

THE NOVA SCOTIA RESTORATIVE JUSTICE INITIATIVE:

CORE PROCESSES REPORT

YEAR TWO EVALUATION REPORT

THE NOVA SCOTIA RESTORATIVE JUSTICE INITIATIVE:

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2002-2003

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EXECUTIVE SUMMARY

This report begins with an overview of the Nova Scotia Restorative Justice (NSRJ) program, which focuses upon, in sequence, the project challenge and background, project outcomes / processes and indicators, the key partners and major project elements, interim process evaluations, interim outcomes evaluations, and lessons learned. The NSRJ program has basically been implemented as planned as a system-level innovation bringing the restorative justice (RJ) philosophy and practices to bear on almost all youth offences everywhere in the province. A continuing moratorium on sexual assault and spousal/partner violence and the restriction of NSRJ to young offenders limit its system-wide character at present. The NSRJ program has been thoroughly institutionalized within the Nova Scotia Department of Justice and is no longer a project, marginal to Justice planning and strategizing. In the Overview it is argued that the NSRJ has been a successful initiative in substance as well. It has made significant progress on all objectives delineated in its originating proposal. The path of change has been in the desired and anticipated direction on all relevant issues - recidivism, participant involvement and satisfaction, the utilization of the RJ session format, agency capacity, provincial coordination, and the presumption of restorative justice among police and corrections, capturing, respectively, perhaps, the diversion and healing dimensions of restorative justice. Still, the "value-added", in comparison to its alternative measures predecessor, has been modest, and unless there is much greater collaboration and use of the RJ agencies by crowns, judges, and correctional staff, it will likely remain so. Difficult challenges for the NSRJ program will come if it has to deal more with serious offenders and offences, with adults, and family violence of all sorts. Then the adequacies of the RJ strategies, the agencies' capacity, and their collaborative linkages with other community service providers will be more severely tested. There remains wide-spread scepticism among field-level criminal justice system (CJS) personnel and community leaders that the NSRJ and the non-profit RJ agencies could meet these challenges, but, at the same time, there is much support for the program as it is presently implemented.

This report, Core Process Analyses, deals with (a) the context for the NSRJ initiative and development; (b) the special features, value-added measures and central operational issues of the

RJ agencies; (c) patterns of discretionary decision-making and perspectives on RJ and referrals held by police officers and crown prosecutors, the two major referral sources; and (d) standpoints of CJS and community panel members whose assessment of RJ and the NSRJ is regularly monitored. In addition, there is a brief section on concluding observations and recommendations. The companion piece to this report, namely Core Outcomes Analyses, focuses on case processing under restorative justice and its impact on the major NSRJ objectives for offenders, victims, the community and the criminal justice system. Analyses are also provided, in order to assess these outcomes impacts more fully, on court-processed cases, and more serious offenders and offences.

In examining here the process dimension of the NSRJ initiative, initial focus has been on "placing" NSRJ and the RJ agencies with reference to restorative justice elsewhere in Canada, other related programming in Nova Scotia, the other constituents of the CJS and the earlier alternative measures service. It has been contended that NSRJ is unique in its hybrid character (e.g., significant core paid staff and large volunteer base) and in its system-wide objective. Within Nova Scotia, the linkages with other related programs - the RCMP's community justice forum (CJF), the Mi'kmaq's Young Offenders Program (MYOP), the (PPS) Public Prosecution Service's Cautioning Project, and Corrections' Adult Diversion - were examined and the overall argument made that there is a positive symbiosis operating to the benefit of all programs. The fiscal year 2001/2002, it was observed, has seen the institutionalized of NSRJ and the implications of NSRJ's having a place at the CJS table were discussed. Finally, several features of the RJ agencies were discussed, particularly those wherein the transformation from alternative measures to restorative justice was quite meaningful. The features discussed were resources (e.g., the resources implication for core staff, for volunteers and for different agencies), procedures (e.g., how the program works, responding to victims), training and the scope of RJ activity (training was considered adequate for the present and near-future scope of the RJ activity but some shortfalls were identified), networking and the active organization (i.e., the push and pull factors that have profoundly changed the organizational style of the RJ agencies), and perceptions of value-added on the part of agency personnel (e.g., confidence that the transformation has yielded value-added, assessment that RJ is efficient and efficacious, high intrinsic work satisfaction).

In terms of the three major criteria for determining the value-added, vis-a-vis alternative measures (AM), of the agencies' involvement in the NSRJ initiative, there is little doubt that progress has been achieved. According to both the restorative justice information system (RJIS) and the agencies' monthly reports, the RJ agencies received more referrals in 2001 than in 2000 and now handle more cases than in the AM era. While police referrals accounted for most of the increase, there were modest gains in securing referrals from the crown and corrections levels. The cases that the agencies dealt with in 2001 were, on average, most complex than those dealt with in 2000 and substantially more complex than those handled in the AM era. The accountability session, analogous to the AM conference, remained the most common type of session in 2001 but less so than in 2000, testimony to the increasing complexity of the agencies' intervention (i.e, involving victims and others much more in the agencies' contacts, services and conferencing). There were some interesting variations by agency in growth patterns, offences dealt with and types of sessions held.

The value-added measures were considered in the context of other important objectives such as the "turn-around time" in the agencies' processing of RJ referrals and their multi-faceted response to victims. Through discussions with agency personnel and other sources, a number of key issues were identified as especially pertinent to the success of the agencies in meeting the NSRJ objectives. In large measure the issue of resources cut across almost all the areas of concern raised. There appeared to be a strong consensus that if the resources could be there for the training and the co-learning and the proactivity, then the challenges of getting, and responding effectively to, more serious referrals could be met. There was no apparent lack of confidence in the efficacy of the restorative justice alternative but there were frequent expressions of nagging doubts as to whether the agencies for the most part were instead involved primarily in a "downsizing and off-loading" of Justice responsibilities.

Virtually all referrals to the RJ agencies, thus far, have come from the police and crown prosecutors so much attention was paid to their perspectives on RJ and the patterns of their discretion in deciding whether to send a case to RJ or to proceed through the court process. A

variety of samples were analysed. The findings from the several police samples were quite consistent. In deciding not to refer youth cases, police officers highlighted legally-relevant variables (e.g., criminal record, the seriousness of the offence) or "bad attitudes" or "not taking responsibility" on the part of the offenders. The blending of the latter two factors was evident. The wishes of the victims were also heeded, especially where the victim was seen by police as supportive and in an authority relationship with the youth. The need to bring more sanctions, than RJ presumably could, to bear on problem youth acting up was also highlighted by police as a consideration for taking the incident to court. Police tended to see letters of cautioning and RJ referrals as "a break" and limited in their interventionist efficacy.

Comparison of police and crown discretionary decision-making revealed that police officers were focused more on the context and relationships entailed by the youth's act or offence while the crown attorney focused on the offence itself. Police, with their more detailed knowledge of the youth, his or her social milieu, the criminal context, and the victims, quite reasonably considering their role in the CJS, took all these factors into account in deciding whether to lay charges or divert. The prosecutor lacked that rich detail and had inadequate informational access but, perhaps more importantly, by professional training and sense of what is legally relevant to prosecution, focused more on the fact that what was being considered were often "minor offences by young kids". Where police and prosecutor disagreed on a case - whether or not it was appropriate for RJ - police explained their decision to charge in terms of this larger contextualism. Perhaps only a counter-argument based on different or re-considered contextual factors could have changed their minds; clearly, arguments solely on the act and the value of extra-judicial measures were not effective in doing so.

The viewpoints and actual experiences of CJS panel members in 2001/2002 were marked more by continuity than by change vis-a-vis 2000/2001. At all levels though there was some detection by the panel members of modest changes, whether it be police officers' perception that more referrals involving more serious offending were being made at subsequent CJS levels, prosecutors' and judges' sense that fewer minor cases were being court-processed, defence counsel's belief that the RJ option was being acknowledged more in open court, Victim Services

staff "beginning to see some post-charge cases" or correctional officers' sense that "natural minimums" were vanishing from their caseload partly because of the RJ initiative and that collaborating with the RJ agencies was increasingly incorporated in their case management. "Other" CJS panel members, leaders in the RJ initiative, referred both to significant accomplishment and to significant challenges for the NSRJ program. There was a widespread recognition that the RJ program was now an established part of the CJS and could figure substantially in future CJS strategizing, particularly if the results demonstrated efficacy and efficiency. There was evidence of RJ becoming more a factor in the strategic planning of police, crowns, correctional staffers and Victim Services officials. And this development was expected by many panel members to be enhanced due to the imperatives of the forthcoming YCJA which emphasizes conferencing and re-integrative programming for young offenders.

Generally, CJS panel members readily identified the potential benefits of the RJ approach for all parties but especially for offenders and for the CJS as a whole. There was more ambivalence concerning the impact of RJ for victims, especially among panel members from Victim Services but also among the crowns and judges. With few exceptions, the panel members thought that the RJ programming should be extended to adults for minor non-violent crimes at least. There was much divergence of views about whether the RJ programming should extend to more serious offending than it does now and to the moratorium offences whatever their level of seriousness. Panel members from policing and Victim Services were quite wary of the lifting the moratorium and of extending the reach of RJ. Defence counsel encouraged a broader implementation of the RJ approach. Crowns, judges and correctional panel members generally supported a broader implementation of RJ but their viewpoints were quite nuanced.

The different role players raised different issues concerning the RJ initiative, ranging from police concerns about what to discuss at the sessions to "Others' panellists' concern for inspiration and "champions" from all segments of the CJS. Panel members usually emphasized the need for timely feedback on referral made and for some evidence concerning the impact of the RJ interventionism for both offenders and victims. For some role players (e.g., police, Victim Services), RJ was seen as appropriate for a limited range of offending and for most of the

remainder (e.g., crowns, judges), RJ was seen as largely falling outside their initiative. In the case of defence counsel and correctional officers, there was uncertainty about how extensive their engagement might become. The "Wall" referred to in Year One's report was still standing, its bricks clearly discernible, but there were many cracks and openings showing.

Information and knowledge was a crucial factor for RJ referring, operating in different ways at different levels of the CJS. For police, knowledge of the victims, the family background and the milieu was important to the exercise of their discretion. For crowns, their lack of such detailed background knowledge was central in their standpoint that RJ referrals should be left to the police save in special circumstances (e.g., defence counsel initiative etc). And judges, in turn, emphasized that they did not have sufficient relevant knowledge of the cases and offenders to exercise initiative without requests from either prosecution or defence. Of course, other factors were found to be important, and to interact with the knowledge factor, especially important here being the panel members' view of their role vis-a-vis other role players. Clearly, if the objective is to obtain more and higher end referrals, then a strategy has to be developed for each CJS level; for example, some guidelines for prosecutorial or judicial referrals that transcend mere designation of eligible offences.

The 2001/2002 re-interviews of community panels found considerable continuity in viewpoints and experiences with respect to NSRJ and RJ programs. There continued to be sharp differences in enthusiasm of support and anticipation of benefits between the offender-oriented service panellists and those more identified as representing victims' concerns (i.e., female-oriented victim advocates, seniors and family services representatives) and other community interests (e.g., school officials). Still, the common themes identified in 2000/2001 continued to undergird the different perspectives or standpoints. These include an emphasis on the macro social factors in the causation and prevention of youth crime, a general belief that dealing with minor youth property crime via the RJ approach is a good strategy, a caution about too quickly implementing a more elaborate RJ approach, a sense that the RJ agencies have limited capacity and that the RJ intervention itself, as presently designed, is limited in its efficacy for dealing with offenders, a contention that the NSRJ initiative has been top-down, CJS-exclusive and largely driven by downloading and costs considerations, and a scepticism about the

adequacy of the resources that government is prepared to invest in the initiative.

The offender-oriented influentials were knowledgeable about the NSRJ initiative and often quite engaged with it. They were very positive about the RJ approach and saw lots of potential benefit in it for offenders but also for victims, the community at large and the CJS. There was much consensus among the panellists with respect to both the benefits and the possible extension of the RJ approach to more serious youth offending and to adult crimes. On offences of sexual assault and family violence, the panel members' views were quite varied but all exhibited some concerns about the utilization of RJ without guidelines, more agency resources and some evidence of RJ's effectiveness. Three issues were highlighted by panel members about the impact of the NSRJ initiative, namely implementation resources, fairness (equity) concerns in terms of accessing RJ, and the need for getting the public on side.

Among the panellists chosen to represent more the interests of victims and the community at large, there was much less enthusiasm for the RJ approach but, nevertheless, a widespread sense that it could be appropriate at least for a narrow range of youth offending. Even the panellists most engaged in RJ programming, while clearly more enthused about its achievements and potential, were wary about any significant elaboration of the program. Three factors appeared to account for this viewpoint on the RJ approach, namely panellists' views of crime and justice, of the nature of the RJ intervention, and of the resources available to the RJ agencies (for training, in-depth session preparation etc). These panellists typically did not think that more serious youth offending, adult offences, and sexual assault or family violence cases, should be referred to RJ, certainly not at the pre-court level, if at all.

There was virtually no change in standpoint reported by the victim-oriented panellists nor had their involvement in actual RJ programming increased. The female-oriented victims' advocates were much more exposed over 2001/2002 to literature and debates on the RJ approach via research carried on by their provincial organizations. They had considerable knowledge about the RJ philosophy and its implementation in various contexts though not in Nova Scotia (but their research might well be filling that gap). The other panellists, with a few exceptions, had limited awareness of the RJ approach and equally limited familiarity with NSRJ and the local RJ

agencies. The victim-oriented panellists, on the whole, perceived the RJ programming as benefiting offenders and also possibly having some benefits for victims, the community and the CJS. At the same time, they thought there was much "downside" in RJ for victims and expressed scepticism that the potential benefits for the community and the CJS would be realized. The panellists raised a number of general issues, such as the importance of maintaining the moratorium against use of RJ for certain offences, the burden that downloading of what might have been probation responsibilities has produced for women and parents, the dangers of inequity in access to RJ, the need for a more holistic, inclusive approach to youth and other crime problems, and the need for public discussion fuelled by appropriate statistical and other evidence.

Business and other community leaders generally expressed views most congruent with the victim-oriented panel members. They were not well-informed about RJ, whether as a philosophy or as operationalized in Nova Scotia, and they acknowledged their marginality. They supported the RJ approach for a limited range of youth offending but were concerned about any more elaborate implementation. The main issue advanced by these panellists was the need for more information on the program and evidence concerning its impact.

The concluding observations and recommendations advance several themes, namely (a) that progress continues to be made with respect to the primary objectives of the NSRJ initiative; (b) that RJ is now established in the CJS and an increasingly relevant player in CJS strategizing; (c) that there are certain dilemmas or tough choices now facing the RJ agencies that will have to be considered carefully; (d) that there is a need for more strategic planning concerning where NSRJ and the RJ agencies are going in their continuing development of RJ in Nova Scotia's CJS, balancing NSRJ program objectives, resource requirements and the standpoints of agency personnel, CJS officials, and community leaders in related service provision and mobilization; (e) that more strategic thinking should also be directed at developing protocols and guidelines for the sessions, for feedback and experience sharing among staff/volunteers and among the agencies, for identifying more specifically expectations and operational guidelines for referrals from beyond the police level, and for responding to special referrals (e.g., flagging family violence, dealing with repeat and serious offenders). The NSRJ initiative, through the RJ

agencies, has added value to the former alternative measures programming. The contribution is continuing and much fine-tuning can be done at the current status to enhance it further (e.g., modest resources to stabilize core staff by increasing their compensation, especially fringe benefits, resolve liability concerns of local boards, centralize training oversight under NSRJ for staff and volunteers). Strategic planning, though, appears to be necessary before significant new challenges are engaged (e.g., adults, "serious" offending) or major new resources allocated. Special well-conceived pilot projects could explore new challenges while the RJ initiative remains focused on stabilizing and fine-tuning what has already been put into place.

