Develop a national victim-centred RJ strategy in consultation with victims, victim-serving agencies and researchers, and resulting from meaningful dialogue, including with provinces/territories and those who are working within, or accessing, the criminal justice system, in order to allow them to suggest concrete and practical policy and operational solutions.

MAKE RESOURCES AVAILABLE TO VICTIMS

- Put in place funding to support victims' use of RJ. Such funding would address compensation for victims to participate in a process, in order to mitigate any out-of-pocket costs borne by the victim. Funding and resources need also be put in place to support victims before, during and after the process.
- Funding must be made available for RJ agencies to carry out their work and to provide for dedicated collaborative RJ teams which include victim-centred expertise.
- Explore the potential for providing victims with free legal representation in order to facilitate their participation and to ensure that they are fully informed of rights and potential consequences within the process.
- Create an RJ registry whereby interested victims, accused people, and offenders could register. If a match for RJ is established by the registry, the victim would be contacted by victim services and the offender would be contacted by offender services and the two types of services would work together collaboratively to explore RJ.

EXPAND LEGISLATION

- Modify the CVBR to make it automatic and mandatory to inform victims of RJ opportunities. Currently, the CVBR provides only that a victim has a right to information about RJ "on request". The CVBR is silent with respect to whose role or responsibility it is to provide such information to victims and as such victims may easily miss important information on this option.
- Explore options for ensuring that restitution orders can be an integral option within the RJ process and that there are adequate collection mechanisms to support payment of the orders.
- Canada could look to option elements of New Zealand's approach to RJ. In New Zealand, a new section was added to the *Sentencing Act* in 2014 requiring courts to adjourn in criminal justice proceedings to consider RJ where certain criteria are met. A victim-centred approach is taken to RJ.

RECOMMENDATIONS AND OPTIONS



EXPAND LEGISLATION (CONTINUED)

- Establish minimum standards on the rights, support and protection of victims in relation to RJ services, such as those outlined in preamble 46 of EU Directive 2012/29/EU:
Restorative justice services, including for example victim-offender mediation, family group conferencing and sentencing circles, can be of great benefit to the victim, but require safeguards to prevent secondary and repeat victimisation, intimidation and retaliation. Such services should therefore have as a primary consideration the interests and needs of the victim, repairing the harm done to the victim and avoiding further harm. Factors such as the nature and severity of the crime, the ensuing degree of trauma, the repeat violation of a victim's physical, sexual, or psychological integrity, power imbalances, and the age, maturity or intellectual capacity of the victim, which could limit or reduce the victim's ability to make an informed choice or could prejudice a positive outcome for the victim, should be taken into consideration in referring a case to the restorative justice services and in conducting a restorative justice process. (...)
- Put in place a right to safeguards in relation to RJ services, such as that the one provided in EU Directive 2012/29/EU, general provisions, Article 12:
Right to safeguards in the context of restorative justice services
1. Member States shall take measures to safeguard the victim from secondary and repeat victimisation, from intimidation and from retaliation, to be applied when providing any restorative justice services. Such measures shall ensure that victims who choose to participate in restorative justice processes have access to safe and competent restorative justice services, subject to at least the following conditions:
(a) the restorative justice services are used only if they are in the interest of the victim, subject to any safety considerations, and are based on the victim's free and informed consent, which may be withdrawn at any time;
(b) before agreeing to participate in the restorative justice process, the victim is provided with full and unbiased information about that process and the potential outcomes as well as information about the procedures for supervising the implementation of any agreement; (...)

CONDUCT AND ASSESS ONGOING RESEARCH

- Conduct ongoing empirical research to explore outcomes with respect to RJ, including to assess its use across various types of crimes and populations (e.g., children, older adults). Such research should ensure to include work to assess victims' experiences, satisfaction and outcomes.
- Establish an advisory group on evidence, at arms-length from government, to review evidence. Such a group would look not only at positive outcomes but also explore any negative impacts and costing.

¹ Tinneke Van Camp and Jo-Anne Wemmers, "Victims' Reflections on the Protective and Proactive Approaches to the Offer of Restorative Justice: The Importance of Information", *Canadian Journal of Criminology and Criminal Justice*, (Vol 58:3), 2016, consulted July 2017, <http://www.utpjournals.press/doi/pdf/10.3138/cjccj.2015.E03>.

² M. Achtenberg, "Understanding restorative justice practice with the Aboriginal context", *Forum on Corrections Research*, (Vol 12:1), 2000, Correctional Service of Canada: Ottawa.

³ See, e.g., Michael Jackson. "In Search of the Pathways to Justice: Alternative Dispute Resolution in Aboriginal Communities", *UBC Law Review, Special Edition: Aboriginal Justice*, 1992.

⁴ *The Effectiveness of Restorative Justice Practices: A Meta-Analysis*, Department of Justice Canada, 2001.

