

NEW JUSTICE INITIATIVES IN ELSIPOGTOG:
TARGETING FETAL ALCOHOL AND SOCIAL PROBLEMS

SUBMITTED TO

YOUTH JUSTICE POLICY

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BY

DON CLAIRMONT

Atlantic Institute of Criminology

Dalhousie University

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TABLE OF CONTENTS

EXECUTIVE SUMMARY	4
INTRODUCTION	6
THE FETAL ALCOHOL SYNDROME	
BIG COVE / ELSIPOGTOG	
KEY ELEMENTS OF THE NOGEMAG EVALUATION	
KEY ELEMENTS OF THE ELSIPOGTOG RESTORATIVE JUSTICE EVALUATION	
CRIME AND SOCIAL PROBLEMS	25
THE CONTEXT FOR NOGEMAG AND ERJ	
THE FAS/E FACTOR	
POLICE STATISTICS	
NOGEMAG: THE PROCESSES	34
THE NOGEMAG INITIATIVE	
CJS AND STAKEHOLDERS' PERSPECTIVES	
CONCLUSION	
ELSIPOGTOG RESTORATIVE JUSTICE: THE PROCESSES	47
PROGRAM IMPLEMENTATION	
ORGANIZATIONAL STYLE	
CJS AND STAKEHOLDERS' PERSPECTIVES	
NOGEMAG: THE OUTCOMES	61
SOME OUTCOME INDICATORS	
THE FAMILIES' PERSPECTIVE ON NOGEMAG	

INTERVIEW GUIDE FOR PARENTS/GUARDIANS	
ELSIPOGTOG RESTORATIVE JUSTICE: THE OUTCOMES	73
THE PARTICIPANTS' VIEWS	
CONCLUSION	
CONCLUSION AND FUTURE DIRECTIONS	86
ELSIPOGTOG RESTORATIVE JUSTICE	
THE NOGEMAG INITIATIVE	90

EXECUTIVE SUMMARY

This evaluation has focused on two recent Justice-oriented projects in Big Cove / Elsipogtog which address key issues for responding to the community's crime and social problems. The initial and major focus has been on the Nogemag initiative which highlights, and implements an educational intervention with respect to, the widespread problem of persons affected by fetal alcohol spectrum disorders (FASD), a birth deficiency associated with much impulsive criminality. The other program, Elsipogtog Restorative Justice (ERJ), implements a community-based, extra-judicial response to crime. The ERJ conducted its first healing circle in the summer of 2000 while the Nogemag project began in fiscal 2002-2003. Nogemag's thrust is particularly salient in native communities such as Elsipogtog because these First Nations' devastating colonialist legacy has generated much substance abuse and consequently much FASD. ERJ's thrust is significant because it represents institutional development in the Justice area, whereby the community can exercise some control over its problems and bring to them perhaps more effective problem-solving solutions. It was anticipated that the two projects would overlap somewhat in clientele and mutually enrich one another.

The methodology for the evaluation involved fifteen trips to Elsipogtog to gather statistical data, records, conduct interviews, observe activities and discuss issues with project staff and members of the umbrella organization, the Justice Advisory Committee (JAC). Local persons were hired and trained to undertake interviews with participants in both programs while the evaluator carried out all interviews with project staffs, CJS officials and other community influentials. Throughout the evaluation research there was feedback and consultation on all aspects of the evaluation.

Both projects can be described as successful initiatives. They were well-implemented by committed coordinators / directors and have achieved their basic objectives. They are well-appreciated by their clientele and respected for their achievements by key, salient community stakeholders. They have put in place credible services and programs that can be built upon. Nogemag's achievements range from putting in place a valuable community asset (i.e., the Nogemag farm and shore side

cabins) to reducing crime among the clientele and facilitating their re-entry into the mainstream school system from which most had been expelled. ERJ has delivered a quality program to the CJS and trained a score of volunteers, community adults, in the healing circle approach it utilizes for youths and adults taking responsibility for modest offences.

At the same time both projects have been quite modest in scale and could be seen as relatively marginal to the criminal justice system (CJS). ERJ staff, and most community influentials interviewed, apparently wish to take on greater challenges (i.e., have more Elsipogtog control over community justice matters), respond to a wider range of offending, and utilize more sophisticated restorative justice strategies (e.g., sentencing circles). At the same time such developments are not without risks given the diverse views and concerns of community residents, and would perhaps require significant additional resources for training and program development. It is clear that while the CJS is open to such initiatives, the impetus would have to come from the community and exhibit both community consensus and a persuasive alternative programming to that currently available through the courts. Similarly in the case of Nogemag, much has been accomplished not only in terms of the educational intervention for the youths but also in increasing awareness of FASD in CJS and medical/health circles. Still, its institutional linkages are not intensive beyond the school system. Clearly its progress in the post-implementation stage will depend significantly on collaboration with health authorities and professionals (especially on matters of diagnosis) and with CJS officials (e.g., protocols and programs that can effect buy-in among cautious CJS role players).

The linkages between Nogemag and the restorative justice initiative did not turn out to be as significant as expected by the evaluator. Both are involved in extra-judicial response to socially problematic behaviour but thus far their paths have rarely crossed. The linkages should be strengthened and probably will be if ERJ becomes more involved with serious offending and post-police referrals, and if Nogemag can advance its collaboration with the CJS and Health sectors.

INTRODUCTION:

This evaluation focuses on an Elsipogtog initiative aimed at a problem for the criminal justice system (CJS) that has been gaining increasing prominence, namely the fetal alcohol syndrome (FAS) and its impact. In addition, the report examines concurrent developments in restorative justice in Big Cove / Elsipogtog. It was anticipated that these programs, which come under the umbrella of the community's Justice Advisory Committee (JAC), might well, either now or in the future, become intertwined as a result of growing CJS imperatives such as giving priority as far as possible to extra-judicial measures and having a commitment to problem-solving (e.g., the therapeutic jurisprudence movement). For example, CJS referrals might be made to the restorative justice program where restorative justice sessions might highlight underlying problems whose betterment would require the kind of intervention that Nogemag could provide. Presumably, too, both programs would share some similar objectives (e.g., crime reduction, incorporation of Mi'kmaq symbolism) and employ similar techniques (e.g., the circle concept). Throughout the report, and for each major section (i.e., introduction, processes, outcomes, and conclusions) the two initiatives will be discussed in tandem.

THE FETAL ALCOHOL SYNDROME: INTRODUCTION

Justice policy for youth, driven over the years by the Juvenile Delinquency Act (JDA) and, for the last two decades, the Young Offenders Act (YOA), is about to be impacted by the new Youth Criminal Justice Act (YCJA). In the past, extra-judicial measures under the JDA and YOA, aimed at removing youth cases from the courtroom and facilitating youth rehabilitation, have required that the youths exhibit remorse, some appreciation that their actions were wrong, and take responsibility for causing the criminal incidents in question. A long-standing criticism of such prerequisites was that they overlooked the situation of youth who for health and/or subcultural reasons, did not exhibit the required dispositions. It has been argued that youths with the fetal-alcohol syndrome (FAS) are especially likely to be among these latter youth - that there is an alcohol-related, birth defect deficiency in their make-up which limits their acting in a way that the society at large regards as responsible. The YCJA does not require explicit

"taking responsibility" as a prerequisite for certain extra-judicial measures, and, in effect, it opens up new possibilities regarding the CJS response to youth with FAS-type symptoms. Quite apart from the new YCJA guidelines, it has been argued that an FAS person might be entitled to a defence against conviction analogous to that provided one who is declared mentally insane (i.e., does not comprehend and/or cannot exercise constraint). At the least, an FAS person (or even an FAE person, that is, one with fetal alcohol effects though not full-blown FAS) could expect that permanent birth defect condition to be a mitigating factor in sentencing. Indeed, aboriginal Canadians, most disproportionately impacted by FAS, might especially have this expectation in the light of the Supreme Court of Canada's Gladue decision which encouraged mitigated sentencing based on the aboriginal legacy in Canada.

The term, fetal alcohol syndrome, was first coined in 1973 (Jones and Smith, 1973). FAS was defined as a permanent birth disorder associated with maternal alcohol consumption during the period of fetus development and, for facial dysmorphism in particular, especially in the first trimester of pregnancy. Alcohol has long been suspected of being a teratogen causing varying degrees of congenital malformations and mental retardation in infants (Weiner, 1989, Kowlessar, 1997). In the FAS literature, consumption of alcohol in early pregnancy is considered to be a necessary though perhaps not sufficient cause of FAS (CCSA, 1996). Other factors such as the mother's health, social milieu and perhaps the type of alcohol consumption (e.g., binge drinking patterns) are also deemed salient in FAS causation and, especially of course, with respect to the secondary disabilities associated with FAS/FAE (Roberts, 2000). There are three constitutive features of FAS commonly identified (Boland, 1998), namely prenatal and postnatal growth delay (i.e., height and weight shortfalls), distinct facial dysmorphism (e.g., certain shapes of the eyes, nose and lips) and central nervous system dysfunction (e.g., cell death and damage). Presumably the physiological damage is permanent. There are a host of secondary disabilities associated with FAS, including hearing and dental problems, attention deficit and other cognitive-behavioural difficulties, and low I.Q. The secondary and tertiary implications of FAS vary throughout the FAS person's life, from weak suckle and irritability in infancy to

impulsivity, hyperactivity and poor motor coordination in pre-school years to lack of judgment and remorse, attention deficit and school failure in early school years to memory problems, school dropout, job failure, legal problems, and depression in adolescence and adulthood (Sondregger, 1992). A growing body of literature has confirmed these effects and presented a portrait of the FAS person as easily led and manipulated and whose criminal activity appears to be largely impulsive rather than premeditated (Streissguth, 1997). There is then evidence for a behavioural phenotype which characterizes the FAS/FAE person as he/she proceeds through life (University of Washington, 2002).

There remains significant uncertainty in the diagnosis of FAS/FAE. Many researchers have noted that there is still no single test that can positively and reliably identify children affected with FAS (Kowlessar, 1997) and, not surprisingly, such definitive diagnoses are even less agreed-upon for youths and adults where isolating and untangling the specific presence and impact of specific birth defects would be very problematic. Still, while diagnosis is complicated, there has been progress, Researchers increasingly refer to a continuum of fetal alcohol birth defects (CCSA, 1992). Some posit that only two of the three constitutive features need be present (i.e., above threshold values) in order for FAS/FAE to be diagnosed (Boland, 1998) and others have argued that where only a few dimensions of each these three features are present (e.g., only one or two of the facial dysmorphic such as thin upper lip) then the fetal alcohol syndrome may be less severe. Some diagnostic tools have been developed, most notably by the University of Washington's Centre specializing in fetal alcohol diagnosis and prevention. There, researchers have developed - and trained others throughout North America in the use of - a FAS photographic screening tool (focusing on facial characteristics) and a 4-digit diagnostic code measuring FAS expression in terms of growth deficiency, facial stereotype, brain dysfunction, and alcohol exposure (University of Washington, 2002).

While FAS is a birth defect and presumably "a lifelong physical neurological disability" (Saskatoon Star Phoenix, 1998), it is generally held that factors such as a stable quality home life, early diagnosis, and access to appropriate services can limit

the secondary and tertiary disabilities. It has been reported that FAS/E children work best in an uncluttered environment where there is order, structure and predictable routines (Streissgut, 1997). Others (e.g., Boland, 1998) have emphasized, for both children and adults, a labour-intensive requirement for one-on-one or small group rehabilitation with simplified instructions, 'concrete' emphases and frequent reviews. Clearly, if FAS/E is as extensive and as damaging as researchers posit it to be, prevention would have to be the number one priority.

Given the problem of diagnosis, it is not surprising that the estimates vary concerning the prevalence of FAS/FAE. Common estimates provide a general rate of 0.33 per 1000 live births and perhaps 30 times as much among Native Americans (Kowlessar, 1997). Of course, the less severe FAE effect would be more prevalent, probably 3 to 5 times as much. It is generally believed that FAS/E is underestimated (i.e., type 1 error) both world-wide and among aboriginal groups in North America. Boland et al (1998) suggest a world-wide rate of roughly 2 per 1000 live births and note that the aboriginal numbers could be well beyond the rate noted above. Clearly, research has found that among aboriginal tribes in North America there is significant variation in FAS/E, strongly suggesting that FAS is not an inherent aboriginal trait but rather is caused by non-genetic influences. There has been some concern (Ferguson, 1997) that labelling someone as having FAS/E might be invalid (i.e., a type 2 error) and counter-productive social constructionism, reinforcing stereotypes (e.g., the "drunken Indian"), producing poor self-images among the affected, and blaming the victim (i.e., directing attention to women drinking alcohol, perhaps criminalizing their action, and not focusing on why they might engage in substance abuse).

THE CANADIAN SCENE

Most of the Canadian literature on FAS has focused upon its prevalence among aboriginals, especially First Nations people. While newspaper articles are beginning to highlight the issue among middle-class Canadians (e.g., Globe and Mail, February 1, 2003, "Middle-class FAS: a silent epidemic?") the research has been almost exclusively carried out in aboriginal communities. There is clearly a well-documented connection

between native people-alcohol problems-FAS and a widespread appreciation of some social conditions that seem to lie behind this connection (e.g., the colonialist legacy, racism, destruction of family and community, socio-economic disadvantage etc). There is some question as to whether the measures utilized to diagnose FAS/E (e.g., measures of facial dysmorphology) are as appropriate for native people as for non-natives (Kowlessar, 1997). In any event, the aboriginal rates advanced are truly shocking. Early, less systematic research by practicing doctors had highlighted an epidemic of FAS among native people in British Columbia and Saskatchewan (Health and Welfare Canada, 1983). A more formal and recent Manitoba study of one First Nation found that 30% of all children had had high alcohol exposure as a fetus and that the rates among children of FAS, whole or partial, consistently over several years, were between 50 and 100 per 1000 children (Kowlessar, 1997). A study of a British Columbia native community published in the journal of the Canadian Medical Association in 1987 (cited in CCSA, 1992) found that rate of FAS was 190 per 1000 live births and that 2/3 of the diagnosed FAS/E children were mentally retarded.

Not surprisingly, given the focus on aboriginal peoples, the last decade has seen a strong interest by the Western Provinces and Northern Territories in diagnosing and treating FAS/E, leading to the formation of The Prairie Northern FAS Partnership as well as provincially-specific FAS organizations (e.g., the Alberta Partnership on FAS was created in 1998 and the provincial government has contributed millions for prevention and for enhanced community capacity for the care and support of those already affected). Aboriginal peoples, youths and adults, account for a disproportionately large share of multiple repeat offenders and jailed/imprisoned people in these areas. Some studies of young offenders there have reported that between one quarter and one half suffer from FAS while other studies have suggested that as many as 60% of adolescents diagnosed with FAS have been "in trouble with the law". A January 2000 document produced by the federal Department of Justice suggested that more than half of all jailed youth in Western Canada could well suffer from FAS/E (cited at <canada.justice.gc.ca>). The attention to FAS/E has become Canada-wide. Health Canada has had several forums on the subject and numerous websites for FAS/E

information are now available (e.g., the Alcohol Policy Network maintained by the Ontario Public Health Association). The message across all the organizations and websites is quite similar, namely FAS/E is a major social problem, especially, but not only, in aboriginal communities, and much research is required to improve diagnosis, prevention and treatment.

There is little doubt that FAS/E liability presents major problems and challenges for the criminal justice system (CJS) in Canada, and for all levels of the CJS, from policing to corrections. A 1992 government report - Fetal Alcohol Syndrome: From Awareness To Prevention - called for "increased sensitivity to the existence of FAS/E adult clients or offenders [and emphasized that], within the juvenile justice area, future initiatives, including any public and professional education packages that may be developed to bridge health and justice issues, would include references to FAS/E". It was noted above that it raises serious questions concerning culpability, just sentencing and effective treatment for the apparently disproportionate number of FAS/E affected persons who get into trouble with the law.

Given the number of inmates presumed to be FAS/E affected, it is not surprising that deliberations and policies have been most evident at the Corrections level (Boland, 1998). Here there has been the development of policies for screening, management and rehabilitation programming, adjusting diagnostic or assessment tools to make them appropriate for FAS/E persons and thereby reducing recidivism. It can be noted here that the problem may be more one of preparing persons for non-prison milieu since in prison, FAS/E inmates are often model prisoners, coping well with the simple, highly structured and routinized environment there. Literature search thus far has turned up little indication of major consideration being given to FAS/E at the level of crown prosecutors, judges and police services though some judges in the Western Provinces and Territories (e.g., Saskatchewan) have issued public pronouncements and rendered sentences calling attention to the problem, and some police services have launched interesting initiatives (e.g., the Lethbridge Police Service in Alberta) and accessed special brochures produced with the collaboration of the RCMP and the Canadian Association of Chiefs of Police; these brochures advise officers of FAS/E and suggest

how they might respond to the affected persons as offenders, victims or witnesses.

The FAS/E condition would appear to have potentially profound implications for culpability and the court process of conviction and sentencing. It can be likened to the MAO-A genetic marker for violence which, at the least, could impact on sentencing if not conviction. One law professor (Saskatoon Star Phoenix, 1998) observed that "it [FAS/E] is analogous to a mental disorder defence; there is no control, no understanding that there are rules". At the sentencing level, FAS/E, consistent with the Gladue directive noted above, could be an argument for alternative sentencing. It is clear that when one considers FAS/E in relation to the CJS, the linkage between health and justice spheres is quite manifest and imaginative policies and programming are required to reflect that linkage adequately.

There are also, not surprisingly, very negative FAS/E implications reported regarding performance at school and relations with family members and fellow community members, all of which reinforce the propensity to become entangled with the CJS. Prevention through the avoidance of alcohol during pregnancy has always been, and will continue to be, the main strategy for reducing the prevalence of FAS symptoms, but recently, as noted, there has been more optimism that FAS youth can be helped to deal with their condition. Increasingly, as more is known about FAS and a strong research tradition has developed establishing its biological basis, there has been a concern for early intervention and an appreciation that an intensive interventionism can make a positive difference. As noted above, there is some confidence that secondary and tertiary disabilities can be limited and a growing knowledge of useful strategies for doing (e.g., structured uncluttered learning environment etc) There have been a few Canadian projects which have specifically targeted - with some apparent success - FAS youth (e.g., Lethbridge Alberta, Gwich'in First Nation in the Northwest Territories, TRIUMF in Ontario). Among Canada's aboriginal peoples, both Inuit and First Nations, where the FAS problem is widespread, interventionism has been accompanied by camp and wilderness experience; this lodge or camp strategy combines both intensive interventionism, a supportive group milieu and culturally-rooted re-socialization.

