

**MOVING ON TO ADULTS: AN ASSESSMENT OF THE NOVA SCOTIA RESTORATIVE JUSTICE PROGRAM'S  
ADULT PILOT PROJECT**

PREPARED FOR

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MAY, 2012

## EXECUTIVE SUMMARY

The mandate of the NSRJ program to expand into dealing with CJS referrals for adult criminal offences was established a decade ago and finally implemented in fiscal 2010-2011 as a pilot project in two areas, namely Truro / Shubenacadie (Colchester County / Municipality of East Hants) and Cape Breton Regional Municipality. The implementation followed closely the format, protocols and administrative data management systems as were developed and honed for eleven years in the NSRJ youth programming. Perhaps the most distinctive feature was that adult referrals were limited to police (pre-charge) and crown (post-charge) referral sources and based on Level 1 and Level 2 criminal two offences; excluded were violations of provincial statutes and post-conviction CJS referrals. As in the youth program, moratorium offences (e.g., domestic violence, sexual assault) were also excluded. In the pilot areas the newly initiated model – the Integrated Adult Restorative Justice or IARJ project – replaced the conventional Adult Diversion programs and introduced a broader set of eligibility criteria. Also, the IARJ introduced a new process for referring and service delivery; police and crown referrals were sent to designated probation officers in the two areas who were charged with monitoring the appropriateness of the referrals, sending those where there was a person victim to the RJ agencies and dealing with the remainder themselves in conventional AD sessions. All files received by the probation officers in either area that concerned Aboriginal adult offenders were directly sent on to the Mi'kmaq Legal Support Network (MLSN).

The evaluation approach adopted for this pilot project was that of a formative evaluation. There was a close involvement of the evaluator with program managers and service providers in all aspects of the implementation, ranging from developing basic project administrative forms (i.e., checklists), to attending orientation sessions for police and other stakeholders in the field, presenting updates on processes and outcomes at occasional meetings with the stakeholders and regularly with program management and the

designated probation officers and directors of the RJ agencies. The specific evaluation methods included analysing the checklists submitted with referrals, preparing and analysing exit questionnaires used in all AD and RJ sessions, conducting follow-up telephone interviews with offenders and victims, one on one interviews with probation officers, police, crown prosecutors and defence counsel, and multiple interviews and meetings with IARJ managers and the directors of the RJ agencies involved. Additionally, there was a limited amount of direct observation of the AD and RJ sessions by the evaluator.

Four contexts were examined closely as backdrops for the initiative. These were the trends and patterns in the NSRJ 's youth RJ service, the evolution of AD in Nova Scotia, the Opportunities and Challenges for a restorative justice adult program, and the two selected sites as appropriate milieus for the pilot project. The trends and patterns in youth RJ were conveyed through a number of charts dealing with the how different it was in number of cases and offence types from the earlier Alternative Measures program and from the Youth Court, and the decade trends in RJ referrals by referral sources, and the type of offences handled. In 2010 the NSRJ service was an established part of the CJS. In a word, it was institutionalized in that (a) it handled roughly 30% of all youth offending in Nova Scotia, (b) had solid support structures in the YCJA, court decisions about how to deal with young offenders, and the strong advocacy support of Nova Scotia's top government officials, (c) was accepted and collaborated with by police and crown prosecutors, (d) was interwoven in many respects in the adversarial relations between prosecutors and defence counsel, and (e) provided a well-defined service with trained full-time staff (plus volunteers) throughout the province and well-monitored standards of operation. In addition, several assessments had found high levels of satisfaction among its participants (offenders, victims, other session attendees such as police officers) and grounds for optimism about reduced recidivism. It was a program well-praised in other jurisdictions both elsewhere in Canada and abroad.

As regards Adult Diversion, government reviews over the past decade or so of the AD programs in Canada have shown that they have been rather marginal to the criminal caseload and questionably cost-effective. In Nova Scotia an official review in 2004 depicted AD (launched in the mid-1990s) as a reasonably well-implemented program with growing numbers of referrals, high levels of compliance and satisfaction, low recidivism and modest costs, but nevertheless requiring more robust and nuanced eligibility criteria and more connection to the RJ programming in the province as was initially planned for when the latter was developed in the late 1990s. For several reasons, including the shift within the Department of Justice of the NSRJ program from Court Services Division to Community Corrections, momentum developed for change which led to this IARJ initiative in 2010. Overall, then, there were opportunities for the development of a new approach to adult alternative justice as a result of the evolution of youth RJ (e.g., a niche in the CJS was attained, unused capacity was developing) and adult AD programming (AD numbers were increasing and workload pressures mounting) as well as other supportive developments. There were some significant challenges for a more robust AD that would include a significant RJ dimension, most seriously perhaps being the lack of impetus from supportive laws and a wary CJS, not to mention the public at large. At the same time successful adult RJ programs were being increasingly carried out elsewhere and process issues were being shown to be resolvable (e.g., safety, victim engagement).

The pilot sites were well-selected. Both the RJ agency and the AD program at each site have experienced veteran staffs and are appreciated by other CJS role players. They have provided a solid successful alternative justice programming. Both have been responsive to the IARJ initiative, especially perhaps the RJ agencies for practical as well as theoretical reasons. Several tables are provided describing trends for the RJ agencies over the past decade with respect to the number of referral, referral sources, and types of offences dealt with. These data indicate that the youth referrals have tailed off in recent years but have been reasonably stable on the other dimensions. The demographic trends in the areas indicate that the youth referral caseloads would be expected to continue to decline, especially in CBRM. The trends in referrals to AD reflected a stable pattern over the past decade, and that is congruent with

the views of the POs there; they too would be unlikely to increase and given the same demographics should decline some as the low or no growth population continues to age. Other tables provided indicate that at present there is a high ratio of adults to youths as evidenced in the provinces court statistics. This suggests that an IARJ program with broadened adult eligibility criteria could generate many referrals. That possibility is underlined by several tables that examine how in the past seven years the kinds of offences most likely to go through IARJ have been processed to date for adults. The four key offences, namely simple assault, theft under, property damage / mischief, drug possession and minor frauds have had a modest to low conviction rate (drug possession excepted) and the majority in each category have been dismissed or withdrawn; such a pattern, in conjunction with the high ratio of recorded adult to youth offences, suggest that a well-received IARJ could obtain a large number of adult referrals. The MLSN agency, to which all Aboriginal IARJ referrals were sent, dealt with the same Corrections' officials, and with crown prosecutors and other CJS personnel based in either Truro / Shubenacadie or Sydney. It too had an experienced staff which was highly regarded by CJS officials.

The next section, Findings, discusses the basic checklist data and general issues of process and outcome that emerged from the pilot project. In the 13 months since the IARJPP was launched, the number of referrals has increased considerably at both sites. All told there has been roughly a doubling of adult referrals to alternative justice paths. Despite considerable missing data from the checklists received by Community Corrections probation officers at the project sites, there are clear patterns in the referrals. The referred adults were overwhelming single, and the majority were young adults (18-25 in particular), males, and of Caucasian ethnicity. Male and female offenders were similar in the proportion having at least one prior conviction but differed in that females were concentrated in "theft under" offences while the males were spread chiefly over four offences, namely theft under, simple assault, public disturbance and drug possession. 'Theft under' was the most common offence referred for all combinations of age and gender that were analysed but the proportion varied considerably from 30% among young adult males to 67% among older adult females. The referred young adult males were most likely to have been arrested for the more serious Level 2 offences.

Clearly, police predictably were less likely to refer to IARJ persons with prior convictions, and where the offence involved violence or violation of court-ordered undertakings. The crown referral patterns were quite different from the police referrals in that they were twice as likely to involve persons with prior convictions (42% to 20%), and persons committing violent offences (23% to 10%). While the majority of both police and crown referrals were Level 1 offences, the broadening of the eligibility of accused persons and offences is evident primarily in the crown referrals. The argument can be advanced that police pre-charge referrals centered around the offences and offenders that otherwise would have been the typical AD referrals while crown referrals modestly went beyond the conventional AD referrals and thus illustrated the expansion of eligibility and the acceptance of same by the referral agents. The checklist analyses underline what one would have expected in a pilot project – still largely conventional AD offences such as theft under, mischief and simple assault being referred – but some broadening of eligibility, especially reflected in the crown referrals.

Tracking the IARJPP implementation, it was found that the planning for the initiative involved establishing an administrative data system (i.e., based on checklists) and drew heavily on the extant NSRJ youth programming for protocols. This activity was followed by significant orientation and program updates with stakeholders and especially, and continuously, with the principal service providers, namely the POs and the RJ agency directors. The initiative evolved as planned, achieving the significant collaboration of referral agents and service providers. The large number of referrals received from police and crown prosecutors at both sites was indicative of that collaboration as was the non-controversial distribution of referrals among the AD and RJ service providers. There were some communication gaps, some ambiguities in the protocols to resolve, and some “transcendent” issues such as the maintenance and interpretation of the moratorium on intimate partner violence, but these were relatively minor issues for the processes and outcomes framework of the IARJPP. More serious was the shortfall that developed with respect to a key administrative data tool,

namely the checklist that was to be completed whether or not there was a referral for all Level 1 or 2 offending incidents; unfortunately checklists were only sent in when a referral was made and the checklists received had much missing data. The checklist shortfalls did limit some of the expected probes of the project's outcomes. The IARJPP implementation did produce, with its broadened eligibility for alternative justice options, a significant increase in referrals and a modest increase in more Level 2 offences and more offenders with previous convictions. There was then a deeper penetration of alternative justice into the CJS. The RJ agencies reported no difficulty dealing with adult offenders but securing victim involvement in the sessions was a challenge as expected. Offenders, whether at the AD or RJ sessions, reported a high level of gratitude for the option and much satisfaction with its processes and sanctions (agreement terms). Victims, police officers and probation officers who attended the RJ sessions expressed much satisfaction and confidence in the processes and outcomes and considered the alternative justice option very appropriate for the modest offending being dealt with.

The next section of the report describes further the participants' views and assessments. Four hundred and twenty exit forms were obtained and formed the basis for the analyses here. Apart from the facilitators, the participants included offenders, offenders' supporters, victims and victim supporters, police and probation officers, community representatives and volunteers. Two indexes were constructed from participants' response to the exit form's statements measuring the positive assessments of their AD or RJ experience. The results showed that there were no significant differences in index scores by gender, level of the offence, or whether a victim was present or not at the session. In the case of Index A, offenders had almost three times as many high positive scores as did victims (33% to 12%). Among the four groupings analysed, the largest proportion of high scores came from the police exit forms (41%) while the lowest proportion of high scores came from the victims. The exit forms completed by probation officers yielded fewer high scores than the police responses though still double the proportion found among the victims (23% to 12%). Index B scores were generally higher than those of Index A, apparently because the former dealt more exclusively with process issues (e.g., fairness). Index B scores

did not differentiate as much among the different role players as there was more positive assessment across the board; however, even here there were more highly positive assessments among the police exit forms (62%) than in any other grouping. A comparison of offenders' scores by program (i.e., whether they were processed in AD or RJ) showed that, for both indexes, the RJ offenders had a significantly greater percentage of high positive score than did their AD counterparts. The analyses of responses to statements excluded from the indexes revealed that the different role players attending RJ sessions were alike in thinking that the RJ experience was positive and that it would be beneficial to both offender and victim. The fact that offenders were most likely to report having a different view on the crime / offence because of the session, could also be taken as a positive sign since such an outcome is an objective of having RJ sessions. The comments written on the exit forms by the participants were quite positive and quite varied. Offenders most often expressed gratitude at having the alternative justice option and avoiding a criminal record. Victims emphasized having an opportunity to "give my side" and obtaining some closure on the incident. Police and probation officers emphasized how effective the management of the RJ session was and considered that it was effective for all parties, not just the offenders. In sum, then, the exit data indicate that IARJ program has been well-received by the participants of all roles. Both the AD and RJ programs were positively assessed. The offenders in the RJ stream were especially positive but, somewhat surprisingly, so were the highly positive assessments of police officers and probation officers who attended the RJ sessions.

The telephone interviews conducted with 59 offenders and victims yielded much rich information, organized in the text by the five phases that constitute the experience, namely pre-session, session, agreement, reintegration and closure, and overall assessment. The patterns found in the interviews were consistent with the findings of the exit questionnaires and indicate that the IARJPP has achieved its objectives very well. The reasons for participation varied by offender or victim status but were in keeping with targeted thinking. The AD and RJ processes were very positively assessed by both offenders and victims. The agreements were considered fair, reflective of the input of both 'sides', and committed to by the offenders. All parties considered – usually quite strongly – that the



session and agreement made up for the harm done. Offenders frequently reported positive change in their lives which they attributed to the alternative justice experience, and victims usually stated that they had achieved significant closure. The respondents generally identified ‘best things’ about having such matters dealt with in an extra-judicial fashion and virtually none thought, in retrospect, that the incident should have gone through the courts. Both offenders and victims clearly defined the offences as minor and indicated strong reservations about extending this approach to more serious offences or offenders. Victims indicated that the experience left them with a more positive appreciation of the justice system in Nova Scotia. A summary by phase is provided but here, for illustrative purposes, only the summary of the overall assessment is given:

**Overall Assessment:** Reflections of offenders and victims about the best things that resulted by going through AD or RJ rather than the courts yielded factors virtually identical with their initial hopes. Offenders pointed to avoiding the court and a criminal record while victims emphasized the direct exchange among the parties involved in the offence but in addition the respondents exhibited some nuance, identifying additional advantages for their role and others’ role as well as for the efficiency of court processing, and the importance of second chances and guidance. Virtually no one believed, in retrospect, that their incident should have been processed in court. They also believed that while incidents at this minor criminal level are appropriately handled through extra-judicial sanctions, the approach would be quite problematic for more serious offences and offenders. Leaving the last word to the victims, it can be noted that the majority indicated that the experience had left them with a more positive view of the justice system.

Turning to the assessments of the CJS role players and RJ agency staffs, as garnered through interviews (usually multiple interviews), there was significant consensus among the CJS role players with respect to five themes salient to the IARJ initiative, namely

- There will be reluctance to refer adults beyond the minor level of criminal offences
- There is not enough denunciation in the restorative justice intervention
- Restorative justice delivers more community involvement, victim contact and engagement, and is cost effective
- The current pilot project's delivery system with all referrals channeled through the PO and the PO passing on referrals where there is a person victim, is the way to go in alternative justice adult programming
- More information to and engagement with community leaders and the public at large is needed so that there can be understanding and support for the IARJ initiative

There was significant variation among CJS role players with respect to a number of other IARJ features such as maintaining the moratorium on offences related to intimate partner violence and sexual assault. The POs engaged in the program had concerns about how the IARJ was initiated but considered that it had been implemented well and saw advantage in the IARJPP being continued. The service deliverers also were positive about the IARJ program. The RJ agencies welcomed the project both for theoretical and practical reasons (expand RJ, increase received referrals). They reported that the implementation went well, that working with adult offenders was quite satisfying, and that the IARJ with its protocols and division of responsibilities among the POs and themselves should continue on.

The final section of the report discusses in summary fashion the extent to which specified processes and objectives of the pilot project were realized and advances some possible future directions for the IARJ approach. There is discussion of five chief implementation imperatives, namely (a) reaching the target population (e.g., the broadened eligibility criteria), (b) putting in place adequate extra-judicial measures (e.g., as per the division of responsibilities between designated probation officers and the RJ agencies), (c) effective mobilization of CJS role players such as police and crown prosecutors, the referral agents, (d) developing and implementing adequate standards and measures to achieve anticipated outcomes and record the level of achievement, and (e)

adequate training and orientation for the staffs and facilitators providing the IARJ service. Overall, the evidence suggests that these implementation imperatives were indeed accomplished and accomplished very well. The shortfalls included the inadequacies in the utilization and completeness of the checklists, the basis for the administrative data system, the low level of victim presence in the RJ sessions, the minimal new training offered the service providers (both AD and RJ), and the lack of a strategy to inform local civic leaders and the public at large about the new initiative and its potential benefits.

There were six chief objectives identified in IARJPP documents, namely reducing court load, improving victim satisfaction, impacting positively on offenders, reducing recidivism, enhancing community capacity and public confidence in the justice system, and determining the resource and effectiveness implications of the NSRJ becoming involved with adult criminal cases. The evidence clearly establishes that aside from reducing recidivism, an objective almost impossible to assess in this modest and short-term assessment, these objectives have been met, all in significant fashion. There are nuances in the level of achievement that are difficult to summarize further than was done in these brief sections in the text so the reader is referred to the full document. The key shortfalls would appear to be in realizing more victim presence (although the IARJPP yielded far more victim engagement and options than were the case under the conventional AD program), and the limited reaching out to various publics in order to impact positively and beyond the session participants, on the level of public confidence in the justice system. As for the resource implications of a full-province IARJ implementation, it seems clear that the only significant, increased investment required would be modest and related to simple, direct caseload increases for the RJ agencies involved, at least outside metropolitan Halifax; in the latter area the caseload implications could be considerable and there could be other costs to take into account as well.

The report concludes with several points for consideration in mapping future strategies for the IARJ's possible expansion, namely (a) that the current model of service delivery shared by probation officers and RJ agency staff has strong support among all

segments of stakeholders and is supported by this evaluation; (b) that more effort has to be extended improving victims' awareness of how alternative justice processes operate in relation to the various types of offences and their own options in becoming involved; compensatory strategies require explicit discussion especially since the RJ agencies have already pioneered much victim outreach; (c) that much more effort should be directed by Community Corrections and the NSRJ program in informing civic officials and the public at large about the benefits and limits of extending the alternative justice approaches to adult crime; and (d) that a three-fold NSRJ strategic action plan should be developed for (a) maintaining the current program in the two sites, (b) expanding the program to other non-metropolitan sites, and (c) conducting a feasibility study of the issues and possibilities in implementing the program in the metropolitan Halifax area. In addition to these substantive points it is recommended that there be a review of the data management issues, especially concerns about the checklists which are crucial for regular monitoring of the program.

## LIST OF ABBREVIATIONS

AD	Adult Diversion
AM	Alternative Measures (Alternative Justice Program for Youth)
CBRM	Cape Breton Regional Municipality
CBRPS	Cape Breton Regional Police Service
CCRA	Corrections and Conditional Release Act 1992 (amended)
CCRSO	Corrections and Conditional Release Statistical Overview
CJS	Criminal Justice System
CSC	Correctional Services of Canada
EJS	Extra-Judicial Sanctions
FN	First Nation
GSS	General Social Survey (conducted by Statistics Canada every 5 years)
IARJ	Integrated Adult Restorative Justice
IARJPP	Integrated Adult Restorative Justice Pilot Project
ICJS	Island Community Justice Society
JEIN	Justice Enterprise Information Network
JHS	John Howard Society
MLSN	Mi'kmaq Legal Support Network (Nova Scotia)
NS	Nova Scotia

NSVS	Nova Scotia Victim Services
NOV	National Office for Victims, Public Safety Canada
NPB	National Parole Board (Canada)
OCI	Office of the Correctional Investigator
OIC	Officer in Charge
PMR	Performance Monitoring Report (NPB)
PO	Probation Officer
PSE	Post-Secondary Education
PSR	Pre-sentence Report
RCAP	Royal Commission on Aboriginal Peoples
RCMP	Royal Canadian Mounted Police
RJ	Restorative Justice
SAP	Strategic Action Plan
SC	Sentencing Circle
SrecC	Sentencing recommendation Circle
SCC	Supreme Court of Canada
VIS	Victim Impact Statement
VS	Victim Services
YCJA	Youth Criminal Justice Act

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## **INTRODUCTION: THE IARJPP INITIATIVE**

Nova Scotia has one of the best and most celebrated RJ systems in Canada. It is a province-wide program with protocols and guidelines in place for referrals, RJ processes and outcomes, effective partnerships with the other CJS segments and with the non-profit sector, RJ services provided by non-profit agencies with overall coordination by the Nova Scotia Department of Justice, trained full-time as well as volunteer RJ facilitators, adequate and long-term funding by the Nova Scotia Department of Justice, and, not least, an active, inclusive senior program management committee always looking to improve the program and upgrade the service providers. The Nova Scotia program has an annual budget of roughly two million dollars, not counting special project funding, a significant budgetary outlay for a small province. The RJ program has been in place for over a decade and has generally achieved its initial objectives according to both internal and external assessments (Clairmont, 2008).

The RJ initiative did not happen overnight but emerged after 1.5 years of planning and discussions led by a management team and with small focus groups at each of the 4 possible referral sources in the CJS - police, crown prosecutors, judges and correctional officers - plus pre-implementation evaluation and major continuous external evaluation once the program was implemented beginning in November 1999. Considerable consensus building and policy / protocol development was achieved and the final agreed-upon approach was summed up as “some type of restorative justice may be possible for all offenders and offences depending upon the level of the offence and offenders’ criminal history and salient characteristics. Initially targeted at young offenders, the implementation was shaped by a phased-in strategy but within two years it was province wide. It was anticipated at the outset that ultimately it would deal with both youth and adult offences but until now it has been restricted to youth while adult offenders could be referred to the more limited Adult Diversion provided by Correctional Services (Probation) upon crown referral (i.e., post-charge) acting usually but not necessarily at the recommendation of the police. With the launching of the IARJPP, the NSRJ program is now reaching out to include adults. As earlier with young offenders, implementation of RJ at the adult level was to be carefully examined on an initial pilot project

basis before final decisions are made by Department of Justice about its implementation. It would be a significant and possibly resource-demanding step for many reasons. Fully 87% of all offences in Nova Scotia are committed by adults so on the basis of caseload alone this could be very significant development for all parts of the justice system (i.e., RJ service providers, probation services, court processing and so on).