⁵ In *R v Gladue* [1999 CanLII 679 (SCC) [Gladue]], the Supreme Court of Canada recognized that RJ principles apply to all offenders but went on to interpret section 718.2(e) of the *Criminal Code* to require particular emphasis on RJ for Indigenous offenders. The Court reviewed some already existing RJ initiatives, but was clear that RJ principles were not limited to existing sentencing processes, leaving the door open to alternative approaches to RJ.

⁶ These objectives are reflected, for example, in: the section 3 Declaration of Principle, which applies throughout the YCJA; sections 4 and 5, which set out the principles and objectives of extrajudicial measures (section 12 sets out the right for victims to information, on request, in cases where a young person is dealt with by an extrajudicial sanction); and section 38, which sets out the purpose and principles of sentencing. Section 42 of the YCJA provides the courts with many restorative sentencing options such as personal service to the victim, community service, and probation orders that include victim-offender mediation. Of particular relevance is section 19 of the YCJA, which provides for the convening of conferences.⁶ Conferences may take on a restorative format, such as a restorative conference that involves the young person, the victim and other members of the community in a discussion about how the young person could be held accountable for an offence by making reparation to the victim.

⁷ *Minister of Justice and Attorney General of Canada Mandate Letter*, consulted July 2017, <http://pm.gc.ca/eng/minister-justice-and-attorney-general-canada-mandate-letter>.

⁸ The study was conducted on behalf of the Department of Justice Canada and involved 16 sites within the 10 provinces; the territories were not included in the study.

⁹ Jeff Latimer, Craig Dowden, and Danielle Muise, *The Effectiveness of Restorative Justice Practices: A Meta-Analysis*, Department of Justice Canada, 2001, consulted July 2017, http://canada.justice.gc.ca/eng/rp-pr/csj-sjc/jsp-sjp/rp01_1-dr01_1/rp01_1.pdf.

¹⁰ See, e.g., S. Jülich, J. Buttle, C. Cummins and E.V. Freeborn, *Project Restore: An Exploratory Study of Restorative Justice and Sexual Violence*, Auckland University of Technology, 2010; M. Keenan, *Sexual Trauma and Abuse: Restorative and Transformative Possibilities?*, University College Dublin, 2014; C. McGlynn, N. Westmarland and N. Godden, "I Just Wanted Him to Hear Me: Sexual Violence and the Possibilities of Restorative Justice," *Journal of Law and Society*, 2, 2012, 213-240.

¹¹ See, e.g., M. Keenan, *Sexual Trauma and Abuse: Restorative and Transformative Possibilities?*, University College Dublin, 2014; Susan Herman, "Is Restorative Justice Possible Without a Parallel System for Victims?", In Howard Zehr & Barb Toews (Eds.) *Critical Issues in Restorative Justice*, Monsey, NY: Criminal Justice Press, 2004, 75-83.

¹² S. Curtis-Fawley and K. Daly, "Gendered Violence and Restorative Justice: The Views of Victim Advocates", *Violence Against Women*, (Vol 11:5), 2005, 603-638.

¹³ United Nations, *Handbook on Restorative Justice Programs*, Criminal Justice Handbook Series, United Nations Office on Drugs and Crime, 2006.

¹⁴ See, e.g., Jo-Anne Wemmers, "Review of the First International Symposium on Restorative Justice for Juveniles", *The Victimologist*, (Vol 1:1), 1997, p.5; and T. Marshall and S. Merry, *Crime and accountability: Victim/Offender mediation in practice*, London: Her Majesty's Stationary Office, 1990.

¹⁵ *Restorative Justice*, Government of British Columbia, Ministry of Public Safety and Solicitor General, p.7, consulted July 2017, <http://www2.gov.bc.ca/assets/gov/public-safety-and-emergency-services/crime-prevention/community-crime-prevention/publications/crime-prev-series3-restorative-justice.pdf>.

¹⁶ H. Mika, M. Achilles, E. Halbert, L. Stutzman Amstutz, H Zehr, *Taking Victims and their Advocates Seriously: A Listening Project*, 2002, p.4, consulted July 2017, <http://restorativejustice.org/10fulltext/mika.pdf>.

¹⁷ See, e.g., Ministry of Justice, New Zealand, *Restorative Justice Victim Satisfaction Survey: Research Report*, September 2016, consulted July 2017, <https://www.justice.govt.nz/assets/Documents/Publications/20170303-RJ-Victim-Report.pdf>.

¹⁸ Department of Justice Canada, *Multi-Site Survey of Victims of Crime and Criminal Justice Professionals across Canada*, 2004.

¹⁹ Ekos Research Associates, *National Justice Survey: Canada's Criminal Justice System: Synthesis Report*, submitted to the Department of Justice Canada, 2017.

²⁰ *Ibid* at note 1.