There are two chief considerations for evaluating the Nogemag initiative that flow from the above analyses. First, there is the issue of diagnosing FAS. As Roberts et al (2000) have noted, diagnosis is difficult, especially where positing that alcohol is the sole factor, and labels have been changing reflecting that complexity - "diagnosis is difficult even for an experienced clinician because it depends on the recognition of a consistent pattern of minor physical anomalies ... some of which change in time and in severity among individuals". Labels have been changing in popularity too. FAS evolved into FAS/E and then to pFAS (partial FAS) and on to a more general FASD (fetal alcohol spectrum disorders); more recently, exciting neurological research on imaging brain functioning (Connor, 2001), has differentiated those with FAS disabilities from others and led some researchers to highlight the neurological dimension and prefer the label, ARND (alcohol related neurodevelopmental disorders). In light of the fact that there is little diagnostic capacity regarding FAS/E in the Big Cove area, this complex identification issue raise difficulties. It should be noted though that researchers such as Boland (2000) and Roberts et al (2000) have emphasized that "a favoured approach is to identify alcohol exposure without judging its causal role". As noted below, Nogemag eligibility criteria lean on evidence of alcohol exposure in conjunction with demonstrated problems at school and with the CJS.

The second major implication refers to the fact that Nogemag aims at ameliorating secondary or tertiary disabilities. There is a limited best practices literature against which to assess Nogemag; as Roberts et al (2000) comment, " there are no empirical studies that shed light on effective educational interventions". There are, however, some findings and consensus guidelines that have emerged. Some have cited the importance of group discussions among project participants (e.g. DARE, 2001) while other have identified the value of a farm milieu (Triumpf 2001). Conry et al observed "a stable living environment with compassionate caregivers and in a structured school environment, could improve the outcome for youth [affected by FAS/E]". Roberts et al (op cit) and Szabo (2000) have also emphasized maximizing structure and routine, explicit instructions using visual aids, individualized work plans, and summer enhancement programs.

BIG COVE / ELSIPOGTOG

Big Cove, originally in Mi'kmaq called Elsipogtog, is the largest reserve, population-wise, in New Brunswick and the second only to Eskasoni among reserves in Atlantic Canada. The community of 2500 people reportedly has the highest crime rate among all RCMP detachment units in Canada, and perhaps among all police services. There are exceptionally high levels of violent crime and little evidence for a diminution of such crime over the past four years. There is also a very high level of offenses under the mental health act which for the most part involved attempted suicide or other harmful actions directed at oneself. Comparisons with neighbouring communities establishes the uniqueness of Elsipogtog in these respects. It has been estimated that as many as 80% of youths suspected of having FAS/E have already come into conflict with the law. The school system has been under considerable pressure in recent years, some say on the verge of collapse as unruly, difficult to control students wreaked havoc and were often more commonly found in the corridors than in the classroom (having been ejected for disruptive behaviour). School officials have reported that perhaps as many as one quarter of all the 200 plus students may be affected by FAS/E and that at least 10% may have full blown FAS. At the same time the First Nation has been experiencing a major revitalization. Local entrepreneurs have been active and a solid cadre of competent professionals and administrators has been built up. There is increasing capacity at the community level.

The Big Cove project - the Nogemag Healing Lodge Farm - represents an innovative plan to deal with FAS among band members both on and off reserve. It combines a variety of strategies and tactics (such as training staffs, having referrals to and from other agencies, intensive, small group intervention), is focused both at the micro (individual, peer group) and macro (community capacity) levels, and incorporates Mi'kmaq revitalized traditions (such as the lodge, the sweats and the role of elders). It is being implemented as much as possible in conjunction with new community agencies (e.g., schools, police) and traditional community structures (e.g., family groupings). The project is a considered response to community research which had found that there was

a alarmingly high incidence of FAS at Big Cove and that no effective strategies or programming existed to deal with either the school or the CJS youth problems.

KEY ELEMENTS

The Big Cove project clearly has objectives at individual, familial and community levels, and intersects primarily with the CJS (especially policing), the school system and the community wellness programs. Its focus is on youth aged 12 to 18 years of age. Three objectives were specially identified by the project staff, namely (1) providing orientation for CJS personnel (and others) working with Mi'kmaq youth to increase awareness of FAS and increase their options for dealing with such youth (e.g., encouraging the use of extra-judicial measures); (2) the development of a referral system to red-flag FAS youth and enhance collaboration among CJS, school and project staff in dealing with their assessments, needs and improvement; (3) the development of the Nogemag Lodge as the site for intensive interventionist programming for designated youths who have been suspended or expelled from school and who have been or are at risk of being in conflict with the law.

These three objectives, while central, do not exhaust the project's objectives. Clearly, the entire intervention is planned to be in keeping with the community's cultural heritage. This is evident in terms of involving elders and family groups, designing specific activities for female and male youths, and in emphasizing the spiritual dimension of life (e.g., sweats). Moreover, the project is concerned with developing community capacity to recognize and respond creatively to FAS, an indirect effect of which might hopefully be less alcohol consumption by pregnant mothers. This latter objective seems very crucial in that the Nogemag Healing Lodge Farm entails a very labour intensive intervention which can only directly accommodate a small number of FAS/E youths. Overall, then, it is an ambitious project with multi-dimensional objectives and strategies.

PROCESSES AND OUTCOMES

Chief process considerations would include (1) putting into place the organizational structure for the project (e.g., filling the roles, training the staff) and the infrastructure (e.g., the lodge), (2) how FAS/E is determined, (3) the penetration level of the Lodge and other interventions (i.e., how many of the targeted grouping are reached directly and indirectly by the project), (4) the actual interventionist programs advanced, (5) the liaison with other local agencies, especially the CJS, school system and wellness programs, and (6) the other activities carried out by project staff (e.g., orientation sessions and reports to advisory committee and to council). These processes are described and examined in the evaluation. Clearly, the processes, in broad strokes, involve the implementation of the project (staff, programs, infrastructure), developing linkages with referral sources in the community, encouraging the participation of the targeted youth and the support of their guardians, involving the community itself, and effecting and maintaining various measures and records to guide the evolution of the project.

The outcomes of the pilot project could well be many but perhaps the central one concerns the impact on the FAS/E youth and their subsequent involvement with the CJS and the school system. In addition to examining referral patterns and the project's penetration rate, it was important to determine whether the youths become less involved in "trouble with the law" and whether their orientation and behaviour regarding school have changed for the better. It would also be important to examine which program features benefit which FAS youths. As noted above, the project has macro-objectives too and outputs such as increased community awareness, and alternative possibilities (i.e., more options) by service agencies and CJS role players for signaling and responding to FAS youth), should also be assessed; these latter would represent an important facet of the enhanced community capacity to deal with FAS which is a project objective. There could be indirect effects that should be explored such as more informal sanctions against drinking and pregnancy. Another output consideration would be the transportability of valuable program features to other jurisdictions.

EVALUATION APPROACH

The central phases of the evaluation and its six key components are detailed below. As anticipated that there was continuous contact with the project's staff throughout the year and consultation with them and the JAC advisory group on all aspects of the evaluation. Local persons were hired to assist in some interviewing and other data collection.

A. THE TWO PHASES:

RESEARCH DESIGN PHASE

REVIEW OF ISSUES AND EVALUATION APPROACH WITH PROJECT STAFF AND OTHER KEY PARTICIPANTS

REVIEW OF LITERATURE ON FAS AND JUSTICE ISSUES

FINALIZATION OF RESEARCH DESIGN (DELIVERABLE #1)

EVALUATION PHASE

CARRYING OUT COMPONENT INTERVIEWS (SEE BELOW)

ACCESSING AND ANALYSING R.C.M.P. AND SCHOOL RECORDS

DETERMINING THE INFORMATION THAT WILL BE GATHERED ON AN ON-GOING BASIS (e.g., YOUTH DATA, PROJECT IMPLEMENTATION ACTIVITIES, COMMUNITY CAPACITY MEASURES)

EVALUATING THE PROJECT'S PROCESSES AND OUTCOMES

REGULAR ON-GOING CONTACT AND DATA RETRIEVAL

EVALUATION FINAL REPORT (DELIVERABLE #3)

B. THE EVALUATION COMPONENTS

1. THE PROJECT: DESCRIPTION OF INTERVENTIONS; INTERVIEWS WITH PROJECT COORDINATOR, STAFF AND EXAMINATION OF RECORDS, PROTOCOLS, ACTIVITIES

2. THE PARTICIPANTS: INTERVIEWS WITH THE YOUTHS' PARENTS OR GUARDIANS

3. THE ORGANIZATIONAL CONTEXT: INTERVIEWS WITH CJS PERSONNEL INCLUDING POLICE, PROSECUTORS, JUDGES,

- CORRECTIONAL OFFICIALS AND LEGAL-AID AND WITH SCHOOL OFFICIALS AND WELLNESS/HEALTH PERSONNEL
4. OTHER STAKEHOLDERS: INTERVIEWS WITH ADVISORY GROUP MEMBERS AND WITH SELECTED COMMUNITY LEADERS (e.g., BAND COUNCIL, ALTERNATIVE MEASURES / R.J. PROGRAM)
 5. DATA SYSTEMS: CHIEFLY THREE, NAMELY RCMP RECORDS, SCHOOL RECORDS AND PROJECT RECORDS
 6. LITERATURE REVIEW AND COMPARISON WITH SIMILAR PROJECTS ELSEWHERE

THE ELSIPOGTOG RESTORATIVE JUSTICE PROJECT

The restorative justice initiative, launched in 2000, is one aspect of the institutional development of Elsipogtog that has been growing apace over the past decade. It links the community to larger social movements for responding to crime and conflict, incorporating mainstream and aboriginal community-oriented philosophies of restoration and reintegration. It is a well-managed program which produces regular reports and newsletters, has a significant body of trained, motivated volunteers and, according to previous evaluations, enjoys a solid reputation in the community. The Elsipogtog restorative justice initiative (ERJI) is also unique in New Brunswick in terms of the scope and content of its activity. It handles referrals, largely, though not exclusively, from the local RCMP officers, deals with both youth and adult offenders, and, while focused on minor offending, has had sessions where the offenses have ranged from shoplifting to assault and break and enter. Previous evaluations have indicated that both offenders and victims have responded positively to the ERJ intervention. The initiative has been quite timely and certainly could continue to evolve in terms of impacting on crime and conflict in Elsipogtog. The Elsipogtog First Nation continues to have a very high crime rate, and, according to RCMP data and informed officer opinion, has one of the highest rates of crime among all RCMP detachments in Canada. Also, the program largely could be characterized as a diversion program and diversion is but one dimension of an overall restorative justice implementation in the

criminal justice field. In other words, many possible opportunities and challenges remain for the initiative.

KEY ELEMENTS OF THIS EVALUATION

There are many ways to conceptualize and to evaluate an initiative such as the ERJI. The stated objectives are important to start with. The ERJI objectives have evolved somewhat over the three fiscal years since its being launched. As detailed in the work plan for 2002/2003, the primary program objectives would include establishing a community-based model (e.g., securing and training volunteers, establishing a community panel), having a culturally relevant approach (e.g., involving elders, building community awareness), handling referrals from police and partnering with other Justice officials, providing the full range of RJ strategies (e.g., diversion, circle sentencing), reducing crime and conflict in the community (e.g., less recidivism, victim and offender 'reintegration' where feasible), and a proactive approach to community conflict and crime prevention (e.g., mediating and conferencing in school and other milieus outside the criminal justice system). Other, associated objectives include mounting training programs, maintaining a motivated community panel, engaging in public education and orientation, and meeting the obligations of the funding arrangements.

A useful way of assessing the extent to which the desired development has occurred is to develop a "logic model for change". In the logic model format there is for each objective a specification of intended outcomes, causal factors and linkages, and implementation factors. For each of these three dimensions, there is a further specification of measures, standards and procedures (how the measures will be obtained) in conjunction with the specific intended outcomes. Typical intended outcomes for restorative justice, for the several objectives above include reducing recidivism and dealing more effectively with offenders, improving victim satisfaction, increasing community confidence in how crime is dealt with, strengthening community capacity to deal with crime and conflict, and providing an efficient and equitable service delivery. The logic model spells out how such outcomes are presumed to be effected (i.e., the causal linkages) and the associated implementation requirements; for example,

strengthening community capacity to deal with crime and conflict is presumably achieved through developing a community-based program, increased public awareness and mechanisms for accountability; the causal linkages involve the assumption that community ownership of social problems will be more likely to effect the shame and reintegration that undergirds the restorative justice approach.

Any such general evaluation model would need to be elaborated in at least two ways for this ERJI project. There may be special intended outcomes or objectives that apply because of larger socio-cultural and political goals. In the case of Elsipogtog, there would be a special First Nation agenda involving objectives such as significant incorporation of Mi'kmaq customs and community concerns and sensitivities. Secondly, there is to some extent an objective involving the furtherance of an enhanced self-government at least in the justice area. Of course, too, there are always unintended and unanticipated consequences associated with significant initiatives. Evaluation has to be sensitive to these (strive for serendipity), in analysing data and when interviewing program participants, community influentials and justice officials.

PROCESSES AND OUTCOMES

The evaluation was conceptualized as having a focus on both processes and outcomes. This distinction is actually a slippery one since an outcome at one level can be analysed as a process for a different level outcome. Nevertheless, processes typically refer to issues of implementation such as, to what extent has an appropriate RJ infrastructure (trained volunteers, protocols for securing and processing referrals, reasonable "turn-around" times in case processing, compliance monitoring) been put into place, and have the appropriate levels of partnership been established with criminal justice system (CJS) officials and others who might be expected to refer cases to ERJI. Clearly, what is "appropriate" in both these matters is related to the scope of the program and the type of offenses it deals with. Other process issues concern the extent to which adequate data management systems have been developed. how discretion is exercised by CJS officials who have discretionary power vis-à-vis the ERJI (i.e., what factors account for why they refer or not refer cases), and how the ERJI initiative is

evolving from an organizational perspective and from the perspective of community influentials and CJS officials (e.g., are they increasingly receptive to it?; do they favour a more expansive initiative?).

Outcome foci would be the results of the implementation. How many cases have been dealt with by ERJI (e.g., the penetration rate)? What are the characteristics of these cases - the types of offenses, offenders, victims? What are the dispositions rendered in the ERJ conferences or healing circles, and how much compliance has there been? What are the satisfactions and concerns of victims and offenders and others who have experienced the RJ intervention? What impact has there been on re-offending? Has the program equally served victims as well as offenders? What has been the impact at the community level? These issues of course also speak to the extent to which the ERJI has been effective, efficient and equitable. For the above, and other outcome issues, it would also be important to determine what changes have been occurring over time.

EVALUATION APPROACH

The central phases of the evaluation and its key components are detailed below. It was anticipated from the beginning that there would be continuous contact with the Elsipogtog Justice Advisory Committee and the ERJI project's staff throughout the year and that there would be frequent consultation with them on all aspects of the evaluation, and regular feedback. This has indeed been the case. The evaluator anticipated frequent visits to Elsipogtog to carry out the field work, and having local persons to assist in some interviewing and other data collection. These expectations were met as there were thirteen trips to the community and a local person was hired to interview healing circle participants - and did an excellent job. The evaluation would be seen from the outset as having a formative rather than a summary character; that is, it would be oriented more to assisting in the realization of ERJI's objectives and development than to simply passing judgment on the degree to which the objectives have been realized. To that end strategies to deal with problems and suggestions for future development

would be offered in constructive collaboration. Such observations are made in the concluding section of this report.

PHASES AND COMPONENTS

There are three phases and eight research components to the ERJI evaluation. These are detailed below.

A. THE THREE PHASES:

RESEARCH DESIGN PHASE

REVIEW OF ISSUES AND EVALUATION APPROACH WITH PROJECT STAFF AND OTHER KEY PARTICIPANTS

REVIEW OF LITERATURE ON RJ AND EXAMINATION OF ERJI MATERIALS

FINALIZATION OF RESEARCH DESIGN (MARCH, 2003)

EVALUATION PHASE ONE: THE 2003/2004 BASIC EVALUATION

CARRYING OUT ALL COMPONENT INTERVIEWS (SEE BELOW)

ACCESSING AND ANALYSING ERJI AND R.C.M.P. DATA/RECORDS

WRITE-UP OF PROCESSES AND OUTCOMES (AS ABOVE)

DETERMINING THE INFORMATION THAT SHOULD BE GATHERED ON AN ON-GOING BASIS (e.g., SESSION EXIT DATA, PROJECT IMPLEMENTATION ACTIVITIES, COMMUNITY CAPACITY MEASURES)

OBSERVATION OF SOME RJ SESSIONS AND OF REGULAR COURT

FEEDBACK TO ERJI COORDINATORS AND ADVISORY COMMITTEE

EVALUATION PHASE TWO: SETTING OUT FUTURE DIRECTIONS

EVALUATING THE IMPLICATIONS OF PROJECT'S PROCESSES AND OUTCOMES FOR FUTURE EVOLUTION OF ERJI

ADVANCING POSSIBLE STRATEGIES RE ERJI AND COMMUNITY CONSULTATIONS (e.g. SURVEYS, FOCUS GROUPS)

DETERMINING THE COMPARISONS THAT MIGHT BE FEASIBLE (ERJI AND COURT PATHS)

DETERMINING FEASIBILITY FOR LONGTERM ANALYSES (e.g. RECIDIVISM)

B. THE EVALUATION COMPONENTS

1. THE INITIATIVE: DESCRIPTION OF INTERVENTIONS, INTERVIEWS WITH PROJECT COORDINATOR, PANEL MEMBERS, AND EXAMINATION OF RECORDS, PROTOCOLS, ACTIVITIES

2. THE PARTICIPANTS: PROFILES OF CASES DEALT WITH, INTERVIEWS WITH THE OFFENDERS, VICTIMS AND OTHER SESSION PARTICIPANTS

3. THE ORGANIZATIONAL CONTEXT: INTERVIEWS WITH CJS PERSONNEL INCLUDING POLICE, PROSECUTORS, JUDGES, CORRECTIONAL OFFICIALS AND LEGAL-AID

4. OTHER STAKEHOLDERS: INTERVIEWS WITH ADVISORY GROUP MEMBERS AND WITH SELECTED COMMUNITY LEADERS (e.g., BAND COUNCIL, SCHOOL OFFICIALS AND WELLNESS/HEALTH PERSONNEL)

5. DATA SYSTEMS: CHIEFLY THREE, NAMELY RCMP RECORDS, ERJI RECORDS AND COURT RECORDS

6. COMPARISON GROUPINGS: ACCUSED IN THE COURT STREAM

7. COMMUNITY CONTACTS (SURVEY?, FOCUS GROUPS?)

8. LITERATURE REVIEW AND COMPARISON WITH SIMILAR PROJECTS

In large measure the evaluation followed the format laid out above. The resources were very limited, hardly more than covering travel and related costs, so the scale of the evaluation was also limited in terms of the number of healing circle participants and community stakeholders interviewed. It was not possible either to effect comparisons with the cases involving Elsipogtog offenders which were processed

at the Richibucto court nor to assess the court data in general. Nor was it possible to observe any of the ERJ healing circles. These shortfalls - and they are shortfalls since they are crucial to a full appreciation of the ERJI - can perhaps be made up in future evaluation work. It was anticipated that there might be a future evaluation phase in relation to the evolution of the ERJI since as recommended below such a step would best be made in conjunction with, indeed be preceded by a community survey and focus group deliberations.