1. THE NOVA SCOTIA RESTORATIVE INITIATIVE: OVERVIEW, YEAR TWO, 2001

INTRODUCTION

Restorative justice as a social movement within the criminal justice system has had both a long history and a checkered past (Viano, 2000). The criminal justice system in its present guise (i.e., structures and processes) has developed over the past two centuries, at least in part, in reaction to practices advocated in restorative justice (e.g., direct participation by offenders and victims, informalism or popular justice). The alternative justice movement of the 1970s, less theoretically elaborated than the current restorative justice movement and more focused on diversion and 'community' mediation, was largely discredited by academic research and criminal justice system practitioners as being ineffective, inefficient and of limited value for larger goals of justice. A major circumstance associated with this judgment was that alternative justice practices, such as diversion and community panels were of limited scope (e.g., minor offences, restricted to special population segments) and largely marginalized by system equilibrating forces within the criminal justice system.

For a number of reasons (continuing push factors associated with the costs and alleged rehabilitative ineffectiveness of the criminal justice system, and pull factors associated with the victims' movement, aboriginal justice movement and the revitalized moral entrepreneurship of progressives and/or religiously committed advocates) the restorative justice movement has become very influential over the past decade. Restorative justice philosophy and practices have explicitly assumed the mantle of alternative justice, building upon the past approaches. It remains to be seen what impact they will have on the criminal justice system. There are some reasons to think that the impact will be substantial this time. The restorative justice movement appears to be more theoretically firmed up now, more internationally-rooted, more focused on holistic, system-level change, and to have much stronger support among senior governmental officials and justice personnel. There is a widespread appreciation that "entering the mainstream" requires the recognition of restorative justice as a basic premise of how the criminal justice system is to function (Clairmont, 2000). Most restorative justice initiatives have been primarily directed at young offenders and low-end offences and, at that level, have established a solid basis for optimism among advocates (Latimer et al, 2001). Still, it is often contended that only when

restorative justice emerges as an important factor in how serious offences and adults are treated, will it trump the marginalization of the alternative justice experience and realize its promise, even in how restorative justice would apply to young offenders.

The social constructions of restorative justice (RJ) and the criminal justice system (CJS) that have accompanied RJ's recent revitalization, despite the greater grounding and realism of its advocates, remain largely edenic and binary in character. RJ is depicted in positive ideal-type terms and contrasted to the CJS which is depicted also ideal-typically but with much emphasis on its negative features. In this regard - sharply contrasting themes and images to the conventional approach - the RJ social constructionism has striking similarities to those social constructions associated with the community-based policing movement (which was presented as a radically new paradigm but subsequently became absorbed and compartmentalized in policing), and to the aboriginal justice movement (which has sharply contrasted themes and images of aboriginal and mainstream justice but which, thus far anyway, has made very modest inroads in how natives receive justice). Moreover, there is little discussion of the appropriateness of diverse RJ strategies for neither different kinds of offences and offender-victim situations nor studies of how the "black box" of the RJ intervention actually works. Another area of shortcoming is lack of discussion or analysis concerning strategies to effect a system-wide usage of RJ principles in the CJS (e.g., how to get RJ used more at CJS levels subsequent to the laying of charges).

If RJ is not to experience the same fate as alternative justice approaches did in the 1960s and 1970s, there has to be more sophisticated, empirically-based conceptualization, more strategic reflection and vigorous effort to have the RJ approach permeate all levels of the justice system. It should be recognized, too, that there are credible alternatives to RJ, certainly in dealing with young offenders that have to be taken into consideration. Intense supervision, whether of a rehabilitative, supportive or a punitive, monitoring sort, is advocated by many researchers and CJS practitioners. In these models, most young offenders - low end offenders - presumably can be dealt with through letters of caution or low investment strategies, while the intense supervision would be directed at the serious and repeat offenders. It is not clear where the RJ approach would fit in these models. It may well be that the restorative justice movement will carve out a middle ground of applicability for offenders and offences, between minimal intervention strategies for "the low end" and intensive supervision for "the high end". It may also be that restorative justice strategies or practices will become a component of a larger more thorough-going intervention. Clearly, issues of process (i.e., how RJ is implemented and meshes in with other philosophies and practices in the CJS) and outcomes (i.e., how well RJ achieves its objectives of participation and reconciliation / reintegration of all parties to an offence) are important and intertwined.

The Nova Scotia Restorative Justice (NSRJ) initiative has been directed at system-level change. It seeks to have restorative justice permeate all levels of the CJS and be applicable in one form or another to all offenders and all offences (Nova Scotia Department of Justice, 1998). Its experiences may be quite valuable in indicating how successful the current restorative justice movement may be. In this report the focus will be on assessing the NSRJ initiative from a process perspective, examining its implementation, institutionalization, servicing of "clients", reach into the CJS, and support / advocacy among CJS and community stakeholders. A companion reports focuses on the outcomes to date (i.e., Core Outcomes Report, Year Two).

EVALUATION STRATEGIES AND METHODOLOGIES

The evaluators developed a logic model-based research design for assessing the NSRJ initiatives. Objectives, indicators and standards for assessing significance were detailed in the context of the presumed underlying causal relationships. In developing this research design the two major points of reference were the NSRJ program guide published by the Nova Scotia Department of Justice and the increasingly large RJ research literature. Hypotheses were advanced concerning the RJ impact by different roles (e.g., offender, victim), the dynamics of the RJ service, the impact on the CJS, and the organizational evolution of NSRJ and the non-profit community agencies, the carriers of restorative justice programming. Comparisons were undertaken of the views and experiences of offenders and victims, and their supporters, involved in RJ, with counterparts associated with the predecessor alternative measures (AM) program and others involved in the court processing of youth cases. Specific methodologies included exit surveys with RJ and AM session participants, follow-up phone interviews with all participants willing to be interviewed, and contacting through mail and interviewing by telephone participants in court cases. Yearly interviewing of a large panel of CJS personnel and community leaders in the justice field was an important part of the evaluation. Organizational and workload changes were closely examined at both the agencies and the NSRJ programming levels. The evaluators also participated in the development of a new and comprehensive data management system for all RJ cases. Process issues were deemed to be as significant as outcomes. The evaluation was deemed to be a formative evaluation, feeding back findings and offering recommendations concerning the evolution of the NSRJ initiative to those directing the initiative.

PROJECT CHALLENGES AND BACKGROUND

After almost two years of pre-implementation preparation, the Nova Scotia Restorative

Justice Initiative (NSRJ) became operational in November 1999. Its immediate stimulus had been the moral entrepreneurial activity of a well-placed, defence lawyer advocate who mobilized senior politicians and senior officials in the criminal justice system to consider the adoption of restorative justice in Nova Scotia. Beyond longstanding, personal commitment to the restorative justice approach, his actions had been influenced by provincial public reaction (mostly critical) to the use of conditional sentencing in a few high-profile criminal cases. The social movement proved to be successful. Not only were these leaders persuaded to actively pursue the restorative justice approach but the initiative found much favour among the non-profit community agencies which had been, for years, delivering alternative measures (AM) and related programs on behalf of the Department of Justice. The seven regionally-specific agencies typically were eager to move beyond the AM template which largely restricted them to handling summary offences and provincial statute violations among first-time offenders, and which limited their contact with offenders, not to speak of victims and others.

Adopting restorative justice was seen as "adding value" to the alternative measures programming by involving and responding to offenders, victims and other community members much more, with hypothesized benefits accruing to all parties. Increasing public confidence in the criminal justice system was also highlighted as an objective. While there was no explicit emphasis on down-loading or off-loading or reducing costs vis-a-vis the conventional criminal justice system, it was expected that the workload of the latter would be reduced. From the very beginning the NSRJ project was articulated as a system-level initiative, getting the restorative justice philosophy or approach more prominently featured in Nova Scotia's criminal justice system (see Clairmont, 1999). It was not focused on a specific offence, type of offender, region, segment of the population, or restorative justice technique. Rather the challenge was to have restorative justice applicable for all offences and offenders in the province and operative at all levels of the justice system.

PROJECT OUTCOMES / IMPACTS AND INDICATORS

The NSRJ's outcomes and indicators, and their causal linkages, are detailed in the logic model provided in the project evaluation (see Clairmont, 2001). It was anticipated that there would be "value added" in terms of more satisfaction, reduced recidivism and greater pro-social behaviour on the part of the offender, more satisfaction and confidence in the justice system on the part of victims and community members, and a greater level of community involvement and sense of ownership in dealing with crime and related social problems. Presumably, these outcomes would be effected by the greater agency contact with, and involvement of, the above

parties, in conjunction with the utilization of restorative justice techniques. Such a combination would produce more transparent responsibility-taking and accountability, stronger social networks and better problem-solving (including referrals to other local agencies) than could be achieved through either alternative measures or the conventional justice system.

It was expected that the NSRJ would be implemented in phases, first for cases involving young offenders in four of the seven regions delivering AM, but, within three years, for all offences everywhere in Nova Scotia. Agencies were to receive referrals from any of the four levels of the criminal justice system - police, crown prosecutors, judges, and correctional officials. Offences were differentiated partly by the level of the justice system at which they could be referred (e.g., sexual assault and spousal/partner violence could only be referred at the post-conviction, judge level) and it was anticipated that different restorative justice techniques might be utilized for different types of referrals (e.g., shoplifting might be handled usually through group accountability sessions, victim-offender conferences for break and enter).

From the very beginning it was understood that for the NSRJ to be successful, as articulated, there would have to be much collaboration among the official role players at all levels in the criminal justice system; otherwise, the agencies delivering the restorative justice programming would get few and/or limited types of referrals and hardly move beyond the AM template. It was also clear that the hopefully more demanding caseload meant that there would have to be significant governmental investment in making resources (e.g., personnel, equipment), training and co-ordination available to the newly-designated RJ agencies which depended significantly on volunteers to deliver the services, just as they had in their AM period. A third vital requisite for the NSRJ was the development of an appropriate data management system to track referrals and non-referrals, offender and victim characteristics and involvement, agency activity, referral processing and outcomes, and to provide the basis for agency reports and other documents and comparisons.

KEY PARTNERS AND MAJOR PROJECT ELEMENTS

The three key partners in the NSRJ initiative have been the federal and provincial governments and the non-profit (i.e., NGO) restorative justice agencies (formerly the AM agencies). For three years of its existence, the NSRJ budget was cost-shared between the National Crime Prevention Centre, Department of Justice and Nova Scotia Department of Justice. This funding arrangement included pre-implementation preparation and the implementation period up to April 2001. Since the latter date the NSRJ project has been funded entirely by the province, though funding through the federal Department of Justice's Youth

Justice Strategy has been an important supplementary source. The local NGO agencies, the service providers, have contributed their organizations which included staff, many volunteers and a community-based board of directors. The NSRJ initiative has been directed by a full-time co-ordinator operating under the direction of a broadly-based CJS steering committee. In addition, in the pre-implementation stage, working groups were constituted for each of the four levels of the justice system and it was their task to develop protocols for the project (e.g., types of offences to be dealt with, referral processes, forms) and to vet these suggestions through the steering committee and the local agencies. The local RJ agencies were also required to establish local working groups, drawn from justice system officials, stakeholder interests and other community agencies, to advise on possible protocols and advance the NSRJ project in their region. The local agencies were provided with funds to enable them to second their executive directors to the task of pre-implementation planning. Other resources later were made available to the agencies for additional staff, training and publicity. Co-ordination of the entire project and training/orientation to police, crowns, judges and corrections officials at the field-level, were provided through the office of the restorative justice co-ordinator.

There were several key elements of the NSRJ apart from its organizational structure and the considerable investment in pre-implementation planning, training, and agencies' capacity. As part of the NSRJ initiative, police were empowered to issue formal letters of caution to young offenders and their parents/guardians for certain offences, essentially the type of offences that had been characteristically referred to the AM agencies in the past. This strategy could facilitate the value-added objective of NSRJ in that it might encourage police to refer more serious offences and repeat offenders to the now RJ agencies. It could also possibly reduce the likelihood of the classic problem of "net-widening" frequently associated with alternative justice practices. The caution policy could conceivably "net-widen" if it changed the practice of giving informal verbal warnings for which no record is kept, into a formal caution which might be recorded (while police services usually file such information, cautions have usually not been registered on CPIC). Another important element of the NSRJ program was the presumption of restorative justice at the police level. For the vast majority (over 96%) of offences police dealt with, they were required to fill out, and send to the Department of Justice, a special checklist on the incident, and where they were neither issuing a caution nor referring the case to the RJ agencies, they were required to provide a written reason on the checklist form for not doing so. Within the past year, this presumption of restorative justice has become the usual practice also at the corrections level, for all new probation files being opened.

A crucial element of the NSRJ project was that all referrals to the RJ agencies had to

come from one of the four levels of the justice system, and the offender, but not the victim, exercised, de facto, a veto. Protocol required, too, that the offender had to take responsibility if his/her case was to be cautioned or referred. In other words, there was to be no random assignment of cases to the restorative justice and court streams; rather, there was to be both self-selection, and discretion exercised by the referring agents. Of course, cases not referred at one level could possibly be referred at another, subsequent level of the justice system. The most significant element of the NSRJ initiative was that it was pitched at the justice system as a whole and was articulated as a philosophy applicable, in different ways perhaps, at all times (see Archibald, 2001).

INTERIM PROCESS EVALUATION

The NSRJ project has been implemented largely, though not entirely, as planned. The extensive preparation paid off. There have been delays but no major snafus and, for young offenders, the NSRJ initiative has passed through its targeted phases and is now province-wide. The agencies' capacity appears more than adequate to deal effectively with the amount and type of referrals they have received to date, though there are some latent resources issues that will be discussed below. The activities of the four first-phase RJ agencies, the number and types of offences they have handled over time from each level of the CJS, and the relative frequency of the types of RJ sessions utilized by them, are described in detail below. After significant delay, the restorative justice information system is now operational and it provides a wealth of data and efficient recording of case information on all aspects of the NSRJ program. The implementation process has come up short on two fronts. Within a few months of being launched in November 1999, under pressure from women-based victim advocacy groups, the Nova Scotia Department of Justice withdrew the option of sexual assault and spousal/partner violence being referred at any level (post-plea, post-conviction etc) to the RJ agencies. This moratorium remains in effect. Also, the extension of NSRJ to adult offenders and cases appears to have been put on hold. Consequently, NSRJ is not as system-wide as anticipated, in so far as it does not apply to adults nor to certain youth offences (the ineligible offences constitute, annually, roughly 2% of all youth court cases).

The implementation of NSRJ has also been perhaps slower than desired with respect to securing the collaboration of (and referrals from) crown prosecutors, judges and corrections officials. Recent resumption of the NSRJ steering committee and local working groups, largely dormant after the NSRJ became operational, has targeted this issue. There have also been some problems in obtaining police collaboration in completing the required checklists (especially

where they are proceeding to lay charges) and in moving beyond the AM template in the types of cases they will refer to the RJ agencies. This police reluctance exacerbates the referral shortfall at the subsequent levels of the justice system and limits the RJ agencies' exposure to more serious offenders and offences. For the RJ agencies, the process of evolving from the AM session format (an accountability session where, usually, the only roles represented are offender, offender supporter and facilitator) to the more demanding and presuming more impacting RJ format (see McCold, 2001), where there is also a victim and community presence, has been slow and challenging. Still, the RJ format is being increasingly implemented and the agencies are all committed to that end.

INTERIM OUTCOMES EVALUATION

Perhaps the most important outcome of the NSRJ initiative to date is that it has become institutionalized in Nova Scotia and is now a provincial program under Court Services Division, Department of Justice, not a project temporarily housed in Research Policy and Planning. It has thus been a successful collaborative endeavour by the federal and provincial governments and the NGO partnership noted above. Evaluation results (Clairmont, 2001; Year Two, 2001 Core Process, 2002) indicate that the RJ agencies are handling more cases, spending more time and providing more services to offenders and victims, and have greater victim participation than they had in their AM era. Not surprisingly (see Latimer, 2001), exit surveys and follow-up interviews with RJ session participants indicate a high level of satisfaction with the process and outcomes of the RJ intervention, a level much greater than victims and offenders in the court sample comparison, though not appreciably different from participants in the AM comparison (participants' assessments of their AM experience have been very positive so there was little room for significant positive change here but it has been possible to make comparisons on issues such as appreciation of the victims' viewpoint) . The court comparison results are of uncertain significance given the self-selection and discretionary factors directing RJ referrals and the types of offences and offenders being referred. Evaluation data indicate that while the direction of change is as anticipated, the offence and offender profiles of RJ referrals are much more similar to the AM template than to the court docket. The AM comparison also must be qualified since many of the RJ sessions - but again a decreasing percentage over the past two years - have had the typical AM format (i.e., they have been accountability sessions), so one could hardly expect profound differences in participants' assessments.