In the IARJPP, two sites – Truro / Shubenacadie (Colchester County / Municipality of East Hants) and Cape Breton Regional Municipality - have been selected for the pilot project. The new model, as depicted in the enclosed chart, replaced the conventional AD program in these areas. Referrals, either pre-charge from police services or post-charge from the crown prosecutors, will go to designated probation officers who will decide, based on monitoring for eligibility and whether there is a person victim involved in the offence, either to keep the file and have an accountability session (previously it would have been called an adult diversion session) or forward it to the participating local RJ agencies for an RJ session. None of the conventional, standard AD restrictions (e.g., offenders already on probation or who are recent repeat offenders are ineligible for AD) apply to this pilot project though they remain appropriate in AD elsewhere in the province. As defined in the youth RJ program, Level 1 and Level 2 offences (see Appendix One), as per RJ guidelines / protocols, are eligible for either accountability sessions or RJ referral.

The objectives of the IARJPP project have been designated as (a) minimizing court load; (b) improved victim satisfaction; (c) impacting positively on offenders; (d) less recidivism; (e) enhanced community capacity; and (f) determining whether the RJ model requires significant change when it extends to adults. The new pilot initiative brings with it new forms (e.g., revised checklist for the referral agents, new tracking forms for the POs) and minor adjustments or additions to the RJIS case management system which has been used for youths (e.g., flagging adult cases) and the JEIN court data system. The moratorium on referring offences involving sexual assault or intimate partner violence which were instituted in early 2000 just shortly after the NSRJ program was launched was

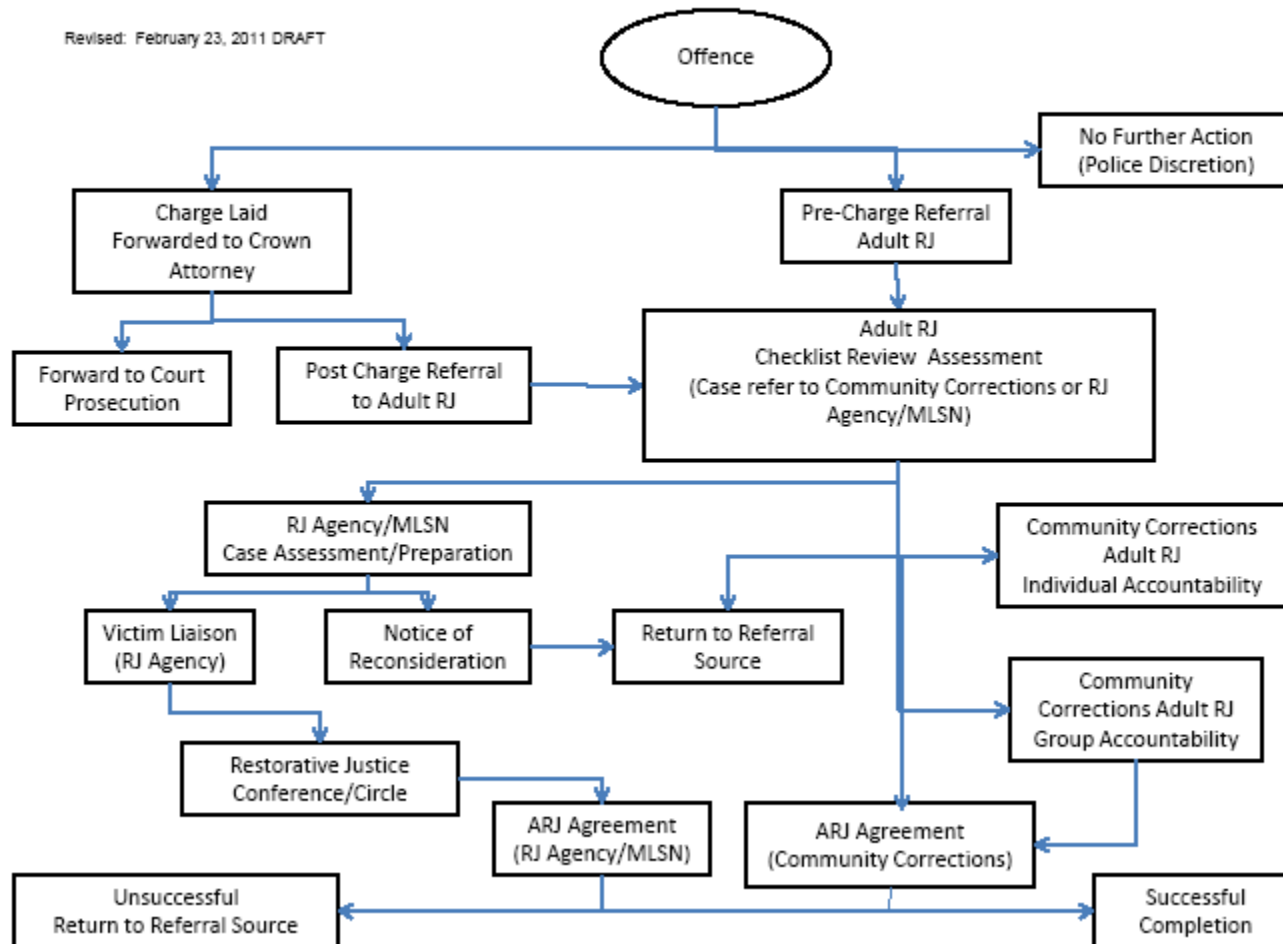
continued over into this adult alternative justice initiative (in the AD program, from the beginning in the mid-1990s, violent offences were ineligible).

Table 2, the IARJ Process Matrix, lays out the chief process / implementation issues associated with the above objectives and outcomes. There are essentially five, namely

- Was the target population reached? This involves among other things gathering data on the offenders and victims, particularly the offenders with respect to their age, race / ethnicity, gender, employment and education, as well as data on the offence (type of offence and level of the offence)
- Were the extra-judicial measures appropriate? In this new initiative, the protocol calls for certain referrals to be kept by the probation officer and others (essentially cases involving a person victim) to be passed on to the RJ agencies so this is one process / implementation concern. Other aspects of this theme include the eligibility of the offence and offender and the appropriateness of the extra-judicial sanctions.
- Was there effective mobilization of the CJS role players (e.g., the number and type of referrals at the police and crown levels, the collaboration among probation officers and RJ agencies) and the collaboration and compliance with agreements on the part of victims and offenders?
- Were adequate standards and measures put in place to achieve the outcomes anticipated and to record that the level of success and achievement?
- Was there sufficient and adequate training and orientation available to the staff and facilitators as well as the other participants in the RJ sessions for carrying out the new adult program?

## Adult Restorative Justice – Process Model

Revised: February 23, 2011 DRAFT



## **THE EVALUATION PLAN**

The central requirement in any evaluation of a project such as this may well be to provide a solid, detailed description of what was done and whether it was consistent with the objectives and protocols / processes of the pilot project, and if not, why not. Aside from that, the three central issues for evaluation are (a) the impact on role players (offenders, victims, others such as police, crown prosecutors, probation officers and the RJ agencies); (b) impact on the court process and the justice system (e.g., reduced court workload, fewer PSRs, faster case processing, resource requirements etc); (c) the big three evaluation criteria for such justice initiatives namely, the impact implications for efficiency, effectiveness and equity. These evaluation thrusts were linked closely with the pilot project's formal objectives and the process issue discussed above. There were three formal phases, namely 1) development of a pre-program evaluation plan or framework document; 2) compilation of data provided by the Department of Justice or IARJPP project management, and data gathered through special new forms, such as exit surveys, and participant interviews and questionnaire data, throughout the pilot; 3) post- program data analyses and report submission. The evaluation has been a formative evaluation in every sense of that word, the evaluator working closely with IARJ management to develop appropriate instruments such as checklists to capture the required administrative data, numerous meetings throughout the past year with IARJ project management and key implementation people (especially RJ agency directors and probation officers in the two project sites), participation in planning and implementation meetings in the field and making regular presentations on the project's headway as detailed below.

Methodologies have included literature review on adult RJ and AD programs, document analyses for IARJPP (protocols, implementation / process design, objectives, resources), contextual analyses of crime patterns, court load and salient socio-demographic patterns in the two sites, examination of pertinent RJIS and JEIN data, interviews with participants and stakeholders in person and by telephone, and modest direct observation of the AD and RJ sessions. The evaluation was continuous as it was deemed crucial to monitor and assess the process features of the initiative's implementation (e.g., the number and patterns of offences in

referrals, who gets referred, victim participation, possible changes over time as referral sources became familiar with the program). Two major evaluation strategies have been analyses of the secondary data (e.g., drawing from both RJIS and JEIN data systems) specifically identified for this pilot project, and analyses of the views of the participants, service providers, referral sources and other stakeholders (e.g., their assessments, issues and snags identified, suggestions on change) obtained largely through structured interview guides as appended here. Providing an overall evaluation of the initiative, and drawing out the significant implications for the future direction of adult RJ (and AD) in the two sites, and for Nova Scotia province-wide, clearly required locating the initiative in the context of both the RJ and AD programs and identifying any special demands and issues that it entails for them.

### **Specific Evaluation Strategies**

1. Obtaining participants' views in both trajectories (AD accountability and RJ sessions) at both sites required the combination of exit surveys and later follow-up interviews in more depth with willing participants. Without the contact information and signed agreement to be subsequently interviewed, as provided for by the exit questionnaire, it would have been virtually impossible to meaningfully probe participant views. Attached here are the three one page exit surveys (for the RJ participants, mainstream and Aboriginal, and the AD accountability participants respectively) plus an example of the more detailed interview guides that were used in the follow-up. 420 exit surveys were gathered and analysed and 59 full telephone interviews were completed subsequently. .
2. Service providers and collaborating stakeholders were interviewed one on one by the evaluator, many on at least two occasions, around the middle of the project's year one and in its the last quarter. These key interviewees included the sites' probation officers, the RJ agencies' directors (including some facilitators of the adult RJ sessions), police officers, crown prosecutors, and defence counsels; additionally, senior managers in the Community Corrections department were interviewed.

All told 34 different such stakeholders were interviewed, more than two-thirds on multiple occasions as laid out in the format specifications of the IARJ process matrix below.

3. Special attention has been made to the objectives and anticipated outcomes of the pilot project as well as to the process / implementation issues and these will be specifically addressed in the section, Meeting Objectives and Process / Implementation Imperatives below. A crucial data source here has been the project data management system centered on checklist for all referrals from either police or crown prosecutors. There were 444 checklists obtained.
4. Regular presentations were an important part of the evaluation. All told the evaluator made eight presentations at various sites in Nova Scotia to stakeholder groups (including senior Corrections officials) over the year, providing regular updates on the project's achievements and issues. More frequent meetings were held with the two IARJ managers directly responsible for planning and implementing the pilot project.
5. Five observations of AD and RJ sessions were completed, a modest number but essential in appreciating the dynamics of the new initiative at the field level.

TABLE 2: IARJPP PROCESS MATRIX

Process Evaluation Questions and Outputs	Process Indicators	Source of Information	Tools / Instruments	Frequency of collection
1. Did the project engage the targeted population of adults	Number and characteristics of the participants including age, race/ethnicity, gender, offence type and offender record	Checklist data, RJIS and JEIN data system and Probation Officers and RJ agencies at both sites	Checklist and Tracking forms supplemented by RJIS and JEIN data management systems	Continuous
2. What were the EXTRA-JUDICIAL MEASURES utilized? Were they in keeping with the IARJPP protocol and objectives	The number and characteristics of the offence and offenders channeled to Accountability and to RJ sessions The reasons for the allocation by the PO The presence of victims (individual, community, other) at the RJ sessions	Accountability data via the PO and JEIN RJ data via the RJ agencies and the RJIS Supplemented by interview data	Checklist and Tracking forms supplemented by RJIS and JEIN data management systems Tracking data system, exit data, plus Interviews by the evaluation team personnel	continuously
3. Was there effective mobilization of CJS role players, and the collaboration and compliance of offenders and victims?	- Adequacy of communication with CJS collaborators. Level of interest and commitment shown by collaborators  -Communication and interest by offenders, victims and others -compliance by offenders	- referrals and Checklist comments by the CJS officials - tracking forms by the POs and RJ agencies  - exit and interviews assessments	- Checklist and tracking forms plus RJIS and JEIN  - exit forms and interviews with all parties to the initiative - Interviews carried out by evaluation team.	- some continuous and some on two or more occasions



Process Evaluation Questions	Process Indicators	Source of information	Tools / Instruments	Frequency of collection
<p>4. Putting in place the measures and standards in order to access the key outcomes identified below for court caseload, positive offender impact, victim satisfaction, crime prevention, public confidence in the CJS and assessment of resource requirements for adult RJ</p>	<ul style="list-style-type: none"> <li>- linking pilot project with AD and JEIN data for the past 2 years at least to appreciate the basic impact re #, type of offences for EJM vs Court processing</li> <li>- offender profiles, including record and previous RJ experience</li> <li>- victim profiles</li> <li>- establishing measures for public confidence by measuring effectiveness, efficiency and equity</li> <li>- assessing the resource requirements for the RJ agency and the PO (number of cases, resources per 'client')</li> </ul>	<ul style="list-style-type: none"> <li>- DofJ, JEIN and Corrections staff providing the data requested</li> <li>- victim profiles through checklist, PO tracking forms, RJIS data for wishes, involvement and satisfaction</li> <li>- developing victim satisfaction measures through interviews</li> <li>- developing agreed-upon measures for public satisfaction (one way would be to have proxy measures for effectiveness (crime prevention/reduction), efficiency (cost-benefit analyses) and equity (fairness in access to the EJMs)</li> <li>- resource requirements measurement to be developed in collaboration with DofJ, Pos and RJ agencies</li> </ul>	<ul style="list-style-type: none"> <li>- Consultation with evaluator and specification of JEIN data to be gathered</li> <li>- data gathered by DofJ re RJIS experience</li> <li>- exit and interview data supplement PO tracking data and RJIS data on victims</li> <li>- collaboration as specified re development of measures to assess other objectives</li> </ul>	<p>Especially within the first half of the first project year (2011-2012) for most process evaluation questions save for the assessment of future resource requirements and public confidence in the CJS where these measures might be established after the pilot project has been in place for at least one year</p>

<p>5. Were staff selection practices, training, and skills adequate for the adult initiative?</p>	<ul style="list-style-type: none"> <li>- # of information &amp; training sessions implemented.</li> <li>- # of qualified staff in facilitator/counseling positions.</li> <li>- fit of sanctions and access where necessary to other local services or programs</li> </ul>	<ul style="list-style-type: none"> <li>- Project documentation</li> <li>- tracking forms</li> <li>- RJIS data</li> <li>-interviews with project management and with POs, agency staff and facilitators</li> </ul>	<ul style="list-style-type: none"> <li>- project documentation. Tracking forms and RJIS data system</li> <li>- interviews with POs, facilitators and agency directors</li> </ul>	<ul style="list-style-type: none"> <li>-continuous tracking</li> <li>- evaluation engagement in pre-implementation stage</li> <li>- interviews in the first quarter after project implementation and in its last quarter</li> </ul>
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## **CONTEXT ISSUES**

### **Restorative Justice in Nova Scotia**

The NSRJ program was officially launched November 1, 1999 after well over a year of planning that was, as noted earlier, both participatory and deliberative. It advanced an inclusive RJ model whereby the program possibly could be salient for all offences and offenders whether pre-charge or post-conviction. It started with youth only and in four regions of the province but within two years the program was rolled out to all areas of the province in collaboration with non-profit agencies who delivered the service with funding, training and coordination provided by the Department of Justice staff. In early 2000, protest by certain women's organizations led the NS Department of Justice to impose a moratorium on all offences involving intimate partner violence and sexual assault, offences that would have been eligible for some RJ programming only at the post-conviction phase. While it was anticipated that the program would subsequently be extended to adults that did not happen until the IARJPP was implemented in fiscal 2010-2011. In the meantime, other restorative justice programs were operative in Nova Scotia that did serve adult offenders, namely the RCMP's Community Justice Forums, in certain areas of the province, and the Mi'kmaq Aboriginal programs. Through agreements with the NSRJ program the RCMP program was for all intents and purposes absorbed into the NSRJ by 2003. The Mi'kmaq MLSN and the NSRJ program negotiated a collaborative agreement whereby MLSN basically followed, in a culturally sensitive fashion, the NSRJ program protocols. In effect then for youth there was one overall RJ framework since the middle of the last decade. MLSN's focus was clearly the young Aboriginal offender but some Mi'kmaq programming for adults was centered on healing and sentencing circles (Clairmont, 2005, 2006).

Table 3 depicts the difference between the NSRJ program and its predecessor, Alternative Measures (AM). The comparison is made for a three year period to enhance its reliability. The period is 1995 to 1997 for AM and 2001-2003 for RJ when each program

was in its prime in terms of referrals in most areas of Nova Scotia, and deals only with the four areas where RJ was first implemented. Perhaps what is striking is how similar the programs were in terms of the number of cases dealt with on an average annual basis and the principal referral source. Clearly though, the NSRJ program with its broader eligibility criteria and encouragement of referrals from other points in the CJS (basically post-charge, crown referrals) did result in modestly more referrals and modestly more post-charge ones. Table 4 breaks down the referrals by offence type and shows that, while not surprisingly most of the offences dealt with in AM or in RJ were non-violent property offences, in each jurisdiction the replacement of AM by RJ meant that the non-profit agencies dealt with proportionately more violent offences (e.g., assault).

These features – modest more referrals, more post-charge referrals, and more low level violent cases - have been central gains of the NSRJ program over the past decade. Comparing the offences handled through the NSRJ program in Nova Scotia with those handled by the NS Youth Court over a two year period (slightly different but comparable periods due to the availability of data), it can be noted in Table 5 that youth court has dealt with about double the proportion of violence and administration of justice and conversely about half the percentage of property offences. Interviews with CJS officials, in addition to examining NSRJ and court data, indicate that these differences in offences handled by court vis-à-vis the NSRJ program have generally held up since 2003.

Tables 6, 7 and 8 depict the referrals and offences received by the RJ agencies in Nova Scotia from 2000 to 2010, the eve of the IARJPP. Table 6 indicates that overall the two year average total referrals increased to a peak of near 1650 in 2007-2008 and has declined since then. The overall trend of referrals in HRM, the province's only metropolitan area, matched closely with the overall pattern. For the two other regions depicted, the 'high' for referrals was back before 2003, a pattern found in most of the agencies delivering RJ in Nova Scotia. Tables 7 and 8 indicate the pattern of referrals by referral source for the province and then by metropolitan area since 2001. These tables depict a gradual increase in the percentage of RJ referrals that come post-charge from the

crown prosecutors to approximately 40% in 2008 while police referrals stabilized at approximately 56%; referrals by court (judges) or corrections have hovered at 3% to 5% for the decade. As in total referrals, HRM has accounted for the largest number of crown referrals for several reasons (population growth, the presence there of an integrated HRM youth court); otherwise for most other RJ agencies in the province the percentage of referrals coming from the police has remained above 70% for the decade. The decade trend in offence types handled by the RJ agencies (Table 8) indicates that property offences have been a fairly stable 60% of all offences while violent offences have regularly accounted for roughly 12% with “other criminal code” and provincial statutes accounting for slightly more or less respectively but subject to significant periodic variation.

### **Summary**

Overall, then, it appears that the move to RJ from Alternative Measures generated modest increases in the number of referrals and of more violent offences by 2003, but that most RJ agencies peaked in terms of referrals received by 2003, and that since 2003 the offence type reflected in the referrals has been fairly stable as has been the percentages of referrals by source. These patterns are consistent with the observations of police and crown prosecutors interviewed across Nova Scotia and outside metropolitan HRM; they reported in 2010 and 2011 that there has been little change over the past five years in the types of offences and offenders dealt with through RJ. The momentum for change since the middle of the decade if not earlier has been the metropolitan region which continued to experience population growth and whose RJ agency continued to receive more referrals and where there was more dynamism in the type of offences and offenders dealt with (e.g., more repeat offenders) but that momentum too has abated since 2008. The demographic patterns in Nova Scotia (i.e., little immigration, and a deep decline in the proportion of the population 17 years of age and under from 32% in the early 1970s to 16% in 2010) and the lack of dynamism in the RJ evolution outside the metropolitan area have created an opportunity and challenge for NSRJ program and the Department of Justice. There is little doubt that the NSRJ program at 2010 had achieved a secure niche but the growth potential was low. The year to year fluctuations in referrals and

occasional spurts of new types of referrals associated with the evident variation in referring cases by specific police officers and crown prosecutors, as well as, more rarely, by judges and probation officers, offered only modest opportunity for changing this situation through better marketing.

In 2010 the NSRJ situation was properly seen as a decade of achievement. It was an established part of the CJS. In a word, it was institutionalized in that (a) it handled roughly 30% of all youth offending in Nova Scotia, (b) had solid support structures in the YCJA, court decisions about how to deal with young offenders, and the strong advocacy support of Nova Scotia's top government officials, (c) was accepted and collaborated with by police and crown prosecutors, (d) was interwoven in many respects in the adversarial relations between prosecutors and defence counsel, (e) provided a well-defined service with trained full-time staff throughout the province and well-monitored standards of operation. In addition, several assessments had found high levels of satisfaction among its participants (offenders, victims, other session attendees such as police officers) and grounds for optimism about reduced recidivism. It was a program well-praised in other jurisdictions both elsewhere in Canada and abroad.