CRIME AND SOCIAL PROBLEMS: THE CONTEXT FOR RESTORATIVE JUSTICE AND NOGEMAG

In a 1993 document produced by the Big Cove band council, (Big Cove Community Profile, A Survey of Existing Conditions) it was noted that social problems were rampant and with a young, growing population (i.e., roughly half the population under 20 years of age) and limited employment opportunities, the community faced many serious challenges. The report cited 25% of the families as single parent families, high levels of teenage pregnancies, high levels of early school dropouts, a too great concentration of available employment in areas of band administration, and a 75% rate of unemployment among the workforce. Economic deprivation in particular was cited as "an enormous social problem contributing to drug and alcohol abuse, marital breakdown and vandalism". The report also pointed out that numerous policies and development projects were afoot, that there was a significant transformation occurring with respect to educational achievement and the replacement of non-native professionals (e.g., teachers and social workers) by qualified band members, and therefore grounds for optimism.

Recent documents and interviews with CJS officials and community stakeholders attest to both main themes reported in the above document. There is still a widespread perception of Big Cove / Elsipogtog as an area featuring high crime and anti-social behaviour. In an April 2000 meeting with the ERJ coordinator, community elders expressed concern about the high rate of incarceration and the profound implications for family and individual breakdown. In addressing CJS officials in Moncton in 2000, the ERJ coordinator noted that "there are high numbers of people in the community involved in anti-social behaviour ... this program [ERJI] will assist in the healing process in the community". In an April 2001 meeting of Big Cove Justice Advisory Committee (JAC), there was a comment by CJS officials that "domestic violence is quite high". On several occasions in recent years reference was made in the JAC meetings to concerns raised by school officials about vandalism, threats and anti-social behaviours. Certainly the experience of CJS officials attests to the validity of these views. Several RCMP officers, for example, reported that the Big Cove unit has the highest level of crime per

capita among all Canadian RCMP units, and, in a January 2002 JAC meeting, the RCMP attendee commented that the Richibucto district is the busiest RCMP district in Canada. Local probation files are numerous - in recent years reaching occasionally an active file load for the lone community probation officer of 80 cases, a figure comparable to hard-pressed probation officers in the large metropolitan areas.

At the same time, the other theme referred to above, progressive socio-economic change in a context of economic deprivation, has continued as well. The Richibucto region - indeed the French Shore / Northeast as a whole - has a high level of unemployment, a declining elementary school population, and little in-migration. While Big Cove is part of that context, its population is growing and many new development opportunities have emerged, keyed by recent changes in First Nations - Government protocol and policy and especially by developments in the resource sector (fishing and forestry). This transformation has been accompanied, reportedly, by growing pride of community and culture (witness the change in name from Big Cove to Elsipogtog) and a sense that the community can and should exercise more control in all areas of community life including the criminal justice system. Still, the crime and social problems remain stubbornly resistant to change and pervasive, and some trends associated with the progressive socio-economic change have been seen by some interviewees to contribute to this persistence; here, for example, a number of community people and outside observers especially pointed to increasing inequality or socio-economic status differentials, within the community.

THE FAS/E FACTOR

Another legacy of the past dislocations and post-colonialist malaise that may be contributing to the persistence of crime and social problems, according to some influentials, has been FAS/E (i.e., a biological defect like Down's syndrome but caused by alcohol consumption during pregnancy) and related illnesses and syndromes. Alcohol abuse, if not high levels of addiction, has been a longstanding community problem. Even now, while less obvious in terms of police statistics in part because of changes in charging policy by police, and in part because of some displacement by

drug abuse, community leaders and CJS officials reported that the alcohol problem is quite widespread. The implications, past and present for FAS/E, though difficult to pin down, could have been and remain profound. According to some Big Cove school reports, as many as one quarter of the 200 plus students may be affected by FAS/E and perhaps as many as 5% to 10% may be "full blown" FAS. A high percentage of the children at the Big Cove elementary school in the late 1990s was deemed to have some biologically-rooted deficits, caused by alcohol consumption of parents during the pregnancy period, and enhanced by family breakdowns, inadequate parenting and ineffective and largely unresponsive local social institutions. FAS/E has been highlighted in recent years in many jurisdictions in Canada and elsewhere as a major cause of crime and social problems. The claims sometimes are simply startling; for example, governmental studies in Canada by Health and by Justice point to FAS/E-related extremely high levels of school dropout, socio-economic dependency and crime (one federal government report in 2000 argued that half of all jailed youth in Western Canada suffer from the FAS/E biological condition). There appears to be significant divergence of views in the community concerning the pervasiveness of FAS/E and its centrality for crime and social problems but little disagreement that it has been and remains a factor.

Justice Canada's 2002 "One Day Snapshot of Aboriginal Youth in Custody in Canada" reveals that on the day in question (May 24, 2000 for New Brunswick) there were 22 aboriginal youth (50% Inuit) in custody in Atlantic Canada, slightly more than half of whom were in group homes and other facilities outside custody centres; there were no youths in custody from the Big Cove region. Reports from the police and probation indicate that the youth crime problem may well have declined significantly. In recent years the youth cases for probation apparently have diminished (i.e., from 20 current files to six in 2002/2003) and, as shown below, youth crime statistics reveal quite modest levels of police-reported offending. It can be noted, too, that youth court is only held in Richibucto court once a month, an indicator of "low traffic". Given that the Big Cove population has continued to be atypically skewed to the younger ages, this pattern cannot be the result of fewer youths. There may be a host of macro-level (the

progressive socio-economic change noted above) and micro-level (programs aimed at youth) reasons for this pattern. Possibly, it may be because of programs in the community such as special school resource programs for youths with behaviour problems inaugurated in the late 1990s (precursor to the Nogomag project) and, perhaps too, the ERJI has contributed, even though there has been only a small number of youth referrals to the program.

While youth have not been the major "contributor" to crime and social problems at Big Cove, it seems clear that the key grouping in this regard has been young adults. These are the persons reportedly who have accounted for most calls to the Crisis Centre, for a large proportion of the police interventions under the Mental Health Act and for the high level of charges reported by police officers. One could hope that there is a delayed effect going on with respect to crime and social problems in Big Cove, that is the lessening crime / disorder problems among youth might translate into declining rates among adults in the next generation. The benefits of the macro and micro changes noted above could well be that profound. But as this writer has found in the case of Nunavut and Labrador, the problems and malaise of young adults may have different origins than the problems of youth. Of course it is this older age grouping which might be expected to experience most acutely unemployment and inadequate employments and their well-known associated negative implications for interpersonal relations and self-respect.

POLICE STATISTICS

RCMP statistics, drawn from local administrative headquarters at Richibucto, provide strong support for the argument that there is much crime and related social problems in Big Cove compared to other communities. Table 1 presents data for the period from 1998 to 2002 for Big Cove and the neighbouring communities of Richibucto and St. Louis. The combined population of these latter communities slightly surpasses Big Cove but Big Cove has a much younger population. Certainly, the contrast between Big Cove and the other communities is striking. In every single category the number of actual offences for Big Cove far exceeded the combined total of Richibucto and St.

Louis for each of the five years, the one exception being sexual assaults in the year 2000. Assaults level one were minimally three times as great in each year while the more serious assaults (i.e., level two) were typically eight times as plentiful. Damage to property ranged from twice as great in 2000 to more than five times in 1998 and 2002. Suicides and attempted suicides averaged more than ten times as much in Big Cove compared to the combined Richibucto / St.Louis total, over the five year period. Spousal assaults were always at least three times as common in Big Cove. Police interventions under the Mental Health Act (according to RCMP officers such calls usually involve adults, intoxicated or "drugged up" who indicate by words or actions that they are going to harm themselves) were minimally five times (usually much, much more) as great. It is remarkable how consistent the patterns have been in all communities over the five year period, notwithstanding some modest variation from year to year for a specific item (i.e., the two or three year averages are quite stable). There is little evidence of any improvement in the Big Cove crime data apart from a decline in spousal assaults.

Data on crime in New Brunswick for the period 2000 to 2002, as reported in the 2003 RCMP Environmental Scan for New Brunswick, indicates a large decline in rates for assault (-42%), sexual offences (-32%), and property crime (-11%). Table 2 focuses on the years 2000 to 2002 just for Big Cove. These data show a continuing, high number of person offences, drug and alcohol offences (including impaired driving), property offences (especially theft), and social order type infractions (e.g., false alarms, breaches of the peace). A number of these infractions have been increasing from year to year (i.e., person offences, breaches of the peace, false alarms) while the rest have remained at high levels. Table 2 indicates that there was a modest number of RCMP entries involving young offenders but a special RCMP compilation of actual offences by youth (i.e., Y.O.STATS FOR BIG COVE, 2003) indicates that the youth crime problem, by official police records at least, has been quite modest. The total number of youth infractions over the three year period was 28, 31 and 34 respectively, and youths accounted for less than 5% of any of the major offence categories (person, property, other) in each of the three years. Among youth, males were of course most likely to commit offences, primarily a few break and enters and liquor violations each year. The

low actual crime rate among youth contrasts sharply with the widespread community view; indeed, even the RCMP officers professed some surprise at the statistics. It appears then that Big Cove does indeed have a major crime problem but one centred much more on young adults than on youths. Specific data are not available but police and other CJS officials report extensive recidivism among a score of Big Cove adults and basically associated with alcohol and drug problems.

CONCLUSION

Analyses of crime and social problems, while based on limited data, does establish that Big Cove / Elsipogtog faces considerable problems of economic underdevelopment in a region that is by many measures declining in economic opportunity and advantage. At the same time, it stands out from the neighbouring area in terms of its robust economic transformation, growing population and, reportedly, an optimism rooted in new relationships with Canada and New Brunswick and an increasingly proud and confident citizenry. Crime and social problems continue to persist at very high levels, especially among young adults, male and female. How much these problems can be attributed to socio-economic factors, to FAS/E, and/or to related problems (e.g., family breakdown) can be disputed. Clearly, the more macro factor summed up as the legacy of colonialism (stolen resources, racism etc) is crucial but new socio-economic and criminogenic conditions (e.g., growing social inequality) may accompany progressive change at least in the short-run.

It seems reasonably clear that the types of offences most pronounced in the community are person violence and social order problems, and that young adults, especially a small core of repeat offenders, are the main players. There is clearly a major challenge for ERJ in dealing with these offences and offenders, a challenge identified in 2000 by ERJI staff ("getting at the high levels of anti-social behaviour ... and instigating a healing process in the community"). It is not something to be rushed into since, lacking significant community consensus for using a healing circle approach for more serious offending, there could be a backlash which could undermine an RJ initiative that has been quite successful in dealing with a modest number of minor pre-

charge offences in an efficient and effective way, credible to the larger CJS and sensitive to Mi'kmaq ownership and preferred cultural style. Still, the challenge is there both from the point of view of the crime and social problems and from the perspective of enhanced Elsipogtog ownership of the CJS issues. The ERJ has the advantage, compared to programs in Nova Scotia, and the well-regarded Mi'kmaq Young Offenders Program there, of having a mandate to respond to both youth and adult referrals. Whether, and how, to build upon its success to date clearly requires much deliberation and community consultation. The RJ principles of shaming and interpersonal reintegration and the concept of the victim as both person and community would seem appropriate to problems of dealing with interpersonal violence and social disorder largely effected by adult community residents who have become marginalized by their actions and circumstances.

The implications for the Nogemag initiative are also complex and uncertain. The core crime and disorder problem is associated with young adults rather than youth who are the targeted population for Nogemag. Certainly the Nogemag initiative appears to have an impact on young offenders and, in conjunction with other school-based programs, might well be reducing the likelihood of adult offending by equipping FASD-affected youths to better come to grips with FASD-based secondary disabilities (e.g., poor school performance, work skills) and so be less marginalized as young adults. As well, by drawing attention to the FAS/E problem and better informing CJS and other community agency officials about it, Nogemag may increase the motivation and capacity of the community to deal more effectively with these repeatedly offending young adults whom some informants suspect have FASD.

Table 1

RCMP Crime Statistics Richibucto Detachment

RCMP Estimated Population	Big Cove		Richibucto		St. Louis	
	2200		1400		1000	
Year	1998	1999	1998	1999	1998	1999
Sexual Assault	19	14	3	4	3	1
Assault Level I	183	179	31	40	10	15
Assault Level II	54	41	1	0	1	5
Damage to Property	117	117	9	10	12	19
Suicides	2	2	0	1	0	0
Attempted Suicides	54	98	5	2	3	3
Spousal Assault (Male Offender)	16	32	2	4	3	0
Spousal Assault (Female Offender)	2	8	0	1	0	0
Total Mental Health Act	110	107	9	5	9	3

	Big Cove			Richibucto			St. Louis		
	YTD			YTD			YTD		
Year	2000	2001	2002	2000	2001	2002	2000	2001	2003
Sexual Assault	10	14	16	11	2	0	3	2	0
Assault Level I	148	177	250	41	29	0	13	10	14E*
Assault Level II	44	37	49	2	2	0	3	3	0
Damage to Property	109	141	149	32	29	1	14	20	16E
Suicides	2	4	4E	0	0	0	0	0	0
Attempted Suicides*	54	101	32E	4	7	1	2	2	0
Spousal Assault (Male Offender)*	21	7	8	2	1	0	0	1	0
Spousal Assault (Female Offender)*	2	0	2	0	0	0	0	0	0
Mental Health Act	134	153	172	16	13	1	7	8	4E

* Estimates based on extrapolations from reports for the first three quarters of 2002.

Table 2

Selective RCMP Statistics Big Cove: 2000 to 2002

	2000	2001	2002
Total Person Offences	230	255	332
Break and Enter Residential	45	48	52
Theft Under	69	118	103
Total Property	182	221	181
Peace Bonds*	10	33	32
Breach of Peace*	53	78	220
Total Drugs	7	20	31
Child Welfare	17	27	29
Liquor Offences	128	167	155
Impaired Driving	32	44	54
False/Abandoned 911s	123	114	123
False Alarms	95	124	140
Young Offenders	53	45	33

* Peace bonds and breach of peace are recorded as non-offences in the RCMP mayor's report.

NOGEMAG: PROCESSES

The Nogemag initiative was launched in Elsipogtog in fiscal 2002-2003 with two year funding from the federal Department of Justice. In this section there is a brief overview of its implementation and approach. Essential for process analysis is an assessment of how a new initiative connects up with the major institutional areas through which its impact would be directed; in the case of Nogemag, these are the criminal justice system (CJS), the Big Cove school system, and the community Wellness Committee (formed in the early 1990s in response to a spate of suicides on the reserve and bringing together the health providers and crisis responders); accordingly, the views and assessments of key persons in these institutional areas are presented, as well as those of a limited number of other community influentials.

THE NOGEMAG INITIATIVE

In 1997/98 the Big Cove school system was in crisis. Long festering problems of student disruptions, poor performance, low teacher morale (several informants used the word "despair") and so on, were endemic; as one school official noted; "there were more kids out in halls than in the classrooms; we almost had to close down the school". A newly hired ph'd educational specialist undertook an extensive needs assessment which, among other things, suggested that FASD was widespread among these young elementary school (from nursery to grade eight) children. A medical specialist from outside the area reinforced that suspicion and reportedly as many as one-fourth of the entire student body, roughly 50 students, were identified as likely having some form of FASD. A presentation was subsequently made to DIAN for funding to assist in the development, headed by the ph'd specialist, of a special needs program which would entail hiring seven or eight full-time persons (a special resources coordinator and tutors/assistants). This program reportedly has been quite successful in turning around life at the school in most respects (less disruption, better student-teacher relations, better performance by all parties). The program has targeted disruptive students with special needs. The targeted students are identified as having multiple problems by

teachers and additional information - including where possible pre-natal alcohol exposure - is obtained through parental interviews. It has involved tutors working one-on-one with special needs students (between six to eight students per tutor), monitoring their performance, "pulling them out" of regular classes on a routine basis for special attention (e.g., letting them vent, having one on one tutoring, quiet time etc).