The NSRJ program has mobilized more community resources (e.g., more volunteers and community sites for RJ sessions) and generated more public discussion of justice matters (e.g.,

presentations to community groups, public meetings held by all RJ agencies). The evaluation has found, too, that each year of its operation, the NSRJ program has reduced the caseload of the provincial criminal courts by roughly five percent. It is unclear at this time how significant the NSRJ program has been in reducing recidivism and increasing pro-social behaviour on the part of young offenders but the evidence produced in the companion Outcomes report is positive on that score and the data are now in place to examine that issue more thoroughly. Any assessment of the comparative impact of the RJ and Court streams with respect to rates of recidivism must of course acknowledge that there has been significant "creaming", as well as self-selection. The RJ referrals involve offences that appear less serious than those sent on to court. Police accounts of their discretion (i.e., why they sent this case to RJ and that one to court) clearly indicate that the youth's demeanour, previous record, known criminal activity, and parental wishes, are all significant factors in their decision-making. Post-charge referrals may represent a more appropriate comparison to the court-processed youth cases but they are much fewer in number.

RJ caseload and referral patterns clearly point to the chief challenge for NSRJ, namely bringing the RJ approach into the mainstream and central concerns of the CJS. For a variety of reasons (e.g., RJ protocol, police subculture, police views of the capacity of the RJ agencies etc), police referrals continue to be low-end offences and offenders. Strategies could perhaps be developed to encourage police referral of more serious cases; these might include better agency feedback to officers, involving the police more in the RJ sessions, nurturing the RJ enthusiasts among the police services, and perhaps more discussion with the police on how RJ strategies could effectively deal with repeat offenders. The key, though, to a more significant RJ presence in the CJS, would appear to be more collaboration at levels subsequent to police, especially crown prosecutors (an area of the CJS commonly less engaged in RJ initiatives beyond simple cautioning (see for example Archibald, 2001; Hund, 1999). As for Corrections, like policing, a field-level dimension of the CJS, much more can be, and indeed in Year Two has been, done in generating collaboration (a danger here though is the prospect of simply more downloading from Probation services to RJ services). Judges may be less crucial focal points since they tend to see their role as responding to crown and defence counsel motions rather than as instigating an RJ process, but, nevertheless, judges elsewhere have pioneered such RJ practices as circle sentencing.

Interview data from the CJS panel indicate the problems for NSRJ in getting beyond the police level. These data suggest the metaphor of a wall since CJS personnel, beyond police, generally reported themselves as being not especially pivotal to the NSRJ initiative. They had a limited vision of RJ, seeing it as an alternative rather than as a complement to the CJS, a limited

exposure to RJ principles and best practices, and a sense that the RJ agencies had limited capacity and would or could handle only quite minor infractions. Some strategies for breaking through this "wall" can be advanced, such as more orientation by NSRJ staff, finding "champions for RJ" at different levels of the CJS, building on "spaces" where these personnel are open to RJ practices and so forth. Clearly, such strategies require more investment in the NSRJ program but the institutionalization of the NSRJ and its higher profile in the Department of Justice augur well. More investment appear to be required also at the community level where influentials generally did not depict themselves as significant collaborators in the NSRJ initiative nor knowledgeable about how it might advance beyond the AM template. If the RJ approach is to expand much, and be effective, beyond the traditional AM focus on minor youth property crime, it will have to have the support of these leaders as well, and, currently, they are sceptical and require convincing.

Overall, the NSRJ has been a successful program. It is now an accepted element of the Nova Scotia criminal justice system. There is a significant, effective capacity for providing at least basic-level restorative justice for youth throughout the province. The direction of change on all relevant issues - participant involvement and satisfaction, agency capacity, provincial coordination, the presumption of restorative justice among police and corrections (capturing respectively, perhaps, the diversion and healing dimensions of restorative justice), use of the RJ session format, reduced recidivism - has been in the anticipated direction. Still, the value-added has been modest and unless there is much greater collaboration and use of the RJ agencies by crowns, judges and correctional staff, it will likely remain so. There is a formidable wall of CJS system-equilibrating forces to be scaled here but the wall must be scaled if NSRJ is to advance deeply beyond the AM template. Difficult challenges for the NSRJ program will come if it has to deal more with serious offenders and offences, with adults and perhaps with sexual assaults and family violence of all sorts. Then the adequacies of the RJ strategies, the agencies' capacity, and their collaborative links with other community service providers will be more severely tested. There remains a widespread scepticism among field-level justice system personnel and community leaders that the NSRJ could meet those challenges but, at the same time, there is much support for the program as presently implemented.

CONCLUSIONS

The NSRJ initiative illustrates well the importance of effective partnerships and pre-implementation planning. Because of these factors, it has been successfully put into operation and is poised to achieve its objectives more fully in the future. The initiative also illustrates the importance of moral entrepreneurship. On the one hand, early persuasive advocacy was effective

in mobilizing the elites in Nova Scotia's criminal justice system. On the other hand, more champions are needed now, perhaps more at the field-level of the criminal justice system (police, crown, judges and corrections officials), if NSRJ is to advance significantly beyond the AM template. The NSRJ initiative was not a modest proposal. It aimed at changing the "philosophical" basis of the criminal justice system in Nova Scotia. This is a complex, continuous task and most such movements (e.g., community-based policing) usually end up being swallowed by system equilibrating forces and thus marginalized, instances of, as-it-were, a theoretical/philosophical elephant and a programmatic mouse. The challenge requires continuing significant provincial co-ordination and leadership since the Department of Justice, more than the regional non-profit RJ agencies, has the authority to influence the justice stakeholders (and the resources to facilitate the RJ agencies' longer reach). Recent reactivation of the steering committee by the Department and the personal involvement of the deputy-minister certainly send a powerful message.

The NSRJ initiative has been a top-down initiative. There has not been a sense of ownership among the major justice role players at the field level nor among organized community groupings active in justice matters. More effort has to be expended effecting the collaboration of these players, some of whom have seen the initiative as a threat rather than as an opportunity to jointly advance common goals. Much work remains to be done developing these kinds of partnerships. In addition, there has to be more discussion among the RJ agencies, and with the above stakeholders, concerning the RJ approach; in particular, there needs to be more attention paid to the diversity of RJ strategies and how RJ agencies can respond to more serious matters and thereby gain the confidence of these parties. There is much more to be achieved and it appears that more will be achieved by NSRJ. Still, it has achieved much already.

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2. THE YEAR TWO REPORTS: PROCESSES AND OUTCOMES

The Year Two evaluation consists of two companion reports, one dealing with outcomes and the other with processes. The first report - Core Outcomes Analyses - focuses on youth case processing under the NSRJ program, describing the types of offenders and offences that have been channelled through the RJ path and determining the impact of the restorative justice intervention. Key concerns have been assessing the level of success in meeting the NSRJ's chief objectives, measuring the amount of "value-added" vis-a-vis the predecessor alternative measures program, and obtaining the views of the participants (especially victims, offenders and their supporters). Integral to these aims have been the comparison of the impact of court-processing of cases, and the analyses of the impact of the RJ initiative on serious offenders and offences. This companion report - Core Process Analyses - focuses on the context of the NSRJ program, the latter's development, the RJ agencies' activities, referral sources and evolution over time, the exercise of discretion on the part of police who constitute by far the chief source of referrals, and the views of the panel of CJS officials and community activist / stakeholders concerning the progress of the RJ initiative. There are several appendices to each report. Research instruments developed over the second year of the evaluation are appended; these include the interview guide used in the second wave of interviews with the panel of CJS personnel and community leaders, the coding format for all data gathered by the evaluation team regarding RJ sessions (exit data), and the questionnaires and coding manuals developed for interviews with victims, offenders and supporters in youth cases processed in the courts. In addition, the interview guide developed for assessing the response of offenders and their parents/guardians who have received a police caution letter is appended, as is a copy of the standard caution letter.

THE ORGANIZATIONAL CONTEXT FOR THE NSRJ IN YEAR TWO

The NSRJ initiative since its inception has overlapped, in organizational network and protocol, with two other programs delivering restorative justice in Nova Scotia, namely the RCMP's community justice forums (CJF) and the Mi'kmaq Young Offender Project (MYOP). The RCMP program has dealt with both youth and adult offences in communities policed by the

RCMP, while MYOP basically served First Nations youths, utilizing Mi'kmaq justice circles. Both the RCMP's CJFs and the Mi'kmaq's MYOP have operated with some autonomy vis-a-vis the NSRJ protocols concerning the type of offences that they might accept as referrals. Both emphasized, in theory at least, having the full complement of RJ roles (offender, victim, supporters, community presence and facilitator) at their conferences or circles. Neither program initially received direct funding under the NSRJ budget, although MYOP's budget was cost-shared by the Department of Justice Canada and Nova Scotia's Aboriginal Affairs. Essentially, in Year Two the ties have become quite close and there has been increasing collaboration and exchange among these programs, even while they have retained their autonomy. MYOP staff now regularly participate in NSRJ organizational and training sessions, and NSRJ has been transferred the budget and related program responsibilities formerly exercised by Nova Scotia Aboriginal Affairs with respect to MYOP. A partnership arrangement has been negotiated between NSRJ and MYOP. There has also been much collaboration between the RCMP and NSRJ staff with respect to RJ orientation and training. The RCMP are increasingly referring youth cases to the RJ agencies, one implication of which is that previous evaluation plans to compare the RCMP and NSRJ / RJ agencies approaches has had to be shelved because of insufficient youth cases among the former. There has been some movement towards both the CJFs and MYOP using NSRJ forms (e.g., exit surveys, checklists), something that could add further depth to future evaluation.

Still another independent project engaged in restorative justice was launched in the past year in Nova Scotia. Under the Youth Justice Strategy, Department of Justice Canada, the Public Prosecution Service (PPS) of Nova Scotia received funding (essentially for one crown attorney to be employed as project co-ordinator) to mount a special pilot project which has had two components, namely crown cautions, and pre-charge screening consultations with the police. The crown cautions presumably would be analogous to the formal cautions police may give under the NSRJ program. A major part of this pilot project has been to determine the protocols for the crown cautions. In the pre-charge screening program, officers laying a charge against a young person, and after deciding against either cautioning or referral to an RJ agency in the matter, would be expected to discuss the case with the crown project co-ordinator and then decide

whether still to proceed with court action. Both the caution and pre-charge screening programs have been targeted at youths aged 12 to 15, in the Halifax family court jurisdiction, who have committed common assault, mischief and non-violent property crimes. This prosecution-level project is on-going through 2002-2003 and could have much significance for NSRJ, both directly in generating more referrals to the RJ agencies, and indirectly in changing the views of police and crown prosecutors regarding restorative justice and the types of offences and offenders appropriate to be referred to the RJ agencies. These and other implications for NSRJ will be discussed below.

In terms of organizational evolution, perhaps the two most important developments during year two have been the institutionalization of NSRJ, and the extension, as planned, of NSRJ to apply to young offenders throughout the province. The partnership of federal and provincial departments of Justice, in conjunction with the non-profit community agencies delivering the RJ service, has been successful and NSRJ has evolved from a project in Policy, Planning and Research, Nova Scotia to a program under the Court Services Division in the same Department of Justice. Over the past year, too, the remaining AM agencies have received funding and training similar to the four agencies initially involved in the RJ project and are now all formally engaged in similar restorative justice practices. Like their predecessors in phase one, these non-profit AM agencies had received funds to second their director to work on pre-implementation planning on a part-time basis, and they had also establish local working groups to discuss the NSRJ protocols and advance restorative justice in their local area. While the NSRJ program has evolved in these important ways, the moratorium on restorative justice referrals, at any level of the criminal justice system, in matters of sexual assault and spousal/partner violence remains in effect, and NSRJ's applicability to adult cases appears to be far back "on the back-burner"; in these two respects, NSRJ falls short of its objective to be a fully applicable, system-wide initiative in the CJS.

Year Two of the NSRJ initiative has seen the revitalization of NSRJ provincial-level organizational activity. Partly, perhaps, in response to the analyses and recommendations of the Year One evaluation report and in recognition of the level of mobilization and advocacy required

to effect significant impact of a new approach or perspective on the complex and relatively autonomous criminal justice system (CJS), there has been much more focus on implementation issues and on how to achieve greater collaboration with NSRJ at all levels of the system. The steering committee for NSRJ and, in some instances, the working groups for the local RJ agencies, dormant in Year One subsequent to the launching of the program, have been resurrected. The reactivation of the steering committee is particularly significant. The regular presence there of the deputy minister of the Department of Justice itself sends a powerful message regarding the Department of Justice's commitment. The steering committee, among other things, has also set up a problem - solving subcommittee to target problems and obstacles and develop appropriate strategies in order to advance NSRJ. There are indications of more sustained NSRJ networking emerging among police, crown and corrections leaders and a strategy is being developed to generate more identification with, and responsibility for, NSRJ among the CJS personnel in the different regions. It can also be noted that the more intense and extensive involvement of the Department of Justice in these regards strongly complements and facilitates the work of the RJ agencies in securing referrals from the different CJS levels. During Year Two there have been more meetings of NSRJ and RJ agencies staff with CJS personnel. It may be quite significant for the development of NSRJ and its reaching well beyond diversion into healing and reconciliation, that there is now a routine presumption of restorative justice in corrections. Like the police, corrections officers are now expected to consider the possibility of utilizing RJ referrals when they open new probation files (and perhaps when considering what to do about breaches) and to provide written reasons on their intake forms when they do not utilize that program. Clearly, then, the Department of Justice has been responding to the challenges of NSRJ implementation in the CJS. Other organizational developments such as new RJ staffing, new training and orientation activities and the implementation of the restorative justice information system are discussed below.

THE RJ AGENCIES

The evaluation focus has remained on the four RJ agencies with which NSRJ was implemented in Year One, and with the same AM agency that provided a comparison point in Year One but which is now fully integrated into the NSRJ program. There has been no contact, for evaluation purposes, with the other new RJ agencies that have been activated as NSRJ

became province-wide. The data available on the RJ agencies are significantly better and more informative than were accessible in Year One. The agencies have adopted, for the most part, a standard monthly reporting form which details the number and type of offences referred to them, the source of the referrals, and the type of RJ sessions held each month (i.e., accountability session, victim-offender reconciliation, and community justice/restorative justice session). The reporting is uneven among the agencies but, still, a good assessment can be made of the agency caseload, and their evolution with respect to dealing with more serious offences and having more full-blown types of RJ sessions where victim, offender, supporters and community others are present. In addition, other relevant patterns can be described such as the "turn-around-time" for agencies' responding to CJS referrals.

In addition to the monthly reports, the evaluation team has remained in regular contact with all agencies (the four RJ and the one AM) with at least telephone exchanges monthly. In this way the evaluation team has kept informed about staffing, training and other organizational issues related to the NSRJ initiative, as experienced by the agencies. There have been several focus group discussions carried out with staff and volunteers from some agencies. The restorative justice information system (RJIS) also provides a lot of information concerning agency activities with offenders and victims but these valuable data will not be available for the Year Two report. Significant developments have occurred in the agencies, most noticeably in the large Halifax RJ agency (e.g., new staff, new director and new management procedures) and also in the Cape Breton agency (e.g., new director, adoption of a single case management model rather than having separate victim and offender case officers). These developments and other agency issues are discussed at length below.