In November 2010 Nova Scotia celebrated Restorative Justice Week and in a press release Justice Minister Landry noted,

"The province invests more than \$2 million a year in restorative justice programs, measures that help Nova Scotia families and communities deal with the impacts of crime...For over a decade our youth restorative justice programs have built stronger communities, with a more than 90 per cent success rate. Now we are doing the same with adult restorative justice programming."

It was time to move on, to build on the successes of the NSRJ program and propel the RJ approach forward in the CJS, exploring the long-delayed mandate to have it extend to adults and take advantage of the opportunities and meet the challenges for its revitalization.

**Table 3**

**Restorative Justice: Some Comparisons with Alternative Measures, Average Annual Referrals, 3 Year Period, by Program and Agency**

	<b>Alternative Measures 1995-97</b>	<b>Restorative Justice 2001-2003</b>
<b>The Valley</b>	148 (all police)	162 (128 police)
<b>Cumberland County</b>	52 (all police)	103 (81 police)
<b>Cape Breton</b>	238 (all police)	244 (197 police)
<b>Halifax Metro</b>	508 (all police)	545 (318 police)

**Table 4**

**Average Annual Offences, 3 Year Period, by Program and Agency**

<b>Region</b>	<b>Offence Type</b>	<b>Alternative Measures 1995-1997</b>	<b>Restorative Justice 2001-2003</b>
<b>The Valley</b>	Property	101 (69%)	145 (64%)
	Violent	3 (2%)	18 (8%)
<b>Cumberland County</b>	Property	36 (69%)	73 (54%)
	Violent	5 (9%)	21 (15%)
<b>Cape Breton</b>	Property	156 (66%)	204 (54%)
	Violent	11 (4%)	47 (13%)
<b>Halifax Metro</b>	Property	406 (80%)	645 (70%)
	Violent	20 (4%)	124 (13%)



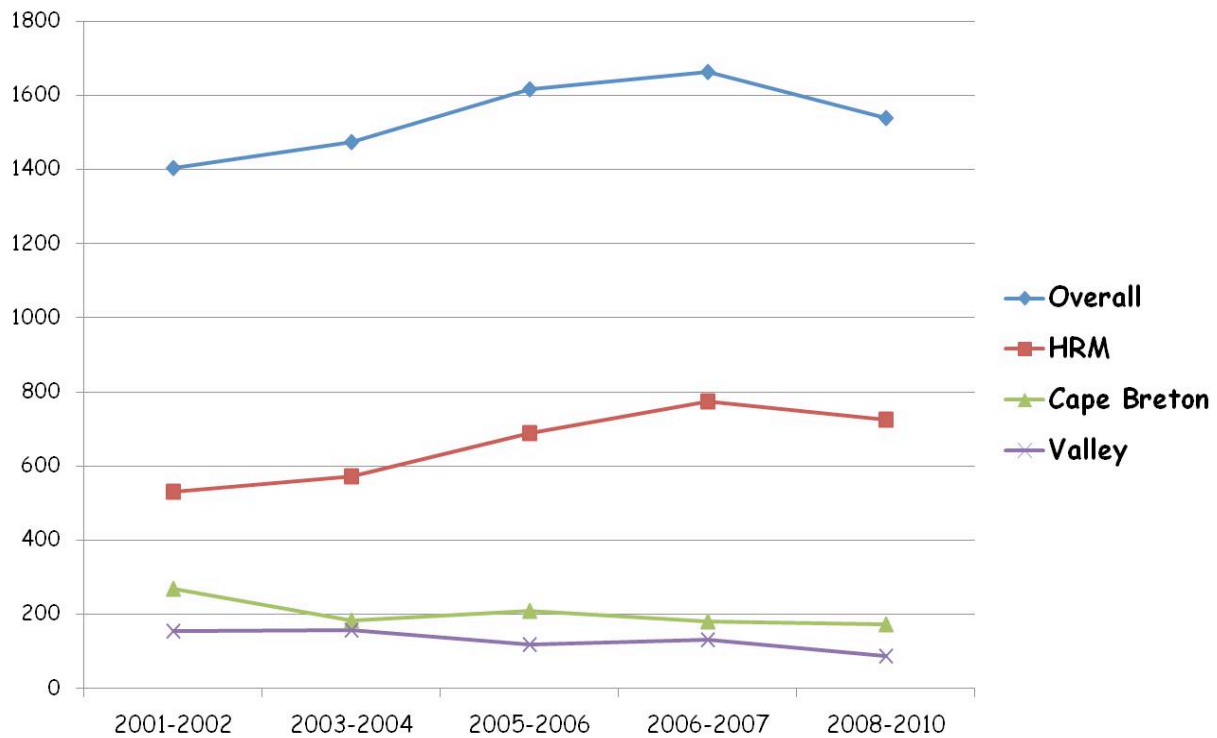
**Table 5**

**Offences Dealt with by Youth Court and NSRJ in Nova Scotia, Averaged over the Years 2004-2005 to 2007-2008**

	<b>NS Youth Court</b>	<b>NS Restorative Justice</b>
<b>Violent</b>	35%	16%
<b>Property</b>	37%	67%
<b>Adm Justice</b>	18%	3%
<b>CDSA</b>	4%	6%
<b>Other</b>	6%	9%

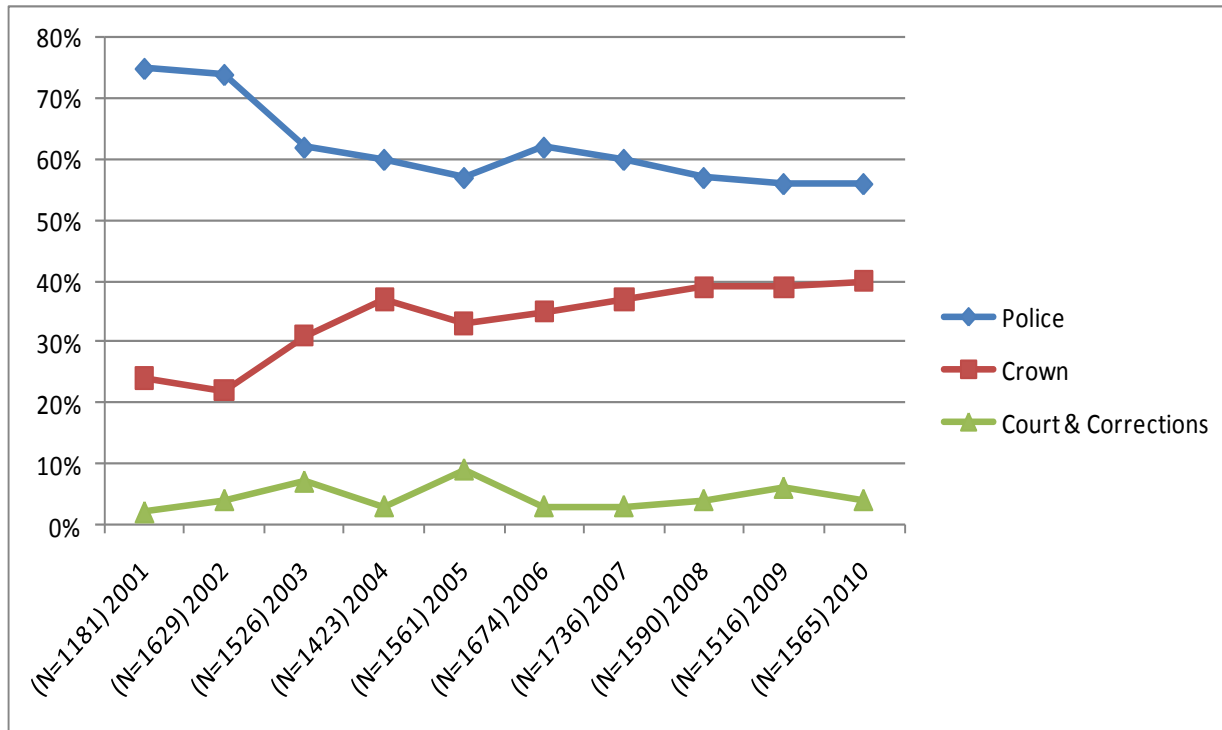
**Table 6**

**Average RJ Referrals Over Two-Year periods (2001-2010)**

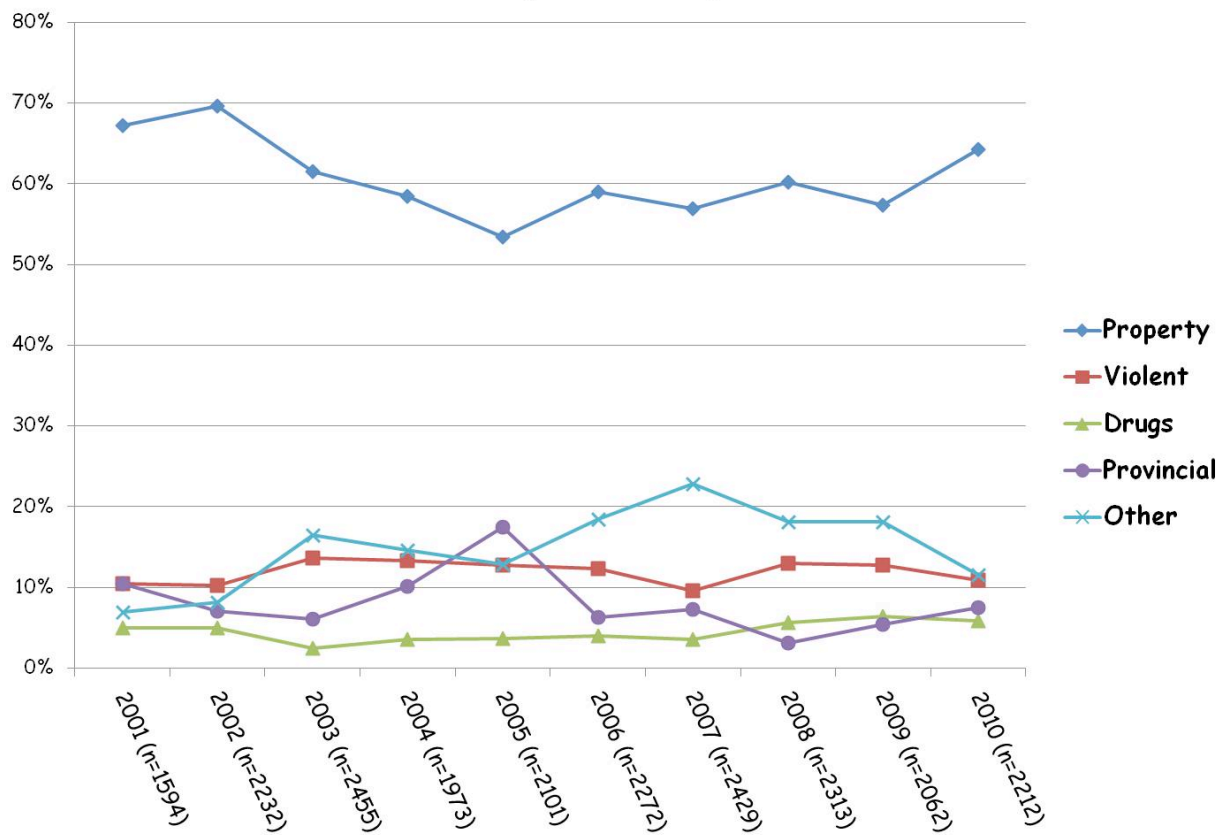


**Tables 7**

**Restorative Justice Referrals by Criminal Justice System Roles (2001-2010)**



**Table 8**  
**Offence Summary - All Regions 2001-2010**



## **Adult Diversion**

In their Canada-wide examination of Adult Diversion programs in Canada, Bonta and associates (Bonta, 1998) contended that AD only deals with a small 1%-2% of the criminal caseload because of eligibility rules and primarily first time offenders, mentally challenged offenders and minor crimes are dealt with. In their view its benefits hardly outweighed the costs (e.g., personnel, netwidening etc) and significant value-added would require deeper penetration into the CJS. This super critical slant undoubtedly did not do justice to the AD that was established in Nova Scotia in the mid-1990s and certainly does not capture the significant accomplishments it has resulted in, as evidenced by offender satisfaction, monies generated for restitution and charities and so forth. Nevertheless, the merit of the core argument was attested to in the provincial government's own review of its AD program in 2004 (Policy, Planning and Research, 2004).

According to that official review, "the Adult Diversion Program was originally created as a means of reducing escalating costs and delays associated with the backlog of cases in court. In addition to an economic and efficiency rationale, the program also sought to enhance the level of accountability compared to the traditional court system, foster increased victim involvement and increase community participation in the justice system. The program focuses on non-violent, minor offences which are seen as being appropriate for an alternative process to the courts. The program provides that those individuals who are 18 years of age or older, who are first-time offenders or have not been convicted of a similar criminal offence within two years will be eligible for the program". The large majority of the stakeholders interviewed for the review indicated that the AD program was working well, growing in referrals, and was relevant. Over 90% of the referrals were accepted and over 90% of those were successfully completed. The most frequent criticism was that there should be more leeway in the eligibility criteria.

The review reported, "The key points that emerge from this analysis of the data are that only a relatively small percentage (14%) of the offenders had a criminal record in Nova Scotia prior to being referred to the Adult Diversion Program, and only a relatively small percentage (11%) of those who successfully completed the program were convicted of a criminal offence in Nova Scotia 3 to 4 years after program completion." The recommendations, mirroring those from an earlier review of AM that ultimately led to RJ in Nova Scotia, called for a more robust AD program including pre-charge AD, better alignment with RJ, dealing with a wider range of offences and with a broader range of offenders including repeat offenders and so on. It was not clear what was to be done to foster increased victim involvement and increase community participation in the justice system but the report acknowledged that AD was more administrative than restorative as these kinds of objectives were largely ignored. The official government response did indicate a move towards more RJ collaboration and coloration of the AD program.

A recent examination of AD by province and territory in Canada (Penney, 2008) indicated that AD programs usually were found but typically were quite limited and nowhere near the degree of significance of the youth programming found in the same jurisdiction. The programming was usually delivered by volunteers with referrals coming from either the police or crown prosecutors. In Nova Scotia the AD option is post-charge, usually but not limited to recommendations by the police with the imprimatur of the crown prosecutor. It appears that probation officers delivering the AD program have had little formal training or orientation in AD and that their utilization of victims and local community services has been very limited. As one veteran PO doing AD sessions noted, "They are basically one-on-one and, if victims were to be present, the time spent on arranging the session and the follow-through would be astronomical". The delivery of AD by Community Corrections has varied much by region, sometimes the activity being distributed among the POs there (or at least several of them) and in other areas a single PO (with back-up) has been responsible for all the ADs.

In the years 2008 -2010 there were significant discussions on-going concerning the relationship between RJ and AD and their future collaboration. The pattern had been for virtually no collaboration in metropolitan Halifax and in most other regions of the province with the significant exception of Cumberland County (Amherst) and Truro where there were more “Probation” referrals (post-conviction, breaches) and much interaction among the respective staffs. A combination of factors appears to have changed the situation, including the movement of the NSRJ program from Court Administration to Corrections, reorganization within Corrections reducing the availability of contracted assistant probation officers to take significant responsibility for preparing pre-sentence reports, and sensitivity among both RJ and AD people that evolving circumstances created the opportunity if not the need for change in how adult minor offences are dealt with. Senior Community Corrections officials in 2008 and 2009 noted in interviews with the evaluator (focused on other projects) that, while there had been much thinking about incorporating more RJ in the AD program, considerably more resources would be required, not to speak of the challenge merging the different underlying philosophies of RJ and AD. Workload considerations and perceptions of limited resources appeared to clash somewhat with the desire of some POs to take on a more RJ approach and work more with victims and local service providers rather than being themselves shunted off to a strictly enforcement and monitoring role.

## **Summary**

Government reviews over the past decade or so of the AD programs in Canada have shown that they have been rather marginal to the criminal caseload and questionably cost-effective. In Nova Scotia an official review in 2004 depicted AD (launched in the mid-1990s) as a reasonably well-implemented program with growing numbers of referrals, high levels of compliance and satisfaction, low recidivism and modest costs, but nevertheless requiring more robust and nuanced eligibility criteria and more connection to the RJ programming in the province as was initially planned for when the latter was developed in the late 1990s. For several reasons,

including the shift of NSRJ from Court Services to Community Corrections, momentum developed for change which led to this IARJ initiative in 2010.

### **Opportunities and Challenges**

It is clear that developments within both the NSRJ and AD programs were favorable to an evolution of alternative justice policy and protocols in Nova Scotia. There were several other factors that appear to have been salient in generating the IARJPP, namely

- Consistency and mandate (e.g., adult RJ had already been mandated when the NSRJ was initiated and other adult RJ programs such as RCMP and MLSN existed if largely only “on paper”)
- The mid-2000 placement of NSRJ within Community Corrections which rendered collaborative action between RJ and AD more feasible
- Efficiency issues (e.g., the unused capacity for responding to adult RJ programming was available in RJ agencies outside the metropolitan area and the developments with Community Corrections were creating workload pressures)
- Effectiveness issues (both the RJ and AD programs in Nova Scotia had commendable records of achievement for dealing with minor offending and effectiveness could be enhanced with a more victim-oriented approach to adult offending)
- The political support for expanding the RJ approach to adults was significant (e.g., the province had garnered an earned reputation for RJ and envisaged itself in the vanguard for alternative justice)



The 10-year delay in expanding the RJ approach to adult offending appears to have been due to the dominant CJS focus on youth offending as a result of youth legislation (YCJA and court decisions about the presumptive use of RJ in youth matters, Bala, 2009) and to a greater wariness in the CJS and among the public at large with respect to providing RJ for anything other than very minor crime by first-time offenders. There would be challenges in developing a more robust AD and linking it better with RJ; these included the distinct features of each alternatives justice system and, aside from some areas, a rather minimal involvement of Corrections in the RJ program for young offenders. Another reason was scale – an adult RJ program would presumably require significantly more resources since adult criminal offences were seven times as plentiful in Nova Scotia as youth offences (Clairmont, 2008). In addition to the wariness about alternative justice for adults, there was as Foley and others noted (Foley, 2008) no comparable impetus to mount more expansive adult programming coming from new laws and / or policy / protocol decisions of the courts (apart from the sentencing reforms of the mid-1990s).

The sparse evaluation literature on adult RJ was, however, quite positive. Programs in New Zealand (Maxwell, 2001 and Bowen, 2003) described successful adult RJ initiative among both Aboriginal and mainstream offenders. RJ programs in England and Wales among adult offenders in open and secure custody were assessed as quite positive, and in neighbouring Vermont adult RJ initiatives aimed at young adults 18 to 25 years of age were well-regarded for successes in crime reduction and social re-integration (personal communication, 2008). Moreover there was a clear sense among advocates for the RJ approach in the CJS that unless the approach was expanded to adults it would never developed beyond a marginal niche in the CJS (Dignan, 2002). There was some concern that victim engagement in RJ sessions, difficult to achieve even with young offenders, would be minimal; however, even were that the case, well-recognized RJ scholars have pointed to the “compensation effects” that could be achieved through greater communication with victims and the engagement of local service providers and other parties in the RJ session (Bolitho, 2012).

Overall then, there were opportunities for the development of a new approach to adult alternative justice as a result of the evolution of youth RJ (e.g., a niche in the CJS was attained, unused capacity was developing) and adult AD programming (AD numbers were increasing and workload pressures mounting) as well as other supportive developments. There were some significant challenges for a more robust AD that would include a significant RJ dimension, most seriously perhaps being the lack of impetus from supportive laws and a wary CJS not to mention the public at large. At the same time successful adult RJ programs were being increasingly carried out elsewhere and process issues (e.g., safety, victim engagement) were being shown to be resolvable.

### **The Truro / Shubenacadie and CBRM Milieus**

The IARJPP initiative involved three RJ agencies, namely the JHS Truro-based agency serving Colchester County and the Municipality of East Hants, the Sydney-based ICJS serving CBRM, and MLSN, a province-wide Mi'kmaq agency handling all IARJ referrals in these two areas where the offender was Aboriginal. The focus here is on the two mainstream RJ agencies since they received roughly 90% of the IARJ referrals. These two RJ services chosen to pilot the IARJ program in fiscal 2010-2011 and 2011-2012 were highly regarded agencies in provincial RJ circles, the local CJS, and the local communities. There were strong positive ties between the RJ agencies and the local POs, rooted in recent collaborative projects or participation in similar community activities. The RJ staffs at both sites were quite responsive to the prospect of dealing with adults. Tables 9 to 12 depict the trends in referrals and offences dealt with for each non-profit agency over the past decade. Table 9 indicates that 2008 and 2009 saw a major drop in the youth referrals for the ICJS (Sydney) RJ as they declined to an annual average of roughly 160 cases from an annual average of 200 over the previous three years (Table 9). In JHS Truro (table 10) the decline was a longer one, from 2003 through 2008 but the low point was 2008 when the agency received only 65 referrals. Interestingly, both agencies saw an increase in youth referrals in 2010 but

the future for referrals was indeed problematic – and perceived by the staff to be so - if only youth cases could be dealt with. The tables also show the key importance of police referrals since declines in police referrals in both cases were related to declines in overall totals; crown referrals constituted about 30% of the referrals in recent years in both agencies. JHS Truro differed from ICJS Sydney in that Corrections referrals accounted for a significant proportion of their total received referrals in many years (as high as 30% in 2008) whereas such referrals were few and far between in the case of Sydney (usually less than 5% of the annual total).