The scale of the FASD problem among Elsipogtog school children has been remarkable; indeed, according to senior school officials, an additional thirty students were diagnosed as possible FASD cases in subsequent years before the principal called a halt to such determinations. While the special needs program has reportedly been quite successful in restoring order to the school and allowing for greater academic achievement, it was found that some students were still not being adequately reached, were being expelled from school and coming into conflict with the CJS. The same educational specialist brought forward another proposal (to the Justice Advisory Committee in 2001) to seek funding for the Nogemag initiative in order to respond to this situation and the needs of these youth. The Nogemag program would treat the more difficult cases, using lessons of teaching and supervision functional for their FASD-related disabilities and employing different expectations. The objectives would be several, namely to allow for a more effective learning environment in the school, to stabilize the targeted youth and facilitate their subsequent re-entry into the school, and to reduce the likelihood of the youths' becoming more embroiled in the CJS. From the point of view of the school system, the major referral source, the key objective was, as one stated it, "to maintain and rebuild links to the school program for the kids".

Eligibility for Nogemag has been based on five criteria, namely, gestational alcohol exposure, problems in school, problems (not necessarily charges) with the CJS, parental/guardian approval and voluntary consent. The referrals would be expected, at least at the outset, to come from the school system but it was anticipated that there might well be CJS referrals "down the road". It was expected that Nogemag participants would be of modest number since experience elsewhere had indicated that working with children with FASD is very labour-intensive. At the same time, it was hoped that lessons might be learned from the Nogemag experience that could impact on special needs

youth in the mainstream school program and in other related school programs (e.g., Youth at Risk for older youth).

During the first half of the 2002-2003 the Nogemag initiative largely involved operating a small summer program for potential Nogemag participants, putting together a staff, and, equally significantly, renovating an old farmhouse into an appropriate facility. In the summer of 2003 cabins were erected along the shoreline. The site for the farm or the lodge - Nogemag is basically a day-time operation and students are transported in and out each day - was on band property across the river from the reserve proper. By January 2003 the core Nogemag team was intact. It consisted of the director (the ph'd educational specialist referred to above who also continued to fulfil her regular responsibilities at the Big Cove school), a highly qualified principal teacher (having both a graduate and teaching degree plus experience) and two Elsipogtog residents who performed a myriad of duties centered on food preparation and transportation/maintenance respectively, but also working with the youths in a variety of ways. Indeed, all four core staff experienced much job variety, readily moving from function to function; for example, all pitched in on occasional physical work, all were involved with the youths, the principal teacher also "did the books" and so on. In addition to this core grouping, there were others with specialized roles in the Nogemag scheme of things; for example, one person (a well-known traditionalist) frequently held circles at the farm while another person, working under Health Services, did some outreach work with parents/guardians. Over the fiscal year, 2002-2003 there were thirteen Nogemag participants, namely five regular, full-time youths whose average age was fourteen, four youths who participated only in the 2002 summer program, two youths in a pre-Nogemag treatment program, one youth rejected from the program, and one young male adult, diagnosed with FASD, who, as a result of the Nogemag director's initiative, was serving a conditional sentence at Nogemag.

In terms of style and approach, the Nogemag program appears to have been quite congruent with "best practices" for effective educational intervention with FASD youths as cited above (Conry, 1997; Robert, 2000; Szabo, 2000). There was a commitment, in Nogemag standards at least - the evaluation was quite limited in terms

of actual observation at Nogemag - to a format calling for much structure (reduce choices, limit environmental stimuli), visual/kinesics learning (less talk, emphasize the visual), and concreteness (showing, hands-on). There was an appreciation that there would be many "time bombs" where the youths might vent frustrations, experience over-stimulation and so forth; after all, eligibility was based on the youths' actual problem behaviour as well as likelihood of FAS/E. These principles would entail acceptance of stress among staff and some tolerance of disruptive behaviour (seemingly loose discipline from the perspective of others). Consistent with reinforcement theory, there appears to have been an effort to reward appropriate behaviour and ignore disruptive acts; concerning this latter, a staff member commented, "there are simple rules at the farm; do not harm yourself, do not harm others and do not harm the farm".

As noted, the Nogemag participants were provided nourishment and there was an effort to create a home-type environment (and, as a by-product, some sense of solidarity and collaboration among the participants themselves). At the same time, given the central objective of "transitional planning", it was deemed important to have the youths see Nogemag as an extension of the school system and themselves as being "at school". The youths, all extensively "tested" prior to being accepted into Nogemag, were regularly assessed for progress throughout their participation there. Each individual youth had a plan developed for him or her. The emphasis was on stabilizing behaviour and then doing as much "school stuff" as possible. The regular day was from 9.30 am to 2.30 pm, and, after morning nourishment, would start with activities then special assignments (where all available core staff would mentor and be there for individual one-on-one interaction). After lunch there would be more activities. One staff person noted that the objective was to get in an hour academic work a day but that they usually had to settle for about half an hour.

An important aspect of the Nogemag initiative was orientation and information exchange among, and encouraging response from, CJS and Health officials. Two major conferences or workshops were held for CJS persons and community service providers / stakeholders in May 2002 and April 2003. A score of persons attended each conference including police, court and probation representatives. Outside experts were

also involved, most interestingly and salient perhaps being the officer who had mobilized a significant FAS/E - CJS program in Alberta. There also was a workshop held in June 2003 for medical professionals. It featured a Newfoundland doctor expert in FAS/E diagnosis and was aimed at the lack of knowledge of FAS/E among medical professionals and at laying the seeds for an areal diagnostic capacity (it may be noted that Elsipogtog has only a part-time doctor and she has done no FAS/E diagnosis). The Nogemag director has been active in forging ties with other "moral entrepreneurs" on the FAS/E issues in other parts of the province (e.g., Moncton, Tobique First Nation, Woodstock, Fredericton), with the result that an informational network has been formed. There has been limited Nogemag activity to date with respect to increasing the general public's awareness in Big Cove concerning FAS/E but some brochures are available on the problem and during the evaluation period there was a community meeting held to discuss issues of substance abuse.

Activity in two additional areas has been significant to the Nogemag approach. First, there has been an effort to locate the initiative in a Mi'kmaq symbolic context. Circles are regularly held among farm participants, facilitated by a well-known traditionalist, and aimed at allowing for the airing of troubles and suggestions as well as effecting solidarity. Participants also have reportedly had some limited exposure to elder storytelling and to sweats, and the concept of a medicine wheel has been utilized to capture the thrusts of the Nogemag approach (i.e., heart, hand, mind and spirit). Secondly, Nogemag has over the year attempted to involve parents/.guardians more, not only with respect to life at Nogemag but also advising them regarding their own responses to the youths' FASD-based disruptive behaviour at home. In both areas, as in networking and public awareness, the steps have been modest and much remains to be done but the activities underscore the considerable effort put forth by the Nogemag director, from infrastructure work to program development and implementation to outreach of all relevant kinds. Undoubtedly, the considerable accomplishment rested on deep commitment to the amelioration of the FASD problems, and to a "let's get it done" style that may have been seen to be abrasive to some community stakeholders. The

effort put forward by the director has been done while she maintained her full-time responsibilities at the school (i.e., educational psychology coordinator).

NOGEMAG: CJS AND STAKEHOLDER PERSPECTIVES

NOGEMAG AND THE CJS

According to the minutes of the Elsipogtog Justice Advisory Committee (JAC) which was itself established in 1998, the idea of Nogemag was first proposed to the JAC in April 2001 when "[named person], child psychologist [raised the issue of FAS/E and] the need to develop a proposal to the Department of Justice to work with FAS/E people". The proposal of course was successfully developed and advanced and Nogemag began in fiscal 2002-2003. The two major projects under the oversight of the JAC since that time have been Nogemag and the Elsipogtog Restorative Justice Initiative (ERJI) established in fiscal 1999-2000. There has been surprisingly, little collaboration, and indeed little interaction, between Nogemag and the Elsipogtog Restorative Justice Initiative (ERJI) over the past year and a half, though ERJI reported one intervention (i.e., mediation or healing circle) it arranged at the request of Nogemag's director in 2002. ERJI staff basically have pursued an almost exclusive focus on referrals from the CJS and its staff indicate that, to their knowledge, none of the referrals received from police or other levels of the CJS, has involved offenders who presumably have FAS/E (certainly none, in their view, with a known diagnosis for FAS/E). It may well be that they were not apprised of an FAS/E condition or that FAS/E diagnosed persons have not been referred to ERJI by the police since the latter typically refer first-time offenders not persons in frequent "trouble with the law". As noted in the section on EJR Process, the ERJI has not been significantly involved in dealing with school-based problems where perhaps the FAS/E condition might be more readily encountered. In any event, whatever the circumstances, ERJI reports no such clients and also has no specific strategy to adapt their healing circle model for offenders who

are FAS/E (e.g., special case development, special dispositions etc). Circle sessions have been frequent at the Nogemag farm as a way to air concerns, encourage problem-solving and generate solidarity so that basic format is at least becoming quite commonplace across the programs.

There has also been quite modest involvement of other components of the CJS system with Nogemag. As noted above, the Nogemag director has arranged several information/orientation sessions for CJS officials over the past year and a half (May 2002 and April 2003) which a few CJS officials attended, but the FAS/E issue remains marginal to the local CJS. Both the crown prosecutor and the provincial court judge have attended an orientation session sponsored by Nogemag (the crown prosecutor mentioned three visits occasioned by Nogemag-arranged sessions) but reported little involvement otherwise with FAS/E persons or Nogemag. They indicated that the FAS/E issue did arise in one instance of young adult male defendant reportedly (backed at the time by some diagnosis) with FAS/E where the court responded favorably to a request from Big Cove representatives for having the person given a conditional sentence to be served at the Nogemag farm; in one other instance, reportedly, they were asked to consider an FAS/E-based argument for another accused person but, failing adequate follow-up (i.e., there was apparently no "adequate" presentation of evidence for the FAS/E condition), the case was handled in the conventional fashion. The position of these officials was best described in the words of one as "not scepticism [about the claims of FAS/E] but caution".

Both the above officials were open to a FAS/E argument; one official noted that "FAS could be the top of a major iceberg", while the other observed that "yes, maybe [FAS claims make sense] since in the courthouse we have wondered about some of the defendants' behaviour". The view advanced was that the FAS premise may well fit the case of multiple repeat offenders of minor offences. It would appear that the officials would be willing to take FAS/E claims into consideration, both for diversion and for sentencing, under two conditions, namely (a) that there is a well-defined process and protocol for expert diagnosis of FAS/E, and (b) that there is a well-defined and smooth-running "structure" in place to provide alternatives (e.g., an individual game plan) for the

crown and judge to confidently refer to. One official favorably cited in this regard the example of an Alberta program generated by the moral entrepreneurship of a police officer, a program they became aware of at a Nogemag-sponsored mini-conference. At the same time, both officials were uncertain as to how extensive the FAS/E condition is, expressed concern lest it become a frequent defence claim ("how am I expected to respond?"), and preferred an inclusive program (i.e., one that applied to both native people and others). There was also some question in their minds as to how much support both the FAS claims and the Nogemag initiative had in Elsipogtog. Any more significant engagement of the CJS at these levels would appear to require significant development of the FAS/E program at Elsipogtog, including mobilization of community leaders.

Among the front-line CJS role players, namely the police, duty counsel and probation services, one would expect more awareness of and much more engagement with the FAS/E challenge. The RCMP nationally has acknowledged the significance of the FAS/E phenomenon and indeed has issued a brochure to the detachments laying out a protocol for police interaction with accused persons and others suspected of having the FAS/E condition. The several local detachment heads at Richibucto over the past two years have all expressed willingness to learn more about the phenomenon (one in particular took an active role in collaborating with Nogemag in organizing an informational session) and RCMP officers have attended orientation sessions arranged by Nogemag staff. At the same time, there appears to be much uncertainty about the issue, about who has FAS/E, how it is determined, and what the implications are for policing. A typical police response has been that they respond to accused persons and others where there are many varied unique circumstances and the alleged FAS/E condition would simply be another consideration to take into account - indeed, far from treating people differently, the position at the field level may well be that the diverse troubles and condition of people ("we deal with special people all the time whether they be alcoholics, mentally challenged, whatever") underlines the need for adherence to common police procedures. At the sub-detachment level, the Big Cove / Elsipogtog level, a few officers, and one in particular, were quite aware and supportive of the

Nogemag thrust (see section below on Outcomes) even while not articulating any explicit strategy for dealing with persons with FAS/E. In fact, despite the RCMP brochure on FAS/E, there was little evidence that, in their view, any offenders' problems were deemed to be the result of FAS/E; for example, the repeat offender or "youth in constant trouble with the law" phenomenon was so identified though police explained the phenomenon in terms of poor parenting and so forth. As in the case of the judge and crown prosecutor, the police reported no basis for knowing who has FAS/E (no list is provided to them), no unique, easily identifiable indicators of the condition among persons coming into conflict with the law, nor any significant awareness of what happens at the Nogemag farm; only one officer had any familiarity with the activities at the farm.

The same characterization apparently applies to other Elsipogtog CJS role players such as probation services, duty counsel and ERJ staff. In the case of probation, there has been some collaboration with Nogemag on a particular file (i.e., the same young male offender referred to above in the discussion of judge and prosecutor involvement) but, overall, the collaboration has been quite limited. Probation services indicated that there were a few other possible candidates they had suggested to Nogemag staff but, for one reason or another, the referrals were not acted upon and since then the contact has been minimal. The local probation officer reported having no basis on which to assess whether clients have FAS/E nor, apparently, any access to diagnosis or assessment by Nogemag staff or school officials which so identify persons - this latter communication gap is the common situation in Canada between probation officers and treatment service providers since, unless there is a specific team model as for example in drug treatment courts, issues of confidential information loom large for the treatment providers. These local CJS role players, while quite sceptical concerning how widespread the FAS/E condition is in Elsipogtog, were receptive to limited claims for FAS/E but clearly not much engaged in the Nogemag initiative.

Overall, then, the Nogemag-CJS linkage is a rather weak one. There is some receptivity among all the CJS role players and significant support among a few, but, as yet, Nogemag has not been able to identify an effective "moral entrepreneur" / partner

for FAS/E in the CJS. This has meant that the task of forging new understandings and new practices in the CJS, as regards FAS/E, continues to fall on the shoulders of Nogemag staff. Clearly, now that the Nogemag initiative has been successfully implemented, this task becomes a major challenge for its future development. The task would appear to require a more formal protocol for eligibility, an independent diagnostic referral source, increased networking with CJS role players and so on, all trajectories where, despite the inevitably hectic start-up demands, the Nogemag initiative has made some headway. Recent developments in the CJS pertaining to youth (i.e., Youth Criminal Justice Act) have emphasized extra-judicial and non-incarceral strategies for dealing with offenders as well as increased use of case conferences at all levels of the CJS; this development in concert with increased awareness of FAS/E in the CJS, would seem likely to generate more opportunities for development of both ERJ and Nogemag.

NOGEMAG AND OTHER STAKEHOLDERS

Equally significant for the Nogemag initiative, as relations with the CJS, are its relations with agencies and stakeholders having a more "harm reduction" and problem-solving approach to the FAS/E issues. Therefore, it was important to capture the views of some school officials, Health officials, persons engaged in crisis intervention and others. In fact, as noted, the originating ideas for Nogemag began with the school's child psychologist's resolve to deal with and solve the serious problems of disorder at the school and egregiously inappropriate student behaviour; moreover, the funding for Nogemag was directed to it under the formal responsibility of the Elsipogtog Wellness Committee which was established in the early 1990s in response to a spate of suicides on the reserve.

The senior school officials interviewed were quite positive about the Nogemag program. All referred to the chaotic and terrible situation (poor discipline, disruption, dropping-out etc) that had almost led to the closure of the school several years earlier and considered that, while the situation has improved considerably because of the "special needs" and other programs, it is still problematic. They typically contended, as one said, that "a lot is at stake here", since a main objective for Nogemag in their view

has been to take some of the most disruptive students out of the mainstream elementary school system, work with them and facilitate their reintegration at a future date (i.e., develop a transitional program). It was generally considered that the Nogemag initiative has been achieving that broad objective. One respondent commented, "the farm treats more difficult cases and the key here is reduced and different expectations for the kids so they can stabilize and then move on". Nogemag was seen as a significant part of the puzzle, complementing the school's special needs programming and the Youth at Risk program.

One senior school official commented that Nogemag benefits the school in a variety of ways - "it's quieter now and a more effective learning environment with those kids out, and the kids' needs are being met". This person expressed the common hope that, while the Nogemag program would always be small and labour intensive given the characteristics of the targeted population, it might get up to 10 regular participants since a handful of youths appear to fit the eligibility criteria and are currently "basically unmanageable" and out of school. It was acknowledged that some parents/guardians may be reluctant to take advantage of the Nogemag opportunity because of the perceived labelling and stigmatization. The educators did not perceive the FASD problem as vanishing. Alcohol and drug abuse were seen as still widespread and preventative programming (e.g., the Wellness and Dare programs in school and the notices/warnings to expectant mothers) still falling short. There was some concern, accordingly, about the future of Nogemag subsequent to the end of current funding in March 2004. Other issues raised were the need for dis-aggregating the current concentration of diagnosis/assessment, therapy designing and program management in one person and the need for more outreach to other agencies and to the community at large.

Four Elsipogtog Health officials were interviewed, all of whom were in senior or supervisory positions. Three were well-informed about the Nogemag project and had significant involvement in it as an initiative though little involvement in its day-to-day operations (e.g., it appeared that none had visited the Nogemag farm). This grouping readily agreed with the premise of Nogemag, and the significance of the continuing

problem of alcohol consumption among pregnant women. One official noted, "there's lots of FASD in Big Cove; I see the signs in the younger children". There was a generally positive assessment of Nogemag and a sense that the program should expand to include a larger number of youths. All agreed, too, with the effort by Nogemag staff to provide orientation on FAS to Health officials and to encourage a diagnostic capacity for FASD in the area. Three of the four Health respondents expressed some ambivalence about the priority to be accorded the FASD phenomenon, pointing to family issues and parenting as key concerns, and typically sharing the sentiments of one respondent who said, "it's hard to say who has FASD or something else; there are many different possible explanations for children's behaviour". Apart from the need for building up professional diagnostic capacity (a team of health professionals supplemented by other care givers), these Health respondents emphasized the need for more networking on the part of the Nogemag initiative, seeing it as somewhat isolated from other agencies' personnel (as one said, "they took the kids across the river"). Broad-based support among other agency and community professionals presumably would be crucial were the Nogemag initiative to have to draw on regular band funding for health or education.