PROCESSING CASES

This report features much description and analyses of the number of cautions, referrals (and where the referrals came from in the CJS) and court-processed cases recorded by the NSRJ program in Year Two and, of course, comparison of these patterns with Year One results. The types of offences handled in the different streams is also an important concern. A major objective of NSRJ has been to extend the reach of alternative justice philosophy and programming beyond the AM template of the previous decade. In the Year One evaluation report it was noted that, as

expected in the NSRJ program, formal police cautions typically matched the AM template for type of offences dealt with. Referrals to RJ agencies from the police services and from the post-charge levels were also similar to the AM template but there was clear indication of change in the direction of the offence profile of the court-processed cases, especially in the case of the post-charge RJ referrals. The objectives of NSRJ would, presumably, best be met by increasing use of cautions and referrals and by a continued change in the RJ referral profiles such that they were increasingly similar to court-processed offence profile. Of course, this objective's realisation will depend on the police services referring more cases and more serious matters to the RJ agencies and, perhaps to a larger extent, on the agencies getting more post-charge referrals. Accordingly, it is important to establish the number and offence profile for formal cautions, referrals by police, referrals by other levels of CJS, and for charges processed through the conventional court process. As in the Year One report, such profiles are described, drawn from the restorative justice information system, supplemented with data from reports of the RJ agencies and some police services. Developments in Year Two, such as the presumption for RJ at the corrections level and efforts to effect greater collaboration of the Public Prosecution Service and Corrections in the NSRJ initiative, augur well for significant changes in the number and complexity of referrals in Year Three but their effects are modest at this stage.

SERIOUS AND REPEAT OFFENDERS

As in the Year One report, there is a discussion of serious, repeat young offenders and how the NSRJ program relates to this grouping (see Core Outcomes Report). In Year One serious offender was defined on the basis of being identified as the accused in three or more separate incidents during the year, as indicated in police files. The type of cases being referred to NSRJ again precluded any meaningful analyses of serious offences or serious offenders on any other criteria (i.e., referrals were all for level one or level two offences by NSRJ criteria and the vast majority were in fact level one offences) but in Year Two's report a separate description is provided on offenders involved in serious offences ineligible for police referral under the NSRJ protocol. Also, as in Year One, the analyses of serious, repeat offenders is focused on metropolitan Halifax and again for the same reason as in Year One, namely that all but a handful of repeat offenders are located in that region and rich data are available on the Halifax area offenders due to the record-keeping and cooperation of the Halifax Regional Police Service. The section on serious, repeat young offenders traces the subsequent CJS experience of the Year One's individuals in this grouping and also examines the comparability with them of the Year Two grouping with respect to gender, ethnicity, type of offence and access to formal cautions and RJ referrals. Overall, these data suggest little change in the referral patterns at the police level.

And these police-level results underline the importance of getting referrals at the crown and corrections level if NSRJ is to become more relevant for serious offenders and serious offences.

REFERRAL DISCRETION

Given the above remarks concerning serious, repeat offenders, it is important to continue to examine police discretion in deciding whether to refer a case to NSRJ or to lay charges. The framework advanced in Year One was replicated in Year Two. Again the central data source has been the RJ checklist comments made by police officers (and in a few instances by crown prosecutors). Anytime an officer lays a charge in a level one or level two offence, they are obliged to write, on the checklist, an explanation for doing so and not dealing with the matter either through formal caution or RJ referral. A sample of checklists where charges have been laid, was selected and examined. The greater compliance in Year Two of Nova Scotia police services with the NSRJ requirement to complete and send in to the Department of Justice all checklists (whether containing cautions/referrals or charges) means that this year's data set was a more representative indicator of officers' discretionary considerations. The patterns of discretion found in the analyses are very similar to those identified in Year One's report.

Aside from the checklists, there were other data utilized to examine discretionary factors in CJS personnel's determination of the appropriate path to proceed with for particular young offenders. A limited amount of additional data were available from Cape Breton Regional and Halifax Regional police services. Interview data were also available from police, crown prosecutors and corrections officials. In Year Two, as noted above, the presumption of restorative justice became operational in Corrections for new files. And because of the crown caution project in the Public Prosecution Service of Nova Scotia, statements have become increasingly available on the discretion exercised at this level as well. In this Core Process report there is a detailed analysis of the similarities and differences in the discretionary thinking of police and prosecutor as culled from the pre-charge screening interaction in the PPS pre-charge screening project noted above.

THE RJ SESSION PARTICIPANTS

For evaluation purposes there have been three sources of contact with RJ session participants, namely through surveys completed by the participants at the end of the session, by follow-up telephone interviews of those participants willing to be interviewed, and by direct observation of the RJ session. The latter - direct observation - is just getting under way and there will be no write-up of these observations in the Year Two report.

The number of exit surveys - a one page questionnaire - has grown considerable over the past year, and in this report is almost 2500. As well, more context information has been added to each individual file. This information, referred to by the evaluation team, as the "session jacket", provides information on the type of session held, the offence involved, the referral source and the number of session participants. Such data facilitate a more intensive analysis of the exit data than could be provided in the Year One report. Comparisons ultimately will be drawn by role (e.g., offender, victim, supporter, other), by rural-urban agency location and by "session jacket" variables. In addition, more detailed comparisons can be drawn between those agreeing to be interviewed and those who did not, thereby enabling the evaluation team to assess the representativeness of the follow-up interview data.

THE FOLLOW-UP INTERVIEWS

There have been approximately 550 follow-up interviews of RJ session participants carried out to date. While the number grows weekly, for the purposes of the Year Two report, only the number indicated will be discussed in the report. Separate questionnaires - with considerable substantive overlap of course - were developed for the different RJ roles (e.g., offender, victim, supporter). The follow-up data are very rich and informative and comments have also been obtained (interviewers were encouraged to write down interesting comments as well as check off the standard response categories). The themes highlighted in the follow-up interviews were pre-session contact and experience, the session experience, the session outcome, reintegration and closure issues, and overall assessment. Description and analysis will focus on variations within and between the different types of participants.

ALTERNATIVE MEASURES AND COURT COMPARISONS

Follow-up interviews were also carried out with a number of participants involved in AM sessions and others involved in cases processed through the courts. The number of "court-processed" participants interviewed was disappointingly small - roughly 100 - since there were major delays in getting access to this population and the records accessed frequently were inadequate (e.g., no telephone, family moved). The "jacket" information (e.g., offence, age, ethnicity, criminal record, previous RJ caution/referral) for all court files accessed has been recorded (i.e., some 600 records) so the future evaluation will be able to examine the issue of sampling bias. The interviewing of court participants is on-going and the evaluation goal is to

reach at least 250 interviews for the Year Three report. The interviews with the AM and court participants covered the same themes as in the RJ follow-up interviews. It may be noted that now the Truro AM agency has been transformed into an RJ agency, so in Year Three, it will be possible to compare that agency's experience in both the AM and RJ context.

CJS AND COMMUNITY VIEWPOINTS: THE PANEL INTERVIEWS

Most CJS role players and community leaders (representing various stakeholder groupings) interviewed in Year One were re-interviewed in conjunction with the Year Two report. The interview guide used in this second wave is included in the appendix. All panel members were sent an executive summary of the Year One report prior to the re-interview. The interviewees have been very co-operative. While telephone interviews have been occasionally undertaken, the bulk of the interviews so far have been face-to-face. Most persons report having had no significant contact with NSRJ, or RJ approaches in general, over the past year, and, not surprisingly then, their standpoint on NSRJ has changed little. Still, some interesting changes did occur and certainly the panel members often elaborated on their standpoint concerning the RJ initiative.

CONCLUSIONS

Consistent with the formative character of this evaluation, the Year Two report will provide in conclusion not only a summary of the key patterns found above, but also, as in Year One, suggestions for the further realisation of NSRJ objectives. These suggestions involve issues of continued provincial leadership and strengthening the capacity of the RJ agencies. Attention must still be paid to the two "walls" (getting post-charge referrals and involving the victims and community in the RJ sessions) identified as major obstacles in Year One. In general, it will be noted there that the organizational developments which were the key points of progressive change in Year Two need to be built on. At the provincial co-ordination and local community levels changes have been made which augur well indeed for breaching if not destroying the two "walls" in Year Three. Indeed, it is reasonable to expect then, that, in Year Three, the evaluation focus will shift from highlighting implementation issues to more in-depth assessment of the efficacy of the restorative justice intervention (the RJ approach and the agencies' capacity to deliver it well) for more serious offenders and serious offences. Indeed, a case can be made that the central focus for Year Three will be the RJ agencies themselves, what they can do and what they need to do it and do it well, in advancing the scope of the NSRJ program. Some of the dilemmas or tough choices that the RJ agencies have to deal with, will be noted.

3. PLACING NSRJ: IDENTIFYING ITS SPECIAL FEATURES

THE NSRJ AND OTHER RESTORATIVE JUSTICE PROGRAMMING

Restorative justice policies in Canada's Criminal Justice System (CJS) emerged from alternative measures programming, enhanced by the Young Offenders Act. In 1988 the Daubey Report (issued by the Parliamentary Standing Committee on Justice and the Solicitor General examining sentencing policy) suggested that the government should support victim-offender reconciliation programs at all stages of the criminal justice process. A condition attached to the recommendation was that such programs provide substantial support to victims of crime through victim services and encourage a high degree of participation of all parties. In 1996 an amendment of sentencing principles of the criminal code encouraged the use of community-based sentencing and restorative justice:

Sentencing should provide reparations for harm done to victims or to the community and promote a sense of responsibility in offenders and acknowledgement of the harm done to victims of the community.
(Solicitor General Canada, 2002)

In the Gladue decision in 1999 the Supreme Court of Canada endorsed the concept of restorative justice and the use of community-based alternatives to imprisonment, while emphasizing the importance of using such processes in sentencing aboriginal offenders. The new Youth Criminal Justice Act (YCJA) places considerable importance on "conferencing" at all levels of the justice system, especially policing and corrections. Nowadays, as a senior Nova Scotia Department of Justice official noted in a recent interview, restorative justice has become part of the woodwork in Justice circles and, at least in inter-provincial Justice conferences, seems to have become accepted.

Nova Scotia stands out, among the provinces, for its stated objectives with respect to the system-wide implementation of restorative justice. It has advanced a policy calling for the possible utilization of the RJ philosophy for all offenders and all offences. The implementation would occur in stages and different offences would be eligible for RJ referrals at different levels of CJS (i.e., pre-charge, post-charge, post-conviction and post-sentencing). Most Nova Scotian Justice role players acknowledge the breadth of the anticipated scope of this RJ policy and many

consider Nova Scotia to be in the vanguard of RJ programming in Canada, perhaps along with Quebec as progressive in that regard. There does not appear any other province or territory that has advanced such an extensive formal commitment to the RJ approach. There are other interesting and, in practice perhaps more boldly penetrating, RJ programs elsewhere in the country. For example, Alberta (e.g., Calgary) and Ontario (e.g., Ottawa) both have RJ programs that target serious offenders whose offence would normally result in imprisonment. A slew of other interesting RJ programs are in place elsewhere (e.g. conferencing in Edmonton, circle sentencing in the Yukon and Northwest Territories) and many projects have been formulated/tested (or are on the drawing board) in anticipation of the implementation of the YCJA in the 2003 (e.g., PEI has an RJ project at the pre-charge level wherein social workers and police officers collaborate in determining what action should be taken in some youth offending).

The Nova Scotia program, even in its current implementation, which is far from the proclaimed format in that it does not apply to adults and excludes certain offences, represents a government investment of approximately one million dollars. Start-up costs, to take the programming from alternative measures to restorative justice, were cost-shared with the federal government but the RJ program has been fully funded by the provincial government since April 2001 (indirect funding through federal Department of Justice programs has been significant for public education and the like). The provincial government established the office of the Nova Scotia Restorative Justice coordinator and, through that office, provides funding (almost all their funding) for the non-profit community agencies that deliver the RJ program with a core of paid staff and a large contingent of trained volunteers. In this regard, too, the Nova Scotia RJ program is different from government-supported RJ activity elsewhere in Canada. In some areas, such as the Calgary project noted above, all RJ personnel are full-time, paid positions. In others, such as New Brunswick and British Columbia, RJ is focused on minor offences and delivered by totally volunteer personnel in a decentralized organizational format; these agencies or committees are aided by very modest government funding for some basic operating expenses and minimal paid staffing, and operate in close concert with specific Justice officials (e.g., police, corrections/probation). The Nova Scotian approach then is a hybrid model, perhaps befitting the fact that, while most of its activity is pre-charge diversion, it aims to respond to CJS system-wide RJ referrals.

OTHER PROGRAMS IN NOVA SCOTIA

Within Nova Scotia itself there are other RJ-related programs that have some autonomy vis-a-vis the NSRJ program. These are four, namely the RCMP's Community Justice Forum (CJF), the Mi'kmaq Young Offender Program (MYOP), the Public Prosecution Service's RJ projects, and Adult Diversion (AD) which is administered by Corrections (i.e., probation officers). The RCMP program predates the NSRJ. Hundreds of officers and volunteers have been trained in the RJ approach and in the utilization of CJFs to deal with offending whether by youth or adults across the 43 RCMP detachments in Nova Scotia. The RCMP program has a rather flexible protocol, allowing for much discretion in referrals by the field officers. Overwhelmingly, the program deals with minor crime committed by first time offenders but occasionally repeat offenders have been referred if some time had elapsed between offences; occasionally, too, large thefts have been referred. The CJF session is typically facilitated by civilian volunteers and there is much emphasis on the attendance of the victim or victim surrogate as well as an RCMP police officer. In the event of a victimless offence, a "community representative" participates. In the increasingly unusual circumstance where an officer acts as facilitator, he or she reportedly does so in civilian attire and highlight his/her civilian role.

The RCMP's RJ program depends almost completely on volunteers to handle all phases of the RJ process, including pre-session case preparation, facilitating the actual CJF, and monitoring the session's agreed-upon sanctions. There are no paid staff and extremely sparse resources available to any detachment's CJF organization. Officers are not paid overtime to attend the sessions but emphasis is placed on conducting the CJF at convenient times. Not surprisingly, while the CJFs have apparently high rates of offender compliance, victim and officer attendance, and are highly praised by informed advocates, they are not that common and in fact largely limited to a handful of detachments (e.g., Lower Sackville, Bridgetown, Port Hawkesbury) where there is the fortuitous combination of engaged officers and very active volunteers. Even among these units, the numbers are small. In Bridgetown, there were 15 youth referrals and 10 adult ones over a two and a half year period. In Lower Sackville, there were 35 youth referrals over a two year period and in the Valley region only two youth files went through the CJF in an eighteen month period. Moreover, the networking with other community agencies

which might provide support services for either the victim or the offender is quite limited and the detachments' committees themselves have no ancillary programs such as "Stoplifting" or anger management.

The RCMP appointed a constable to coordinate its RJ programming in Nova Scotia in late 2000. Over the past year and a half, from mid-2001 to the end of 2002, there has been increasing collaboration between the RCMP's program coordinator and the NSRJ coordinator. A collaborative arrangement has been worked out for sharing training and resources and in some instances for RJ agencies' handling some of the administrative work even when the RCMP organization would handle the actual RJ session. This arrangement has proved mutually beneficial as smaller RJ agencies in the rural/small towns milieus have been able to draw upon the RCMP volunteer resources while the RCMP has been able to focus its activity on facilitation and on adults. The RCMP policy, according to RCMP informants, is to maintain its presence and advocacy in RJ, and its RJ organization is active even in youth cases where officers want to have the CJF for whatever reason (perceived RCMP policy, concern about timely feedback, insistence on the need for victim and officer presence if a referral is to be RJ-processed etc). As the RJ agencies continue to become institutionalized and well-recognized and as the shortfalls associated with the totally volunteer RCMP program become more pressing, the pattern has been for RCMP officers to make referrals to the RJ agencies. It may be noted that RCMP files referred by the crown attorneys to RJ, are invariably referred by the crowns to the local RJ agencies not the CJFs.