Tables 11 and 12 describe the decade trend for offences dealt with by each agency. Property offences (especially “theft under”) have been consistently more significant in the Truro area than in the ICJS (70% of the total compared to 55% in ICJS Sydney) while violent offences (simple assault) have been consistently less, percentage-wise (roughly 10% in Truro and 15% in ICJS Sydney). Drug possession offences have been consistently less than 5% of all referrals in both sites; similarly, though with more yearly fluctuation, provincial statute violations have accounted for 10% or more of referrals to both agencies. “Other criminal code” offences have varied much in both sets of referrals but generally have been more common among the ICJS Sydney referrals.

Overall, then, the tables suggest that both agencies have entered an era of problematic referral numbers for young offenders in the past several years. The demographic data for both sites also is not encouraging for their maintaining the workload level that now exists, even with better marketing of RJ in the CJS and community at large. Extrapolating from the youth offence patterns reported above, and with the expectation that adult RJ offenders would especially be drawn from the 18 to 25 age grouping, it could also be expected that in an adult RJ program the JHS Truro agency would receive much more “theft under’ offenders while the Sydney agency would draw more cases of minor violent offending. In the case of MLSN, the NSRJ program’s traffic reports for the period 2005 to 2010 indicate that the annual referrals of young offenders have ranged between 56 and 82 without any definitive trend, a pattern which seems also to be associated with a low growth rather than a declining demographic. MLSN since 2007 has had almost as many post-charge referrals as police referrals.

It is somewhat unclear what the trends in AD referrals have been in both areas in recent years. The POs responsible for AD in CBRM reported that they typically handled between 110 and 140 AD cases in recent years, with 140 being on the high side. In the Truro area, the POs reported handling an annual average of less than 100 ADs. Data from the Nova Scotia court data system (JEIN) show that for the years 2008-2009 and 2009-2010 CBRM recorded 142 and 136 ADs respectively, while for Truro the comparable figures were 100 and 87 respectively. Such estimates and figures are consistent with the Policy, Planning and Research review in 2004 which reported that over the four year period, 1999-00 to 2002-03 Truro averaged about 90 adult diversion cases (a total of 356) while the CBRM constituents (i.e., Glace Bay, North Sydney and Sydney) together generated 436 cases over the four years or roughly 110 per year. A caveat is that somewhat higher JEIN figures, for some recent years, for AD at the two sites were reported elsewhere and also there may be some ambiguity in the recording concerning received referrals and the number of ADs successfully completed; local POs reported that roughly 20% of the ADs received in the last few years were not successfully completed (basically the offender did not show up or wish to be involved in AD). Overall, though, it would appear that the AD workload at the two sites has been very stable over the past decade and would be unlikely to increase in the near future given the demographics there (especially in the CBRM area with its declining and aging population).

Table 13 indicates that in 2010-2011 the CBRM provincial criminal court had more than double the adult offences than the Truro courts (i.e., 7988 to 3242) and the ratio of adult offences to youths' was 9.4 to 7.1 respectively. Youths accounted for 9.6% of all offences in the Sydney court but 12.4% in Truro. Adjustment for youth RJ cases not recorded in JEIN would reduce the ratios in each site by 1.0 and increase the percentage of youth offences to 10% in Sydney and 14.3 % in Truro. These data suggest that, on the 'eve' of the IARJ initiative, more adults in CBRM than in Truro, in absolute and proportionate numbers, would be potential referrals under the more relaxed eligibility criteria; at the same time, the data suggest that the Truro referrals would likely increase at a higher rate in the future.

**Figure 1 Table 9**  
**Island RJ Referrals by Criminal Justice System Roles**  
**(2001-2010)**

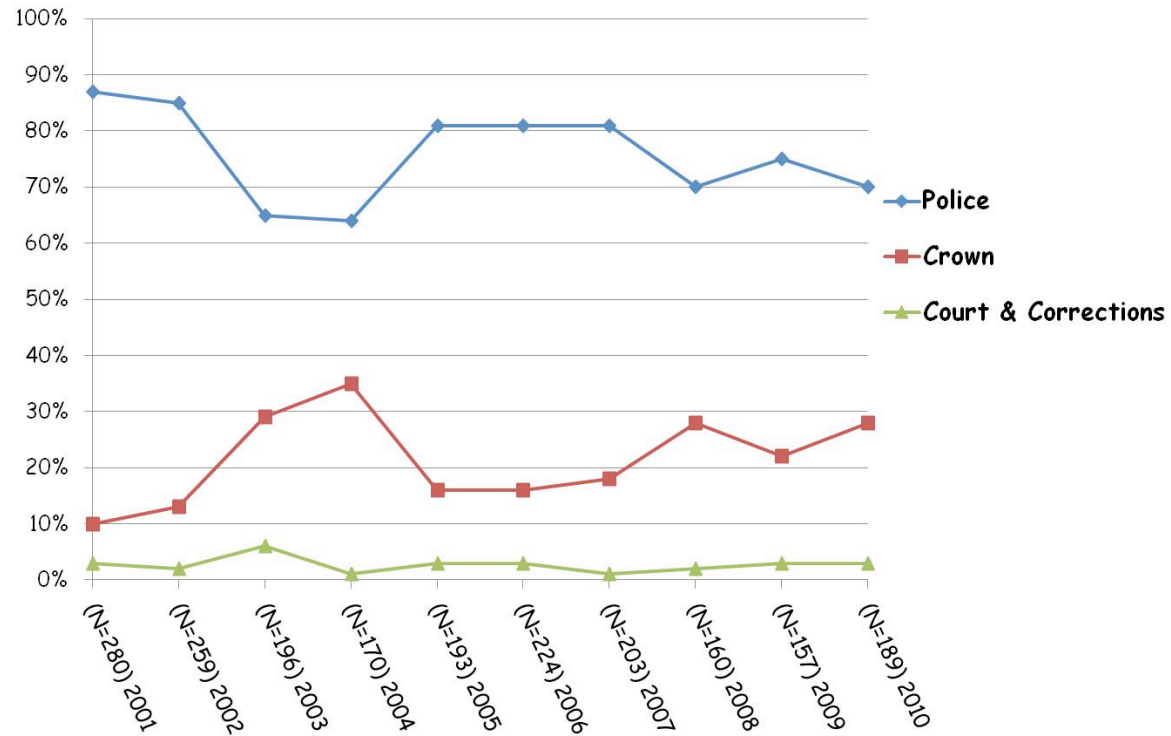


Figure 2 Table 10

Truro RJ Referrals by Criminal Justice System Roles (2001-2010)

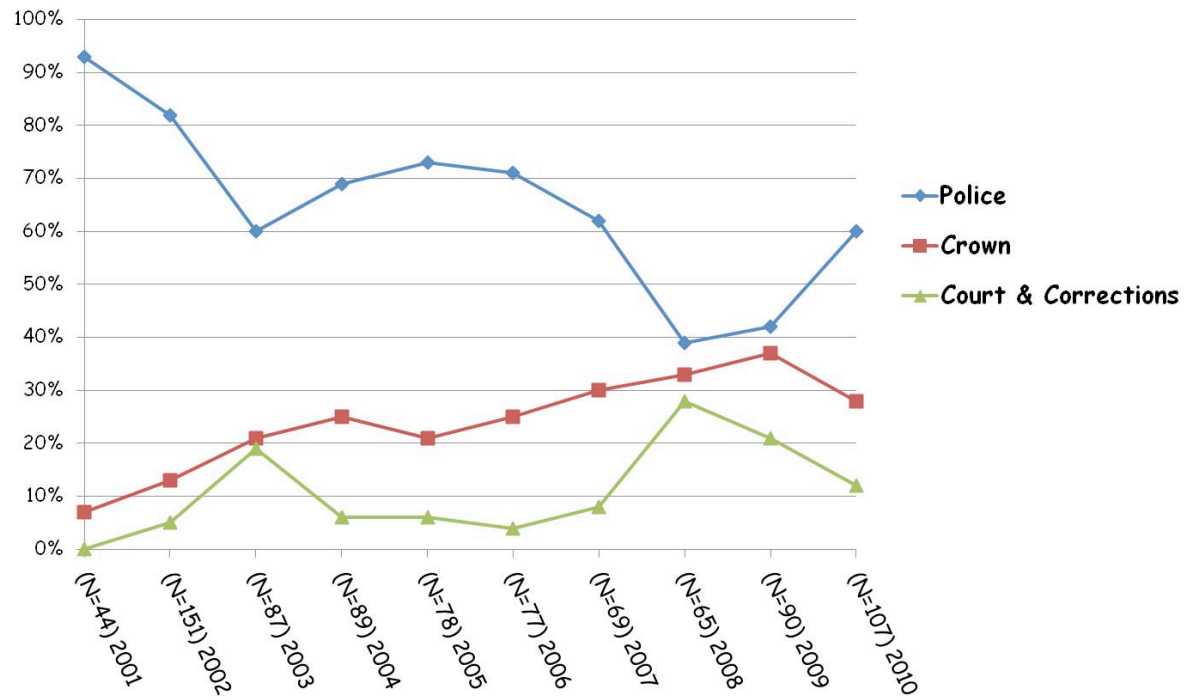


Figure 3 Table 11

### Island - RJIS Offence Summary

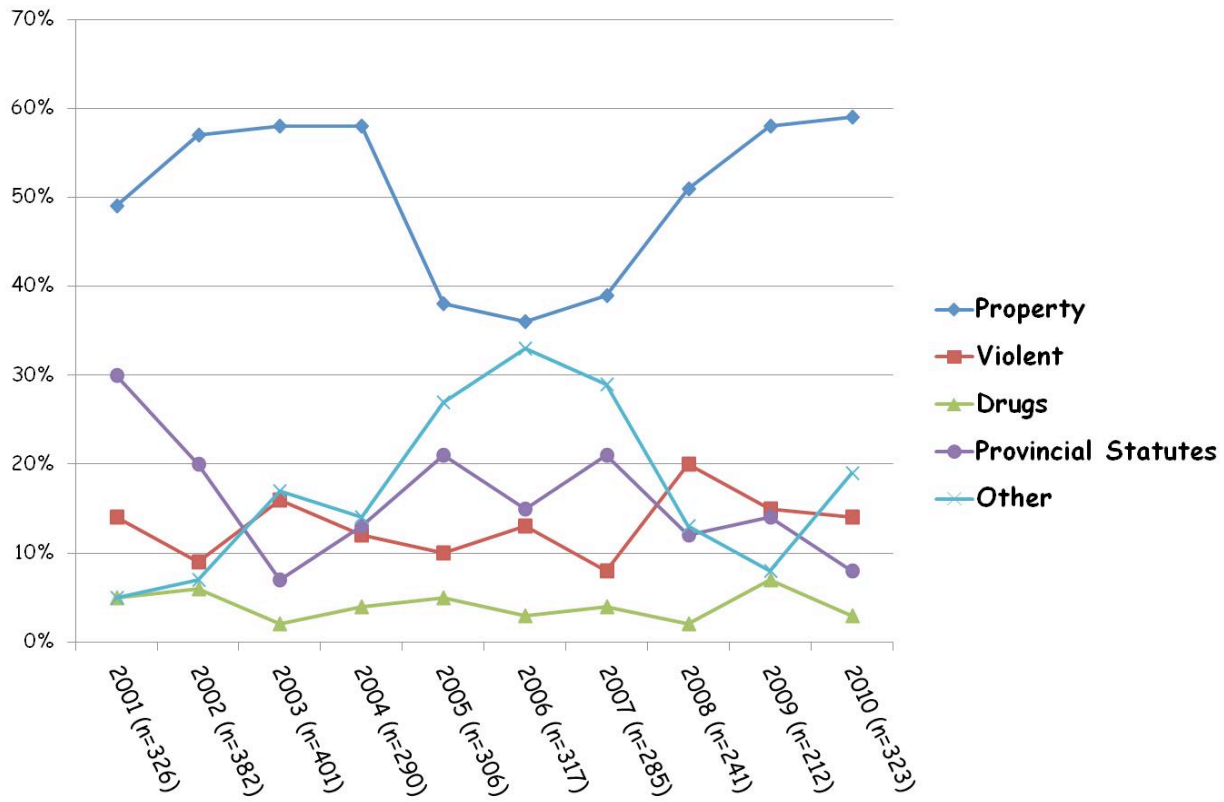
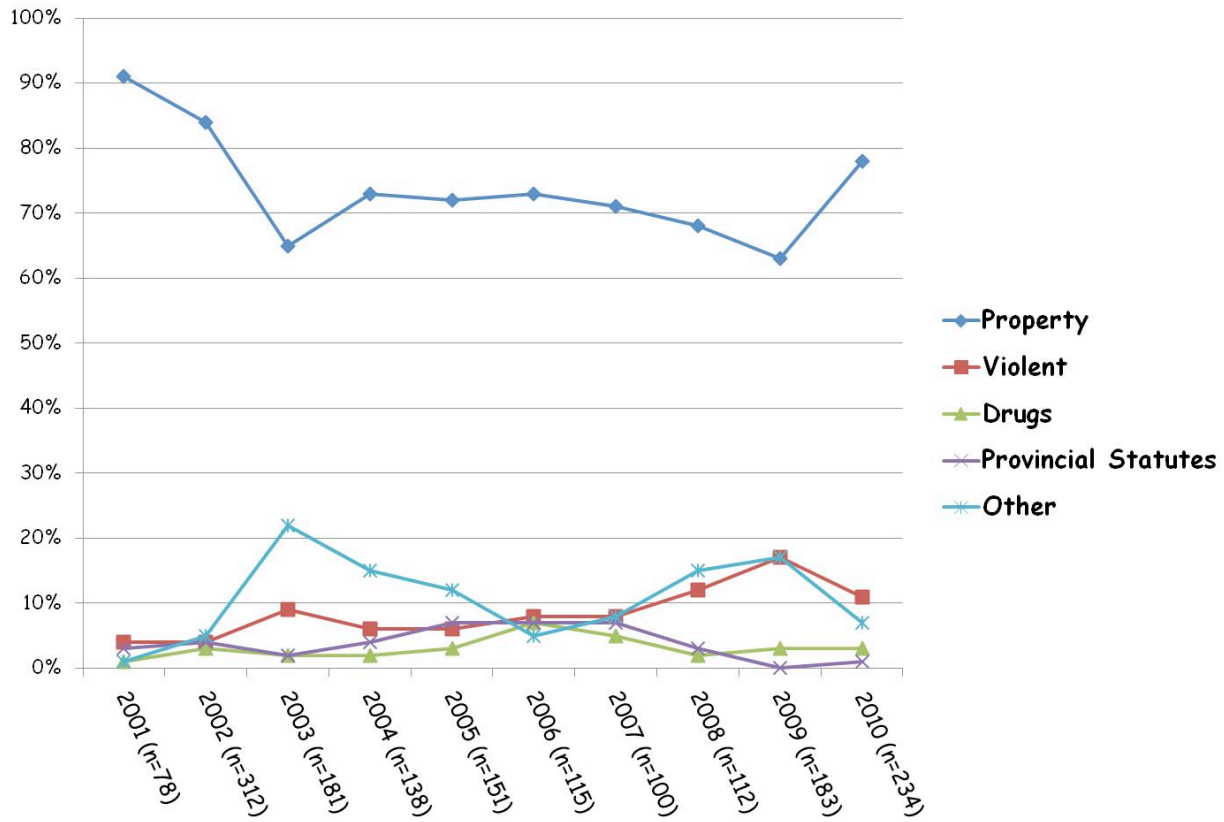


Figure 4 Table 12

### Truro - RJIS Offence Summary





**Table 13**

**JEIN Offences Records by Court 2010-2011**

Court	CCRecs	CDSA Recs
Sydney Prov Court		
Adults	7597	391
Youths	845	14
Total	8642	405
Truro Prov Court		
Adults	3026	216
Youths	453	7
Total	3479	223

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Another way of looking at the possible workload implications of the IARJ initiative would be to examine the trends in the number of offences likely to be channeled through the new initiative and explore how they have been dealt with in recent years.

The key offences for AD and IARJ have been, and will be, simple assault, “theft and possession under”, property damage and mischief, drug possession (i.e., CDSA 4.1) and simple frauds (e.g., use of stolen credit card). Tables 14A, B and C examine the number of such offences and how they have been resolved for adults at each site court in the years 2005, 2009 and 2010. With respect to the assaults, there has been an increase in both areas in recent years but especially in CBRM, while the conviction rate has leveled off in both to roughly 28%. Thefts have increased from 2005 at both sites and while the conviction rate remained stable in the CBRM court roughly 50% to 58%, it declined sharply in Truro from 43% to roughly 25%. Property damage and mischief offences varied within a stable range at the courts but convictions rates declined appreciably for both in 2010 (from roughly 50% to 38%). Drug possession increased in both court systems, especially CBRM where there was a higher conviction rate than in Truro (roughly 66% to 52%). In the case of simple frauds, the conviction rate for both court systems was in the range of 35%. Overall, the data indicate that, for the kinds of offences central to AD or IARJ, the conviction rates – save for simple drug possession – have been quite modest and the majority of cases have resulted in withdrawals or dismissals (there are relatively few acquittals). This in turn suggests that there would be ample opportunity for more cases involving these offences to be channeled through alternative measures (AD or RJ) under the more liberal eligibility criteria advanced in the IARPP and thus realize a positive impact on reducing court workload.

## **Summary**

The Truro and CBRM sites were well-selected. Both the RJ agency and the AD program at each site have experienced, veteran staffs and are appreciated by other CJS role players. They have provided a solid successful alternative justice programming. Both have been responsive to the IARJ initiative, especially perhaps the RJ agencies for practical as well as theoretical reasons. Several tables are provided describing trends for the RJ agencies over the past decade with respect to the number of referral, referral sources, and types of offences dealt with. These data indicate that the youth referrals have tailed off in recent years but have been reasonably stable on

the other dimensions. The demographic trends in the areas indicate that the referral caseloads would be expected to continue to decline for the youth referrals, especially in CBRM. The trends in referrals to AD reflect a stable pattern over the past decade, and that is congruent with the views of the POs there; they too would be unlikely to increase and, given the same demographics, should decline some as the low or no growth population continues to age. Other tables provided indicate that at present there is a high ratio of adults to youths as evidenced in the provinces court statistics. This suggests that an IARJ program with broadened adult eligibility criteria could generate many referrals. That possibility is underlined by several tables that examine how in the past seven years the kinds of offences most likely to go through IARJ have been processed to date for adults. The four key offences, namely simple assault, theft under, property damage / mischief, drug possession and minor frauds have had a modest to low conviction rate (drug possession excepted) and the majority in each category have been dismissed or withdrawn; such a pattern, in conjunction with the high ratio of recorded adult to youth offences, suggest that a well-received IARJ could obtain a large number of adult referrals. In the case of MLSN, serving the Aboriginal offenders in the two project areas, the Aboriginal demographics are different and the youth population as well as the youth referrals may be experiencing declining rates of growth but apparently not declines in an absolute sense (Clairmont and McMillan, 2006); accordingly, Aboriginal adult RJ referrals to MLSN would be less, if at all, offset by declining youth referrals, thus creating a possible need for more resources.