Four other community influentials were interviewed, three of whom had considerable involvement with Nogemag's everyday operation. Two held full-time positions in crisis intervention, while the other two had, among other things, reputations as leading traditionalists in the community. These informants readily cited benefits produced by the Nogemag initiative, ranging from the infrastructure developed (e.g., the lodge or farm, the cabins) to the achievements with the youth at the farm. The "home environment" character of Nogemag, including the provision of breakfast and lunch, was highlighted by three informants. And the summer camp concept at Nogemag was praised for reducing the isolation of the program since in their view it exposed more, and different, adults and youth to the project. They agreed with the premises of Nogemag (i.e., alcohol-related deficiencies, labour intensive teaching and supervision required) though were uncertain concerning how extensive the FASD conditions were in Elsipogtog and what their priority was among community problems. As one observed,

"there are waves of explanations of things; labels vary depending on what comes to the surface at any one time so it's FAS or XYZ or whatever". All the informants reported that while the parents or guardians liked their youths being tended at Nogemag, there was concern about labelling and stigma. Related to this was a concern that the program might be too isolated in the community. In their view there was a need for more networking with other services and community leaders and more communication with the community at large; as one said, "[Nogemag staff] assume the people know when they don't". The traditionalists, while approving some symbolic initiatives of Nogemag (e.g., the circles), not surprisingly, would like to see more emphasis on the Mi'kmaq dimension. Overall, these respondents assessed Nogemag quite positively but considered that it was not yet sufficiently embedded among the community's institutions.

CONCLUSION

The Nogemag project has been acknowledged by CJS and other stakeholders as an interesting and beneficial addition to Elsipogtog problem-solving institutions and services. Its premises enjoy much support and its successful implementation was noted especially by health and educational officials. There was ambivalence concerning the extensiveness of FASD and its priority among community problems but little doubt that Nogemag had targeted a significant community problem. It appears that the Nogemag initiative has relatively weak linkages to the CJS at the present time and, absent moral entrepreneurial partners there, faces significant challenges in its next phase if the CJS is to be more engaged with the FASD issues. There appears to more awareness of Nogemag as a concept and in its implementation among other stakeholders, especially educational authorities, and to a lesser degree, among health officials. These respondents were quick to appreciate Nogemag's achievements to date and see specific benefits for the school, participating families and community life. They shared the concerns raised by CJS respondents concerning eligibility protocols, diagnostic capacity and networking. More than CJS informants, they emphasized the need for more collaboration with other community services and more community outreach activity.

ELSIPOGTOG RESTORATIVE JUSTICE: THE PROCESSES

As noted, two of the most significant movements bearing on crime and the criminal justice system (CJS) over the past fifteen years in Canada have been aboriginal justice and restorative justice. There has been much overlap between the two. Hardly any account of restorative justice does not acknowledge perceived native traditions and styles as a major dimension of, and inspiration for, the restorative justice approach (i.e., the circle, talking and listening protocol, emphasis on balance and reintegration); indeed, some native commentators have contended that the mainstream has "taken over" their traditions in this regard. On the other hand, the advocacy and practice of native justice has drawn on sentiments characterizing restorative justice (i.e., bringing the issues back to person and the community ownership, designing justice programs that better reflect local cultures). The overlap is not 100% as there is more collective thrust in many native programs of restorative justice and, in the native perspective, restorative justice is often perceived as "just a part of the puzzle" in effecting much greater native control and administration of justice matters, if not a different kind of Justice system substantively.

Restorative Justice in Elsipogtog undoubtedly draws upon both these movements - restorative justice and native justice. Its organizational roots go back to 1998 when a local leader, previously appointed as advisor to the Commissioner of the RCMP, was mandated to establish a Justice Committee in the community to build upon the community policing program of the RCMP which was encouraging such organizational initiatives across Canada. A Justice Advisory Committee was established and out of its deliberations came the restorative justice proposal to federal and provincial authorities. The proposal was accepted and a coordinator for the ERJI was taken on in January 2000; in July of that year the first referral was received and in August the first healing circle was held. As ERJI was being launched, the RCMP and other police services in New Brunswick had been operating an alternative measures program and following a protocol for referrals or extra-judicial measures set forth in the Alternative Measures Schedule (see below); that protocol basically defined the scope of

the new ERJI. Organizationally, the ERJ staff (essentially a full-time coordinator and part-time assistant) has been directed by the Justice Advisory Committee in conjunction with a Steering Committee

consisting of federal, provincial and local representatives. There has also been a subcommittee, the workgroup committee, which has discussed issues and formulated basic policies for the ERJI.

In this section the focus is on process so the ERJI will be discussed in terms of program implementation, organizational style (recruitment and training of volunteers, community and criminal justice system (CJS) networking, and management approach including setting priorities), and the assessment of the program's implementation and development by a small sample of CJS role players and community stakeholders.

PROGRAM IMPLEMENTATION: ERJ REFERRAL CASES HANDLED

From the outset the protocol for ERJ has been that referrals would be basically coming from the police level of the CJS and the eligible offences would be essentially those permitted under the "Alternative Measures Offence Schedule". The latter allows for summary offences and infractions of provincial statutes to be diverted, along with hybrid offences of a minor nature (e.g., "theft/possession under", " fraud and mischief under", level one assault); in a few select instances (e.g., obstructing / resisting / assaulting police, serious mischief, residential break and enter), police are allowed to divert with Crown approval. This protocol, as will be seen below, has been quite strictly adhered to. There has been in three years only one accepted referral involving an offence not specified in the AM Offence Schedule, (an indictable assault (cc267)). Referrals from other levels of the CJS have been limited to a few from probation services.

As noted, the first referral taken on by ERJ occurred in the summer of 2000. In the fiscal year, 2000/01, ERJ received some 22 referrals from a variety of sources. Eight were returned to the CJS and thirteen healing circles were held; in three instances the offender only partially completed the agreed upon conditions set out in the healing circle. Since that first year the ERJI has received slightly fewer annual CJS referrals but

there has been a higher rate of healing circles held and of agreements honoured by the participating offenders.

In 2001/02, the second year of ERJ, really the first year of full operations, there were sixteen new referral files opened, of which fifteen resulted in healing circles, all of which were apparently successfully concluded. All referrals were directed to ERJ through the RCMP though one originated in probation services. Males and females were equally common among the offenders (nine and seven respectively) and ten were under eighteen years of age. Assaultive actions (simple assault, obstructing police) accounted for seven of the cases while there were three each of break and enter, cannabis possession and "theft under".

In 2002/2003. there were seventeen files opened, mostly females (i.e., 12) and mostly adults (i.e., 10). And all were police referrals (all but one from Richibucto RCMP with the lone other from Codiac RCMP). As expected, all but two of these seventeen referrals were designated as pre-charge. The offences dealt with included six cases of simple assault, one uttering threats, a couple of "theft under" (shoplifting/thefts), several cases of mischief, and one each of break and enter, possession of cannabis and resisting/obstructing a police officer. One of these referrals was rejected by ERJ, (namely the case of a 19 year old female charged with assault) and two had been returned to the police because the offender was either unavailable or refused (a 17 year old female accused of mischief and a 20 year old male accused of break and enter). Four files were awaiting approval/acceptance by ERJ. Four files were reported as successfully completed (i.e., healing circle held and agreement honoured) and six others were active (either the healing circle had not been held or the agreement not yet completed). In sum, the referrals taken on by ERJ were about a dozen, basically minor offences at pre-charge, from the police, involving almost an equal number of adults and youths, and especially females.

The 2003-04 ERJ intake data, available to the 12th of September, indicated that seven referrals had been received, involving five youth, two adults, five females and two adults. Two of the seven came from the probation level of the CJS. As in 2002-03, the principal offence was simple assault (four instances) while there were also two mischief

and one possession of cannabis charges. At the time of this write-up, these referrals were in pre-complete ERJ stages, either pending acceptance or active (the healing circle either had or had not taken place), though one referral was returned to the police referral source because ERJ was unable to contact the accused person.

The agreement or conditions arising from the ERJ healing circles were similar to those generally found in RJ programs, namely an apology (verbal or written) to the victims, referral to anger management orientation, alcohol and drug assessment / counselling orientation, and engaging in some voluntary community service activity. In keeping with the ERJ commitment to have a Mi'kmaq-oriented thrust, there were some agreements that called for a person to attend sweat lodge ceremonies and/or to become more aware of traditions with the assistance (mentoring) of an elder.

In sum, analyses of the ERJ case files indicate that the specifications of the initiating protocol were adhered to, as eligibility followed the AM Offence Schedule, and, with very few exceptions, referrals came, at the pre-charge stage, from the RCMP. There was a good mix of males and females, adults and youth among the participating offenders. About a dozen referrals were sent back to the referral source, mostly because the offender could not be contacted or was unwilling to participate but sometimes because the terms of the agreement - the conditions or dispositions - were not honoured. The agreements themselves were quite similar, for the most part, to those found in other RJ programs throughout Canada but there was evidence of a commitment by ERJ to bring a Mi'kmaq "touch" to them. It could be said that in the first year of the ERJI there were some rough spots as evidenced by the proportion of healing circle and of successful completion but by year two ERJ was efficiently and effectively "humming along". The ERJI quickly established itself as an accountable organization, responding to referrals within the police timeframe for summary offences and adopting a no-nonsense approach to no-shows and incompletes, sending the files back to the referral agent. There was some discussion concerning securing post-charge referrals and having sentencing circles but the program has remained "pre-charge" focused.

The healing circle concept has captured the symbolism of the Elsipogtog initiative as a Mi'kmaq community project in the CJS. Some features of the healing circles - the

use of the eagle feather, talking and listening protocols, occasional smudging ceremonies, presence of an elder - have reinforced that symbolism. Healing circles generally have been scheduled for either 10.30 am or 2pm and lasted as long as three hours though the average length has been ninety minutes. Typically, there have been two facilitators (one staff and one volunteer panel member) per healing circle. As of September 2003, nineteen of the trained twenty-four volunteers - who along with the two ERJ staff constitute the ERJ Justice Oanel - had participated in a healing circle; some persons have participated either as co-facilitator or elder/community representative in more than ten such sessions.

There has been a major effort always to involve offenders, victims, other affected parties, elders and other community people. The central underlying theme of the healing circle has been to deal with the harm and ill-will associated with the offending, and contribute to the reintegration of the parties. It has been difficult at times to secure victim participation, a common problem in most restorative justice programs. There is frequent displeasure by victims upon hearing that "charges are dropped" and the required turn-around time for referrals to be acted upon may prohibit extensive work with victims. The ERJI has an associated victim support staff person (half time in that role) and generally has been able to get either a victim or victim surrogate to attend the healing circle; of course, victim impact statements are also used. Additionally, the community, a victim of the offence whether directly or indirectly, may be represented by a panel member or elder. The explicit utilization of the healing concept places a special obligation (more than in most RJ programs) on ERJ to involve the victims and the community and to provide services to victims.

ORGANIZATIONAL STYLE

A pivotal feature of the ERJI has been the objective of community empowerment, a main dimension of which has been the recruitment and training of volunteers for the ERJ Justice Panel which handles all referrals and represents the initiative to the community. Thus far, some twenty-five volunteers have been incorporated into the ERJI, almost all of whom (19 of 25) have participated in a healing circle. The calibre of

the volunteers recruited has been impressive, as has been the emphasis placed on their contribution by ERJ staff. The work of, and importance of, the volunteers has been frequently acknowledged by ERJ staff, plus dinners held and other tokens of appreciation distributed. A major training session which spread over five days and was facilitated by staff from Nova Scotia's well-regarded Mi'kmaq Young Offenders Project (MYOP) was held in May-June 2000, a few months prior to the first healing circle in August of that year. Since then, there have been one or more, one-day sessions ; for example, in May 2001, there was a one day training for nine new volunteers conducted by the ERJI coordinator and other experienced justice panel members. It is a challenge for ERJI with its limited resources and active volunteer pool (as in most communities the potential volunteers are often the busiest people) to hold longer training sessions, something that could limit the ERJI moving on into more complex cases. The ERJI staff did prepare a special handbook for training purposes in 2001 and follows as much as possible the practice of including the volunteers in special training opportunities made available to ERJI by other bodies. For example, in April 2001 the John Howard Society in Moncton put on a special pre-session, case development training module and Big Cove was allowed three seats so sent three Justice Panel members to that training); other such training opportunities have taken place and, additionally, there have been special workshops or Justice presentations (e.g., several on aboriginal justice issues and possibilities) to which all Justice Panel members are invited. The score of volunteers become involved as co-facilitators (usually a ERJI staff member is the other facilitator) and sometimes in supervising / monitoring the agreement emerging from the healing circle; ERJI staff do all pre-healing circle case development.

Networking with CJS officials and other community agencies and key stakeholders has appropriately been seen by ERJI staff as central to the realization of its objectives. Such activity has consumed much ERJI staff time. At the community level there have been. for example, special meetings with elders, a quarterly newsletter produced (more recently a community newsletter publicizing the various agencies and projects in Elsipogtog) and two large surveys conducted through other community organizations to assess the level of awareness of the ERJI among these organizations'

staff and clients. In addition to regular periodic meetings with the local RCMP detachment commander (who vets all RCMP referrals to ERJ), several justice workshops have been held with well-known speakers such as judge Graydon Nicholas and Jonathan Rudin of Toronto's Aboriginal Legal Services discussing potentials in aboriginal justice for Elsipogtog (e.g., sentencing circles) where attendees have included local CJS officials (i.e., judge, crown, probation officer and police).

The management approach of the ERJI has been professional, efficient and very focused on the essential primary task of effectively processing RJ referrals through the healing circles. Objectives and strategies for their attainment have been regularly laid out in yearly business plans. There have been regular reports, in-house evaluations of the healing circles by the participants and, as noted, networking with community and CJS stakeholders and role players. The ERJ staff have been quick to utilize opportunities to go beyond their own limited resources for training and development. There are two other characteristics that distinguish the ERJI's management style. First, there is significant emphasis on cultural sensitivity as reflected in the circle concept, the smudging ceremony, the use of an eagle feather at healing circle, the formal incorporation of the elder role, and some dispositions that have included attending the sweat lodge or being "mentored" in traditional ways by an elder.

The second chief feature has been the emphasis "on walking before running". In 2000, shortly after referrals were being received and acted upon, the ERJI workgroup committee met to discuss a few early unsuccessful cases as well as the advisability of the ERJI taking on some referrals involving ostensibly more serious offenders. A ERJI document reported that "the final decision made by the board was to be selective, conservative, take it slow and keep our options open" That decision appears to have been followed well by ERJI management. For example, school officials on several occasions have asked for ERJI to assist them with problems of threats and vandalism at the Big Cove school by holding healing circles for the students involved (April, 2000, September 2000, June 2001) and there were some requests by JAC members for the ERJI to do so. ERJ management consistently have expressed a willingness to assist the school officials by training them in the use of the healing circle approach while leaving

the actual sessions if mounted to be conducted by school personnel, The ERJ staff have emphasized that they have to husband their resources carefully and focus on their main responsibilities in order to ensure that the ERJI is successfully implemented and establishes a strong base to build on in the future. This combination of willingness to help out but sensitivity to the constraints required by mandate and resources was evident also in ERJI dealing with Nogemag and Child and Family Services - it did hold a successful mediation/healing circle for each organization in 2002 but has been wary of any deflection from its own responsibilities.

Overall, then, the ERJ management has established a well-managed, credible restorative justice program at Elsipogtog, and one which draws on many able community members and incorporates a flavour of Mi'kmaq tradition. There has been a strong focus on the basic tasks. Perhaps the only shortfall at the management level has been that there has been little debriefing of volunteer co-facilitators and little scheduled discussion of experiences among the Justice Panel members, an activity that can assist greatly in learning from experiences and giving them depth, and something often valuable and needed where the organization has very limited resources for training and professional development, Another management issue would be whether, having established a solid base, the ERJI is ready and able to move on to handling more serious offending. Clearly that has been, too, an objective of the ERJI; in a recent, 2003 JAC meeting, an ERJI document was passed around, entitled Future Directions which stated a goal as "getting into post-charge cases and sentencing circles".

PROCESS: CJS AND STAKEHOLDERS

Interviews were carried out with CJS role players at all levels of the CJS - judge, crown, probation, and police. Interviews with police involved discussions with a handful of officers at the Richibucto headquarters and in Elsipogtog. The overall response was positive concerning the ERJI and no criticisms were advanced by anyone. At the same time, the interviews made it clear that any subsequent elaboration of the ERJI mandate would have to come from well-conceptualized and well-advocated Justice initiatives from the community. The small sample of nine community stakeholders involved persons who, with one exception, were very well informed about ERJI and indeed most were actively involved either at the JAC or ERJ Justice Panel levels. These respondents, too, were generally positive about the ERJI and considered that it has been a success. At the same time they also generally felt that it has to be elaborated and get engaged in more serious offending cases; here several raised doubts about how successful the ERJI healing circles might be, even while advocating its extension.

CJS OFFICIALS

CJS role players at all levels of the system, namely the four levels from whence RJ referrals may come in RJ programs linked to the CJS, were interviewed, a few on several different occasions. In the ERJI the referrals have come, with rare exception, from the police level. A protocol is in effect where police seek crown approval for certain divertible offences, and sometimes these referrals could be seen as post-charge referrals even though transmitted to ERJ from the police (the crown prosecutor for the district noted that pre-charge screening by the crown is routinely done in New Brunswick). It has not been the practice for any CJS role players to attend the actual healing circles, even at the police level. Indeed, one RCMP officer commented that were the police to attend, information could be heard which would prejudice future court processing (i.e., officer testimony) should the "file" be returned to court for failure to reach an agreement or for non-compliance with the agreement, and therefore the police do not attend, save perhaps when they are the victim at issue. This argument may have merit but it has rarely been invoked in other jurisdictions (including RCMP community

justice forums widespread in Canada) where police participation at RJ sessions is frequent, if not commonplace. It can be noted that while police infrequently attend the healing circles, they do send to ERJ a fairly complete file on the offence, including both offender and victim statements. Moreover, the police informants indicated that they appreciated being informed well in advance of the holding of the healing circles and have no complaints at all with the way the ERJI is managed.