There has been much collaboration between RCMP and NSRJ personnel at all levels, the field and provincial policy levels. RCMP have agreed to use the NSRJ checklists and there has been more harmonization of protocol guidelines, though there still is a sense among RCMP officers that their program has some autonomy and RCMP officers more discretion, even with reference to young offenders. The continued existence of both the RCMP's CJF and the NSRJ's RJ agencies may be beneficial for all parties. The RCMP program can deal with adults, emphasizes, and gets, high levels of participation for victims and police officers, is not as strictly bound by NSRJ guidelines (as noted in the accompanying report on Outcomes), and generates

officer engagement in RJ and trained volunteers. The NSRJ program, with its RJ agencies, brings much more resources and ancillary programming to the provincial RJ activity, facilitating equity in access across the province and enabling the RJ activity to deal with more serious offending where significant pre and post session preparation and monitoring is required. Hence the RCMP program can either draw upon their resources or its members can directly refer cases to the RJ agencies.

The Mi'kmaq RJ program, MYOP, was instituted in 1995, well before the NSRJ initiative, as a collaborative project between the Union Of Nova Scotia Indians and the Island Alternative Measures Society in Cape Breton. The impetus for MYOP related back to the recommendations of the Marshall Inquiry in 1990 and to country-wide developments in aboriginal justice (see Clairmont, 1996). Subsequently, MYOP became a program under the umbrella organization, the Mi'kmaq Justice Institute. It had a province-wide mandate to respond to CJS referrals for native offending and generally dealt with minor offending by youth but the program staff did handle the occasional adult offender and a few offences that would have been beyond the mandate of NSRJ. MYOP's version of RJ processing is labelled "Mi'kmaq Justice Circles" and draws heavily on the burgeoning aboriginal sentencing and healing circles movement. The program has been well-managed and, within and outside the Mi'kmaq community, is generally considered the most successful Mi'kmaq justice program to have been implemented in the past decade (Clairmont, 2001).

Over the past two years, for a variety of reasons (e.g., the demise of umbrella Mi'kmaq Justice Institute, Nova Scotia government policy concerning program responsibilities, rational organizational imperatives for both MYOP and NSRJ) negotiations have been on-going concerning the relationship of MYOP to NSRJ. Mi'kmaq leadership, guarding claims to autonomy and difference, was reluctant to envision MYOP totally integrated into NSRJ as a kind of "eighth agency" subject to the identical protocol and guidelines. The NSRJ, on the other hand, was given provincial responsibility for channelling MYOP funding and bore responsibility for coordinating and advancing RJ programming in Nova Scotia. A partnership agreement was worked out in 2002 to the satisfaction of all parties. MYOP collaboration with NSRJ is beneficial

for both parties. On the one hand, it reduces the isolation of the small MYOP staff, facilitates its staff training and awareness of the RJ movement, and broadens the pool of shared RJ experiences. On the other hand, the NSRJ is enriched by greater awareness of native cultural underpinnings strengthening the RJ approach, the emphasis in MYOP on circles and the involvement of victims and community members, and by the fact that MYOP, with a less constrained and modestly different protocol for taking on cases, can perhaps pioneer some RJ developments.

A third important RJ endeavour in Nova Scotia concerns RJ-related activity undertaken by the Public Prosecution Service (PPS). In the late spring of 2001, in response to the prospects of the forthcoming YCJA and the funding opportunities made available for special RJ projects by the federal Department of Justice, the PPS launched a project examining the possibility of instituting letters of caution at the crown prosecutor level, and also instituting formal pre-charge screening between police and crown to assess the feasibility of making RJ referrals in specific cases. These two subprojects were directed at minor offending in metropolitan Halifax by youths aged 12 to 15 years of age. This PPS project was largely exploratory - an important consideration given the existence of the police cautions under the NSRJ and given the special Nova Scotia legacy of police autonomy in laying charges. The project had modest impact in 2001/2002 (see Clairmont, 2002) but has been extended for 2002/2003 and with greater breadth, now involving all Halifax area crown attorneys' being authorized to issue letters of cautions, and pre-charge screening between police and crowns being extended to the Truro area as well as metropolitan Halifax. Certainly, this PPS project will highlight more the RJ approach for both police and crown attorneys, especially the latter who, arguably, have been less directly engaged in the RJ initiative. It could well impact considerably on the caseload of the RJ agencies. If formal letters of cautions are being utilized by crown attorneys and, increasingly, by police officers, then more minor offences would be dealt with that way and presumably they would be referring the more serious youth offending to the RJ agencies; thus the agencies' caseload could be reduced but the type of cases referred to them could be more challenging and, perhaps, also more appropriate for the RJ process. As noted elsewhere in this report, many CJS and RJ agency informants question the need for using the RJ process (and limited agency resources) in cases of some "low-end", first

time offending by youths where a warning might be as efficacious.

Adult diversion is a Nova Scotian program delivered by probation officers, acting on referrals from crown attorneys in collaboration with police. It is generally restricted to first time adult offenders admitting responsibility for minor offences, and entails the offender meeting with a probation officer who works out a modest sanction with the offender. In most respects, adult diversion can be likened to the RJ predecessor in the area of youth namely, alternative measures AM, save that AM sometimes involved victim participation (especially in a few areas outside metropolitan Halifax) and/or special group programming (e.g., "Stoplifting"). This AD/AM type format, as noted in other sections of this report, remains prominent in the activity of the RJ agencies and is labelled "accountability session". Recently, in the fall of 2002, the NSRJ program revised its protocol guidelines, among other things, to acknowledge the continuing significance of accountability sessions, noting that while these are not in themselves full embodiments of the restorative justice approach, they constitute an essential part of its infrastructure in Nova Scotia. Of course, under the auspices of RJ programming, there is now considerably more contact with the personal victim even if the latter does not attend the session, and presumably if RJ does get extended to adults, this enhanced activity would characterize minor adult cases as well.

A PLACE AT THE TABLE: NSRJ FROM PROJECT TO PROGRAM

Over the period 2001/2002, the NSRJ initiative passed from being a project to being a regular program offered by the Department of Justice. As of April 2001, all direct funding for NSRJ has been provided by the province and, later in 2001, the coordinator's office was placed under the operational umbrella of the Court Services Division. Since the fall of 2001, NSRJ has been implemented for youth throughout Nova Scotia. In announcing these developments in a December 2001 memo, a Department of Justice official stated, "an essential component of our dispute resolution system ...[has reached] full implementation". As noted earlier, this development has also been associated with the revitalization of NSRJ provincial-level organizational activity. The NSRJ steering committee resumed its meetings in December 2000

and two further meetings were held in each of 2001 and 2002. Problem-solving and program management sub-committees were also established to advance the NSRJ implementation and these continued to meet in 2001 and 2002. The problem-solving subcommittee considered various models for the steering committee's carrying out its responsibilities for NSRJ (i.e., its mandate, composition, organizational structure) and a new structure was approved in February 2002. The program management subcommittee focused on issues directly pertaining to the operation of NSRJ and continues to be an active subcommittee. As important as the resuscitation of the steering committee - a response perhaps to the recommendations of the Year One evaluation and the recognition that mobilization and advocacy remain essential if the new program is to achieve its objectives within the complex and relatively autonomous CJS - has been the regular presence of the deputy minister of Department of Justice, as chair of the NSRJ steering committee, which conveys a powerful message regarding the Department's commitment. RJ in Nova Scotia, through the NSRJ, now has a place at the table so-to-speak and the impact of this has been felt by all parties. One RJ agency director commented in 2001/2002, "You can feel the whole new attitude of respect for the RJ initiative".

Associated with this type of institutionalization of NSRJ has been increased acknowledgement of NSRJ by other CJS players and the development of collaborative operational strategies. Over the 2001/2002 period new protocols have been established with Corrections (not only making RJ a "presumptive" consideration when new files are opened but facilitating access to RJ agencies), the RCMP (referral protocol and checklist guidelines, training and policy collaboration, and cooperation at the field-level), and MYOP (the transfer of provincial responsibilities from the Aboriginal Directorate to NSRJ, a new partnership agreement between MYOP and NSRJ). A place at the table translates into having the Department as a whole engaged, at least somewhat, in finding resolutions to some NSRJ challenges. The Department of Justice, for example, has been involved in discussions with leaders of various women's groups concerning the appropriateness of the RJ approach to matters of sexual assault and family violence; funding was made available to the women's grouping for a conference on these issues in October 2002 which was attended by senior CJS role players and addressed by the minister. Also, a major meeting - "Foundational Discussion Day" - was arranged for 2003 between the

NSRJ program management subgroup and the RJ agencies to discuss, chiefly, resource issues facing the latter. Of course, the other side of the coin is that other CJS segments may increasingly come to see the NSRJ program as a valuable component in their strategizing about their own objectives. There is evidence that Corrections and PPS officials are increasingly adopting that perspective. The NSRJ program with its data management and retrieval system (i.e., RJIS) and the considerable resources it mobilizes through the RJ agencies constitutes a resource gold mine for the CJS. Of course, in highly indebted and heavily taxed Nova Scotia one would also expect much competition for scarce resources within and between government departments. Still, while perhaps a marginal player, NSRJ is at the table.

During the period 2001/2002 the NSRJ program obtained a new coordinator; indeed, for a significant period (i.e., late April to November 2001) there was an overlap as the full time new coordinator worked with the previous coordinator (retained on a 3/5 basis), facilitating the transition and strengthening program delivery as the NSRJ program expanded to incorporate the remaining five AM agencies into the RJ system. The province-wide implementation of the NSRJ was effected by the fall of 2001. The staff of the "phase 2" agencies as well as new hires in the "phase 1" agencies had received approximately eight days of training (i.e., four days of case development training and four days of facilitation training). In addition, as in the earlier implementation of phase 1 agencies, the directors of the phase 2 agencies had been seconded on short-term, part-time contracts to organize local area working groups, and develop their case management plans, service delivery proposals and budgets. Training and orientation for CJS officials, as earlier, was also carried out. For police, MPD and RCMP, there were some 21 training sessions, and in October and November 2001 there were orientation sessions provided for crown attorneys. In addition, there was a presentation to the Western Counties judges. Apart from the implementation of RJ programming, the coordinator office in 2001/2002 was responsible for overseeing the successful introduction of the RJIS and ensuring that agencies' staffs were trained to use this information management data base. During the 2001/2002 period, as noted above, there was considerable attention expended on how the NSRJ was to function within the Department of Justice, its own management structures, and discussions and agreements with other bodies inside and beyond the CJS.

As fiscal 2001/2002 ended, the NSRJ was firmly embedded in the CJS and the RJ agencies were proceeding along the projected trajectory (see the next chapter). There were three outstanding issues to resolve. One involved revising the NSRJ protocol and guidelines - the program authorization - in response to the forthcoming YCJA and also in an attempt to better capture the work of NSRJ (e.g., acknowledging the continuing significance of accountability sessions in RJ agencies' programming). This was accomplished in December 2002. The second issue was the fact that the NSRJ program remained short of its original implementation objectives in that it was restricted to youth and there was still the moratorium on certain offences. This issue remains unresolved. It may be noted that the moratorium on sexual assault and spousal/partner violence has little quantitative impact as long as the RJ program is limited to youth (court data indicates that for the whole of Nova Scotia these offences combined would account for less than 1% of all youth offences in recent years). The third issue concerns the adequacy of resources available to the RJ agencies, especially in regards to staff compensation and training needs, as the agencies strive to meet the expectations and demands associated with their enhanced functioning within the CJS. This issue was to be discussed in early 2003.

FEATURES OF THE RESTORATIVE JUSTICE AGENCIES

As noted, the RJ agencies with which the evaluation has been involved are non-profit organizations, each with a local board of directors, a small paid staff and a larger group of volunteers, funded through the Department of Justice. These agencies were previously providing alternative measures (AM) and liaised with Corrections. The agencies were largely on their own in their everyday operations, dealing with referrals from police services under a protocol which basically (but not totally) restricted them to dealing with first time young offenders accused of minor property crimes. The agencies were largely responsible for training their own staff and volunteers, and, in the decade prior to the launching of NSRJ, apparently received no formal training directly through government auspices. The NSRJ has transformed the agencies in a variety of ways, adding to their budgets for more paid staff, directly providing RJ and case management training, allowing referrals from beyond the police level of the CJS, establishing

less restrictive protocols for the kinds of offences that can be referred, more closely monitoring agency activity and cases via RJIS, and, in general, integrating the agencies much more profoundly with one another and the Department of Justice via the NSRJ coordination. The next chapter will focus on measures (e.g., caseload numbers, type of offences, referral sources) which assess the value added of this transformation vis-a-vis the AM era, and also discuss a number of related issues. Here a brief overview of some features of this transformation will be highlighted.

RESOURCES

The RJ agencies being considered had core paid staff complements ranging from three (i.e., Amherst) to nine (i.e. Halifax) but these numbers were subject to some variation over time given different packaging of full-time and part-time working arrangements, and special, short-term project funding. Over the period 2001/2002 all the agencies were recipients of some special ad hoc funding as noted in the next chapter. The largest of the phase 2 RJ agencies, Truro, had the equivalent of three full-time positions. All the agencies, phase 1 and Truro, had at least a score of volunteers and over the period 2001/2002 were actively recruiting and training others. Reportedly, all four phase 1 agencies had a roster of at least fifty volunteers but an active subgrouping ranging from fifteen in the smallest agency to seventy in the case of the metro Halifax agency. There was no consensus definition of "active" so these figures may not be comparable.

The staff positions in the agencies were held by mostly young to middle-age female adults. They brought a high level of commitment and qualifications to their posts (post-graduate education and certification were commonplace) even though the compensation was modest; staffers earned roughly \$25,000 per year equivalent and agency directors were paid between \$30,000 and \$40,000 depending on the size of their operation. They received no fringe benefits other than those required by law. In respect of compensation packages, the agencies followed the pattern of work in the non-profit sector, their staff receiving well below the societal norms for their level of human capital. There was significant dissatisfaction expressed by agency staff about the compensation but less about other conditions of work and, for the work itself, much

satisfaction.

The volunteers, overwhelmingly female and well-distributed age-wise, were also an impressive group. One agency director, for example, observed:

We have a good group of volunteers. Some are ready to be challenged more ... we have some lawyers, social workers and people with master's degrees in counselling. We have very few student volunteers here.

Other agencies also stressed the high quality (e.g., "these people are mostly lawyers, probation officers, social workers, school teachers") and direct observation in the Valley and in Halifax was consistent with those assessments. While college-level students and professionals were most common on agencies' rosters, mature homemakers and others could be found, especially among the two Cape Breton agencies. Most volunteers had received some modest training (e.g., one or two days according to the small sample of 20 volunteers) in conferencing and RJ from the agencies and others were scheduled to do so; this was in addition to training received under the agencies' alternative measures programming. It is clear that many of these volunteers were quite sophisticated in their own knowledge of the CJS and/or mediation/counselling. Accordingly, it is not surprising that, via the agencies' staff and in their own words at focus group sessions, it was indicated that they welcomed the challenge of victim-offender conferencing, at least for youth and for a modest range of offences. The diversity of volunteers' expertise and experience lends itself readily to agencies' strategies of streaming staff and volunteers with respect to the type and complexity of the projected RJ sessions. While the agencies usually reported that, "we have no problem getting volunteers", it was also apparent that recruiting and training are on-going agency activities. Apart from the volunteers, another group of people have been mobilized to act as "community representatives" to sit in on sessions representing the "community as victim" or in support roles. Such roles represent an interesting and meaningful way to involve community members from a larger mix of backgrounds in RJ programming. Thus far, only a few agencies have developed such "pools" but others reportedly are considering this strategy.

The resources feature of the RJ agencies has many implications. One is that some agencies have experienced significant turnover among staff as employees have sought work that

compensates them more appropriately for their human capital. Turnover, where a small staff works with a large volunteer pool, can be (and reportedly has been) unsettling for the volunteers and a cause of agency inefficiency. Secondly, given that the resources available to agencies hardly permits the development of ancillary programs related to victim and offender needs and expectations, it is not surprising that the agencies are regularly pursuing “outside funding”. This can be a double-edged sword since such funding is of great value for operations yet the time and energy required for the pursuit can be daunting and often the project funds secured inadequately cover overhead costs so ironically increase pressures on agency administration. A third implication is that tight resources can limit the level of training and feedback/experience sharing that is fundamental to the kind of RJ service that NSRJ has projected. Asked about resources, one agency staffer commented:

[How could things improve?] More time and money. We are so busy. The place we are really lacking is with the volunteers. I wish we had greater contact with the volunteers, that we could provide them with more training and things like that. I don't know how supported the volunteers feel. It is easier to let the volunteers slide than the cases.