**Table 14A**

**CBRM, TRURO and NOVA SCOTIA : SPECIAL OFFENCES JEIN 2005**

	<b>CBRM</b>	<b>TRURO</b>	<b>NS</b>
<b>SIMPLE ASSAULT</b>	<b>610</b>	<b>230</b>	<b>3856</b>
<b>CONV</b>	<b>184 (30%)</b>	<b>119 (52%)</b>	<b>1652 (43%)</b>
<b>ACQUIT</b>	<b>38 (6%)</b>	<b>18 (8%)</b>	<b>234 (6%)</b>
<b>DISM</b>	<b>316 (52%)</b>	<b>52 (23%)</b>	<b>1382 (36%)</b>
<b>WITHD</b>	<b>72 (12%)</b>	<b>40 (17%)</b>	<b>543 (14%)</b>
<b>THEFT</b>	<b>402</b>	<b>286</b>	<b>3296</b>
<b>CONV</b>	<b>229 (57%)</b>	<b>124 (43%)</b>	<b>2013 (61%)</b>
<b>ACQUIT</b>	<b>5 (1%)</b>	<b>4 (1%)</b>	<b>38 (1%)</b>
<b>DISM</b>	<b>33 (8%)</b>	<b>8 (3%)</b>	<b>333 (10%)</b>
<b>WITHD</b>	<b>135 (34%)</b>	<b>150 (52%)</b>	<b>911 (28%)</b>
<b>PD/MISCH</b>	<b>233</b>	<b>124</b>	<b>1540</b>
<b>CONV</b>	<b>112 (50%)</b>	<b>71 (57%)</b>	<b>787 (51%)</b>
<b>ACQUIT</b>	<b>-----</b>	<b>2 (2%)</b>	<b>25 (2%)</b>
<b>DISM</b>	<b>57 (26%)</b>	<b>15 (12%)</b>	<b>293 (19%)</b>
<b>WITHD</b>	<b>54 (24%)</b>	<b>36 (29%)</b>	<b>407 (26%)</b>

<b>DRUG POSSESSION</b>	<b>68</b>	<b>67</b>	<b>933</b>
<b>CONV</b>	<b>45 (66%)</b>	<b>43 (64%)</b>	<b>574 (62%)</b>
<b>ACQUIT</b>	-----		<b>3 (0%)</b>
<b>DISM</b>	<b>9 (13%)</b>	<b>3 (5%)</b>	<b>87 (9%)</b>
<b>WITHD</b>	<b>14 (21%)</b>	<b>21 (31%)</b>	<b>269 (29%)</b>

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**These 4 offences accounted for 78% of all referrals to IARJPP up to December 12, 2011. Note the different patterns for CBRM and Truro with respect to Theft and Assault.**

**Table 14B**

**CBRM, TRURO and NOVA SCOTIA: SPECIAL OFFENCES JEIN 2009**

	<b>CBRM</b>	<b>TRURO</b>	<b>Other NS</b>
<b>SIMPLE ASSAULT</b>	<b>1204</b>	<b>311</b>	<b>4208</b>
<b>CONV</b>	<b>341 (28%)</b>	<b>97 (31%)</b>	<b>1433 (43%)</b>
<b>ACQUIT</b>	<b>36 (3%)</b>	<b>12 (4%)</b>	<b>172 (6%)</b>
<b>DISM</b>	<b>584 (48%)</b>	<b>91 (29%)</b>	<b>1681 (36%)</b>
<b>WITHD</b>	<b>243 (21%)</b>	<b>111 (36%)</b>	<b>922 (14%)</b>
<b>THEFT</b>	<b>528</b>	<b>304</b>	<b>5329</b>
<b>CONV</b>	<b>308 (58%)</b>	<b>78 (26%)</b>	<b>1595 (61%)</b>
<b>ACQUIT</b>	<b>2 (&lt;1%)</b>	<b>- (0%)</b>	<b>31 (1%)</b>
<b>DISM</b>	<b>82 (15%)</b>	<b>31 (10%)</b>	<b>1112 (10%)</b>
<b>WITHD</b>	<b>136 (26%)</b>	<b>195 (64%)</b>	<b>2591 (28%)</b>
<b>PD/MISCH</b>	<b>352</b>	<b>104</b>	<b>1367</b>
<b>CONV</b>	<b>166 (48%)</b>	<b>55 (54%)</b>	<b>555 (41%)</b>
<b>ACQUIT</b>	<b>5 (2%)</b>	<b>2 (2%)</b>	<b>27 (2%)</b>
<b>DISM</b>	<b>91 (25%)</b>	<b>14 (12%)</b>	<b>371 (27%)</b>
<b>WITHD</b>	<b>90 (25%)</b>	<b>33 (32%)</b>	<b>414 (30%)</b>

<b>DRUG POSSESSION</b>	<b>123</b>	<b>87</b>	<b>1028</b>
<b>CONV</b>	<b>89 (72%)</b>	<b>46 (53%)</b>	<b>560 (54%)</b>
<b>ACQUIT</b>	<b>-----</b>	<b>1 (1%)</b>	<b>10 (1%)</b>
<b>DISM</b>	<b>9 (8%)</b>	<b>6 (7%)</b>	<b>104 (10%)</b>
<b>WITHD</b>	<b>25 (20%)</b>	<b>34 (40%)</b>	<b>354 (35%)</b>
<b>LOW LEVEL FRAUD</b>	<b>88</b>	<b>61</b>	<b>862</b>
<b>CONV</b>	<b>19 (22%)</b>	<b>15 (25%)</b>	<b>326 (38%)</b>
<b>ACQUIT</b>	<b>--</b>	<b>---</b>	<b>4 (&lt;1%)</b>
<b>DISM</b>	<b>16 (18%)</b>	<b>11 (18%)</b>	<b>200 (22%)</b>
<b>WITHD</b>	<b>53 (60%)</b>	<b>35 (57%)</b>	<b>332 (39%)</b>

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Table 14C

CBRM, TRURO and NOVA SCOTIA: SPECIAL OFFENCES JEIN 2010

	CBRM	TRURO	Other NS
<b>SIMPLE ASSAULT</b>	<b>1254</b>	<b>334</b>	<b>3990</b>
CONV	330 (27%)	87 (26%)	1402 (37%)
ACQUIT	22 (2%)	13 (4%)	160 (4%)
DISM	690 (55%)	147 (44%)	1532 (38%)
WITHD	212 (17%)	87 (26%)	896 (22%)
<b>THEFT</b>	<b>592</b>	<b>462</b>	<b>4451</b>
CONV	329 (56%)	102 (23%)	1634 (37%)
ACQUIT	2 (<1%)	1 (<0%)	29 (<1%)
DISM	70 (11%)	162 (35%)	716 (15%)
WITHD	191 (32%)	197 (42%)	2072 (46%)
<b>PD/MISCH</b>	<b>317</b>	<b>126</b>	<b>1388</b>
CONV	118 (37%)	45 (36%)	613 (44%)
ACQUIT	4 (1%)	1 (1%)	24 (2%)
DISM	105 (33%)	28 (22%)	308 (22%)
WITHD	90 (28%)	52 (41%)	443 (32%)



<b>DRUG POSSESSION</b>	<b>130</b>	<b>87</b>	<b>1055</b>
<b>CONV</b>	<b>86 (66%)</b>	<b>46 (53%)</b>	<b>522 (50%)</b>
<b>ACQUIT</b>	-----	--	<b>5 (&lt;1%)</b>
<b>DISM</b>	<b>17 (13%)</b>	<b>7 (7%)</b>	<b>147 (13%)</b>
<b>WITHD</b>	<b>27 (21%)</b>	<b>34 (40%)</b>	<b>381 (36%)</b>
 <b>LOW LEVEL FRAUD</b>	 <b>94</b>	 <b>41</b>	 <b>1035</b>
<b>CONV</b>	<b>31 (32%)</b>	<b>16 (40%)</b>	<b>279 (27%)</b>
<b>ACQUIT</b>	--	---	<b>2 (&lt;1%)</b>
<b>DISM</b>	<b>21 (23%)</b>	<b>16 (40%)</b>	<b>143 (14%)</b>
<b>WITHD</b>	<b>42 (45%)</b>	<b>9 (20%)</b>	<b>611 (58%)</b>

## **FINDINGS: CHECKLISTS AND GENERAL FINDINGS**

### **CHECKLIST DATA PATTERNS**

The chief administrative data sources for the IARJPP have been the checklists completed and sent to Community Corrections (i.e., the probation officers at the two project sites responsible for channeling any adult RJ referrals) and subsequently, in selected cases, to the RJ agencies. The checklist form (see appendix) was adapted from the one used for over a decade in the NSRJ youth program. There were but modest changes in the form and these reflected basically the adult status of the offender (e.g., a JEIN number was assigned each case, previous use of adult diversion was to be noted, and so forth). While there may have been some initial hope that checklists would be sent to the designated probation officers even if no referral was made by crown prosecutors (where police did not refer pre-charge, the checklist they completed would have been passed on to the latter) that did not happen. The consequence has been, as in the case of the youth RJ program, that the project's administrative data system only contains information on referrals.

There were 444 such checklists received by the NSRJ staff coordinating the project in the roughly 13 month period ending on March 31, 2012. In two instances the referral was returned to the referral agent (police or prosecutor) by the site probation officer because either contact was not made with the accused or he/she refused to participate. In a small number of other cases, mostly in the Cape Breton region, referrals were not accepted since the probation officer deemed them to be outside the eligibility criteria (usually in his judgment because of the moratorium against any referrals involving intimate partner violence or its legacy). The 444 checklists received were nearly double the number of AD referrals (223) received in the two areas in 2009-2010

The checklist form requested information on a variety of personal characteristics (age, gender, marital status, education, employment) as well as on the alleged offence, whether the accused had previous convictions, previous AD or RJ experience and the type and number of victims if any. Additionally, the recommendation by the police officer or crown prosecutor was to be recorded along with any explanation offered for not recommending to IARJ any Level 1 or Level 2 offence; as noted above, only police officers' explanations for not recommending a case were ever provided and not always even in these instances.

Analyses show that the education and employment information was obtained infrequently - not unexpected given the NSRJ administrative experience with the youth RJ program – and, more surprisingly, information was also missing in roughly 20% of the checklist files regarding each of the variables, previous conviction, AD or RJ experience. The key points about the missing information are

- In 71% of the 444 checklists cases, data were available on marital status of the accused. Checklists received by the CBRM Community Corrections accounted for 86% of the 112 missing cases.
- In 45% of the 444 checklist cases no employment information was provided for the accused. Checklists received by CBRM Community Corrections accounted for 149 or 75% of these 198 missing cases.
- In 89% of the 444 checklist cases no educational information was provided. Checklists received by CBRM Community Corrections accounted for 85% of the 394 missing cases.
- In only 80% of the 444 checklist cases was information provided on the crucial variable “prior convictions”. Checklists received by CBRM Community Corrections accounted for 83% of the 88 cases where such information was missing.

- In 79% of the 444 checklist cases data were available on whether the accused had had previously been processed through RJ. Checklists received by CBRM Community Corrections accounted for 84% of the 95 missing cases.
- In 79% of the 444 checklists cases, data were available on whether the accused had previously been through AD. Checklists received by CBRM Community Corrections accounted for 83% of the 95 missing cases.
- In 72% of the 444 checklist forms the Police recommendations (whether to recommend the case to IARJ or lay a charge) were provided. Checklists received by the CBRM Community Corrections accounted for 93% of the 125 missing cases.
- 87% of the checklist forms did provide information on the accused's ethnicity. Checklists received by the CBRM Community Corrections accounted for 88% of the missing cases.
- 11% of the 444 checklist cases were directed to MLSN and there was a high proportion of missing values on the variables highlighted for that feature above.

The distribution of missing cases did not vary by age, gender, or offence type for any of the above variables with the exception that the ethnicity of males was twice as likely to be missing as that of the female accused persons. Missing data on previous AD experience were linked with missing data on previous RJ experience in 92% of the missing cases. The crucial variable accounting for the missing values was essentially whether or not the checklist was sent in by Cape Breton Regional Police Service or the Truro / Shubenacadie area police services; the preponderance of missing cases as noted was associated with the former. A secondary pattern was the high percentage of Aboriginal cases where data were missing on education and employment (80% plus) and also on prior convictions (26%). There was also much missing data with respect to check-offs of the seven minimums that police and crown prosecutors were required to consider when deciding on whether or not to recommend an accused to the IARJ program – 28% of all police checklists and 49% of the crowns' checklists had missing data on one or more of the required minimum conditions.

The checklist data indicate that many accused persons referred by police and crown prosecutors were young adults. In the 444 checklists, young adults, 18-22 years old, accounted for 40% of the cases, while the 18-25 years old accounted for 53% and the 18 to 29 for 62%. There were 7 persons referred who were at least 70 years old, 4 arrested for shoplifting and 3 for uttering threats. The age distribution of the IARJ cases was almost identical to that found in the previous year's AD referrals for the two sites as, slightly less so, was the proportion of male accused persons (58% compared to 62% in previous AD years). With respect to marital status, 59% of the referred persons were single while 12% were married, common-law or separated, and the data were missing for remaining 29%. Aside from Aboriginal accused persons, where all 52 files were sent to the Mi'kmak MLSN program, the referred persons were overwhelmingly Caucasian and the six (1% of 444 cases) who were not, were of African Nova Scotian ancestry.

The following three tables examine the checklist data patterns by gender, age and gender and the exercise of police discretion whether to recommend an accused or lay a charge; if the latter, the case appears in the data set as a crown referral. It can be seen from Table 1 that male and female accused persons were identical in having at least one prior conviction but female offences were concentrated in "theft under" (usually shoplifting) whereas male offences were well distributed among "theft under", violent offences (usually simple assault), public disturbance and drug possession.

Table 2 describes the offending by four categories, young adult males, young adult females, older adult males and older adult females. In all four categories the most common offence was 'theft under', but there was a wide range from a low of 30% for males age 18-25 to 67% for females 26 years of age and older. Females across the board were of course more likely to be arrested for this offence. Males age 18-25 were more likely than those in other categories to be arrested for public disturbance (21%) or drug possession (13%). Males were about twice as likely to be arrested for violent offences such as assaults (20% on average compared to 11% among females) but here there was no substantial difference between males aged 18 to 25 and older male adults though the latter

had the highest proportion of such arrests, namely 22%. In general, there was more differentiation by age category among males than among females. While the majority of offences in all four sub-groupings was the basic Level 1, males, especially males aged 18-25, were more often arrested for the more serious Level 2 offences; males 18 to 25 years old had almost double the number of Level 2 offences as their female counterparts (39% to 23%).

Table 3 examines the pattern of police and crown referrals to shed light on police discretion and the impact of the IARJ allowing both pre-charge and post-charge referrals whereas the AD system it replaced in the two areas was entirely post-charge. Police discretion limited the reach of their pre-charge referrals to typically less serious offences and offenders. Persons with prior convictions were twice as common where police laid charges rather than made referrals (i.e., 43% to 20%). Violent offences and administration of justice offences (i.e., failure to appear, failing to keep an undertaken) were more frequent among those accused persons who police rejected for IARJ while appropriately more common among the police referrals where the offence was 'theft under' (62% to 37%). Level 1 offences were less common where charges were laid (62% to 83%). There were no substantial differences in the proportions of other offences receiving IARJ referrals or charges. Interestingly, and unexpectedly given previous research findings, Table 3 shows that there was no difference between the referral options exercised by police that was associated with age – in each option 51% - 52% of the offenders were between 18 and 25 years of age inclusive.

Clearly then, police predictably were less likely to refer to IARJ persons with prior convictions, and where the offence involved violence or rejection of court-ordered undertakings. Of course, since the checklists only included cases that were referred to IARJ, the conclusion can be drawn that crown referrals were more likely than police referrals to be given to accused persons in these circumstances. To test that contention, crown referrals were examined and the results are described in the table. It should be noted that

in 53 cases the checklist data were coded as both a police and a crown referral so there are more referrals than checklists indicated in the table. Indeed, “missing” in the crown referral variable can only mean a pre-charge referral in this data set, so adding together these 125 cases and the 53 overlap cases, 176 of the 248 cases were police referrals. Data intricacies aside, the crown referral patterns were quite different from the police referrals in that they were twice as likely to involve persons with prior convictions (42% to 20%), to involve persons committing violence offences (23% to 10%) or administration of justice offences (12% to 4%), and, on the other hand, half as likely to involve ‘theft under’ (34% to 62%). While the majority of both police and crown referrals were Level 1 offences, the broadening of the eligibility of accused persons and offences is evident primarily in the crown referrals. And that pattern is underlined by noting that, while only a small minority of those receiving IARJ referrals were identified as having a prior conviction and / or a prior AD referral within the past two years, such persons were more likely to be found among the crown referrals (i.e., 7% to 3.5%). The argument can be advanced that police pre-charge referrals centered around the offences and offenders that would have been the typical AD referrals while crown referrals modestly went beyond the conventional AD referrals and thus illustrated the expansion of eligibility and acceptance of same by the referral agents.

The 50 checklists directed to MLSN followed the above patterns as roughly 70% of the offenders were 30 years of age or less, and there was a reasonable split (56% to 44%) between Truro / Shubenacadie and CBRM referrals. However, there was a reverse in gender with female offenders being more common (56% to 44%), and modest differences with respect to the offences, namely fewer ‘theft under’ (40%), more assault cases (24%) and more administration of justice cases (14%). Very few Aboriginal checklists reported a previous conviction or an RJ or AD referral in the past two years but the small sample and high proportion of missing values make establishing a pattern problematic.

**Table 1**

**IARJ OFFENDING PATTERNS BY GENDER**

	<b>Male</b>	<b>Female</b>
AGED 18 -25	56% (141)	48% (92)
NO PRIOR CONVICTION*	58% (149)	59% (111)
THEFT UNDER	36% (92)	62% (118)
VIOLENT OFFENCES	20% (51)	11% (21)
PUBLIC DISTURBANCE	15% (39)	7% (14)
DRUG POSSESSION	10% (26)	2% (3)

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\*There were roughly 20% of the cases, about equally split between males and females, where there was no information provided on prior conviction and if these were excluded the percentage with no previous conviction would increase and the difference between males and females also increase modestly.



**Table 2****IARJ OFFENDERS BY AGE AND GENDER**

<b>Offence Type</b>	<b>Males</b>		<b>Females</b>	
	Aged 18-25	Other Ages	Aged 18-25	Other Ages
Violence	18% (26)	22% (25)	11% (11)	11% (11)
Theft Under	30% (42)	49% (54)	59% (53)	67% (66)
Public Disturb	21% (30)	8% (9)	9% (9)	5% (5)
Drug Possession	13% (19)	6% (7)	1% (1)	2% (2)
Other Property	7% (10)	6% (7)	11% (11)	10% (10)
Adm of Justice	10% (14)	8% (9)	8% (7)	5% (5)
Total	99% (141)	99% (112)	99% (92)	100% (99)
<b>Offence Level</b>				
Level #1	61% (86)	70% (84)	77% (71)	81% (80)
Level #2	39% (55)	30% (28)	23% (21)	19% (19)
Total	100% (141)	100% (112)	100% (92)	100% (99)

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**Table 3**

**OFFENDER AND OFFENCE CHARACTERISTICS AND POLICE RECOMMENDATION TO IARJ**

<b>Features</b>	<b>Police Rec IARJ (N = 246)</b>	<b>Police Lay Charge (N = 73)</b>	<b>Crown Rec IARJ (N= 248)</b>
<b>Prior Conviction*</b>	<b>20% (48)</b>	<b>43% (31)</b>	<b>42% (102)</b>
<b>Level 1 Offence</b>	<b>83% (205)</b>	<b>62% (45)</b>	<b>62% (154)</b>
<b>Theft Under</b>	<b>62% (152)</b>	<b>37% (27)</b>	<b>34% (81)</b>
<b>Violent Offence</b>	<b>10% (24)</b>	<b>22% (16)</b>	<b>23% (56)</b>
<b>Adm of Justice</b>	<b>4% (9)</b>	<b>16% (12)</b>	<b>12% (30)</b>
<b>Aged 18-25</b>	<b>52% (128)</b>	<b>51% (37)</b>	<b>51% (126)</b>

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- **There were 28 cases of blanks among the prior conviction data and these were distributed proportionately equally among the two groupings, 9% in each category of 246 and 73 respectively. Similarly, blanks were deemed to be proportionately distributed among the crown cases.**

## Summary

In the 13 months since the IARJPP was launched, the number of referrals has increased considerably at both sites. All told there has been roughly a doubling of adult referrals to alternative justice paths. Despite considerable missing data from the checklists received by Community Corrections probation officers at the project sites (especially in referrals from the CBRPS), there are clear patterns in the referrals. The referred adults were overwhelming single, and the majority were young adults (18-25 in particular), males, and of Caucasian ethnicity. Male and female offenders were similar in the proportion having at least one prior conviction but differed in that females were concentrated in “theft under” offences while the males were spread chiefly over four offences, namely theft under, simple assault, public disturbance and drug possession. ‘Theft under’ was the most common offence referred for the combinations of age and gender that were analysed but the proportion varied considerably from 30% among young adult males to 67% among older adult females. The referred young adult males were most likely to have been arrested for the more serious Level 2 offences.

Clearly police predictably were less likely to refer to IARJ persons with prior convictions, and where the offence involved violence or violation of court-ordered undertakings. The crown referral patterns were quite different from the police referrals in that they were twice as likely to involve persons with prior convictions (42% to 20%), and persons committing violent offences (23% to 10%). While the majority of both police and crown referrals were Level 1 offences, the broadening of the eligibility of accused persons and offences is evident primarily in the crown referrals. The argument can be advanced that police pre-charge referrals centered around the offences and offenders that otherwise would have been the typical AD referrals while crown referrals modestly went beyond the conventional AD referrals and thus illustrated the expansion of eligibility and the acceptance of same by the referral agents. The checklist analyses underline what one would have expected in a pilot project – still largely conventional AD offences such

as theft under, mischief and simple assault being referred – but some broadening of eligibility, especially reflected in the crown referrals.

## **FINDINGS: GENERAL PROCESS AND OUTCOME ISSUES**

The findings with respect to the specific IARJPP process imperatives and expected outcomes will be discussed, albeit briefly, in the section below on Meeting Objectives and Process Imperatives, but here some general issues will be noted. The project was implemented adequately by special orientation and update meetings with stakeholders in each area followed by meetings with the local police services, and regular, frequent contact between the program managers and the service deliverers (the POs and agency directors); the stakeholder sessions had a wider reach of CJS role players and agency staff but clearly the major players were the POs, the agency directors, the police and the crown prosecutors. There was minimal communication of the IARJPP with civic officials, local service providers or the public at large.

While it would be a stretch to claim that everything went smoothly in preparing for IARJ to begin, the different CJS role players did apparently come together and collaborate as is evident by the number of referrals generated, the extent to which they followed the protocols for referrals, and the collaboration between the POs and the agencies in handling the referrals. Police and POs readily agreed to the ICJS Sydney agency's board's wish to have either one or the other always in attendance when an RJ session was held, and while such attendance was less common in Truro RJ sessions (and the RJ board did not make it a requisite for the sessions) police and POs there attended more so than in the RJ sessions for young offenders. The issues that arose were sometimes related to gaps in communicating with specific police units (for example the RCMP OIC at Indian Brook reported that, as late as November 2011, he thought no one could be referred to the program if they had had criminal conviction), sometimes because of ambiguity in the

flow of updates in case processing (e.g., does the crown contact the agency or the PO who manages the flow of referrals when seeking updates on the referral?), and sometimes related to issues that transcended the IARJ (e.g. controversy over referrals being rejected by the PO ‘gatekeeper’ because the offence could be linked to an earlier intimate partner violent offence).

The problems with the checklists as discussed above – the fact that checklists were only received when there was a referral and that the checklists were seriously incomplete on valuable, administrative information – did represent a significant process shortfall. The shortfalls meant that no assessment could be made on questions of equity (who was referred and who was not) and that stereotypes in the AD literature could not be probed (e.g., netwidening, high proportions of mentally challenged offenders). There was no apparent reason why the checklists were submitted with so much missing information though an argument could be made, and was, that providing checklists when a person is not referred may be problematic for several reasons (e.g., the effort required, privacy issues).