RCMP officers at Richibucto detachment, after noting the alternative measures (AM) programs for youth and adults available throughout the province (i.e., the protocol for eligible offences, the two-year recording of the offender's case on CPIC, the policy of no further referrals while a person's file is on CPIC), indicated that they followed the same procedures in the case of referrals to ERJ, with the exception of broadening eligibility somewhat. Here several officers commented that ERJI is unique in New Brunswick in having the healing circle format and thus repeat offenders may be referred to it ("it focuses on healing and maybe has a shot at healing the repeat offenders"). In their view, the restorative justice thrust at Elsipogtog, rather than the alternative measures found elsewhere in the province, resonate well with "native cultural heritage". They also considered it to be needed in that the community reportedly continues to have a rate of recidivism largely related to extensive substance abuse and legacy effects (as mentioned above, all officers also indicated that there have been major positive changes in the community over the past decade). The RCMP detachment supervisors did note, however, that, while cutting Elsipogtog offenders some slack on referral eligibility in theory, in practice it was something of a struggle to get members to refer cases to ERJ, or, for that matter, to AM programs elsewhere in New Brunswick; moreover, it was acknowledged that basically the referrals have been predominantly for first-time offenders. This actual police practice of limited referrals is in keeping with this researcher's studies that have found that police referrals are typically "low end cases" since police discretion is quite sensitive to not only the offence but also the wishes of parents and victims, as well as the attitudes of the offender. At the time of the evaluation, none of the officers in the Elsipogtog sub-detachment was a band member but seven of the eight were native persons. The RCMP replaced the former band

constable system (where the Big Cove officers were special constables under overall RCMP jurisdiction) in October, 2002.

The probation officer for Elsipogtog was very positive about the ERJI, partly crediting it with the major reduction that he has experienced with respect to his caseload over the past several years (though acknowledging that some of the repeat offenders may have just moved on into adult status). He indicated that he would like to see ERJ become involved in sentencing circles. He has himself referred very few cases (i.e., one or two through the RCMP) to ERJ presumably because Corrections New Brunswick has not been encouraging of that strategy. At the same time, the probation officer indicated that the CJS was flexible, its personnel reasonably progressive and open to be influenced by a well-conceptualized and vigorously advocated initiative from the Elsipogtog community. In his view the initiative would clearly have to come from the community, which, thus far, has not been mobilized to that end.

Beyond the CJS "front-line" of policing and probation services, among crown and judge, there was support, though less enthusiastic support, for the RJ initiative. These latter officials had little direct involvement with the ERJI (or Elsipogtog for that matter) apart from a few "special event" occasions. While the ERJI program was seen as quite acceptable, and generated no stated complaints, there was also a sense that it was not getting at the major CJS problems of Elsipogtog, especially domestic violence, substance abuse, and recidivism. The respondents emphasized that the Big Cove community had a very high rate of crime, though "it can't be that high for youth since youth court is held only once a month". These CJS officials indicated that they were open to more complex offending being considered for the healing circles but that there were two prerequisites, namely better indications that the healing circles did work well (i.e., got to the roots of problems, had appropriate "structure") and some combination of well-conceptualized and community-backed "push" from Elsipogtog and the "pull" of policy change from the New Brunswick Department of Justice. While noting that there has been no pressure from the Big Cove community for higher-end referrals, the CJS officials acknowledged that there had been some suggestion made by Elsipogtog sources of having sentencing circles (i.e., post-conviction, pre-sentence sessions);

indeed, in April 2003 judge Graydon Nicholas held a session in the area at the request of ERJI/JAC on sentencing circles which was attended by twenty or so participants. Such referrals to ERJ could come from the judge, at his own instigation or in responding to requests from crown prosecutor or defence counsel. None has yet occurred, apparently for the reasons noted above.

COMMUNITY STAKEHOLDERS

Among this quite limited sample of community stakeholders, the general sentiment, as noted, was that the ERJI was well-managed and quite credible in its handling of minor offences. The latter was seen to be done with professionalism (efficient, unbiased) and some sensitivity to Mi'kmaq traditions. A few interviewees singled out the “openness” of the healing circles, especially allowing elders to play the right role for elders, namely “representing the community, giving both sides, pros and cons, to help the decision-makers [and not having to make the decisions]”. Several respondents noted too that the ERJI had brought in its wake, an associated victims' assistance program funded by Aboriginal Justice. While observing that serious offences or offenders were not involved, most respondents considered that the healing circles had had an impact on the participants. For example, one respondent, present at many healing circles, noted that, while the offences dealt with may be minor, the healing circles, in his experience, have been quite significant for the major participants (i.e., offenders and victims and their supporters) with much emotion being displayed. Another stakeholder believed that the ERJ experience had changed a few offenders' behaviour, while a third person speculated that attention to the victims' needs had probably reduced the likelihood of revenge, not a trivial matter in a community where family ties run deep. A few respondents, remaining positive in their overall assessment of the ERJI as a contribution to the community's development, argued that there was not enough focus on the problems underlying the offence, that the issues were too quickly “swept under the rug” in a rush to sympathize / empathize with the offender and reach an agreement. This view was articulated most strongly by the mother of an offender at a healing circle who reported that she was disappointed that there was too little emphasis

on the harm done, on the shaming dimension as it were, since she had hoped her youth would have learned a lesson but thinks the youth only received “a slap on the wrist”.

A common observation among this grouping was that the program may be too modest in its scope and that now, having established itself, it should be elaborated upon. One JAC member, for example, suggested that the ERJI “is in need of a larger vision, pointing to future directions”; another related comment was “we’re in the vanguard of New Brunswick so where do we go from here”. The two respondents in this sample who were most familiar with ERJ and most active as panel members also adopted that position. One stressed “it’s [ERJI] is fine but I would like to see it get involved in more substantial cases, with offenders who the police define as problems but do not refer [to ERJ]”. The other person noted that while ERJI “has given us something to build on” it needs to “go deeper to underlying problems”. A few respondents wanted both a more elaborate ERJI and one that was more into Mi’kmaq traditions which they interpreted, without much specification, as more healing through more exposure to a traditional style (e.g., more awareness of stories and legends and traditional methods of dealing with conflict).

Respondents considered that if the program were to take on more serious cases and do things like sentencing circles, there would be some obstacles to contend with. Several commented that CJS issues of the sort dealt with by the ERJI have not been a priority for local politicians (i.e., the band council) so self-determination in this area has not been a major thrust. Some respondents commented that much more community involvement would be required, claiming that the community residents really do not know enough about the ERJ approach and processes to support its elaboration into more controversial areas; as one said, “99% of our community needs to know more about how we used to do justice; it takes some commitment for victims and others to forego compensation and punishment”. A few respondents wondered whether the healing circle approach as presently implemented could handle more complex cases, and whether the resources would be available for more training and so forth.

A fairly common theme was that there would have to be a lot of community conversations and subsequent mobilization given the fact that CJS officials and local politicians would be unlikely to take the initiative.

THE NOGEMAG INITIATIVE: OUTCOMES

In the first year of most projects the emphasis from an evaluation standpoint is often on processes rather than outcomes and that certainly is the case in this modest evaluation. A focus on outcomes would usually identify the penetration rate (i.e., how many of the problems cases have been dealt with), what have been the results or impact on the cases dealt with it (e.g., recidivism, school performance, family and community behaviour) and how have the participants assessed their experience. Usually, too, some before and after, or "control group" comparisons are analysed. Here the outcomes measures are limited indeed. The penetration rate is virtually impossible to determine at this point on objective grounds though some informant comments are cited below. There were as noted only five regularly attending (since January 2003) youths in the Nogemag program so comparisons would be unwise and, in any event, there was no clear control group to utilize and only short term effects can be observed. Some before and after comparison is rendered but only by dint of informed comments. These comments can be buttressed by limited outcome data but can only be considered as tentative. The views of most youths' parents or guardians were obtained but, for a variety of reasons (essentially ethical reasons), none of the youth was interviewed. Accordingly, this evaluation of outcomes must be considered as preliminary and setting the stage for future evaluations. As the Nogemag program develops further a more complete assessment of outcomes will be possible.

SOME OUTCOME INDICATORS

As noted, according to Nogemag staff, there were at least five criteria for acceptance into the program (i.e., gestational alcohol exposure, problems in school leading to expulsion, some problem with the CJS, approval by parent/guardian, and voluntary choice by the youth). A Nogemag official in a May 2003 JAC meeting reported the program to be a success. Nogemag staff has indicated that none of the five regulars had been in trouble with the CJS since the program began "though all have behavioural moments and some trouble at home". Another staff member noted later, "there's been a

big change in several of them but it's still a tough go". It was noted, too, that all five regulars had graded and had met most of the objectives laid out in their individualized Nogemag plans. Perhaps the biggest indicator of success came in September 2003 when four of the five youths went back into the regular school program. And, at the time of this writing, they are reportedly doing quite well and drawing praise from the teaching staff. This seemingly effective re-entry into the regular school system was not anticipated - according to interviews conducted earlier in the year by this writer - by either Nogemag staff or school officials, both expecting another year at Nogemag would be required for all these youths. It will be interesting to see if the Nogemag graduates can continue to function well in the mainstream school system but, regardless, at least the short-run gains have been significant.

Police and school officials in their interviews have supported the claims of positive outcomes. Police at the Elsipogtog sub-detachment, upon reviewing the list of Nogemag youth, observed that three of the regulars had changed significantly while another was "not a big problem". On the other hand, all four youth marginally connected to Nogemag (some summer participation in 2002, or in a pre-Nogemag treatment phase or ejected from Nogemag) were seen to be serious problems, usually involved in fighting, substance abuse and family conflict. Schools officials, apart from directly praising the Nogemag "graduates" as reported above, considered the program a success in that it relieved the mainstream school system from having to otherwise deal somehow with the "unmanageable youths" and effected a transitional program.

A major problem in assessing Nogemag outcomes is the difficulty of determining who constituted the eligible pool of youth and where the youth participants at Nogemag might rank in terms of the seriousness of their FASD-related primary and secondary disabilities. Nogemag staff, school officials and health professionals indicated that there were at least a handful of other youth who might have been recruited but were not due to parental reluctance or some other factor. There appears to have been some selectivity as some referred persons reportedly were not accepted into Nogemag and several others were channelled into treatment programs as a preliminary phase to Nogemag. Future evaluation will have to resolve these issues in order to better

determine the quality and quantity of Nogemag outcomes. The impact of the Nogemag program (i.e., lessons learned for dealing with youth with FAS/E) for special needs programming in the mainstream school system would in large part depend on such determination. A related issue, too, would be whether there is any implications in the Nogemag approach for working with young adults, a score of whom at present account for the lion share of Elsipogtog social disorder offences and whom some suspect of having FASD.

There are several other outcomes that should be considered in assessing the Nogemag initiative. Certainly, accessing the lands, the renovations and the new construction at the Nogemag site represent a significant accomplishment and the building up of impressive capital assets for Elsipogtog community services. The summer program, financed in part by a special grant obtained by Nogemag from a large Canadian bank, was well-received in the community. A few stakeholders considered that participation at the camp should have been restricted to regular or future Nogemag participants but most interviewed persons agreed that opening it up to a wider range of youth (though typically in "a broad youth at risk category" according to Nogemag staff) and emphasizing work and skill development, brought more a cross-section of the community (adults and youths) to the site and furthered Nogemag integration in the community; as one staff person commented, "it's good publicity where before there was almost none; parents come out and drop off kids and see the operation".

THE FAMILIES' PERSPECTIVE ON NOGEMAG

The youth's parents or guardians were interviewed using an interview guide (see appendix A) which focused on the pre-Nogemag situation with their youth, their sense of the underlying causes of their youth's problem behaviour, their knowledge of the Nogemag initiative and contact with its staff, the impact to date of the Nogemag experience for their youth, their satisfaction with Nogemag and their suggestions for changes in the Nogemag program. Thirteen parents/guardians were approached for interviews and ten persons were interviewed, eight of whom had youth who participated in Nogemag on a full-time regular basis.

Youths participating in the Nogemag projects could be differentiated according to whether (a) they were regular students there or (b) participated solely in summer projects at the farm or (c) had only an otherwise marginal connection (e.g., had been assessed and referred elsewhere for prerequisite treatment). Only two of the five parents/guardians of category (b) and (c) youths agreed to be interviewed. Both these persons reported minimal contact with the Nogemag, neither participating in any Nogemag activities (e.g., visits, family circles) nor having any significant contact with Nogemag staff. Neither guardian considered that they "had a good knowledge of the program or what they do there with the youths". Both these informants did report that their youth (both youths were girls around 16 years of age) had had problems at school and at home but no involvement with the criminal justice system. They attributed these problems to family disruption and substance abuse. In both instances there was reportedly no formal medical or social worker assessment but solely an assessment from the school system support professionals. Given the minimal contact with Nogemag by both themselves and their youths, it is not surprising that neither guardian reported any significant positive impact related to Nogemag nor did they offer any suggestions concerning the Nogemag programming.

REGULAR PARTICIPANTS' FAMILIES

In all cases where the informant was parent or guardian for a regular participant, it was reported that the youth had had serious behavioural problems over the past three years. Virtually always the problems reportedly occurred at school, were of long duration and quite disruptive (e.g., much absenteeism, being expelled). Roughly half the youths were deemed to have caused significant trouble at home. Only a few were said to have had "trouble with the law" but those denying such trouble usually qualified their "no" with words such as "almost but no", "he is too young for that".

The parents/guardians varied quite a lot in their assessment of the causes of the youth's problem behaviour. Most affirmed that FAS/E was the main cause but several were hesitant to apply that label either because they had no diagnostic confirmation (e.g., "I don't know; he was not diagnosed") or because they identified some other factor

as primary (e.g., "his mother's death", "a learning disability"). The parents/guardians usually had at least one source of professional assessment of their youth to draw upon, whether it be medical diagnosis, social workers' tests, or assessments from the school psychologists. Indeed, most reported having information from both medical diagnosis and school psychologists (e.g., tests at school).

The frustration experienced by the parents/guardians in the pre-Nogemag period became evident when they were asked whether, before Nogemag, they had found useful, helpful ways to deal with their youth's problems at home or at school. About half held that some school programs were at least of some value (e.g., the one-on-one resource class) but others reported little effective school intervention and indicated that their youth reacted negatively to the school format. As for the home milieu, it was commonly stated that "we struggled", "it was hard", "when I look back on it, I don't know how we managed, day by day I guess".

All the parents/guardians indicated that they came to know about the Nogemag program through Dr. Cox, the school professional in charge of dealing with assessment programs and the chief advocate and mobilizing agent for the Nogemag initiative. From the point of view of learning about Nogemag, no one reported significant contact with, or information-gathering from, other school officials or other parents/guardians of youths with similar problems. Typically the parents/guardians reported that they were open to such an interventionist strategy as Nogemag and had no especial concern, other than that their youth would eventually be able to function well in the regular school setting, that is learn to read and write, "learn a lot" etc. None mentioned any concern about their youth being "labelled" upon going to Nogemag.

Virtually all these parents/guardians reported that they had had "a lot of contact with the Nogemag operation". There had been frequent contact by telephone and they had visited the farm at least a couple of times and (with one exception) had participated in at least one family circles at Nogemag. Most reported, too, that they had been visited at home or at work by Nogemag staff, had received reports from Nogemag staff concerning their youth's progress, and had been contacted by the FAS family worker. Presumably because of this regularized contact, the parents/guardians considered that

they had a good knowledge of the Nogemag program and what they do there with the youths. Only one person did not take that position. All but one informant reported themselves satisfied with the contact and the information they had but most went on to say that "I would like to be more involved".

The parents/guardians all indicated that the impact of Nogemag has been quite significant for their youth, even while noting that more progress is both needed and hoped for. They often found it difficult to articulate the positive benefits of Nogemag but a few spontaneous comments were interesting; one parent said "Yes there have been good results, his behaviour; he (a twelve year old) used to stay out late, break into stores and I couldn't find him but ever since Nogemag he started coming home"; another parent said of her thirteen year old grandson, "yes, good results, he passed, he learned a lot, it changed him", while still another parent said of her thirteen year old, "the biggest change I have ever seen in my son! He is more happy and content; he gets up every morning and can't wait to go there". No parent or guardian reported that any "poor results" for their youth occurred as a result of the Nogemag experience. All but one parent/guardian reported that the youth's attitudes and behaviours at home had changed for the better; the grandmother of a thirteen year old reported that "we don't fight any more"; one parent observed of her sixteen year old, "well, yes, but he is just one of a kind; he has realized that he should not be doing what he was doing"; another guardian, responsible for a twelve year old, reported, "yes, there has been a change but he is still too hyper". Few, however, noted much significant changes in other respects (e.g., readiness for regular schooling, community activities, trouble with the law), several suggesting that "a bit improvement I guess; maybe by next year he will catch on more". Several parents/guardians reported that they did receive suggestions from Nogemag staff about how to better cope with their youth at home but most said "no" and the former did not elaborate on the nature of the suggestions.

Looking to the future, the parents/guardians generally were positive about having their youth re-attend the Nogemag farm for the new school year (2003-2004), echoing one who said that "another year would be good for him". In terms of changes that they would like to see in the Nogemag farm project, all but one of the eight parents/guardians

wanted their youth to spend more time at Nogemag (i.e., a longer day), and have different programming (typically more of the basics, reading writing and mathematics). There was little doubt that these interviewees were still concerned about their youth ultimately learning skills that would enable them to succeed in school and in life generally. Beyond these changes, the respondents advanced few suggestions for change, being quite content with the different activities at Nogemag and with the Nogemag staff. The only other suggestion was made by a grandmother of one of the older Nogemag youths (a sixteen year old) who felt that older youths should be separated from the younger ones.

Overall, then, the parents/guardians of the regular Nogemag youth were quite positive about the project. They believed that their youth did need special programming and that Nogemag with its focus on FAS/E was zeroing in on the underlying causal problems of the youth. They considered that they were well-informed and engaged by the Nogemag staff even while wanting more involvement in the future. Similarly, they considered that Nogemag had had a significantly positive impact on their youth (especially improving relations at home) but they generally felt that more progress was necessary. The parents/guardians suggested few changes be made in the Nogemag program and virtually all suggested changes had to do with ensuring that their youth would ultimately be able to succeed in the regular school system. Finally, all these parents/guardians cooperated fully with the interviewer, in large part because they were positive about Nogemag; indeed, one person conveyed more widespread sentiments, when, in response to a standard statement that the interview contents would be kept anonymous and confidential, she responded, "why? that school is so good everyone should hear about it".