It can be noted, too, that the quality volunteers that have been mobilized are generally combining this community participation with a busy schedule, a combination which often limits their availability, especially with respect to pre-session and post-session case management which are less easily fitted into a specific time slot. Increasingly, in most agencies, reportedly, case management has become almost an exclusively staff function. Also, depending on volunteers requires keeping them sufficiently engaged, that is giving them enough assignments such that their training sharpness does not erode, and the right assignments such that they find the tasks yield high intrinsic satisfaction. Two common complaints among the small sample of volunteers (limited to two agencies as well) were that they were not given enough cases and that the cases were too minor in nature (1). This latter sentiment can be readily seen in the following two quotes from two committed, highly competent volunteers:

Under the AM model most of our cases were shoplifting and there were no victims or community representatives. It was seen to be more like a punishment. It felt more like we were putting them on trial and giving them a sentence. I know that that's not really what it was supposed to be like. When I took the training is one thing but then when I showed up in the room it was something quite different, and I said, 'Okay, I didn't think this is what it was supposed to be like, but I'll just

follow along.’ Those old sessions weren't mediation for sure. [...continued]

I was quite happy to see the end of the AM sessions because I know this wasn't mediation. I had taken courses on mediation and I knew this wasn't it. When they offered the RJ training I was really excited and took every piece of training they offered on restorative justice. I really made an effort because I wanted the experience with mediation ... I've done about five victim-offender sessions in the last eighteen months and they're a very different thing than the accountability session.

The RJ agencies operate in a variety of milieus ranging from metropolitan Halifax to villages and rural areas. This feature deserves more attention than has been possible in this evaluation. It has been surprising that rural/urban differences have not been more evident in discussions with agency personnel or with victims and offenders; for example, while one might presume more "community" in rural areas, rarely has it been mentioned in any milieu that the facilitators knew the offenders or victims participating in their RJ session. Some phase 1 agency staffers have contended that contacting victims and offenders is more difficult in rural areas:

Trying to find people to get their participation is more difficult since telephoning is not as effective and people live far apart ... we go to their homes at least half the time. You have to do this in rural areas.

It has also been suggested - in theory more than in practice - that RJ can be more effective in non-urban areas or small community settings since restoration of relationships is more important [in contrast to the possibilities for anonymity of the metropolitan areas]. The unavailability of related services (e.g., anger management programs, family counselling) has been identified by several agency staff as a key difference between rural and urban areas. One phase 2 rural agency director commented:

In rural areas we don't have ready access to the services you find and the additional resources that you have in urban areas. The geography is a problem. You have to travel long distances for services ... [a problem] especially if you don't have a car. Sometimes we face problems in finding the help they need. We get upset with people from places like Halifax who complain about waiting for services. They are lucky they even have services. It's a fight to get anything in rural areas.

PROCEDURES

The procedures used by the RJ agencies in responding to referrals have changed significantly from the alternative measures era. Typically, in the AM period, offenders were sent a letter, then telephoned and if agreeable to diversion, a meeting was set for the conference. Victims were notified if the offender agreed to go through alternative measures and were encouraged to attend. The priority was clearly the offender though some agencies (e.g., the Valley) had high participation from person (as opposed to corporate) victims. The conference itself was a one-session affair, reportedly lasting less than an hour. In RJ, so far, there has been much more emphasis on responding to victims, strongly encouraging their participation (directly or indirectly through surrogates, impact statements) and contacting them more about all aspects including the conference agreement, more pre-session preparation (often involving a face-to-face meeting with the accused and parent if not with the victim), and more post-session case management. The actual sessions or conferences while still typically one-session affairs, average about twice as long as in the AM era.

Agency staffers, commenting on these changes, emphasized both the variation and the overall increase in case management activity. One non-metropolitan area person noted:

[It takes] a lot more time than in alternative measures though some of the accountability sessions were not that different but we do pre-session meetings ... they never existed before ... and the accountability session may be from [as much as] an hour and a half versus 45 minutes before. Of course, RJ sessions usually take longer - over two hours - and there's a 100% difference in preparation.

Agency personnel indicated that the RJ sessions themselves were not usually the chief work increment or stress. Almost all informants, whether staff or volunteer, reported the sessions to be interesting and satisfying but the before and after session activity to be onerous and stressful. One person noted, "We have only a handful that we meet with twice but the follow-up work!". Another commented,

RJ is an amazing phenomenon. The meetings are actually easier than would be expected. It isn't difficult to get the group to negotiate, even larger sets of people. People want it to be successful, they all give and take. Placing and supervising the community service dimensions of it are time consuming.

Another staff person emphasized, "the most stressful part of RJ is the scheduling of it, the time frame, the coordination". Indeed, as the RJ referrals become more complex, involving more serious offending and sometimes more focused on reintegration and healing, the preparation time can be very demanding and the whole exercise frustrating if, as has happened in a number of cases, the session or conference ultimately cannot be arranged for a variety of reasons (e.g., offender re-offended, the victim cannot be persuaded to participate).

This transformation in procedures has been experienced by phase 2 agencies over the past year. In the case of one such agency, for example, a staff person noted several months after the agency became RJ-operational, that

It will not be much different from what we do now. We sort of did RJ before but now we feel like we have full permission. Now we will jump right in. There will be extra phone calls and letters now.

Six months later, after the enormity of the transformation became manifest, the same person observed:

There is just that much more to do with RJ. We are now seeing more repeaters ... that couldn't happen under AM because they only got one chance. Now that we are doing RJ, we are really probing into kids' problems, trying to find solutions. The staff feels very strongly that we are not trained as social workers but once you have opened a can of worms and gained the confidence of the youth, they, and their families, look to us for solutions].

One phase 2 agency, Truro, also has experienced much what all RJ agencies, rooted in AM, have, namely the considerable effort required to work meaningfully with victims as well. In one instance alone, that agency expended considerable time and resources (and drew on outside consultants and special support from NSRJ) in arranging conferences that included a large number of victims of a serious, deliberately set train derailment. Many agency personnel have reported, as one director put it, that "working with victims is no easy task". Agency personnel have identified a variety of reasons for the difficulty. Corporate victims, such as Zellers or Canadian Tire, generally have a policy of not sending a representative and some agencies have found in these instances that having community representatives present "just isn't worthwhile". In the case of person victims, several agency staffers noted that the victims often want to avoid re-

experiencing the victimization and, "The longer ago the incident happened, the less likely that victims are going to want to take part in it [an RJ session]. They want to put the whole thing behind them". Another agency staffer suggested that fear was sometimes a factor, commenting, "For assault cases, it's difficult to get victims to come to RJ sessions. The fear of retaliation is still the biggest reason for non-attendance of victims and victims' supporters".

The agency personnel certainly acknowledged the significance of the victim to the RJ process. They were quick to observe that "the victim is not involved in the court system", that the victim's presence has considerable impact on the offender, and that the dynamics of such sessions are usually positive for the victims as well. The agencies' staff have worked much more than before with person victims at the pre-session stage and stressed that they often represent the victims' viewpoint through other family members, impact statements read at the sessions, use of community representatives and so on. There have been organizational strategies too. Initially, the Island agency had separate case managers for offenders and victims and while that agency has now adopted a single case manager approach, the Halifax RJ agency has recently put into place a full-time, special victim support worker. Still, it seems fair to say that agency personnel were concerned about the extent of the transformation from the young offender focus of the AM era; as one noted, "we don't follow the victim as much as we should"; this view was also commonly expressed by volunteers in the focus group discussions. Clearly, responding to the victimization is demanding, frustrating and something difficult to delegate to volunteers.

TRAINING AND THE SCOPE OF RJ ACTIVITY

The transformation to RJ has been accompanied by more training for staff and volunteers. As noted above, the former have been provided with training in RJ, case management and use of a sophisticated information data management system (RJIS), provided by experts under contract with NSRJ and delivered on-site. Agencies' staff in turn have been responsible for training the volunteers. Judging the adequacy of the training is complicated for two reasons. First, both staff and volunteers, across the agencies, placed a high intrinsic value on training and consequently were eager to receive more (i.e., to consider that they could well use more). Secondly, adequacy has always to be considered in relation to the objectives of the role in question. There would

appear to be at least four components to the basic staff facilitator role, namely to competently facilitate RJ with respect to minor, but not too minor, offending, to be able to identify problems and issues, to have knowledge about community and other services that can be accessed, and to be able to communicate the RJ approach to others. Agencies' staffs appeared to have adequate training and experience in all these respects, not only from their credentials and experience and the supplemental training noted earlier, but also as a consequence of their activities in public legal education (e.g., the Dialogue Project, community presentations) and their participation in conferences and workshops on RJ, YCJA and so forth which was quite significant in 2001/2002. It is less evident that the volunteers' level of training would be adequate. Certainly in focus groups the volunteers expressed much concern about their training and especially the limited opportunities for feedback and sharing experiences. In some phase 1 agencies, such as Halifax, significant training for volunteers in RJ and conferencing reportedly only became routinized in the fall of 2001. According to some volunteers, the limited pre-session discussions between core staff and volunteers sometimes created problems (e.g., lack of pertinent information about a participant, how to handle disclosures, what information to allow in discussions) and this relationship and protocol constitute another dimension of training that would appear to warrant attention. These possible shortfalls could be very significant if core staff is increasingly caught up in pre-and post session activities and if the referral become increasingly complex.

From discussions with staffers and volunteers, it appears that the transformation to RJ certainly implied, within a range, dealing with more serious offending. Both staffers and volunteers appeared to conceptualize their RJ activity as especially relevant for "modest" offending. They exhibited what could be described as a healthy regard for the combination of their own limitations and the complexity of possible referrals. On the one hand, a number of agency personnel were concerned that they were processing too many low-end referrals –

It takes time to do all this minor stuff ...they [police?] should be screening out for formal cautions more.

In the focus groups a number of volunteers reported that they were still doing AM type sessions - accountability sessions - on very minor matters rather than the victim-offender conferencing that they preferred and that made the work interesting for them. On the other hand, much caution was

expressed about getting involved in serious youth offending, and adult cases, and almost all those interviewed rejected any involvement in the moratorium offences. As for serious youth offending, one agency staffer summed up a common standpoint as follows:

Training is adequate for what we are doing now but if we go into sentencing circles or more serious cases, or adults it will be a new kettle of fish.

The agencies' personnel who were positive about handling more serious or more complex youth cases - these terms were undefined - were for taking one step at a time; as one said,

It would be nice to see more referrals from the Crown, more from the upper levels [of the CJS]. We haven't done enough to see how they will go.

Several persons expressed concerned about multiple repeat offenders being channelled through RJ; one agency director, for example, commented,

I'm still sceptical about referring the same person over and over again. I've spoken to the police officers who wonder how many times you should give a person a second chance. I've not done enough to form a real opinion on it yet.

The caution expressed by many was captured by the comments of another experienced agency staff person:

Serious crimes, well, I'm leery of that. I wouldn't want to put the program at risk. I want to make sure that we don't skip over things and are paying attention to detail, not missing opportunities to bring the community into it and making sure we have staff and volunteers doing the right things. I would like to see us following a protocol.

There was ambivalence, but caution rather than any outright rejection, about extending the program to adults. One staff person observed,

Moving to adults would be a major shift and I imagine some people won't like that ... I personally see it in many ways as being easier. You'll be dealing with an adult rather than a kid and his support system.

Another staffer opined,

Maybe at the victim-offender mediation level, but why would we do accountability sessions with adults? Probation has more resources at its disposal and it sounds like they have an effective way of doing it with adults [adult diversion program] ... but the VOM part, I could see that working, maybe better than with kids.

An agency director commented,

I have mixed feelings about this. It depends on the offence. I've done three adults as a community volunteer for the RCMP and my opinions are changing. I think it can work.

Other agency personnel shared the view expressed by one staff person, "I have no problem with adults down the road."

Agency personnel strongly supported the moratorium, virtually all expressing the view that sexual assault and domestic violence, however ostensibly minor, can indicate deep-seated problems. One agency director, citing experience with cases of family violence in a previous employment, commented,

I am totally against [minor sexual assaults and domestic violence cases being referred to RJ]. I don't think these crimes should be referred to RJ at all ...the moratorium should never be lifted... You have to be awfully well-trained and experienced to know how to handle these things, maybe especially in rural areas where everyone knows everyone else.

Staff persons with post-graduate credentials and conferencing experience were quick to proclaim their limitations vis-a-vis such cases, as in the following quote:

You really have to be up on the power dynamics, the imbalances in these cases. It's a very delicate and specialized area. There are real chances of making serious mistakes. We are careful not to take these cases. We are not social workers or psychologists. We don't have the training.

While none favoured lifting the moratorium at this time, a few persons thought that the RJ approach could be effective if professionals were involved; as one put it,

I am not skilled or qualified enough to assess these cases so it isn't proper for me to do them but it would be okay if professionals were involved. Another staffer noted that RJ had been used for such cases in other jurisdictions but she too was wary – 'there's a lot of danger involved and there is a real fear that there would be a lot of pressure put on the victim to go that route.'

While the moratorium applies to spousal/partner violence, not domestic violence in general, the agency personnel were sensitive to all family violence cases. A handful of staff persons indicated that they had either rejected other types of family violence referrals or had consulted with "counsellors" before deciding what to do.

NETWORKING AND THE "ACTIVE ORGANIZATION"

Another feature of the transition from AM to RJ for the local non-profit agencies has been the necessity to network more profoundly with the whole spectrum of CJS role players (since referrals can now come from all the levels, not just the police) and with other community agencies (since the cases referred are more complex and more community services have to be accessed for the needs of both the offenders and the victims). Most agencies were continuing in 2001/2002 their active networking with local police services and for some this has become basic routine, as reflected in the comments of one Cape Breton staffer, "It's a little slow [now] so I'm hitting the detachments this month". Another agency director wrote in December 2001, "There are fifteen new officers in the Valley so we have a lot of work to do". The agencies for the most part have reported increasing cooperation from the local police services/detachments. Apart from the police, some agencies like Amherst and Cape Breton, have been meeting with Corrections officials, discussing possible referrals at that level, while the Valley agency has had discussions with the Youth Centres (Waterville and Shelburne) and the Halifax agency began a special collaborative project with the Waterville institution. While, thus far, there have been few RJ sessions actually arranged (there has been much effort expended on some attempts), the groundwork is being established. A few agencies (e.g., Halifax) have also stepped up their contact with crown attorneys by regularly attending court. On the community services side, it is unclear how extensive the networking has become. Certainly, most agencies have been engaged in public information campaigns and have gone into the schools to discuss the RJ initiative. The extent of collaborative contacts with family counselling services, community providers of programs such as anger management and so on are unknown to the evaluation, but the panel interviews (see the chapter below) do indicate that the networking on this dimension is particularly strong in Cape Breton's Sydney area. A Halifax core supervisor stressed the important of such community networking as follows:

You need momentum for RJ to succeed. It takes investment to get a greater volunteer base, to train and to expand. At least 40% of the success of this project will be due to its community profile. What we need is a social movement and we need to have community ownership of it. That will determine its success or failure.

Perhaps, overall, the most important feature of the transformation to the status of RJ

agencies is that the agencies have had to ratchet up their level of organizational activism. It has not simply been a question of more networking with CJS officials and community service providers but also a matter of closer, "everyday" contacts with NSRJ at the Department of Justice. And, more than that, it has been developing an activist approach internally as well as externally. In the case of the Halifax agency, for example, there has been significant internal organizational change such as hiring outside consultants, developing a strategic plan, creating new roles (e.g., black liaison, victim supporter, trainer). Also agencies have expended some effort - much more is needed - identifying and writing up best practices or interesting cases.(2) Agencies have increasingly identified key problems and opportunities in their environments, whether it be Halifax's focus on black youths or the Valley's success in obtaining project funding to work on issues of victim empathy and re-entry into the community. How activist to become raises issues, such as whether to initiate contact with offenders in court, to get involved in Corrections' programming, to establish ancillary programs, to pursue other funding possibilities, to allocate time between professional and community development? But there seems little doubt that given the combination of a broad RJ mandate and limited resources, the push factors are as strong as the pull factors in generating this organizational style.