The strategy of allowing pre-and post-charge referral streams was successful in that there was no apparent conflict among the referral sources and, as predicted, the new eligibility criteria were most manifested in the crown referrals (e.g., there were proportionately more referrals by crowns than by police of accused persons with prior convictions). Overall, the IARJ referrals were modestly different from the previous AD referrals in the two areas, clearly reflecting an incremental accommodation to the less restrictive eligibility criteria occasioned by the IARJ. The RJ agencies reported that their facilitators experienced no difficulty facilitating the adult sessions and that the rate of non-completed referrals was not noticeably different from that of the youth referrals.

The time spent per IARJ AD case matched well with that in previous ADs as did the time allotted to the adult RJ cases compared to RJ youth cases. A random selection of 39 closed adult cases and 39 closed youth cases handled by the Truro RJ agency

found that that the adult cases had been open in total for 114 months and 559 days while for the 39 youth cases the comparable totals were 116 months and 536 days; in other words there was no significant difference in processing time. Both the JHS Truro and ICJS Sydney RJ agency directors reported that the only change they noticed was that adult offenders were slightly slower in setting up a time for coming to the office for a pre-session meeting, something they attributed to a variety of factors (e.g., little parental pressure, work responsibilities, substance abuse and so on). From a cost perspective it would appear that the IARJPP has been efficient. Police officers and some POs mentioned that having more cases go to alternative justice saved on police costs related to court time and PSR time for POs. In this connection too it can be noted that youth referrals for the agencies dropped off in 2011-2012 but with the increment of adult referrals (74 for Truro RJ and 68 for Sydney RJ) their caseload were the highest in years and the only direct resource enhancement provided by the NSRJ was a part-time position for a few months in ICJS Sydney where the person assisted in case management but facilitation remained the exclusive responsibility of full-time staff. More resources were required and provided too in the case of MLSN where, as one MLSN staff person noted, “the youth cases are holding up and the adult referrals piling up”. With Aboriginal offenders, the PO role in referrals was less ‘gatekeeper’ and more ‘shipper’, as all IARJPP referrals were sent by the designated POs to MLSN.

IARJ, referrals received by the PO ‘gatekeepers’, were routinely sent on to the RJ agencies when there was a person victim, as per the project protocol. A handful of cases, according to the agencies, were received (and welcomed) where there was no person victim (e.g., property damage). The POs typically kept cases involving corporate victims of shoplifting (ADs in both areas had much experience with such cases and the CBRM office in the past had a special program for this offence). As per protocol, all referrals involving Aboriginal accused persons were passed on to the Mi’kmaq MLSN agency. Victim presence was of course uncommon but did occur in some AD sessions (several AD sessions attended by this evaluator included a corporate representative). Victim presence in the RJ sessions was disappointingly low (the actual direct victim attended in about 15% of the sessions according to agency reports) but much effort was expended on communicating with the victim and the presence of other persons at the sessions could be deemed to

have a modest compensation effect; on average the RJ sessions had an attendance of four persons additional to the two agency facilitators.

As noted, safety issues, chiefly but not only for the facilitators, had been raised with the introduction of the IARJ. There were no problems encountered apparently even when neither a police officer nor probation officer attended the RJ session. The sessions were held in a secure environment, during the day (as nowadays are virtually all AD sessions in Nova Scotia), and the offences were minor. The attendance of the police officer was often crucial however more for the information and gravitas that he / she brought to the session. The agency facilitators reported that they appreciated working with adults and found that they understood the RJ approach better than youth and very much appreciated this alternative to court processing. The facilitators had not received any special orientation or training for dealing with adults as opposed to youth but as one agency director commented, “staff skills have been satisfactorily transferred to the adult level”.

Among the many hoped for outcomes that were achieved and will be discussed below in some depth were

- high levels of offender satisfaction and commitment to the session agreement in both the AD and RJ cases
- Interest and engagement of RJ agency and PO staff were realized
- High levels of satisfaction among victims, police officers and probation officers who attended the RJ sessions
- Satisfaction and confidence among the RJ session facilitators
- No special resource costs per adult referral as compared with referrals involving young offenders and possible reduced costs for policing and probation

- Almost doubling the number of referrals compared with the previous AD program at the two sites
- Evidence that loosening the eligibility restrictions of the former AD system has enabled the IARJ to penetrate modestly deeper into the CJS.

## **Summary**

This section has focused on findings regarding general issues of process and outcome. Tracking the implementation, it was found that the planning for the initiative involved establishing an administrative data system (i.e., based on checklists) and drew heavily on the extant NSRJ youth programming for protocols. This activity was followed by significant orientation and program updates with stakeholders and especially, and continuously, with the principal service providers, namely the POs and the RJ agency directors. The initiative evolved as planned, achieving the significant collaboration of referral agents and service providers. The large number of referrals received from police and crown prosecutors at both sites was indicative of that collaboration as was the non-controversial distribution of referrals among the AD and RJ service providers. There were some communication gaps, some ambiguities in the protocols to resolve, and some “transcendent” issues such as the maintenance and interpretation of the moratorium on intimate partner violence, but these were relatively minor issues for the processes and outcomes framework of the IARJPP. More serious was the shortfall that developed with respect to a key administrative data tool, namely the checklist that were to be completed whether or not there was a referral for all Level 1 or 2 offending incidents; unfortunately checklists were only sent in when a referral was made and the checklists received had much missing data. The checklist shortfalls did limit some of the expected probes of the project’s outcomes. The IARJPP implementation did produce, with its broadened eligibility for alternative justice options, a significant increase in referrals and a modest increase in more Level two offences and more offenders with previous convictions. There was then a deeper penetration of alternative justice into the CJS. The RJ agencies reported no difficulty dealing with adult offenders but securing victim involvement in the sessions, as expected, was a challenge. Offenders, whether at the AD or RJ sessions,



reported a high level of gratitude for the option and much satisfaction with its processes and sanctions (agreement terms). Victims, police officers and probation officers who attended the RJ sessions expressed much satisfaction and confidence in the processes and outcomes and considered the alternative justice option very appropriate for the modest offending being dealt with. More resources than initially budgeted for, were required to respond to the increased caseload for both the ICJS and MLSN agencies; essentially both received short-term funding for additional staff.

## **PARTICIPANTS' PERSPECTIVES**

### **ANALYSES OF THE EXIT DATA**

All IARJ session participants, save the facilitator (s), were asked to complete a one page exit form at the end of their session, whether with the probation officer or with the RJ agency staff. Three exit forms are appended, one that was used with RJ sessions, a slightly modified form was also generated for the customary law circles done by the Mi'kmaq MLSN agency and a third used in the more conventional AD session held by the probation officer. The average RJ session included between three and four participants in addition to the two facilitators. A victim was present at roughly 20% of the sessions for which exit forms were obtained. The AD session facilitated by the probation officer usually involved only the accused person though in Truro, in a few cases of shoplifting, there were multiple offenders as well as a security representative from the store. The participants were asked to check off their agreement or disagreement (disagree strongly, disagree, unsure, agree and agree strongly) with each of eight or six statements, depending upon whether the session was conventional RJ or conventional AD. In addition, the participants were asked to comment, if they wished, on their experience of the alternative justice processing, to sign the exit sheet and to provide contact coordinates if they

were willing to be interviewed by phone at a later date by the project evaluator. The exit forms were placed in a special envelope on which some descriptive information about the session was subsequently recorded by the session facilitator (e.g., the date, the type of offence, the number of participants at the session and whether a victim was present). The envelopes were either mailed to the NSRJ program's office or picked up at the site by the evaluator. Four hundred and twenty exit forms were obtained and form the basis for the analyses here.

The following are the chief points about this sample of 420:

- 314 exit forms were completed by persons participating in RJ sessions while 106 were from offenders who attended AD sessions.
- 310 or 74% of the participants agreed to consider a future telephone interview and the large majority provided a telephone number and preferred time to be called.
- 60 or 20% of the 310 signers were subsequently interviewed (see the next section of this report)
- 96 or 23% of the 420 participants wrote short comments in the designated space on the exit form.
- By role, the participants, exclusive of the facilitators, were 210 offenders, 35 offender supporters, 19 victims, 10 victim supporters, 58 police officers (29 police exit forms in each of the two sites), 31 Probation officers (11 probation officer exit forms from the Truro-Shubenacadie area and 20 from the CBRM area) , and 54 community representatives, volunteers and others. As noted, there were repeaters in the last three categories. No more than 20 police officers accounted for their 58 total exit forms while only 8 probation officers accounted for the 31 noted there; there were repeat participants also among the community representatives and volunteers.

- 161 or 38% of the exit forms came via the JHS Truro RJ agency, 144 (34%) from ICJS Cape Breton RJ, 9 (2%) from the Mi'kmaq MLSN, 40 (10%) from Truro Community Corrections and 66 (16%) from Cape Breton Community Corrections.

The participants, as noted, were asked to indicate their level of disagreement or agreement with several statements. The number of statements and the specific language varied to accommodate the type of session, whether RJ, AD or Mi'kmaq (see appended exit forms). In Table 1 below the “asterisked” questions were asked (in modestly different language) of all participants, whereas the entire eight were asked only of those attending an RJ session. The responses were grouped into two indexes where the higher the index score, the more positive the assessment of the session’s process and immediate outcome. Neither index included the non-asterisked statements and the second index also excluded Statement # 7 since it was considered that it would apply less appropriately to the participants who were police officers or probation officers.

**Table 1**

1. I had a good idea what the RJ session would be like before I came *
2. For me this RJ session was disappointing
3. I was able to take an active part and have my say in the session *
4. I am satisfied with what the agreement requires the offender to do *
5. I was treated fairly in this RJ session *
6. This kind of RJ program helps the offender more than the victim
7. After hearing people talk, I see this crime/offence differently now *
8. I would recommend restorative justice to deal with offences like this one *

The results showed that there were no significant differences in index scores by gender, level of the offence, or whether a victim was present or not at the session. But the chief focus of the analyses was on describing possibly significant variation in the

index scores by the role of the participants and whether or not the session they attended was the RJ or AD type. Table 2 below presents the index scores by participant role and indeed there are interesting differences. The scores are presented by the % having low positive scores and the % having high positive scores while middling scores are not shown – such a focus is warranted by the presumption that in such a situation (i.e., responding to an assessment form as part of the session wrap-up) middle range scores would be the common ‘bias’ for all roles. The range of scores in Index A are from 8 to 30 (the maximum possible) and from 7 to 25 (the maximum possible) in Index B.

Table 2 indicates that there were no significant differences among the four roles with respect to the proportion having low Index A or Index B positive scores. However, differences were evident in the proportions having high positive scores. In the case of Index A, offenders had almost three times as many high positive scores as did victims (33% to 12%); surprisingly, Table 2 shows that among the four groupings, the largest proportion of high scores came from the police exit forms (41%); the exit forms completed by probation officers yielded fewer high scores though still double the proportion found among the victims (23% to 12%). Not shown in the table was the proportion of high scores (43%) among Other Participants (designated community representatives or volunteers) who often were closely associated with the RJ agencies. Index B, which focused more on process than outcome, did not differentiate as much among the different role players as there was more positive assessment across the board; however, even here there were more high positive assessments among the police exit forms (62%) than from any other grouping. It can be noted too that the index scores of offenders and offenders’ supporter were quite similar as were the scores for victims and victim supporters.

Table 3 compares the levels of positive assessment of the RJ or AD sessions by the participating offenders. The differences are significant. In Index A the offenders attending RJ sessions were significantly less likely to have low positive scores (15% to 39%) though there was less difference in the %s having high positive assessment scores 36% to 30%). In the case of Index B, the differences

were significant at both ends of the continuum. RJ offenders were less likely to have low positive scores (6% to 21%) and more likely to have high positive scores (59% to 37%). Given these differences between offenders by session type, it is evident that the differences between offenders and victims in RJ sessions only, would be sharper and in favor of offenders rendering more positive assessments than discussed above for Table 1.

Table 4 focuses on three questions taken separately, two of which were not included in either Index A or Index B. All the respondents here were from RJ sessions. Virtually all participants, whatever their role, indicated that they disagreed with the statement “For Me This Session was Disappointing”. Offenders were however much more likely to agree with the statement “After hearing people talk, I see this crime / offence differently now” than were the other participants; 35% of the offenders strongly agreed, while among victims, police and probation officers, only 13% to 14% strongly agreed. There was little difference in the assessments of offenders, victims and police officers with the statement “This kind of RJ program helps the offender more than the victim” though probation officers were by far the most likely to disagree with that statement. The data indicate then that the different role players were alike in thinking that the RJ experience was positive and that it would be beneficial to both offender and victim. The fact that offenders were most likely to report having a different view on the offence because of the session could also be taken as a positive sign since such an outcome is an objective of having RJ sessions.

The comments written on the exit forms were also quite positive, both for AD and RJ sessions. The most common type of note written by offenders – quite congruent with the observations of the RJ and AD facilitators reported on in a subsequent section - was an expression of gratitude for not having had to go to court and not getting a criminal record. One female offender, accused of theft, wrote of her CBRM AD experience: “This program is an excellent way for people who make mistakes to have a chance to fix them and also reflect on the seriousness of the crime and how it follows you for life. Also, the people were friendly and kind and did not

judge me on what I've done but got to know me for who I really am, an intelligent young human, and all humanity is capable of mistakes. For that I am grateful to be enrolled in this program". A Truro area female arrested for theft wrote of her AD experience: "I think this is a great program for anyone who truly wants to make restitution for any petty crime they make have committed" while a male from the same area, also arrested for theft, noted "It worked well for me and helped me understand myself through the situation".

Offenders processed through the RJ path expressed similar views. A Truro area female accused of break and enter wrote "I am so thankful for this opportunity to participate in this program." While a Truro male arrested for theft stated that he had learned a lesson, "I'm happy with the outcome and the consequences will make me think twice." An offender supporter in the case of a female arrested for mischief wrote: "I believed from day 1 that the crime was unacceptable and preventable. I am glad that for someone that normally wouldn't act like this, that they got a chance to make things right." Victims who penned a note stressed the advantage of giving their views and finding some closure. For example, one Truro female, victim of theft, wrote of her RJ experience, "I think this is a great program and brought closure to me as the victim, unlike a past experience that went through the court system." While another victim in a similar incident in Sydney wrote "Yes, it gave me the time to express my concerns".

As noted in the exit statistics, the participating police and probation officers were quite positive. A basic view of police attendees was that the session attended was managed very well by the RJ facilitators; for example, in a CBRM RJ session involving an assault causing bodily harm, where there were nine participants apart from the facilitators, the officer wrote succinctly "excellent session, respectful in all respects". A Truro police officer wrote of his experience at a session dealing with assault where there were four others plus two facilitators, "First RJ meeting. I was very impressed". A CBRPS officer in a session involving assault with the same number of participants wrote "very professional. I thoroughly enjoyed the session. A benefit to all involved". Probation officers also often pointed to the effectiveness of the RJ sessions they participated in; one senior PO wrote "another example of how RJ works

for all involved”, while another PO from the area noted that the RJ session he attended (i.e., a fraud case) was “very beneficial for all involved”.

In the case of MLSN, the IARJ program received only 9 exit forms and, accordingly, not much can be analyzed in terms of patterns in the responses. Six of the nine were offenders (all but one male) and two were elders; there were no victims. All the respondents expressed quite positive assessments of the circle sessions and indicated that they would recommend this approach for similar offending by others.

## **Summary**

- Four hundred and twenty exit forms were obtained and formed the basis for the analyses here. 314 exit forms were completed by persons participating in RJ sessions while 106 were from offenders who attended AD sessions. 96 or 23% of the 420 participants wrote short comments in the designated space on the exit form. Apart from the facilitators, the participants included offenders, offenders’ supporters, victims and victim supporters, police and probation officers, community representatives and volunteers.
- Two indexes were constructed from participants’ response to the exit form’s statements measuring the positive assessments of their AD or RJ experience.
- The results showed that there were no significant differences in index scores by gender, level of the offence, or whether a victim was present or not at the session.
- In the case of Index A, offenders had almost three times as many high positive scores as did victims (33% to 12%). Among the four groupings analysed, the largest proportion of high scores came from the police exit forms (41%) while the lowest

proportion of high scores came from the victims. The exit forms completed by probation officers yielded fewer high scores than the police responses though still double the proportion found among the victims (23% to 12%).

- Index B scores were generally higher than those of Index A apparently because the former dealt more exclusively with process issues (e.g., fairness). Index B scores did not differentiate as much among the different role players as there was more positive assessment across the board; however, even here there were more highly positive assessments among the police exit forms (62%) than in any other grouping.
- A comparison of offenders' scores by program (i.e., whether they were processed in AD or RJ) showed that, for both indexes, the RJ offenders had a significantly greater percentage of high positive score than did their AD counterparts.
- The analyses of responses to statements excluded from the indexes revealed that the different role players attending RJ sessions were alike in thinking that the RJ experience was positive and that it would be beneficial to both offender and victim. The fact that offenders were most likely to report having a different view on the crime / offence because of the session, could also be taken as a positive sign since such an outcome is an objective of having RJ sessions.
- The comments written on the exit forms by the participants were quite positive and quite varied. Offenders most often expressed gratitude at having the alternative justice option and avoiding a criminal record. Victims emphasized having an opportunity to "give my side" and obtaining some closure on the incident. Police and probation officers emphasized how effective the management of the RJ session was and considered that it was effective for all parties, not just the offenders.

In sum, then, the exit data indicate that IARJ program has been well-received by the participants of all roles. Both the AD and RJ programs were positively assessed. The offenders in the RJ stream were especially positive but, somewhat surprisingly, so were the assessments of police officers and probation officers who attended the RJ sessions.



**Table 2**  
**Positive Assessment of the Alternative Justice Experience by Role and Index**

	<b>Offenders*</b> <b>(N=245)</b>	<b>Victims*</b> <b>(N=29)</b>	<b>Police Officers**</b> <b>(N=58)</b>	<b>Probation Officers**</b> <b>(N=31)</b>
<b>Index A***</b>				
<b>Low Scores</b>	<b>26%</b>	<b>28%</b>	<b>33%</b>	<b>35%</b>
<b>High Scores</b>	<b>33%</b>	<b>12%</b>	<b>41%</b>	<b>23%</b>
<b>Index B****</b>				
<b>Low Scores</b>	<b>12%</b>	<b>14%</b>	<b>9%</b>	<b>6%</b>
<b>High Scores</b>	<b>49%</b>	<b>45%</b>	<b>62%</b>	<b>39%</b>

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- Here offenders and offenders' supporters are grouped together as are victims (19) and victim supporters (10).
  - Since some officers attended multiple sessions, these cases are best interpreted as independent sessions but not distinct officers.
  - For Index A low scores were 24 and under while high scores were between 28 and 30 inclusive.
  - For Index B the low scores were 19 and under while the high scores were between 23 and 25 inclusive.

**Table 3**

**Offenders' Positive Assessment of the Alternative Justice Experience by Type of Program**

	<b>Offenders RJ (N= 104)</b>	<b>Offenders AD (N= 106)</b>
<b>Index A</b>		
<b>Low Scores</b>	<b>15%</b>	<b>39%</b>
<b>High Scores</b>	<b>36%</b>	<b>30%</b>
<b>Index B</b>		
<b>Low Scores</b>	<b>6%</b>	<b>21%</b>
<b>High Scores</b>	<b>59%</b>	<b>37%</b>

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**Table 4**  
**Specific Item Comparison by Participant Role**

	<b>Offenders* (N=139)</b>	<b>Victims* (N=29)</b>	<b>Police Officers** (N=58)</b>	<b>Probation Officers** (N=31)</b>
<b>Disappointed With Session</b>				
% Disagree	93%	93%	98%	97%
<b>See Crime Differently Now</b>				
% strongly Agree	35%	14%	14%	13%
<b>It Helps Off More than Vic</b>				
% Disagree	43%	52%	52%	81%

- Here offenders in RJ sessions (104) and offender supporters (35) are grouped together as are victims (19) and victim supporters (10).
- Since some officers attended multiple sessions, these cases are best interpreted as independent sessions but not distinct officers.

## **ANALYSES OF THE TELEPHONE INTERVIEWS**

The evaluation target was to obtain at least fifty, more comprehensive, telephone interviews of the participants – offenders and victims – in the alternative justice sessions. That target was reached and 59 usable questionnaires were completed. While 310 participants in either AD or RJ sessions (apart from the facilitators) signed the exit forms indicating that they were willing to be interviewed and providing some contact coordinates (i.e., phone number, best times to call), it proved difficult to actually secure the interviews because of telephone changes, unavailability and so forth. Of the 137 persons reached by telephone, the response rate was 42%. There were not many refusals per se; the veteran interviewer who did all the interviewing reported of the many challenges in securing interviews with offenders who agreed to participate; “22% of numbers given were disconnected or no longer in service, and 27% of respondents indicated they were not interested in participating either by verbally saying so, or in other cases by asking the interviewer to call back repeatedly with the promise of completing survey at a “better time,” which inevitably never happened”. The interviewer also noted that the majority of respondents interviewed, both offenders and victims, were happy to participate. “They were friendly and cooperative, and welcomed the opportunity to share their experiences. Most offender respondents were open in talking about the offence, and how they came to be in the program in the first place, making some interviews last as long as 25 minutes. A smaller proportion of offender respondents was short with their responses, and would not offer additional context even when prodded. An even smaller proportion of offenders seemed developmentally delayed, in that they did not understand the questions being posed of them, did not know what conference/session was being asked about, or could not directly answer the questions. The victims who agreed to participate were also open in sharing their thoughts and opinions about the experience and Restorative Justice in general. Many victim interviews lasted longer than 25 minutes and respondents were compassionate and happy to have played a role in the process. Many of the police and probation officers who attended sessions were interviewed in person by the evaluator and their views will be discussed in the section, “Stakeholders’ Views”.