INTERVIEW GUIDE FOR PARENTS/GUARDIANS OF NOGEMAG YOUTH

I AM CARRYING OUT AN ASSESSMENT OF THE NOGEMAG FARM PROJECT FOR THE FEDERAL DEPARTMENT OF JUSTICE AND IN COLLABORATION WITH THE WELLNESS COMMITTEE. THE OBJECTIVE IS TO

EVALUATE HOW THE PROGRAM HAS BEEN FUNCTIONING AND SUGGEST OPTIONS FOR ITS FUTURE DEVELOPMENT. ALL INFORMATION YOU PROVIDE WILL BE CONSIDERED CONFIDENTIAL AND ANONYMOUS AND WILL NOT BE MADE PUBLIC IN ANY WAY. THANKS FOR YOUR COOPERATION.

1) HAVE THERE BEEN A LOT OF PROBLEMS WITH YOUR YOUTH OVER THE LAST THREE YEARS?

WHAT ABOUT AT SCHOOL?

TROUBLE WITH THE LAW?

TROUBLE AT HOME?

2) WHAT HAVE BEEN THE CAUSES OF THESE PROBLEMS IN YOUR OPINION?

IS FAS/E THE MAIN CAUSE?

HAS YOUR YOUTH EVER RECEIVED ANY MEDICAL DIAGNOSIS?

HAS YOUR YOUTH EVER RECEIVED ANY SOCIAL WORKER'S ASSESSMENT?

HAS YOUR YOUTH EVER RECEIVED ANY ASSESSMENT FROM SCHOOL PSYCHOLOGISTS?

3) DID YOU FIND ANY USEFUL OR HELPFUL WAYS TO DEAL WITH YOUR YOUTH'S PROBLEMS AT SCHOOL OR AT HOME?

WERE ANY SCHOOL PROGRAMS HELPFUL (BEFORE NOGEMAG)?

HOW DID YOU COPE AT HOME?

1

4) HOW DID YOU COME TO KNOW ABOUT THE NOGEMAG PROGRAM?

DID SCHOOL OFFICIALS DISCUSS IT WITH YOU?

DID YOU TALK WITH OTHER PARENTS/GUARDIANS WHO HAD YOUTHS WITH SIMILAR PROBLEMS?

5) WAS THERE ANY SPECIAL CONCERNS YOU HAD ABOUT YOUR YOUTH GOING THERE?

ANY SPECIFIC FEARS?

DID YOU HAVE ANY SPECIFIC HOPES ABOUT YOUR YOUTH BECOMING INVOLVED WITH THE NOGEMAG PROJECT?

6) HAVE YOU HAD A LOT OF CONTACT WITH THE NOGEMAG OPERATION?

HAVE YOU VISITED THE FARM? (#?)

HAVE NOGEMAG STAFF VISITED YOU? (#?)

HAVE YOU TALKED ON THE PHONE WITH NOGEMAG STAFF? (#?)

HAVE YOU RECEIVED ANY REPORTS FROM NOGEMAG STAFF ABOUT YOUR YOUTH'S PROGRESS?

HAVE YOU PARTICIPATED IN ANY FAMILY CIRCLES AT NOGEMAG? (#?)

HAS THE NOGEMAG FAS FAMILY WORKER CONTACTED YOU MUCH?

7) DO YOU THINK YOU HAVE A GOOD KNOWLEDGE OF WHAT THE NOGEMAG PROGRAM IS ALL ABOUT OR WHAT THEY DO THERE WITH THE YOUTHS?

DO YOU WANT TO BECOME MORE INVOLVED OR ARE YOU SATISFIED WITH THE CONTACT AND INFORMATION YOU HAVE?

8) WHAT HAS BEEN THE IMPACT OF NOGEMAG FOR YOUR YOUTH? HAVE THERE BEEN GOOD RESULTS? (PLEASE DESCRIBE)

ANY POOR RESULTS? (WHAT?)

2

9) HAVE THERE BEEN ANY CHANGES IN YOUR YOUTH'S ATTITUDE AND BEHAVIOUR AT HOME SINCE BECOMING INVOLVED IN NOGEMAG?

ANY SIGNIFICANT CHANGES IN OTHER RESPECTS? (COMMUNITY ACTIVITIES? TROUBLE WITH THE LAW?)

10) HAVE YOU CHANGED IN YOUR ATTITUDES TOWARDS THE YOUTH OR IN THE WAY YOU RELATE TO HIM/HER AT HOME?

HAVE YOU RECEIVED ANY SUGGESTIONS FROM NOGEMAG STAFF ABOUT HOW TO BETTER COPE WITH YOUR YOUTH AT HOME?

11) DO YOU INTEND TO HAVE YOUR YOUTH ATTEND THE NOGEMAG FARM THIS COMING SCHOOL YEAR? WHY/WHY NOT?

12) ARE THERE ANY CHANGES YOU WOULD LIKE TO SEE IN THE NOGEMAG FARM PROJECT?

WHAT ABOUT THE FOLLOWING?

HAVE THE YOUTHS SPEND MORE TIME AT NOGEMAG?

HAVE DIFFERENT PROGRAMMING? (LEARN DIFFERENT THINGS?)

HAVE DIFFERENT ACTIVITIES?

HAVE DIFFERENT STAFF?

SELECT STUDENTS DIFFERENTLY?

ELSIPOGTOG RESTORATIVE JUSTICE: THE PARTICIPANTS' VIEWS

In any evaluation of restorative justice processing of offences and its impact for participants (offenders, victims, supporters on either side, other community representatives (e.g., elders) and service providers), it is valuable to consider both behaviour and attitudes, immediate and more long term assessment. The impact for immediate behaviour can best be seen by actual observation of the conference or healing circle and by examining whether an agreement has been reached and then honoured by all parties to it. Attitudes need to be assessed at the conclusion of the healing circle to provide a sense of the participants' immediate reaction as well as to convey to the participants that the program coordinators are concerned about feedback and constantly improving the program. Attitudes and behaviour have also to be assessed "down the road" and away from the healing circle setting. Such follow-up, typically done by independent evaluators, can point up the passing and the persistent impact on attitudes and on other behaviour facets such as recidivism.

In this evaluation there has been little evaluation of the behavioural dimension. Direct observation by external evaluators and analyses of long term recidivism remain for future evaluation. Some reference has been made to considerations of recidivism in the write-up of key informant interviews. Some evidence cited above does indicate that the proportion of referrals that led to a successful healing circle increased significantly in the second year of ERJI as did the proportion where the terms of the agreement or disposition were completed in full. A thorough perusal of monthly activity reports submitted by ERJI staff shows consistent references to sessions where the immediate case report of the coordinator was that the healing circle went "very well"; indeed, even in the instances where victims did not show up there appears to have been a positive process and outcome reported for the participants. For this evaluation, participants' views of their restorative justice (i.e., healing circle) experience were examined at two points, namely immediately upon the sessions' ending and in follow-up interviews

carried out in the late summer of 2003. The instruments used are appended to this report.

ERJ EVALUATION FORMS

In the ERJ program everyone participating in a healing circle is requested to fill out an evaluation form after the circle is completed. This "internal " evaluation (i.e., the questions were designed by ERJ staff, distributed by facilitators and analyzed by the program coordinator) seeks information on the adequacy of pre-session / circle contact by ERJ staff, the extent to which the different role players perceived the healing circle process as fair and helpful to them, how they assessed the facilitators' performance, whether there was better understanding of the offending actions and motivations by the different parties, what was learned from the healing circle experience, and whether the respondents would recommend the healing circle program to others where there is conflict with the law.

The results of the internal evaluation have been quite impressive. In over 90% of the internal evaluation forms (92 were referred to in the internal report), the respondents wrote that the healing circle process was fair and helped them, that the facilitators were good to excellent in their tasks, and that they would recommend the program to others. Almost as many - 85% - deemed the pre-healing circle contact to be satisfactory. Offenders and their supporters frequently expressed gratitude for a second chance (i.e., avoiding the court and having/adding to a criminal record). Victims frequently indicated that the circle helped them better understand the offender's actions and appreciated the latter's taking responsibility for their wrong actions. Clearly, while internal evaluations at the conclusion of restorative justice sessions, and in that context, are generally very positive, the ERJ internal evaluation suggest significant accomplishment, at least in the short run and for the relatively minor pre-charge offences dealt with.

THE FOLLOW-UP INTERVIEWS

The follow-up interviews were conducted in person on a one-to-one basis months after the healing circle at issue had taken place. The elaborate questionnaires used - interviews were of at least one half hour in duration - had already proven their reliability

and validity in a study of several thousand RJ participants over the years 2000 to 2003 in Nova Scotia. As noted earlier, specific questionnaires were developed for the different roles of offender, offender supporter, victim and victim supporter, though in all cases the same central themes were explored. These themes were pre-conference experiences and expectations, the conference or circle experience, views on the agreement or conference disposition, reintegration and closure issues, and overall assessment of their ERJ experience.

THE OFFENDERS AND THEIR PARENTS/SUPPORTERS

There were 23 interviews conducted with offenders (12) and offenders' parents/supporters(11).

OFFENDERS

The five young offenders (i.e., age 17 years or younger) gave fairly similar answers to most questionnaire items. They reported no experience or awareness with the RJ program prior to their own healing circle. Most said that they were somewhat reluctant to participate but with some urging by ERJ staff they decided to try it. All indicated that the chief reason for their participating was to avoid the court and the possibility of a record and subsequent sentencing. According to all but one, they had limited contact with ERJ staff prior to the circle session. Still, all said that, having made the decision to participate, they were not concerned about meeting with the victim or discussing the matter in front of their parents or supporters. At the conference the young offenders considered that they understood what was going on, were treated fairly, with respect, and were able to present their "side" of things. They said that they felt they had adequate support at the circle. The session was depicted as friendly, for some youths, surprisingly so. The adjective they most frequently selected to describe their own feelings during the session was "bored", though one added "sorry" and another "ashamed". On the whole, they defined the healing circle as a positive experience though one person added that he thought the victim "side" was vindictive, and another

youth commented that "feelings that I would have rather left behind me were brought up again".

The young offenders reported that they were reasonably satisfied with the agreement that emerged from the healing circle and all indicated that they found it very easy to go along with the conditions specified in the agreement. In their minds there was some reintegration and closure, agreeing, mostly very much, that "the healing circle and what you did in the agreement helped you make up for the offence". All reported that they had been able to put the incident behind them, got along better at home and had committed no further offences. Overall, they considered that the experience was positive and enabled them to avoid court and a record. Only one person suggested a negative implication of RJ, namely "I had to talk about it [the offence]". They all agreed that RJ for offences such as theirs was quite appropriate, but, somewhat surprisingly, all agreed (one with some qualification) that it would not be appropriate for more serious offences.

The adult offenders completing questionnaires generally gave much fuller responses to the questions and reported that the healing circle was more emotional and significant for them. It is not clear whether the adult experience was indeed more profound or whether the adults were simply more articulate and guided by a different set of norms (e.g., it may be culturally more acceptable for a youth to say he was "bored" at a session than it would be for an adult). Like the youths, the adult offenders reported little previous knowledge of, or experience with, ERJ prior to their own involvement. The adult offenders considered that the participation was voluntary but several added that they liked the idea as explained to them and were persuaded; as one commented, "she [ERJ staffer] made it sound like a good thing". The adult respondents varied much in terms of the pre-session contact with ERJ staff, most reporting that they received an in-depth explanation in face-to-face meetings but several claiming very minimal contact (e.g., a telephone call). Certainly, avoiding court was deemed to be the major incentive for participation but several said they had looked forward to giving "my side", to showing remorse, and putting the matter behind them. Unlike the youth, half of the adult

offenders reported that they had been concerned about meeting the victim and/or discussing the offence in the presence of supporters.

The conference or healing circle was characterized in quite positive terms by the adult offenders. As the youths, they all agreed that they understood what was happening in the session, were given respect, had adequate support there, and that the whole event was handled well and with fairness by ERJ facilitators. The informants indicated that where a victim was present (i.e., in all but two cases) they were able to have their say and speak directly to the victim within the circle format. They especially commented on these latter features; one interviewee in noting the opportunity to air his views, said "that was the best part, and also the confidentiality"; others, referring to the interaction with victims, made statements such as "people were able to show what they really felt". The majority view was that the healing circle was positive and friendly. As for themselves, the adult offenders characterized their own feelings at the circle as "guilty", "ashamed", and "sorry". It would certainly appear from these comments that the shaming and reintegration objectives of restorative justice were achieved at these healing circles.

The adult offenders reported that they were satisfied with the terms of the healing circle agreement, at the time and when interviewed for the follow-up. The majority were "much" satisfied. Most, too, reported that they found it very easy to go along with the conditions of the agreement. They were somewhat less willing than the youths to claim that the session and the completion of the agreement made up for the offence. While most said that they were able to put the incident behind them, several noted that "I still think about it from time to time". Like the youths, they did all agree that their own relations with their supporters had improved but several also noted that they have re-offended since the healing circle (all cited alcohol problems). While, overall, positive about the RJ experience, almost all adult informants indicated that, at most, it had little impact on their lives in general.

The adult offenders generally considered that the best thing about the healing circle was that it enabled them to avoid the courts but they did cite other factors too such as "a chance to talk to the victim". All felt that this alternative to the courts was

appropriate in their case and would be for similar offences. The courts, in their judgment, would have been more intimidating and have yielded a different disposition, while in the healing circle, relations could be repaired; as one adult offender commented, "in the court I wouldn't have been able to resolve anything and there would be more anger and hatred". Unlike the youths and the victims, these adult offenders were much more likely - albeit with some reservations - to contend that healing circles should also be used in more serious criminal cases.

OFFENDER PARENTS/SUPPORTERS

Unlike the offender sample, a majority of the eleven offenders' parents/supporters reported that they did have some knowledge of or experience with alternative measures or restorative justice prior to the incident in question. Most indicated that they agreed to participate largely to avoid the matter being processed in court. While the majority of these respondents considered their attendance to be voluntary, several reported that "I had no choice; it was either the circle or the court". They gave varied responses concerning the amount of pre-conference contact they had with ERJ staff, about half defining it as minimal (just one telephone call and/or mailed materials) and half referring to several calls and face-to-face meetings. In discussing their expectations for the healing circle approach, again their responses varied, the top three being "to avoid court", "to make sure the offender was treated fairly" and "to hope that the offender would learn a lesson". Almost all the offenders parents/supporters also believed that the offender would not have gone to the healing circle without their support; as one said, "I convinced her to go; she was scared".

The parents/supporters, unlike the offenders, were far more likely to emphasize "the opportunity for the offender to show remorse and apologize" as the most important thing that happened at circle; only about a third emphasized the avoidance of court. Typically these informants reported few surprises at the healing circle but those who were surprised, said they were pleasantly surprised; as one respondent commented, "they took the time to have a discussion". The parents/supporters characterized the session in very positive terms - well-managed, fair to all, "I was able to have my say",

The respondents typically considered that the offender got a better understanding of victimization and would be less likely to re-offend. One respondent commented, "just the circle itself made him realize the victim's concerns", while another noted, "she never did it again (that offence) because it showed her how bad the victim felt", and still another respondent drew attention to the empathy that sometimes developed, in his remarks, "the victim gave an example of role reversal, asking how would you feel if it were". The few parents/supporters who gave untypical answers pointed to the age of their youth and argued that "he was too young to understand". Most respondents reported that the interaction with the victims was quite positive and that the latter's demands and wishes were quite modest; one parent commented "I was surprised that the victim didn't ask for much". An interviewer documented another informant's comments as follows: "in Mi'kmaq she told me that it was kind of the victim to do that. It was a very positive point for her. She said the circle was quite emotional but good". Having the offender meet with and hear the generally forgiving victims was seen as crucial for the offender's future actions; for example, one father told the interviewer that "he was very happy that his son was able not only to hear the victim's side but also to feel the hurt the victim felt". Four parents/supporters commented on the absence of the victim, expressing disappointment that they were not there, perhaps appreciating the powerful impact that that presence can sometimes effect (in some cases where the victim was not present, a letter was read expressing the victim's concerns).

Generally, then, the actual healing circle process was very favorably assessed by parents/supporters as well as by the offenders. The parents/supporters said there was "nothing negative" for them about the healing circle experience; rather, it was positive and more effective than the alternative in their view; as one said, "no court, no pressure, no one had to fear further". Some parents, too, were proud that the offender accepted responsibility; as one parent said when asked about the positive highlight, "my child owned up to her actions".

The parents/supporters reported that at the time of the healing circle they were satisfied with the agreement that was developed and also confident that the offender was committed to compliance. The sample was quite evenly split between those who

felt that they had contributed to the agreement and those who said either that they had made no suggestions or that their suggestions were ignored. The only criticism of the agreement was offered by one father who contended that the agreement was not stringent enough to provide him assurances that his son would not get into trouble again.

Most respondents considered that the healing circle had helped the offender appreciate the impact of his/her actions and rendered re-offending less likely. A few held that there was no impact and another few respondents thought the offender might have developed some understanding but they did not know whether it would affect re-offending. The majority also considered that the healing circle experience had drawn the offender and themselves closer, improving their relationship. The sample was split on whether there had been any long term beneficial effects because of the healing circle but all agreed there had been no long term negative effects. They were similarly split on whether the healing circle had any positive impact on how they themselves coped with the incident in question. Generally, the offenders' parents/supporters held that the healing circle had achieved its objectives of shame and reintegration. One parent noted "he tells me more than he used to". A dissenting parent claimed that the lack of follow-up or monitoring of the agreement reduced the reintegrative possibilities of the RJ approach; activities that her youth and the victim were to do together were never done - reportedly, the victim did not follow through - and in her view that testified to the fact that neither the victim nor the ERJ staff took the agreement seriously enough.