PERCEPTIONS OF VALUE-ADDED

Agency personnel were quite confident that the transformation had produced much value-added and were enthusiastic about being engaged in RJ programming. One staff person summed up a common perspective on this matter as follows:

The province is getting a really good value for their dollar with RJ because so many of the people who work for RJ are volunteers. It's swifter than the court process. The victims get more input. With AM you didn't meet with people ahead of time so there was no trust built up and there were a whole lot of issues that you didn't know about. RJ is better for everyone. It gets to the reasons why it happened and after the offence it's better at finding solutions.

Virtually everyone interviewed considered that the greater governmental investment had yielded "more bang for the buck", allowed for a more profound intervention and created a more satisfying participation in problem-solving and challenge for the staff and volunteers. One staff

person noted, "Now the investment in time makes it a deeper process". A staff person and a director highlighted the efficiency and efficacy in their comments:

We are doing an incredible job for the Department of Justice with very little resources. We are doing advanced training for the volunteers and it takes so much time and we are already spreading ourselves too thinly. I feel we should be paying more attention to the volunteer program. [..continued]

It saves a lot of money and I can tell you they [government] don't pass it on to us. We do it on shoestring. And it frees up the court time for more serious crime. It also frees up court time and crown prosecutors and lawyers, especially legal aid lawyers who are always swamped. More minor offences are being dealt with by the people who are harmed the most ... and finally the victims get a say.

Clearly, the informants usually did not think that the cost-savings were being passed along appropriately. A few, however, expressed modest reservations about the efficiency argument. One commented that, "you can't really compare [RJ and court-processing] but it's got to be cheaper", while another staff person cautioned,

Ah well, it's very time consuming. Sometimes, at the very lowest level [offence-wise] we could fast track them quickly. You don't need a pre-session meeting. We never did that before. It can only be cost-saving if, in the long run, you can make a difference, if they don't proceed to a crime career.

Most informants reported experiencing much more satisfaction with RJ, especially with facilitating at the RJ sessions; indeed staff persons and volunteers alike often indicated that the opportunity to do mediation or facilitation was the reason they got into this kind of work. One person observed, "Definitely, I would say [compared to AM or court] ... You see positive results ...you don't see that look coming out of court". Another staffer commented,

It's satisfying work when it goes well ...it's great to see people come together, including the victim, to have an opportunity to make things better ... if the session goes well, there is a feeling of accomplishment.

While the staff and volunteers were quite in agreement that RJ brings greater efficiency and efficacy than AM or the court system, they were less confident about equity. As noted, both types of persons had strong concerns about the balance in RJ activity between serving offenders and serving victims. But there were concerns about equity among offenders themselves. The ambivalence on this score sprang not from a sense that facilitators or the RJ process itself would

be biased by socio-economic status, ethnic, gender or other considerations, but largely because the agencies just accepted cases referred to them and there could well be bias in the referral patterns. Two staff persons cited cases where co-accuseds were channelled into different streams, the one getting the RJ referral having access to a retained lawyer. Another person expressed her uncertainty as follows:

We take what they send us. It's difficult to tell [about bias here]. There is a large number of low SES offenders. I guess it [RJ] favours the articulate offender who can be pleasant with the police. The police dislike people who lie or stand on their rights and won't give a statement, who won't play along. They think they're hiding something. Lawyers improve your attitude [and sometimes convince crowns to refer].

CONCLUSIONS

In this chapter, the focus has been on "placing" NSRJ and the RJ agencies with reference to restorative justice elsewhere in Canada, other related programming in Nova Scotia, the other constituents of the CJS and the earlier alternative measures service. It has been contended that NSRJ is unique in its hybrid character (i.e., significant core paid staff and large volunteer base) and in its system-wide objective. Within Nova Scotia, the linkages with other related programs - the RCMP's CJF, the Mi'kmaq's MYOP, the PPS's Cautioning Project, and Corrections' Adult Diversion - were examined and the overall argument made that there is a positive symbiosis operating to the benefit of all programs. The fiscal year 2001/2002, it was observed, has seen the institutionalized of NSRJ and the implications of NSRJ's having a place at the CJS table were discussed. Finally, several features of the RJ agencies were discussed, particularly those wherein the transformation from alternative measures to restorative justice was quite meaningful. The features discussed were resources (e.g., the resources implication for core staff, for volunteers and for different agencies), procedures (e.g., how the program works, responding to victims), training and the scope of RJ activity (training was considered adequate for the present and near-future scope of the RJ activity but some shortfalls were identified), networking and the active organization (i.e., the push and pull factors that have profoundly changed the organizational style of the RJ agencies), and perceptions of value-added on the part of agency personnel (e.g., confidence that the transformation has yielded value-added, assessment that RJ is efficient and

efficacious, high intrinsic work satisfaction).

ENDNOTES

1. Wendy Keats, an RJ consultant, from her interviews and focus group sessions with volunteers, identified a number of basic themes, namely (1) volunteers who have facilitated victim-offender or group sessions since RJ came into effect, generally considered that their participation has become more interesting and meaningful; (2) volunteers overall would prefer not to be involved in accountability sessions for low-end offences nor in pre and post session case management; (3) volunteers reported a strong interest in working with youth and believe in the philosophy of restorative justice; (4) volunteers have received very little training and, for the most part, what they received was more like orientation with little or no opportunity for skill development; (5) volunteers felt that they were not called upon to facilitate often enough; (6) volunteers considered that there was a need for clarity in how the RJ session was expected to operate and how they should deal with the unexpected information or incident at the sessions; (7) volunteers desperately wanted feedback and a community of volunteer mediators wherein experiences could be shared; (8) volunteers felt that they received insufficient pre-session information and preparation. Observations and focus group participation by members of the evaluation team yielded similar generalizations with the added pattern that the volunteers were reluctant to be involved in family problems and serious youth offending without significantly more experience and training.

2. In their monthly reports some agencies have been highlighting cases that illustrate some key issues or are simply interesting in themselves. This practice could help generate a best cases library for NSRJ and the agencies and be helpful in their analysing the RJ intervention. Thus far, the cases highlighted have especially featured cases and sessions involving multiple offenders and victims, undoubtedly because such cases require a major effort on the agency's part, because they illustrate complex dynamics in offending, and because they raise questions about RJ strategy. Also featured in these reports are cases involving uncommon persons or situations such as the assault of a mentally challenged girl, the harassment of an immigrant store owner, the destruction of a major village symbol. A third type of case report highlighted has been one where the session agreement was imaginative or unusual (e.g., the combination of remand followed by RJ intervention in the case of youths charged with theft from autos, a required trip to a hospital for the offender).

4. THE RESTORATIVE JUSTICE AGENCIES

As noted, the local community agencies delivering restorative justice have their own governance boards and are arms-length from the government in daily operations. The protocols under which the agencies receive referrals from the different CJS entry points are of course established by the Nova Scotia Department of Justice, as are the broad parameters within which the agencies' dispositions (i.e., conditions that the young offender must meet) must fall. The agencies are dependent on the Department of Justice for virtually their entire regular operating budgets, and receive from the office of the restorative justice coordinator special training in restorative justice programming and certain administrative assistance (e.g., recording and analyses of information). In addition, the Department of Justice, through the restorative justice coordinator, provides advice and support to the agencies on an on-going basis. While the local agencies are accountable ultimately to the Department of Justice in the sense that the latter could effectively shut down local RJ operations, the relationship is one of partnership and collaboration. The agencies operate independently within the broad protocols and guidelines, exercising substantial control over "the work process". They do some modest fund-raising and, far more importantly, they mobilize, recruit and train significant numbers of volunteers. The volunteers are crucial to the success of the restorative justice initiative, perhaps even more critical than there were in the agencies' alternative measures era since the referrals dealt with are now more complex, involving more and different session participants and more serious offences.

KEY MEASURES OF THE VALUE-ADDED OF THE RESTORATIVE JUSTICE INITIATIVE

There are many possible measures of the "value-added" impact of the restorative justice program vis-a-vis the alternative measures programming that the local RJ agencies used to deliver. Three important measures would be whether the number and types of referrals have been changing, whether the types of offences dealt with by the agencies have changed proportionately, and the extent to which the agencies are engaged in different types of RJ sessions (an indication of whether the intervention itself has been changing). Tables 4.2, 4.3 and 4.4, measuring, respectively, each of these indicators, were put together based on monthly reports produced by each agency.

NUMBER AND SOURCE OF REFERRALS

Table 4.1 provides data on the RJ referrals for 2000 and 2001 based on the RJIS file accessed by the evaluator (1). The number of referrals increased substantially (i.e., about 20%) in 2001. All four agencies received more referrals in 2001 than in 2000, the gains being particularly significant for the smaller agencies where they exceeded 30%. It is clear, too, that the gain in referrals was almost entirely accounted for (i.e., 92%) by increased referrals at the police entry level. Overall, the total of 1022 referrals in 2001 exceeded the average yearly total of 978 alternative measures referrals over the four years prior to the NSRJ initiative. The RJ agencies are now handling not only more complicated referrals and providing more in-depth contact and service to offenders and victims but are, also, handling more cases than in the alternative measures (AM) era.

On the basis of monthly reports produced by the RJ agencies, Table 4.2 presents data on the number and types of referrals over the twelve months of 2001. It can be seen that metropolitan Halifax agency received about 47% of the 1008 RJ referrals sent to the four, first phase RJ agencies, while the Amherst, Sydney and Kentville agencies accounted for, respectively, 10%, 28% and 15%. The number of referrals received varied slightly over the year but overall the fourth quarter numbers were the largest. The table indicates that there was some modest progress in the agencies receiving RJ referrals from levels of the CJS beyond policing. In 2001, only 75% of the total referrals received were pre-charge police referrals, while post-charge crown referrals accounted for 23% and the post-conviction court and post-sentence corrections levels each contributed a handful of referrals. Almost one-third of all referrals received by the Halifax agency were crown referrals (testimony it seems to the close collaboration of police and crown prosecutors at the Devonshire Family Court where the criminal cases of youths aged 12 to 15 are considered). In the case of the Amherst agency, 22% of its referrals in 2001 came from beyond the police level, compared to 17% of the referrals for the entire 1999 to 2001 period. In the second half of 2001, as Table 4.2 shows, the Amherst agency began receiving referrals from the Corrections entry point. The Kentville agency received almost 20% of its referrals from the crown prosecutors (i.e., post-charge), the number of such referrals picking up significantly in the second half of 2001. The Sydney agency received essentially the same proportion of its 2001 referrals from the police, pre-

charge, level as it had over the previous year, namely 87%. Overall, apart from the

agency-specific variation noted, the proportion of cases coming from the different levels or entry points did not vary by quarters.

TYPE OF OFFENCES DEALT WITH

Table 4.3 provides data on the types of offences that constituted the referrals received by the RJ agencies in 2001 (2). The offences were sorted into three categories, namely type 1 offences which essentially represent the AM template (i.e., the kinds of offences referred to the agencies in the alternative measures era), while type 2 offences represent the more serious conventional crimes and type 3 represent a residual category of other criminal code offences. The table shows that 814 or 70% of the offences were type 1. This percentage is modestly but clearly lower than the roughly 80% of the agencies' first year offences which were type 1, indicating some progress away from the AM template or profile of offences handled. The RJ agencies, then, received in 2001 referrals that involved more complex and serious offences than did their referrals in 2000.

The type 1 offences in 2001 were first and foremost "theft under" for all four agencies but there was variation by agency in the type 1 offence profiles. The Island (Sydney) agency dealt with a proportionately much larger number of liquor infractions. It handled seventy-three cases of LCA offences (about 30% of all its type 1 referrals) while the other three agencies combined had only about thirty such referrals. The Halifax agency had the lowest proportion of type 1 offences (i.e., 61%) while Sydney had the highest (i.e., 88%), and the two small town regional agencies were in the middle (i.e., Amherst had 71% and Kentville 65%). Type 2 offences accounted for about 13% of the offences handled by the RJ agencies in 2001. While Halifax handled the largest number of such crimes (i.e., 72), the Kentville agencies had the highest proportion of type 2 offences in its workload, namely some 30%. The two most frequent type 2 crimes dealt with by the RJ agencies were break and enter and drug possession; the latter - drug possession charges - were proportionately well distributed among the agencies in relation to their total number of

cases, and the CDSA offence overall accounted for approximately 25% of all type 2 offences. Type 3 offences constituted a residual category (e.g., other criminal code) and often there was no breakdown of the constituent offences in the agencies' monthly reports. It was possible to identify about one quarter of these offences, and among this 25% sample the four major offences were uttering threats, joyriding, resisting arrest/obstruction, and motor vehicle offences. There were some interesting patterns of variation. The Sydney agency, for example, received virtually all the joyriding offences (3) while Halifax got virtually all the resisting arrest/obstruction charges and most of the motor vehicle infractions. Uttering threats was a common type 3 offence in all regions.

TYPES OF SESSIONS

Table 4.4 provides data on the type of RJ sessions held to deal with the referrals accepted by the local RJ agencies. Three categories are utilized by the RJ agencies in describing their intervention format, namely (a) victim-offender (VOM) sessions, where, at the minimum, the session participants included a victim or victim surrogate, an offender and the facilitators (almost invariably, apart from "Stoplifting" sessions and workshops, in all sessions, in all RJ agencies, there are reportedly two facilitators); (b) accountability (ACS) and "Stoplifting" / Workshop sessions; in the ACS, the participants were, as in the alternative measures era, the young offender, a parent or guardian, and the facilitators, and no victim was present; in "Stoplifting" and Workshop sessions there were always multiple offenders (usually 5 to 8 youths), sometimes a corporate / business representative or community person, and the sessions ran from two to three and a half hours. All the agencies apparently had some form of anti-shoplifting program but Halifax had probably the most elaborate program, not a surprising point given the preponderance of corporate retailers in the metropolitan area (4); the workshops, used primarily in Sydney, were two to three hour educative sessions dealing young offenders having alcohol or drug abuse; (c) community justice forums (CJF) or restorative justice forums (RJ). In these CJF and RJ types of sessions, which differ only in nomenclature not structure or style, there was presumably the full range of participants, including victim, offender, supporters, community representation and the facilitators.

While there appears to be general agreement among the agencies as to the definitions of these various types of sessions, in practice, there was considerable overlap between VOM and CJF/RJ in the agencies' designations; in a number of instances, sessions with the same number and type of participants were classified by one agency as VOM and another as CJF/RJ. Pending a more formal operationalization of these terms in the context of utilizing the restorative justice information system, it is advisable not to over-emphasize these distinctions. It can be noted, too, that in Table 4.4 there are no CJF/RJ sessions cited in the Halifax agency reports and the presumption here is that these types of sessions are included in the agency's cited VOM sessions. Finally, there were no circle sentencing sessions reported by the agencies in 2001 though the "circle process" was apparently utilized as an explicit technique in a few sessions by several agencies.

It is evident from Table 4.4 that the most common type of RJ session was the ACS/"Stoplifting"/Workshop intervention, which used essentially the same basic formats followed in the alternative measures era. About 63% of all the sessions in 2001 were identified by the agencies as falling into this category. In the case of Halifax, where shoplifting is most extensive, 85% of the agencies' sessions were so identified. There were other, interesting and seemingly idiosyncratic variations among the agencies. The smaller agencies, for example, had proportionately fewer accountability sessions. When Amherst departed from the ACS format, it generally employed full-fledged CJF/RJ sessions (i.e., 51% of all Amherst sessions), while, when Kentville did, it usually employed the VOM format (i.e., almost 40% of all Kentville sessions). In the case of Sydney, the pattern was similar to Amherst in that the full-fledged CJF/RJ type of session was utilized extensively (i.e., almost 40% of all its RJ sessions) and the VOM type of session quite infrequently. Comparing the frequencies of VOM or CJF/RJ types of sessions in the first and second half of 2001 for all agencies, no pattern of change or evolution was evident. In other words, the profile of session types did not change for any agency over the course of 2001 (for specific comparisons to 2000, see below).