The chief features of the phone interviews were

- Males, who accounted for 55% of the exit forms, accounted for 59% of these interviews.
- 25 or 43% of the respondents were offenders attending RJ sessions while 19 or 33% were offenders in AD sessions and the remaining 14 or 24% were victims attending RJ sessions.
- 52% of the respondents were located in the Truro-Shubenacadie area and 48% in CBRM. None of the few MLSN clients signing the exit forms were available for interviews.
- The top 4 offences leading to the sessions were ‘theft under’ (48%), ‘common assault’ (12%), mischief (12%) and ‘drug possession’ (9%).

The offender and victim questionnaires used in the interviewing (see appendices) shared most questions but of course some questions had to be slightly re-worded for the specific role and a small number was specific to each role. The questions covered five phases, namely ‘pre-session activity’, ‘the session’, ‘the agreement’, ‘reintegration and closure’, and ‘overall assessment’. Rather than include responses to all 35 questions, only those reflecting the basic patterns in each phase will be reported here. Participants were asked to respond to fairly general questions and their answers were subsequently coded into response categories; in other words, the percentages cited below refer to the participants’ spontaneous responses to open-ended questions thereby highlighting what is presumably “on the top of their mind”, rather than a comprehensive response to specified response options. It is difficult to know whether the participants not reached for the interview would be more negative or more positive about their experience at AD or RJ so no speculation is offered on that matter here. Table 1 below provides a description of the pattern of responses by role and program type (AD or RJ) for each phase.

## **Pre-session**

About two-thirds of the respondents, whether AD offenders, RJ offenders or RJ victims, reported having no knowledge of AD or RJ prior to this occasion. Three offenders noted that they had gone through the program before, and two others indicated they had friends who recommended the program to them. The victims who indicated experience with the program largely were representing corporations or businesses, and had participated in such sessions in the past. The vast majority of offenders (i.e., between 84% and 92%) considered that their participation was voluntary. Victims' participation of course was voluntary but a third reported that they were persuaded by RJ staff who appealed to their interests as well as to their sense of civic duty. The majority of offenders reported that they consulted with no one before deciding to participate in the session but surprisingly a third said that they did consult with a lawyer. The offenders in the RJ program were more likely than their AD counterparts to report some consultation whether with a lawyer or a friend / family member (56% to 37%).

Offenders in the AD and RJ sessions essentially gave the same responses when asked why they participated, namely 44%-47% to avoid court and / or a criminal record, 26%-28% because they liked the idea, and 5% - 8% because they wanted to have their say. A number of offenders indicated that they participated because "it was an easier way to deal with incident" while a few other offenders stated that they wanted to get help for themselves. Victims gave different responses. No victim indicated that avoiding court was a consideration but a plurality (36%) reported that they participated because they wanted to have their say in the matter, drawing attention to the impact of the offence on them and suggesting possible reparation. One male victim, a representative in a case involving public vandalism, noted that he dealt with the issue often and so he viewed the conference as a way to finally confront some vandals and have them be held accountable for their actions, but not with jail time as a punishment. The idea of contributing to holding the offender accountable without the prospect of jail was common among victims, especially those acknowledging that the

offence was a minor one. For example, a female victim of a theft in Truro stated, “We need to give people options so I will always attend such a conference (the RJ session) when asked”.

Similar answers were given when respondents were asked about their hopes for the session. Offenders highlighted avoiding court and a criminal record (42% of AD group vs 28% of the RJ offenders) but also talked about “being able to put the incident behind me” (21% and 16%). Few offenders mentioned something along the lines of “want to give my say”. What was surprisingly frequent among offenders was what might be seen as a cry for help. A female from Truro arrested for theft stated, according to the summary of the interviewer, “she hoped that she would be able to get answers to questions about herself and why she did what she did”; another AD offender arrested for theft in CBRM indicated that she hoped she would be able to talk with somebody and get help since she did not understand why she was behaving criminally. Along similar lines, a male RJ offender arrested for theft stated, “My hope was to be able to grow from the experience and I wanted to feel bad about it emotionally”. Among the victims, “putting the incident behind me” (37%) and “give my say” (21%) were cited but no one mentioned avoiding court as a primary factor in their own participation. Several victims did report that they were seeking restitution and / or “genuine remorse” from the offender. Roughly 40% of the RJ victims reported that they knew their offender at least to some extent and perhaps that explains why a few in this small sample also indicated that they wanted to help the offender change his or her ways without the punishment of the courts.

## **Session**

As shown in the table below, most offenders and victims, and their supporters among the attendees, considered that the session was well-conducted, the process fair and understandable, and that they were treated with respect. When offenders were asked what was for them the most important feature of the session, the two most frequently cited responses were “showing remorse” and talking to and explaining their situation to others; the former was slightly more frequently given by the AD offenders (32% to 24%) and the latter more by the RJ offenders (36% to 26%). A majority in all three categories of respondents indicated that there were no surprises

encountered at the session but those reporting surprises considered that the surprise was positive; this was especially true for the AD respondents (42%), usually citing the positive interaction they had with the probation officer, whereas in the case of RJ offenders and victims (36% and 29%) the reference was usually made to the friendly, open interaction with other participants at the session. For example, one female offender indicated that her biggest surprise was that the session made her feel like a “worthy person” whereas she was used to being “bottom of the barrel” but there she felt that she was first priority. A victim of a Truro area break and enter reported that she was seeking genuine remorse from the offender but was nevertheless surprised that the session was so emotional for her and for the offender.

In all three groupings, as shown in the table below, the large majority of respondents held that yes the session did serve to make the offender appreciate the harm caused by his or her offence. 79% of the AD offenders held that view as did 100% of the RJ offenders and 92% of the victims and victim supporters. Smaller percentages held that view strongly (i.e., said “yes, much” rather than “yes, some”). There was a particularly sharp difference in that regard between offenders and victims in RJ sessions; while the offenders held the strong view (88%), the victims did so much less (38%), indicating some reservations on the effectiveness of the session in achieving that objective. In terms of what they considered the most positive aspects of the session, the two major themes were the fairness of the agreement and being able to express their views. AD offenders emphasized more the fair agreement (42% compared to 16% of the RJ offenders and 21% of the victims) while the RJ offenders and victims were more likely to highlight being able to express their views (32% and 36% compared to 21% among the AD offenders). As the table shows, the large majority of respondents in all three categories reported that as far as they were concerned there was nothing negative about the session.



## **The Agreement**

The table also describes the very high level of satisfaction among respondents in all three groupings with respect to the agreement reached at the session, AD or RJ. Virtually all respondents reported themselves satisfied with the agreement at the end of the session, and most held that position very strongly. They generally continued to hold that positive assessment of the agreement even months after the session; there was a modest drop-off in enthusiasm for the agreement but the majority clearly continued, very strongly, to believe that the agreement was satisfactory. Some victims indicated that they had not yet received the required restitution or an apology from the offender but victims in general were apparently happy that a positive but not punitive agreement was attained. AD respondents were more likely than RJ respondents to consider that there were some tough conditions they had to meet in the agreement (roughly a third compared to 0% among the RJ respondents); the issue raised here by the AD respondents was the required restitution, both the amount and the time frame for payment. All the victims reported that there were no conditions they wanted that were not part of the agreement. Finally, virtually everyone in all three groupings considered that they had had enough say in the determination of the agreement reached and the vast majority held that view very strongly.

## **Reintegration and Closure**

Respondents in all three groupings reported that yes, as a result of the AD or RJ experience, they were able to put the offence behind them. The percentage articulating that position ranged from 84% to 92%; smaller majorities claimed to hold such a view “yes, much”, and again there was little difference in the percentages by grouping. Several offenders arrested for shoplifting reported that they could not put the incident behind them and were hesitant about going into the mall because of shame or embarrassment. Another female offender noted that because she learned such an important life lesson, she would never put it behind her, but use it to become a better person in life. A majority in each role category also indicated that the session and the agreement helped to make up for the

offence; here victims were the least likely to make such a claim (71% to 90%-92% for the offenders); the majority – a significantly smaller majority – held this position strongly.

Offenders in the AD or RJ pool usually reported that their lives had not changed for the worse since their alternative justice session while a small majority – especially among the RJ offenders – claimed that their lives had improved and that the alternative justice experience had contributed to that positive change (72% of the RJ offenders compared to 58% of the AD offenders). Among the explanations offered for this positive impact was (a) being able to secure employment in part because they did not have a criminal conviction on the books and, more generally, (b) “getting my life back on track” as a result of the conference. Victims often reported (67%) that because of the RJ experience they were now able to cope better with the harm caused by the offence; still, only 33% held that view “very much”. One victim was especially disgruntled and indicated that he felt that the offender got off “scot-free” and was skeptical that he would not receive the agreed upon restitution. Still, 93% of the victims believed that they had received a “sincere apology” from the offender and 71% strongly made that point. Roughly half the victims and victim supporters reported that they were at least somewhat confident that the offender would be less likely to re-offend because of the RJ experience.

## **Overall Assessment**

The participants were asked what they thought were the best and worse things about the offence being dealt with via an alternative justice process. As shown in the table below, regarding “best things”, offenders pointed to avoiding the court and a criminal record while victims emphasized the direct exchange among the parties involved in the offence. 40% of the RJ offenders advanced the former position compared to 15% of the victims, whereas the percentages were basically reversed for “direct exchange” (46% of the victims and 12% of the offenders). One victim summed up another common ‘best’ factor cited by victims and victim

supporters, namely “the offender cannot just walk away but must face the victim”; in a related vein a victim supporter in an assault case stated that because the matter was processed via RJ rather than via the courts, “there was more opportunity for interaction”. Victims frequently mentioned as a best thing about going through RJ, that the offender “got a second chance” or “was not negatively affected”. Another common “best factor” cited by victims (and some offenders) was that the RJ option was better for the court system itself since petty offences would not therefore “bottle-neck” the courts. A number of offenders considered that court processing would be more time consuming and expensive (i.e., may require the hiring of a lawyer), and several offenders considered that the privacy of the alternative justice session (whether AD or RJ) was better than having the offence dealt with in open court. A few offenders observed that the offender would not have known how the victim was impacted without the session and thus less likely to feel bad and guilty. The different role players interviewed were in consensus that there was no “worst thing” about the offence being referred to alternative justice (roughly 90% in each grouping).

Not surprisingly, the table shows that few offenders or victims or their supporters believed that the case should have gone to court; indeed 92% of the victims did not think so. The respondents also were in agreement that similar types of offences in similar circumstances to their case (e.g., minor crimes by first time offenders) should similarly be dealt with through alternative justice programs and that they would recommend such programs to their friends in such circumstances; victims were only slightly less likely than offenders to advance that position (85% to 95%). At the same time, all groupings of respondents harbored reservations about using either AD or RJ in response to more serious kinds of offences. Victims were somewhat more adamant in their opposition but the consensus view was a combination of “no” and “yes only in special circumstances”; a large number of respondents, for example, explicitly stated that AD and RJ should be used for first time offenders of minor crimes and, beyond that, decisions to divert should be based on a case by case basis. Overall, then, the respondents depicted the AD or RJ experience in quite positive terms. A majority (62%) of the victims and victim supporters indicated that they have a more positive view of the justice system as a result of their

involvement in this RJ experience while just 8% reported a more negative view. Few respondents offered suggestion for changing anything about the AD or RJ process. Victims offered the most suggestions for change (39%), noting things like better follow-up and having more people attend the sessions

## Summary

The patterns found in the interviews are consistent with the findings of the exit questionnaires and indicate that the IARJ project has achieved its objectives very well. The reasons for participation varied by offender or victim status but were in keeping with targeted thinking. The AD and RJ processes were very positively assessed by both offenders and victims. The agreements were considered fair, reflective of the input of both ‘sides’, and committed to by the offenders. All parties considered – usually quite strongly – that the session and agreement made up for the harm done. Offenders frequently reported positive change in their lives which they attributed to the alternative justice experience and victims usually stated that they had achieved significant closure. The respondents generally identified ‘best things’ about having such matters dealt with in an extra-judicial fashion and virtually none thought, in retrospect, that the incident should have gone through the courts. Both offenders and victims clearly defined the offences as minor and indicated strong reservations about extending this approach to more serious offences or offenders. Victims indicated that the experience left them with a more positive appreciation of the justice system in Nova Scotia. A summary by phase follows:

- 59 interviews with offenders and victims generated the data for this analysis; 19 were offenders involved in AD sessions, 26 were offenders processed in RJ and 14 were victims. The interviews were well-divided between Truro-Shubenacadie and CBRM (i.e., 52% to 48%).
- **Pre-Session:** two thirds of the respondents had no previous experience with or knowledge of either AD or RJ; RJ offenders were more likely than their AD counterparts (56% to 37%) to have consulted with lawyers or friends and

family members prior to their involvement in the program. Offenders indicated that they participated to avoid court and a criminal record and because they liked the idea for reasons such as privacy, cost considerations and perhaps their obtaining help in changing their behaviour. Victims reported that they participated for quite different reasons, especially because they wanted to have their say in the matter, drawing attention to the impact of the offence on them and suggesting possible reparation; some victims also emphasized that they liked the idea of the RJ approach, providing accountability without the heavy hand of the court and possible jail time. The hopes upon attending the AD or RJ session were congruent with the reasons for participating. Offenders hoped to avoid court and a record, to provide an account of the incident, and get help and understanding in turning their lives around. Victims indicated that their hopes were especially putting the incident behind them and getting closure; some emphasized, too, reparation and genuine remorse on the offenders' part.

- **The Session:** As found in the exit questionnaires, offenders and victims, and their supporters among the attendees, usually considered that the session was well-conducted, the process fair and understandable, and that they were treated with respect. When offenders were asked what was for them the most important feature of the session, the two most frequently cited responses were “showing remorse” and talking to and explaining their situation to others; the former was slightly more frequently given by the AD offenders (32% to 24%) and the latter more by the RJ offenders (36% to 26%). A majority in all three categories of respondents indicated that there were no surprises encountered at the session but those reporting surprises considered that the surprise was positive; AD respondents pointed to the friendly sympathetic probation officer while, in RJ sessions, victims and offenders frequently noted how positive and emotional the interaction was. The large majority of respondents held that the session did serve to make the offender appreciate the harm caused by his or her offence; RJ victims were however substantially less likely than RJ offenders to strongly

hold to that view (38% to 88%). The respondents advanced as most positive aspects of the session the fairness of the agreement and being able to express their views. AD offenders emphasized more the fair agreement while the RJ offenders and victims were more likely to highlight being able to express their views.

- **The Agreement:** Virtually all respondents reported themselves satisfied with the agreement at the end of the session, and most held that position very strongly. They generally continued to hold that positive assessment of the agreement even months after the session. AD respondents were more likely than RJ respondents to consider that there were some tough conditions they had to meet in the agreement. All the victims reported that there were no conditions they wanted that were not part of the agreement. Virtually everyone in all three groupings considered that they had had enough say in the determination of the agreement reached and the vast majority held that view very strongly.
- **Reintegration and Closure:** Respondents in all three groupings reported that, as a result of the AD or RJ experience, they were able to put the offence behind them. The percentage articulating that position ranged from 84% to 92%; smaller majorities claimed to hold such a view strongly (i.e., “yes, much”). The same pattern was found in the view about repairing the harm, namely a large majority in all groupings held that the session and the agreement helped to make up for the offence with modestly lower percentages among victims. A small majority of offenders – especially among the RJ offenders – claimed that their lives had improved and that the alternative justice experience had contributed to that positive change. 93% of the victims believed that they had received a “sincere apology” from the offender and 71% strongly made that point.
- **Overall Assessment:** Reflections of offenders and victims about the best things that resulted by going through AD or RJ rather than the courts yielded factors virtually identical with their initial hopes. Offenders pointed to avoiding the court and a criminal record while victims emphasized the direct exchange among the parties involved in the offence but

in addition the respondents exhibited some nuance, identifying additional advantages for their role and others' role as well as for the efficiency of court processing, and the importance of second chances and guidance. Virtually no one believed, in retrospect, that their incident should have been processed in court. They also believed that while incidents at this minor criminal level are appropriately handled through extra-judicial sanctions, the approach would be quite problematic for more serious offences and offenders. Leaving the last word to the victims, it can be noted that the majority indicated that the experience had left them with a more positive view of the justice system.

**Table 1**

**Offenders and Victims Assessment of their RJ / AD Experience**

	<b>AD Offenders (N=19)</b>	<b>RJ Offenders (N=25)</b>	<b>RJ Victims (N=14)</b>
<b>Pre-Session Activity</b>			
Knowledge of RJ/AD? No	68%	64%	64%
Why Participate?			
Avoid Court	47%	44%	0%
Liked the Idea	26%	28%	14%
Wanted my Say	5%	8%	36%
Voluntary? Yes	84%	92%	Not asked
Hopes on Attending?			
Avoid Court	42%	24%	0%
Put It Behind Me	21%	16%	37%
Give my Side	6%	8%	21%
<b>The Session</b>			
Most Impt About Session?			
Able to Show Remorse	32%	24%	Not asked
Talk and Explain	26%	36%	Not asked
Surprises at Session?			
No Surprises	53%	60%	50%
So Positive	42%	36%	29%



Fair to all Parties? Yes*	95%	100%	100%
More App of Harm? Yes	79% (44%)*	100% (88%)*	92% (38%)*
Most +ve Aspect Experienced?			
The Agreement	42%	16%	21%
Expressed My Views	21%	32%	36%
Most –ve Experience –None	84%	84%	79%

**The Agreement**

Satisfied with It at Time? - Yes	95% (89%)*	96% (96%)*	100% (86%)*
Still Satisfied with It? – Yes	94% (74%)*	100% (88%)*	92% (77%)*
Any Tough Conditions? – No	63%	100%	Not Asked
Any Condition You Wanted			
Not Included? No	Not Asked	Not Asked	100%
Had Enough Say in It? – Yes	95% (68%)*	96% (80%)*	100% (71%)*

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\* **Bracketed %s refer to % saying “yes, much”.**

\*\* **Other questions about the process received similar highly positive assessments and are not reproduced here.**

**Table 1 Continued**

**Offenders and Victims Assessment of their RJ / AD Experience**

	<b>AD Offenders (N=19)</b>	<b>RJ Offenders (N=25)</b>	<b>RJ Victims (N=14)</b>
<b>Reintegration / Closure</b>			
Been Able to Put it Behind? Yes	90% (58%)*	84% (68%)*	92% (58%)*
Helped Make Up for Offence? Yes	90% (68%)*	92% (56%)*	71% (50%)*
Life Changed for Worse? No	95%	88%	Not Asked
Life Changed for Better? Yes	58%	72%	Not Asked
Able to Cope Better with Offence? Yes	Not Asked	Not Asked	67% (33%)*
<b>Overall Assessment</b>			
Best Thing Avoiding Court?			
Parties' Direct Exchange?	Not App	12%	46%
Avoid Court? Yes	26%	40%	15%
Had My Say? Yes		8%	15%
Worst Thing re Avoiding Crt?			
Nothing	90%	92%	85%
Should it Have Gone to Crt?			
No	84%	84%	92%
Recommend for Such Offences?			
Yes	95% (79%)*	96% (84%)*	85% (62)*

Rec for More Serious Ones?			
No	58%	32%	62%
Yes in Special Cases Only	21%	54%	31%
Rec to Friend in Same Situation?			
Yes	100 (95%)*	96% (84%)*	92% (77%)*

Special Victim Questions

Offender Less likely to Re-offend? Yes		62% (46%)*
Received a Sincere Apology? Yes		93% (71%)*
Views on Justice System Changed?		
More Positive Now? Yes		62%
More Negative Now? Yes		8%

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\* Bracketed % refers to the % responding “yes, much”

## **STAKEHOLDERS' PERSPECTIVES: CJS AND AGENCY**

A small number of CJS stakeholders – crown prosecutors, police officers, probation officers, and defence counsel (NSLA) - were directly involved in the IARJPP at the two sites so their views will be presented in an overview fashion. Essentially, there was much consensus on the following central points pertinent to the IARJPP:

- There will be reluctance to refer adults beyond the minor level of criminal offences
- There is not enough denunciation in the restorative justice intervention
- Restorative justice delivers more community involvement, victim contact and engagement, and is cost effective
- The current pilot project's delivery system with all referrals channeled through the PO and the PO passing on referrals where there is a person victim, is the way to go in alternative justice adult programming
- More information to and engagement with community leaders and the public at large is needed so that there can be understanding and support for the IARJ initiative

Crown prosecutors and police officers typically considered that they have solid collaborative relationships and were on the same page with respect to what offenders / offences should be referred to alternative justice options. It was usually held that crown prosecutors will refer occasionally when police have proceeded with a charge for three reasons, namely (a) police want to secure an undertaking as a court order; (b) the offenders may change his / her attitude and be willing to take responsibility when the matter is proceeding to court and / or on the advice of defence counsel; and (c) for a variety of other reasons (sensitivity to victims, perceived need to “send a message” to offenders and others etc) the police would prefer that the referral come from the prosecutor. According to most interviewees, the post-charge referral is not interpreted by either police or crown, as generating hard feelings between police and

crown but that did not mean that senior officers are disinterested in examining crown referrals to explore, as one said, “what we may have missed”.