Overall, the parents/supporters considered that the best thing about going through ERJ was avoiding the courts; they identified no "worst thing" about this alternative path to justice. They all thought that RJ was appropriate and beneficial for the case in which they were involved, though one parent suggested that "my child would have taken it more seriously [if it was handled in court]. The respondents also believed that the healing circle approach would be appropriate for similar offences in most instances, the only qualification made was that it might work better with older offenders (i.e., late teens and older). The group was quite split as to whether the healing circle

approach should be extended to more serious offences and chronic offenders but no one argued that it should be resorted to without some restrictions.

Generally the parents/supporters were quite positive about the healing circle experience. As is frequently found in youth RJ cases involving assault, especially where no police officer is present, in the youth cases of this sample there was some contesting of the amount of responsibility that their youth should bear in the case at hand. Parents sometimes argued that the line between who was the offender and who was the victim was blurred. Their criticisms were typically minor and focused more on procedure; for example, some cited too long a delay between the occurrence of the offence and the holding of the healing circle, arguing that reduced its effectiveness since so many things changed in the interim. A few expressed concern about the adequacy of the monitoring of the youth's compliance with the agreement reached in the healing circle.

THE VICTIMS AND THEIR PARENTS/SUPPORTERS

Only a handful of victims or victim supporters - most involved in assault cases - were interviewed in the follow-up. The small numbers undoubtedly testify to the problem that most RJ programs have in securing the full participation of the victims and their supporters. Nevertheless, their views were interesting and quite consistent with the views of victims/supporters as found in other studies carried out by this writer among Mi'kmaq and mainstream communities in Nova Scotia. Overall, the victims/supporters were quite pleased with the restorative justice process, that is the pre-conference activity, the actual session dynamics and, at the time, the agreements reached. They expressed different levels of knowledge about the healing circle program prior to their own personal involvement but all contended that their participation was completely voluntary and that they needed little persuasion by ERJ staff. Their reasons for attending varied, from wanting to make a statement directly to the offender (e.g., the wish to have the offender "know how we felt and to serve as a reminder") to wanting to advance Mi'kmaq justice (i.e., "non-natives do not understand us; we will be better understood by our own people"). Most victims/victim supporters reported multiple contacts with ERJ staff in the pre-conference period. Their expectations were varied but

getting restitution and/or an apology was deemed basic. The victims' supporters indicated that the victim would not have attended the healing circle without their support.

They considered that the conference was handled expeditiously and with fairness by the facilitators. Indeed, the process was the central virtue of the ERJ alternative in their view. They reported that they had had ample opportunity to directly speak to the offender, say what they wanted to say and convey the extent of the harm that had been wrought. For example, one parent commented: "we explained to [the offender] how [the victim] was hurt by bullying and that the next time there would be a court to deal with and no one wants a record". No victim/supporter identified any negative aspect of the actual healing circle and all indicated that the offender listened to their views and expressed remorse. The victims/supporters were quite satisfied apparently with the agreement reached at the healing circle.

The victims/supporters reported that both re-integration and closure, for the offender and themselves respectively, did result from the healing circle. The offender in their view learned something and might possibly be at least somewhat less likely to re-offend, while they themselves derived some benefit and were better able to put the incident behind them. They compared their healing circle experience quite favourably to what might have happened had the matter been settled in the court (e.g., "the judge would probably have thrown it out or only have a peace bond"). In addition, like the Mi'kmaq participants in the Nova Scotian MYOP program, they valued the fact that it was a justice process controlled by the Mi'kmaq community. All respondents agreed that for offences such as characterized their case, RJ should be used but all also did not think that this approach should be usually applied to more serious criminal cases.

Their criticisms had largely to do with the aftermath of the sessions, essentially (a) that the underlying problems evidenced in the offences, were not resolved, and (b) that some of the components of the agreement or disposition were not in fact completed by the offender. Not surprisingly, then, while positive about their RJ experience, they expressed reluctance to see healing circles used in more serious criminal cases, except, at best, under highly restricted conditions. Concerning the former (i.e., effectiveness), one young victim said she was still being subject to assaults by other

girls and her family has decided to pursue these through the courts. The interviewer summarized her views as follows: "she feels that a healing circle is not strong enough to deter these girls and that she is tired of being assaulted and tired of being afraid to walk around the reserve". The parent of an assault victim expressed concern about retaliation by the offender in the aftermath of the healing circle, and called for protection or at least some monitoring of the situation by the ERJ staff. Concerning the latter (i.e., monitoring the agreement) a male adult who reported a grudging but ultimately acceptable acknowledgement of responsibility and provision of restitution by the offender, commented, "I feel there should be a liaison worker checking on the offender for restitution and not only the last two weeks or close to the due date. They should check on them during the time of restitution which is usually three months to see that they are completing the restitution and whatever agreements were made".

CONCLUSION

Participants whether offender or victim or parent/supporter were generally very positive about their healing circle experience in the follow-up interviews conducted usually in their own homes. While most respondents had limited prior knowledge or awareness of the ERJ program, there was some, and in many cases much, pre-conference contact and explanation provided by ERJ staff. The healing circle processes were especially characterized in positive terms; that is, being treated fairly, with respect, having ample opportunity to give one's side of things, the friendliness and openness of the discussion, the positive dynamic between offender and victim "sides", and the work of the facilitators. The participants generally provided strong support for the position that the two central objectives of RJ were realized, namely shame for the offence and reintegration for the offenders along with some closure for the victims. From the offender perspective the healing circle appeared to work best for the adults. The young offenders while positive, seemed somewhat blasé about the experience, typically saying that they were bored at the session and not impacted much by the experience. The adult offenders, on the other hand, also positive, reported themselves quite moved by the experience. At the same time, the adults reported that the healing circle experience

has had little significance for their life situation and their behaviour in general. It may be ironic that there may be more long term impact for the young offenders who were less emotionally involved in the circle than the adult offenders appeared to have been. Perhaps, too, it is just that adults are more articulate than youths and less caught up in presenting themselves as "cool".

Certainly the sample, in all subgroupings, considered that the healing circle approach was appropriate and beneficial to the case at hand. The court approach was defined as more intimidating and producing (or adding to) a record for the offenders while the healing circle was typically seen as facilitating shame and reintegration. The respondents typically considered that this approach should be pursued for other, similar offences. But there was much reluctance to see it utilized in the case of more serious offences (or perhaps multiple repeat offenders). Adult offenders were the most likely to approve such an extension and even they had reservations about it. There was a pervasive uncertainty about how profound the impact of the healing circles was and could be, and whether it could effect the kind of problem-solving collaboration that could resolve serious problems. The importance of the victim presence was noted by many respondents and clearly seen as a fundamental prerequisite for dealing well with all but very minor offences. Many respondents, as well, pointed to the importance of community and Mi'kmaq ownership in responding to crime, even while a few persons cautioned about imposing "traditional" conditions such as attendance at sweats. On the basis of the follow-up interviews there is little doubt that ERJ has been successfully implemented at Elsipogtog. There is also much uncertainty as to its future development.

While this modest evaluation has found quite positive impacts for the healing circle approach, two fundamental issues remain. One is simply methodological, namely the need for more intensive examination of long term effects (especially, but not only, recidivism) and examination of the selection process and patterns of discretion (exercised by police and others in the referral chain) which determine who can and does opt into the healing circle program and who does not; also, it is important to do more follow-up to be assured of the representativeness of the views detailed above (especially on the victim side). Equally important is the issue of whether the ERJ

program should move on, and can do so efficiently and effectively, to more serious offences and offenders; handling more serious assaults, dealing with repeat offenders and using a sentencing circle format are the types of challenges for ERJ advocated by many community leaders (see stakeholders' interviews). Clearly, the participants' data point to both the success of ERJI and the need for "community conversations" if such further development is anticipated.

CONCLUSIONS AND FUTURE DIRECTIONS

The ERJI project has successfully integrated two powerful social movements, aboriginal justice and restorative justice, in implementing a program that is unique in New Brunswick. It has put into place a well-managed, highly credible healing circle system which handles minor offences, avoids the court process and has more of a healing dimension than the alternative measures programming available elsewhere in the province. By so doing, it has saved resources for the CJS (both court processing savings and reduced workload for Corrections (probation) Services) and has provided a more meaningful experience for both Elsipogtog offenders and victims as well as other healing circle participants. The ERJI has been implemented as a community-based organization, drawing on and providing training to an impressive group of volunteers. All phases of case processing from pre-session case development to healing circle to post-session supervision of agreements have been done well. It has also effectively communicated by its various symbols and practices that it is a Mi'kmaq program. In both these latter respects, then, it could well be said to have contributed to community empowerment. Evidence presented in this evaluation establishes that the ERJI is well-regarded by both CJS and community leaders and stakeholders. Interviews and questionnaire data have established also that participants in the healing circles, whatever their roles, found the ERJ process to be fair and effective and would recommend it readily to others where similar types of offences and offenders were involved.

In the early months of its existence, the basic strategy of the ERJI leadership was established, namely "be selective, conservative, take it slow and be open to options". That has clearly been the hall-mark of the ERJI over the past three and a half years. It has remained focused on its principal mandate, has dealt well with the modest number of minor offences referred by police to it, and has built up competence, community resources, and credibility within both the CJS and the community. As a result of the strategy being effectively put into operation, Elsipogtog now has a solid foundation on

which to elaborate upon this program, and through it, enhance its ownership of criminal justice matters for its residents, should that be a desired objective,

It would appear that such a development or elaboration should indeed be considered. Analyses of crime statistics and other data on community social problems has shown that the "anti-social behaviours" that the advocates of ERJI set out to heal are not being fully or perhaps even mostly addressed by the ERJI in its present guise. It is clear, too, that the ERJI objective of utilizing the full range of restorative justice practices has not been realized, though ERJI staff have indicated, for example, through the objectives of their business plan, that they would welcome circle sentencing. CJS officials, while appreciative of and supportive of ERJI, tend to see it as rather marginal to major CJS issues for Elsipogtog. Community stakeholders most active in the ERJI celebrate its contribution but typically all believe that it has to evolve and deal with more serious and complex matters if it realize larger objectives for crime prevention, community healing and First Nation ownership. Trends in the CJS, particularly with respect to young offenders, have resulted in significant decline in police referrals to restorative justice or alternative measures and have increased the extent to which agencies providing such services have been called upon to hold "conferences" at post-charge and post-conviction stages of the court process. While these trends do not appear to have impacted on ERJI as yet, for many such programs they have meant "grow or fade".

Change is perhaps never without risks, and while the changes many are calling for here are congruent with ERJI stated objectives, there are risks. Getting involved in more serious offending probably requires more emphasis on training and on feedback and discussion among Justice panel members regarding their experiences so that a strong learning thrust is associated with formal training and actual healing circle experience. ERJ at the higher levels of Justice, as in circle sentencing and conferencing, typically takes considerable time and effort to carry off. ERJI has limited resources so clearly a larger mandate would be taxing. Another risk is that there is much scepticism that the healing circle approach can be effective in its present guise for dealing with more serious offences and offenders. Most healing circle participants when

interviewed had strong reservations about using the ERJ approach in such situations as did CJS and stakeholder respondents. And, as noted frequently in the text above, there does not appear to be much enthused leadership for elaborating the ERJI among CJS officials or local politicians. In other words, there would have to be considerable mobilization of advocacy on the part of ERJ advocates.

Clearly, there would have to be some careful planning, much good conceptualization and lots of community conversations if ERJI were to become involved in serious assaults, sexual assaults, family violence and so on. The ERJ might have to feature more pre-session case preparation, perhaps multiple sessions/circles for some cases, and there would be real challenges in securing victim support. The strategy of careful consideration of response, so characteristic of the ERJI to date, could hold it in good stead as it moves to "muscle up" its operation in the CJS field. The use of community surveys and focus groups could help sort out key opportunities, key obstacles and how to respond to them. As ERJI has been conceptualized and implemented, it is a community-based endeavour so elaborating upon it would be largely a matter of capacity building at the community level. Certainly it would be useful to have a planning subgroup struck to look into the issues and the sources of funding and advocacy to assist in this process. As one community stakeholder respondent commented, a much more elaborate Elsipogtog ownership of justice can be built on the solid foundation of the ERJI but it will have to be "well thought out and vigorously advocated".

Apart from the big picture, there are some modest changes that could perhaps improve the ERJI in its present format. The following four suggestions are advanced in that spirit:

- (1) Debriefing and discussing experiences seems to be a key to enhancing the capacity of a group involved in restorative justice or healing circle facilitation, and is perhaps as important as any formal training. At present, there appears to be little of this in ERJI, and perhaps given the types of offences and offenders dealt with, it is not a priority, but it could well be pivotal if ERJI gets heavily involved in post-charge referrals.

(2) Of course training is always an issue and if the program moves up a notch in terms of cases handled and/or if the number of cases increase, more volunteers will have to be used perhaps exclusively in facilitator roles since ERJI staff will be caught up in case preparation, and supervision of agreements. For these reasons, it may be necessary to formalize the criteria for chief and associate facilitator roles.

(3) Informing the CJS role players concerning the successful healing circles, with some detail to what was done and what the dynamics were, not simply that the disposition was successfully met by the offender, may be effective in getting their support for future initiatives. At present CJS respondents have very limited knowledge of and receive very limited information about the considerable effort and frequently significant dynamics of the healing circles. This kind of communications is particularly important as most CJS people - the keys to ERJ since they control the referral process - have never attended a real healing circle and apparently do not plan to do so. It is a way of building up their confidence in the program and overcoming reluctance to refer cases.

(4) Just as it is important to communicate with CJS personnel concerning what actually happens in the healing circles, so too it is important to have "community conversations" - with other services providers (i.e., inter-agency) but also outreach-like with neighbourhood or family-based groupings. Here the ERJ process can be explained, problems identified, views on the future of local management of justice issues solicited, suggestions obtained and so forth. How to accomplish this task with the resources available would be a challenge but the large Justice Panel may have useful ideas on this score.

NOGEMAG: CONCLUSIONS AND FUTURE DIRECTIONS

The Nogemag initiative clearly represents a significant accomplishment. It has targeted what appears to be a major social problem in Elsipogtog - FASD. And in just over a year, the project's director has accessed lands, substantially renovated an old farm house into an acceptable facility, pulled together a effective staff, implemented a program for FASD youth which achieved its major objectives, and laid the groundwork for a broader network of concerned health professionals and CJS officials. Certainly the concept, "moral entrepreneur" applies here since otherwise it would be difficult to account for the commitment and considerable effort expended. Remember, too, that the director, apart from all these activities and major participation in the actual day to day operation of Nogemag, also held down a regular full-time job and did not draw any extra compensation for her Nogemag work. Of course, she had help, especially (though not only) the virtually total 7/24 involvement of the principal teacher.

The Nogemag program, as noted, appears to have followed "best practices" for educational intervention with FASD youths. As far as this modest (especially limited in terms of observational data) evaluation could determine, the Nogemag style in terms of contact with students, teaching methods and so on, was quite congruent with what FASD experts say needs to be done for such affected youth. Perhaps that congruence with best practices explains how Nogemag accomplished its two major objectives, namely reducing the youths' CJS involvement and having the seemingly unmanageable youth get back into the regular school system. Headway was achieved as well in networking.

The Nogemag program was a modest one in terms of number of clients or participants. Several informants suggested that the number of youth who might have profited from Nogemag made up at least another handful (i.e. the number could double). Its referrals came from the school system (where, as noted, Nogemag's director had a pivotal role regarding responses to problem students) and the collaborative institutional contact was largely limited to that institutional area. It was unclear what lesson could be extrapolated from the Nogemag experience to the mainstream school's program for

special needs students - despite the success of the latter program, informants indicated that there were still major problems with students at the elementary school. Also, given the community's problems with a score of marginalized young adults who may well have FASD, one wonders what the implication of Nogemag's success might be for them and that central community problem.

In many social initiatives there are phases wherein the tasks, challenges and operational styles have to be quite different in order for progress to continue to be made. In this first phase of Nogemag it might well have been the case that, unless there was strong decisive leadership, and what virtually all CJS and other stakeholders considered concentrated decision-making, Nogemag would not have realized the successful implementation it has had. It seems unlikely, however, that the program can continue to grow without significant changes in the post-implementation phase. Certainly the director would have to have more organizational resources (e.g., secretarial, book-keeping) were she to continue to direct Nogemag and fulfil other school obligations as well, even if Nogemag were to retain the same focus and modest scale. More importantly, if the program were to experience significant growth in these respects it would have to take on a different character and style. It would have to become more integrated vis-à-vis the CJS and Health services. There would have to be a major effort to develop a multi-disciplinary, authoritative FASD review committee of health specialists and others (for diagnosis and selection) and to develop protocols and program materials to effect more "buy in" among CJS officials. This raises questions of capacity building and institutional collaboration, something that looms large as the Nogemag Justice funding ends in fiscal 2003-2004. The Nogemag project seems to have proved its worth to Elsipogtog but the Elsipogtog and CJS commitment is unclear.

More specifically, with respect to the CJS, it appears at this point that there is awareness. thanks to the efforts of the Nogemag director, but also much caution concerning claims about FASD, much uncertainty about what an appropriate CJS response should be, at any level, to validated FASD claims, and an absence of "moral entrepreneurs or champions" on the matter. Under the circumstances if CJS collaboration remains an objective, the officials there have to be convinced that there is

appropriate medical diagnosis and have to be aware of the structure and programs that Nogemag provides; failing these "assurances" (to use one CJS official's words) little will happen. It is also clear that there has to be greater collaboration on the part of medical / health personnel, especially, but not only, with respect to diagnosis. There has to be a greater appreciation they have a significant role to play in the designation and non-educational care of FASD persons. Again, the efforts of the Nogemag director in fostering greater awareness has to be acknowledged but others have to be involved in translating awareness into action and giving more credibility to the FASD claims.

The linkages between Nogemag and the restorative justice initiative did not turn out to be as significant as expected by the evaluator. Both are involved in extra-judicial response to socially problematic behaviour but thus far their paths have rarely crossed. The linkages should be strengthened and probably will be if ERJ becomes more involved with serious offending and post-police referrals, and if Nogemag can advance its collaboration with the CJS and Health sectors.