The CJS role players were strongly of the view that the IARJPP delivery model, as described above, was the way alternative justice should be implemented for adults. One crown prosecutor commented that it affirms the accountability of the justice system (CJS) in the eyes of the public and is an excellent way to convey the valuable collaboration between the State (i.e., the PO as gatekeeper) and the Community (the restorative justice community-based non-profit societies). At the same time, the model in their view enhances the conventional AD option by greater engagement of victims and the local community through RJ. No other model, among the several discussed with crowns, police and defence counsel, received that level of enthusiastic support. Of course, support for the IARJ model presumes that in the cases handled by the RJ agencies there would be significant victim engagement and community outreach, perhaps even a brokerage function with local services. A defence counsel, in supporting the dual paths of the IARJ approach, noted that for some offenders in her experience there would possibly be mental health issues if they have to face others so the delivery system should be flexible in its protocols.

The respondents were gratified to learn that the RJ sessions were working well with respect to offender satisfaction and compliance and usually involved four participants additional to the RJ facilitators. But they were somewhat disappointed that the level of direct victim involvement was so low. Most respondents, based on their own experience in the CJS, were well aware of the problem of engaging victims, and noted that at least the latter are presented with the option of participating. Also, they advanced suggestions for encouraging greater victim presence, such as the RJ agency distributing pamphlets targeted at the different types of offences, and for more community and local service engagement. There was but modest support for a generalized community

representative / victim surrogate model since such a role they deemed, would not capture the emotional dimension of the true victimization in the case.

There was much consensus that it would be unlikely that the same percentage of Level 1 and Level 2 offences (especially the latter) would be referred through ARJ as has been the case with youth. It was claimed that multiple repeat offenders would be a rarity among the adult referrals for a number of reasons such as the lack of a presumptive supportive legal base (i.e., there is no adult equivalent to the YCJA and subsequent related court decisions downplaying the salience of the young offenders' history of offending save in serious offences placing the public at risk), the attitudes of the public, and their own attitudes and world view. Most CJS respondents reiterated the significance of program managers (i.e., the NSRJ) and deliverers effectively communicating the objectives and benefits (including its cost effectiveness with respect to police and court load) to the public and not leaving the police and crowns in a vacuum. A senior police officer in the Truro area offered that “we have different expectations for adults so there will be a learning curve” and it was common to hear officers suggest that referrals to IARJ should be a one off save in special circumstances. This general view was also expressed by most POs interviewed; while not inclined to support an expansive eligibility, the POs suggested that more referrals will come from police and crowns as they become more comfortable with the IARJPP.

The CJS respondents believed that the IARJPP was going well and had praise for the sessions personally attended (only police and POs attended, never crowns or defence counsel) but raised some issues regarding the various kinks in the process and how the protocols were interpreted. Crowns and defence counsel particularly criticized the way the moratorium for intimate partner violence and sexual assaults was interpreted and were eager to see its removal; police officers and POs were wary of eliminating the moratorium. Other concerns included the view by police and crowns that in some cases (e.g., assaulting police officers) the RJ intervention did not convey sufficient denunciation or ask “the tough questions” of the offenders in the sessions. .

While the probation officers generally shared the five consensus views noted above, POs in the field, engaged in the AD program prior to the IARJPP, virtually all expressed some consternation that, in their view, there had been no prior consultation and no demonstrated need for change. They typically considered that the low-end, minor offences dealt with in AD usually did not require much elaborate attention, pointing here to high levels of offender compliance and low recidivism; in these regards they considered that the AD program was efficient and cost-effective. Also, they were confident and proud about what they “brought to the table” in terms of years of experience dealing with adult offenders and with offences covering a wide-range of criminality, as well as their formal training and credentials as probation officers. Under these circumstances, there was a tendency to be quizzical about the motives behind the initiative, and, in the current economic environment in debt-ridden Nova Scotia, to wonder whether PO jobs were at stake.

Nevertheless, several POs noted the need to develop a more robust AD program (though like other CJS role players they did not envisage an expansive eligibility) and almost all reported that they could see some merit in the IARJ as an enhancement of the conventional AD program. Generally, the POs held that in the AD program, as compared with RJ in their understanding, there was more denunciation of wrongdoing and direct counseling provided but perhaps in RJ programming there would be more victim engagement, more community contacts, and more involvement with local services. Indeed, in the POs’ views, if RJ was going to make a significant impact on offenders, it would be crucial to ensure a strong victim presence.

The field POs collaborated well with the RJ agencies, split the referrals received following the protocols, and there was a high level of PO attendance at RJ sessions in the Sydney and Shubenacadie areas. As noted above, POs evaluated the RJ sessions quite positively in their exit forms. There was some ambivalence about the best mode of service delivery for future IARJ programming. Overall, though, the POs were positive about the current IARJ approach, pointing to the solid partnership established with the agencies

and the way their services complemented one another (i.e., the RJ agencies receiving the referral where there was an identifiable person victim). Some POs advanced the need to adjust IARJ protocols to have a more nuanced or selective approach to referring cases to the RJ agencies but that was typically checked by an acknowledgement that considerable effort had to be expended on communicating with victims and the impact on the POs' caseload and the entailed costs could be prohibitive. The main underlying emphasis was that POs should be involved in alternative justice programming and not be restricted to an enforcement / monitoring role in dealing with offenders. That view appeared to be shared by top Community Correction management, namely keep the IARJ the way it is, value the partnership, and proceed incrementally.

Among the RJ agencies, there was a very positive reception to the IARJ pilot project. They appreciated the significance of the RJ expansion for achieving a more complete realization of the RJ approach in the CJS and also for stabilizing their workloads. Any concerns that staffs might have had about dealing with adults were soon vanquished. Despite no extra formal training being provided, the facilitators experienced no significant challenge. The directors at both Truro and Sydney reported that the adult clients were usually young adults, close to the age of most of the young offenders the agency had been dealing with for a decade or more. Moreover, more adults seemed quite eager to participate and express their appreciation, explicitly citing the benefits for themselves, such as avoiding a record or the employment implications of having a record or having the boss know about the incident (the privacy factor was often raised) and exhibiting high levels of compliance. Case processing times for adult referrals proved to be essentially similar to those for their youth clients.

The unexpectedly high number of referrals channeled to them via the area PO designated "gatekeeper or triage" did require more short-term and limited resources for the ICJS Sydney and MLSN agencies and clearly, if the program continues to grow as referral agents become more comfortable with it, then resources will be an issue. The agencies considered that their relationship with



the POs was positive and reflective of mutual respect. And, at least in the short-run if not longer, they supported the service delivery model of the IARJ with POs responsible for receiving and distributing referrals and handling the conventional AD cases, while they were sent the files involving a person victim.

## **Summary**

There was significant consensus among the CJS role players with respect to five themes salient to the IARJ initiative, namely

- There will be reluctance to refer adults beyond the minor level of criminal offences
- There is not enough denunciation in the restorative justice intervention
- Restorative justice delivers more community involvement, victim contact and engagement, and is cost effective
- The current pilot project's delivery system with all referrals channeled through the PO and the PO passing on referrals where there is a person victim, is the way to go in alternative justice adult programming
- More information to and engagement with community leaders and the public at large is needed so that there can be understanding and support for the IARJ initiative

There was significant variation among CJS role players with respect to a number of other IARJ features such as maintaining the moratorium on offences related to intimate partner violence and sexual assault. The service deliverers also were positive about the IARJ program. The POs engaged in the program had concerns about how the IARJ was initiated but considered that it had been

implemented well and saw advantage in the IARJPP being continued. The RJ agencies welcomed the project both for theoretical and practical reasons (expand RJ, increase received referrals). They reported that the implementation went well, that working with adult offenders was quite satisfying, and that the IARJ with its protocols and division of responsibilities among the POs and themselves should continue on.

### **Meeting the Process / Implementation Imperatives and Accomplishing the Objectives**

Table 2, the IARJ Process Matrix, laid out the chief process / implementation imperatives associated with the project's logic model. Here there is a short specification of the extent to which they were met as the project unfolded. There were essentially five imperatives, namely

- Was the target population reached? Presuming that the target population was inclusive by age, gender, socio-economic status, race/ethnicity, type of minor criminal code offence, and within limits, offenders' criminal record, assessing this process imperative required gathering data on offender and offence characteristics. Reaching out to and including victims if possible was another process imperative. The checklists were the main source of data for assessing whether most targets were reached since virtually all the required information was to be listed there. It was found that the number of IARJ referrals was greater at each site than the AD referrals of previous years and, overall, that the IARJ total almost doubled that of AD at the combined sites in the immediate preceding years. It has been noted too that, in relation to recorded criminal activity, there was an appropriately proportionate distribution of offenders by age, gender, and likely race-ethnicity (despite the missing values on that variable). There was modest evidence that the reach of the

IARJ program extended to more Level 2 offences increase (e.g., a significant increase in referrals involving simple possession of drugs was cited by the CBRM probation officer) and that a sizeable proportion of the referrals involved offenders with prior convictions within the past two years. Victims were only present at roughly 15% of the RJ sessions despite significant contact by the RJ agencies, a somewhat disappointing percentage but not entirely unexpected. Information on education and employment was mostly missing on the checklist so no assessment can reasonably be offered with respect to questions of the socio-economic status of the referred and non-referred offenders.

- Were the extra-judicial measures appropriate? In this new initiative, the protocol calls for certain referrals to be kept by the probation officer and others (essentially cases involving a person victim but also possibly the small independent owner or franchise proprietor ) to be passed on to the RJ agencies so this was the major process / implementation imperative. Other aspects of this theme include the eligibility of the offence and offender and the appropriateness of the extra-judicial sanctions. It was noted that the split in referrals went virtually always as formally specified in the protocols; the RJ agencies received the files involving identifiable person victims and the MLSN by protocol received all the Aboriginal referrals sent to the probation officer 'gatekeeper'. The widened eligibility criteria were acted upon but, at the same time, all offences referred were minor and Level 1 or Level 2; moreover, no cases apparently transgressed the moratorium on offences related to intimate partner violence or sexual assault. The extra-judicial sanctions remained within the general scope of usual RJ and AD agreements though apparently in the case of RJ, there were more restitution commitments required of the offender than usual. The service providers facilitating in either RJ or AD sessions were very experienced and well aware of what would constitute an egregious sanction. Exit form responses and telephone interviews with offenders and victims, indicated that they attested to the appropriateness of the AD and RJ agreements.

- Was there effective mobilization of the CJS role players? This imperative highlights the communication of the project's protocols and objectives and effective response to snags and process issues as they arose, the co-operation of the CJS role players in completing the required forms, the number and type of referrals at the pre-charge (police) and post-charge (crown prosecutor) levels, the collaboration among probation officers and RJ agencies, and the collaboration and compliance with agreements on the part of the offenders. The pilot project was indeed managed well. There were adequate orientation sessions as specified above, quick response to implementation issues (e.g., the responsibilities and flow of information concerning project updates and status reports for individual files) and while not all stakeholders may have bought into the IARJ approach to adult offending, there was strong consensus that the model of service delivery was very appropriate (i.e., referrals to the PO gatekeeper thence certain files by protocol to the RJ agencies). Several stakeholders apparently desired more periodic updates but this was a minor issue. A more significant, problematic and continuing issue in CJS collaboration was their providing the requisite checklist information to the IARJPP (see below). Nevertheless, the collaboration was evident in the increase in referrals from police and crowns, the modest stretch in offence type processed via IARJ, and the good working relations between the designated POs and the RJ agencies. There was a high level of participation by police and probation officers in the RJ sessions, especially of course in ICJS Sydney where such attendance was mandated. The degree of compliance on the part of offenders was consistent with the levels established in AD and youth RJ in recent years.
- Were adequate standards and measures put in place to achieve the outcomes anticipated and to record the level of success and achievement? This directs attention to the protocols and the administrative data systems. The protocols were effective in generating confidence among the CJS role players in the initiative in that the delivery model, in their view, appropriately linked up state and community responsibility. The administrative data system depended on the required checklist data in readily determining how referrals and non-referrals may have differed but there were

shortfalls here since forms were not received when referrals were not made and the checklists accompanying referrals frequently featured much missing data. Exit forms for participants at AD and RJ sessions were built into the evaluation framework, were well distributed and provided not only a snapshot of how the various participants considered their experience but also allowed for more intensive telephone interviews several months later. There was some concern about possible security issues in the RJ sessions occasioned by bringing offenders and victims together outside the courtroom so measures were taken such as having the sessions during daytime hours, in a secure place, facilitated by veteran staff members, and encouraging police participation. These responses were effective.

- Was there adequate and sufficient training and orientation available to the staff and facilitators as well as the other participants in the RJ sessions for carrying out the new adult program? Were POs delivering the AD service provided more training? Was there adequate information available to victims, local service providers and the public at large? There was some limited confusion among police and crowns as to IARJ eligibility criteria that got clarified only months after the project was launched. There was no additional training provided to the RJ facilitators whose experience had been entirely with young offenders but the facilitators were purposely experienced and reported no problems. Similarly, the POs delivering their sessions had been doing so competently for years. It could be argued that perhaps some training and strategizing over how to engage victims in cases of assault by adults might well have been helpful either in securing their presence at the RJ sessions or the RJ agencies' better understanding how to compensate for their absence. Similarly, it might have been valuable to work with the POs to explore how the restorative approach under the new IARJ thrust, might enhance the conventional AD session. Another consideration, frequently raised by stakeholders was the absence of publicizing the new IARJ initiative and conveying its potential benefits to a public wary about the appropriateness and impact of alternative justice processing for adults. Local civic leaders and publics can be crucial pressure groups for or against the evolution of such programming.

## Meeting the Project Objectives

The objectives of the IARJPP project have been designated as (a) reducing court load; (b) improved victim satisfaction; (c) impacting positively on offenders; (d) less recidivism; (e) enhanced community capacity; and (f) determining whether the RJ model requires significant change when it extends to adults. Considering each in turn,

- **REDUCING COURT LOAD:** the fact that the referrals to IARJ almost doubled the number of AD referrals of recent past years at the two sites would presumably indicate some reduction in the court load and some saving on court processing. This position was readily accepted by police officers interviewed about the implication for the police budgets. Crown prosecutors observed frequently that fewer minor cases does not impact significantly on their workload.
- **IMPROVED VICTIM SATISFACTION:** the evidence is that victims participating in the RJ sessions expressed much satisfaction in the RJ process and reported that they had had their say and had obtained some closure. Clearly, by hiving off cases where there was a person victim and sending that file to RJ where more attention to and communication with victims is built into the approach and format and where victims have the option of facing the offender, there were basic gains for victim satisfaction. While some victims were skeptical about any change in the offender's subsequent behaviour and the likelihood of their satisfying the full RJ agreement, virtually all of the victims considered that it was appropriate and beneficial for all parties that the matter went to alternative justice than be processed through the courts. Clearly though, the low level of victim presence at the RJ sessions is a significant challenge for the program.
- **IMPACTING POSITIVELY ON THE OFFENDERS:** This of course is a more difficult objective to assess since the RJ and AD experiences are modest investment responding to minor offences and the data available even with the more elaborate telephone interviews are quite limited. However the data available do indicate positive impact. Offenders were more likely than other RJ session participants to agree strongly that they see crime differently now that they have gone through the RJ

session. Whether in AD or RJ, the offenders reported that they were grateful for the alternative processing and welcomed the opportunity to change their life style. The facilitators frequently reported that they thought the impact on the offender was positive as did other participants in the RJ sessions.

- **LESS RECIDIVISM:** It is almost impossible to assess the realization of this objective given the limited time frame of the evaluation. Certainly when the offenders were asked if they had committed another offence since the AD or RJ session, only one person answered in the affirmative. Most other participants in the session reported that they believed non-recidivism was a distinct possibility with the offender.
- **COMMUNITY CAPACITY AND CONFIDENCE IN THE JUSTICE SYSTEM:** A number of CJS role players suggested that a major plus for the IARJ in their view has been its bringing together in overt collaboration the state (exemplified in the PO gatekeeper role plus provision of AD) and the community (the non-profit RJ agencies). As such this would by itself be a gain for community capacity since AD by all accounts had a very limited contact with the community. At the same time there was a widespread call for Corrections and especially the NSRJ to do more in publicly advocating the IARJ approach for its own sake and also to make it easier for police and prosecutors to refer cases, confident of support from civic leaders and the public at large. Community capacity is difficult to assess on the basis of this IARJ pilot since there was no evidence that local community services were much engaged, certainly they were not significant in presence at the session and not prominent in the terms of the agreements. The interventions, whether AD or RJ. are short and modest and the crimes are minor so expectations should be aligned with these realities. But they can and do make a difference as, for example, was exemplified in the experiences of victims and their expression of more positive views of justice system as a result of that experience.
- **RESOURCES AND OTHER CHANGES REQUIRED IN ADULT IARJ PROGRAMMING:** The vast majority of session participants of all stripes (offenders, victims, police and probation officers and others) contended that no change in the RJ programming was needed so long as the offenders and types of offences were as found in the sessions they attended. The RJ

agencies reported that the move to adult offences did not require additional costs **apart from direct caseload implications**, so additional resources, such as proportionate costs for travel and other budget items, would apply basically only to any net caseload increment taking into account the offset of new or increased adult referrals by diminishing youth referrals. In the current IARJPP initiative, supplemental funding was provided to two RJ agencies (ICJS and MLSN) since they did experience significant increase in caseload. The analysed administrative data show that adult cases, at the level of crime and offenders targeted, required no more time to process than did youth RJ referrals, no special security adjustments, and no other special investments in resources. Other dimensions of this objective relating to the success of the RJ approach in dealing with adults are more difficult to determine as noted above with respect to recidivism, but it appears valid to state that so long as the type of offenders and offences dealt with are as were found in this pilot project, the IARJ approach will be effective. How far it can succeed with deeper penetration into the CJS and more serious adult cases remains to be seen.

## **FUTURE DIRECTIONS**

The IARJ initiative has been successful in terms of realizing its implementation imperatives and achieving its chief objectives. The service delivery model has worked well, followed protocols, and been well-received by the stakeholders; there is strong consensus that it should be maintained at least for the near future. Both the designated probation officers and the RJ agencies' staff occasionally voiced possible alternatives but each had, in the views of this evaluator, some "fatal flaws" whether it be cost implications were POs to take on an increased workload and introduce a more fully restorative approach into the AD practice or, on the other hand, possibly questionable public legitimacy were the RJ agencies at this point in time to be solely responsible for adult alternative justice



processing. The IARJ service delivery, as one crown prosecutor put it, represents an excellent and publicly acceptable collaboration between the state and the community.

Two areas where there could be, and should be, profitable investment of resources to enhance the IARJ model would be in reaching out much better and more comprehensively to the community (civic officials and the public at large) informing them as to the possible benefits and the limited reach, at least at this point, of the IARJ approach to adult offending. Police and crown prosecutors frequently mentioned the current shortfall in that regard and clearly it does not only impact on the referral process but would have negative implications for the further penetration of the adult RJ approach in the CJS. It has to be appreciated that there is no equivalent to the strong legal support (e.g., the YCJA, SCC –generated policy) for youth RJ, and acknowledged that the public culture is, not inappropriately, very wary – as well as uninformed - about adult alternative justice. Another area concerns victim involvement and satisfaction. The IARJPP has clearly been positive on both these victim issues even while the actual presence of victims at RJ sessions may have been disappointingly infrequent. Many suggestions were advanced by CJS officials concerned about increasing victim presence; these reasonable suggestions include the just mentioned greater public exposure to alternative justice, specific strategies and information packages related to the type of offence, being distributed to victims, and more consideration of compensation strategies as emphasized in the RJ literature (see for example, Bolitho, 2012 for more references), since, at the end of the day, how victims become engaged is certainly up to the victims themselves.

There was little new training provided to either the RJ agencies as they moved onto adult cases or to the PO gatekeepers and AD providers as they became more embedded in the RJ approach. Certainly the evidence is that they coped well with the new challenges. It would be useful however to draw on the experience of this pilot project to consider what value could be achieved were those issues now discussed more thoroughly and in collaboration by the POs and the RJ people. It is recommended that such an exercise occur.

Assuming that the NSRJ foray into adult restorative justice continues – something strongly supported by this assessment – there needs to be more attention given to checklist shortcomings and to data management. If checklists are not going to be obtained for non-referrals, alternative strategies should be explored since it is crucial to monitor such alternative justice processing, less open to the public’s eyes, in order to have public confidence in the equity of the initiative as well as for other basic administrative reasons. In the case of checklist data for referrals, it is clear that there has been much incompleteness but the fact that this basically has happened only at one of the two sites indicates that the requirement to complete the form is not unreasonable or unfeasible.

Assuming that the IARJPP goes forward, the evaluator would suggest a threefold implementation, namely (a) continue the pilot at the two sites, (b) determine the budgetary requirements – an apparently modest requirement for more resources - in immediately extending the IARJPP to other non-metropolitan areas, and (c) undertake a feasibility study of the issues and resource implications for launching the program in the metropolitan HRM area. As discussed above, the crucial budgetary issue focuses around the expected net increase in caseload and the associated proportionally increased costs for travel and other administrative functions. In determining the net increase in caseload for each RJ agency, the trends in both youth RJ referrals and AD referrals should be examined as well as demographic and other factors impacting the referral process. Here there are a few uncertainties such as “Will the move to adult RJ and its associated ‘marketing’ lead to a spurt in youth referrals? Would such possible spurts have significant more long-term impact on the number of youth referrals to RJ? The evidence on that issue does indicate that the decline in youth referrals in the remaining six RJ agencies is likely to continue; even in HRM, the growth centre of Nova Scotia, youth referrals to RJ peaked in 2007 and are now several hundred less than that peak figure.

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