Overall, then, in terms of the three major criteria for determining the value-added of the agencies' involvement in the NSRJ initiative, there is little doubt that progress has been achieved. According to both the RJIS and the agencies' monthly reports, the RJ agencies received more

referrals in 2001 than in 2000 and now handle more cases than in the AM era. While police referrals accounted for most of the increase, there were modest gains in securing referrals from the crown and corrections levels. The cases that the agencies dealt with in 2001 were, on average, most complex than those dealt with in 2000 and substantially more complex than those handled in the AM era. The accountability session, analogous to the AM conference, remained the most common type of session in 2001 but less so than in 2000, testimony to the increasing complexity of the agencies intervention (i.e., involving victims and others much more in the agencies' contacts, services and conferencing). There were some interesting variations by agency in growth patterns, offences dealt with and types of sessions held.

SPECIAL FOLLOW-UPS TO THE YEAR ONE REPORT

In the Year One report, there was a more detailed focus on two agencies, namely Valley Restorative (Kentville) and Island Community Justice (Sydney), and an assessment of turn-around time or the dispatch with which agencies dealt with the referrals they received. Tables 4.5 to 4.10 follow up on these themes, drawing on special data obtained from several of the RJ agencies. It is clear from Table 4.5 that the Valley agency experienced a sharp increase in its referrals in 2001, growing some 30% over 2000 and well surpassing its earlier alternative measures caseload. The table also shows that, while the bulk (i.e., over 80%) of referrals continued to come from the police entry level, the referrals from the crown level increased substantially in percentage terms from 2000 to 2001 and of course from the AM era. The agency's offence data (Table 4.6) also illustrates the overall trend noted above, namely a progressive decline in "theft under" referrals (from 58% in the AM era to 35% in 2000 and 30% in 2001) and modest regular increases in handling more serious offences such as break and enter, and drug and alcohol infractions. Table 4.7 illustrates the quite modest trend, noted above for the RJ agencies overall, in having fewer accountability sessions and more frequent victim participation in the conferences held. Table 4.8 for the Island agency underscores two of these same patterns, namely an increase in referrals and little change in the number of sessions or conferences that were accountability sessions (i.e., from 53% as of November 30, 2000 to 56% as of December 2001) agency). In the case of the Island agency, there was no discernible increase in the proportion of referrals coming from beyond the police level of

the CJS.

A criterion often suggested for comparing restorative justice interventions and court-processed cases is "turn-around-time" or how fast a case is processed in the two types of systems. Timing is deemed crucial for both theoretical (e.g., effective sanctions are timely sanctions) and practical (i.e., summary offences have to be filed in court within six months of the offence) reasons. Moreover, while many stakeholders do not expect the RJ sanctions in themselves to be radically different, either in substance or in deterrent value, from those meted out by the courts, it would be expected that at least the response would be quicker. In Year One the turn-around times were calculated for all the Island Justice cases and the results were impressive. Most referrals (i.e., 66%) were received within one month of the offence and fully 97% of the referrals were conferenced within three months of being received.

Tables 4.9 and 4.10 shed further light on this issue in 2001. Table 4.9, drawn on Valley agency data for 2000 illustrates that police referrals have been dealt with fairly quickly. In 60% of the cases, less than six months elapsed between the date of offence and the agency's closure of the file (i.e., offender's completion of the RJ agreement) and virtually all files were closed at least within one year of the offence date. It can be seen that the agency only received 40% of the referrals within one month of the offence and that about 35% of the referrals were received at least two months after the offence date. The table also suggests (the number are few) that referrals from the crown level typically will be received much later by the agencies (here over 40% did not come until at least three months after the offence occurred) and will typically not be fully processed before six months from the offence date. While the period of elapsed time may not be best from a theoretical perspective on effective sanctioning, there is no practical problem here as a crown referral is post-charge and thus the six month rule is not applicable (e.g., a youth not fulfilling the RJ agreement could still be processed in court even if six months had passed since the offence took place).

Table 4.10 examines the turn-around-time for the Halifax RJ agency in 2001. Since one third of the agency's cases are crown level referrals and crown referrals, as noted, are not commonly fully processed within six months of the offence, it would be expected that the turn-around-times

would not be as fast as for the Island and the Valley referrals. It can be seen that the Halifax agency received about a third of all its referrals within one month of the offence but that close to 30% were not obtained until three months had elapsed. These percentages are modestly different from their respective Valley equivalents. The Halifax agency was able to hold conference sessions for roughly 80% of its cases within three months of receiving the referral. The offence to closure elapsed time for Halifax cases was not appreciably different than for the Valley cases (averaging by weight the Valley police and crown referral times), namely almost half falling outside six months. Both Halifax and the Valley agencies did not have as speedy a case processing as the Island agency but it appears that the most crucial variables in explaining turn-around times in general are the proportion of crown referrals in the total referrals received by the agency, and how fast the agency received the police referrals. Improving turn-around-time remains a key objective for the agencies and the NSRJ program.

OTHER ASPECTS OF AGENCY RJ ACTIVITY

Not all cases referred to the RJ agencies can be expected to complete the full process of (a) contact, (b) session, (c) agreed-upon disposition, and (d) disposition terms met. In some instances, particularly in the more anonymous metropolitan Halifax, contact may not be established with the young offender. Of course, too, there are instances where the youth has either not agreed to participate or been a "no-show", and other instances where no adequate consensus could be achieved in the RJ session concerning the appropriate disposition, or where the youth simply did not complete the disposition agreement. For the year 2001, the percentage of referrals "non-completed", for any of the above reasons, was approximately 10% for Amherst and Kentville, and 15% for Sydney and Halifax (i.e., in actual initial numbers, 10, 13, 43 and 74 for Amherst, Kentville, Sydney and Halifax respectively). Overall, the agencies accepted virtually all the referrals they received from the different levels of the CJS but a few were rejected because they fell outside the amended protocol guidelines (e.g., a post-conviction case where the offence was deemed to be of a sexual nature).

A significant value-added dimension vis-a-vis alternative measures, has been the more frequent and more in-depth contact that the local RJ agencies have with both offenders and victims. This enhanced contact is discussed elsewhere in the report (see the survey and interview data write-ups below) and a more quantitative picture awaits further analyses of the restorative justice information system, but there is little doubt that contacts with, and the provision of services for, both offenders and victims have increased significantly compared to the agency practice in the alternative measures era. Since July 2001, all agencies have used a similar format to record on monthly reports the number of victim preparation sessions they have held. Available data show that the Amherst and Kentville agencies averaged about six such preparations per month while Sydney averaged about ten. While Amherst's preparations were equally split among person and corporate / business / institutional victims, in the case of Kentville and Sydney, the preparations were predominantly with person victims. It may be noted here that all agencies now also use a similar format for handling referrals where the designated case manager contacts both the offender and the victim and all other potential participants for that case. The Sydney agency for about a year and half had utilized a distinct system where victims and offenders were served by different staff but it decided in 2001 to adopt the former, case manager approach (5). The RJ enhancement has also been apparent in the length of the RJ sessions actually held. Most agency informants (including here the volunteers participating in the three focus group sessions held with the evaluators) indicated that the RJ sessions were of much longer duration than had been their alternative measures counterparts.

All agencies spent a considerable amount of time networking in their local areas with CJS personnel and with other local community agencies. Typically, too, they were involved in media presentations and public forums, advancing the restorative justice initiative. In addition to their direct RJ activity, and apart from their activity in coordinating fine options and community service orders for the courts, the agencies occasionally developed complementary programs in areas such as anger management and "awareness and cognitive skills" where these supportive programs were unavailable locally. All agencies have spent significant time reviewing the effectiveness of their current programs, developing new ones and exploring what is available locally (6). There has been some concern among agencies for launching more preventative

programming; for example, as noted above, the Halifax agency has been developing ideas and programs to deal more proactively with the high level of Afro-Canadian youth involvement with the CJS in the metropolitan area. Of course, these supplemental and complementary activities often involve responding to and seeking out funding possibilities, something that can be quite time-consuming and quite stressful when the usually short-term funding contracts come to an end.

Organizationally the agencies have to cope with the implications of limited budgets and the constant pressure to adequately fund staff, training needs for staff and volunteers, and desirable program initiatives. There has been significant turnover in the larger agencies and there is a considerable challenge for agency management to produce a high quality of work life in their organizations when the promotion opportunities are very limited and the pay is quite modest. While, overall, the agencies have done rather well in meeting the challenge, clearly it is worrisome as indicated in the remarks of one staff person, namely "I worry about the kind of people we can attract. They are either zealots who find it hard to get along with the other staff - it's either my way or the highway for them - or we get people who have little or no training but may naturally have some of the skills we need ... It is very hard to keep good people who have the right training and experience ... There is no place for them to go here. And the wages! (words accompanied by the raising of eyebrows and the wringing of hands)". The agencies have been developing some organizational strategies such as "streaming" volunteers (i.e., establishing criteria for the skills and/or experience required for different facilitator roles), having designated staff coordinating volunteers (in the larger agencies), allocating more administrative responsibilities to paid staff, rotating staff positions, and in general improving the quality of working life. Still, it is a constant challenge and most agencies have but a few paid staff positions and very tight budgets.

SOME KEY ISSUES

In general, numerous interviews over a year long period, indicated that agency personnel remain positive and excited about the RJ initiative. They reported a significant "value-added" vis-a-vis the earlier alternative measures programming and the issue has become more one of how far and

with what haste the RJ programming should and will be further elaborated. There was a clear frustration among many agency staff and volunteers that they have not received the challenging referrals promised in the NSRJ program. A common set of complaints has been that police interpret RJ as "a one shot thing", that courts are reluctant to refer cases and that, at the corrections level, there is little incentive for the young offender to participate and the incident is often so old that the victim is also reluctant.

While there was concern among agency personnel about the lack of challenge in many referrals, there was also a widespread view that more training and preparation would be required were the agencies to receive referrals involving more violent offenders, adult offenders and even more problem youths causing serious harm (e.g., swarming cases, home invasion). Few agency personnel seemed disappointed with the moratorium on the referrals of sexual assault or partner violence to RJ agencies; and many considered that it may well be wise to defer getting involved with adult offenders as the NSRJ program has apparently done, though here, certainly in respect to minor adult property crime, the issue raised was more one of the availability of resources than of competence or confidence on the part of agency personnel.

There was some concern or, better, ambivalence, about how active the agencies should be in securing referrals. A common view was that agency staff would be much more effective in persuading offenders to welcome the RJ opportunity than CJS officials have been, but agency personnel appreciated the autonomy of the latter and recognized, too, the time and effort involved in attending court, reviewing files with appropriate CJS officials and so on. This issue elaborated into a larger one of how much more the agencies should be involved at the community level and in the schools, especially as most agency personnel saw opportunities here since they believed the restorative justice alternative was increasingly accepted as an alternative to conventional CJS processing of minor youth crime. For some agency personnel there was a sense of a hard choice between the agency becoming more professionalized or more "grass-roots".

Another issue raised by some agency personnel concerned substantive matters such as dealing with repeat referrals, whether in "Stoplifting" or other types of RJ sessions. Are there special interventionist strategies that could be employed in responding to repeaters or to someone whose participation at a previous RJ session was poor or who did not fully complete the agreement?

When discussion focused on interventionist strategies, it almost inevitably led to issues of how the agencies could relate better to one another and learn by sharing experiences and "best practices". It was often pointed out that inter-agency meetings have been limited to either directors getting together to discuss policy (protocol, budget) issues or agency personnel getting together for generalized training sessions (e.g., circle sentencing), but that there has been limited contact at the "field level" to discuss specific programs and interventionist RJ strategies (e.g., "Stoplifting", flagging deeper family or support problems at sessions for possible action).

In large measure the issue of resources cut across almost all the areas of concern raised. There appeared to be a strong consensus that if the resources could be there for the training and the co-learning and the proactivity, then the challenges of getting, and responding effectively to, more serious referrals could be met. There was no apparent lack of confidence in the efficacy of the restorative justice alternative but there were frequent expressions of nagging doubts as to whether the agencies for the most part were instead involved primarily in a "downsizing and off-loading" of Justice responsibilities.

ENDNOTES

1. Another version of the RJIS file (used by the NSRJ staff) produced slightly different numbers. The biggest difference was in the number of crown level referrals to the Halifax agency where 190 referrals were indicated, not the 169 found in the file on which Table 4.1 is based. Secondly, there is a difference of about a dozen police referrals for the Valley and Island agencies, the former having about a dozen less and the latter about a dozen more in the other version of the file. The latter figures are indeed more congruent with those agencies' monthly reports while the monthly reports for Halifax are more consistent with the figures given in Table 4.1. Several differences between these versions of the RJIS appear to hinge on the operationalization of year and of referred versus accepted cases but, whatever, these differences will be resolved for future reports. Overall, the basic trends are the same regardless of the version of the RJIS used.
2. It has been the practice of the RJ agencies to list on their monthly reports the offence associated with the referral. While there may well be instances of a referral having multiple offences (e.g., theft under and possession under are commonly recorded by police in the case of a shoplifting incident), usually only one offence is identified.
3. According to crown prosecutors, the police in Halifax have used the charge "theft over" instead of "joyriding" to underscore the seriousness of the offence.
4. Halifax Community Justice has had a well-known "Stoplifting" program for several years. Its program was the most elaborate among all the agencies with similar programs in 2001 and the program itself was under copyright to the "Stoplifting" program coordinator. The coordinator of this program spent much time pre-session in contact with the young offenders and their parents / guardians then held a session for a handful of youths (i.e., 6 to 8). At the typically three hour session, the youths discussed their shoplifting incident, the impact that their arrest has had on their families and themselves, and agreed to a certain disposition. In many (roughly 50%) of these "Stoplifting" sessions, the coordinator/facilitator included various community persons to discuss

different issues with the youths. Here she attempted to match the community person and the offenders' needs, ethnicity and so forth. The program has been well regarded by police and other CJS officials. The coordinator considered the program to be very successful for most first-time offenders but acknowledged that it was "difficult to reach" a small percentage of shoplifting youths who appeared to be caught up in a criminal subculture where shoplifting (and other petty crime) was almost a routine activity. She was reluctant to accept repeat shoplifting offenders into her program and emphasized instead adjusting the "Stoplifting" program (e.g., bringing into the sessions persons previously incarcerated to demonstrate the perils of doing crime) to make it a more effective deterrent. How to deal with repeat shoplifters was a more problematic issue

5. Apparently the Island agency's switch to the more conventional case manager approach was done for reasons of economy and efficiency. It was contended that having distinct staff persons handling separately either the victim or the offender was basically a transitional strategy to ensure sensitivity to victims' needs and interests as the agency moved from an offender-oriented alternative justice model to the more inclusive RJ model. After a year and a half transitional period, the agency staff felt confident that they appreciated victims' concerns.

6. Some specific examples of these developments would be the Island agency temporarily suspending and reviewing its "Stoplifting" program under concern for its efficacy in deterring shoplifting; the Halifax agency extending its "black liaison" program to include working with youth incarcerated at Waterville, and considering a group approach along the lines of its successful "Stoplifting" program to handle referrals involving substance abuse (LCA and CSDA offences which are plentiful); the Amherst agency husbanding its scarce resources by dropping its own anger management initiative when an adequate alternative program was being delivered by another local agency; the Valley agency obtaining a grant from the Law Foundation of Nova Scotia to develop RJ modules in areas such as victim empathy.

5. EXERCISING DISCRETION: CJS RESPONSES TO THE NSRJ OPTIONS

The NSRJ program has built upon existing structures, practices and philosophies in implementing its restorative initiative in Nova Scotia. Central to the success of the initiative, at least in the sense of the program representing much "value-added" vis-a-vis its alternative measures predecessor, is the response of CJS personnel. Cautions at present can only be issued at the discretion of the police officers. Referrals to the restorative justice agencies have to be initiated by CJS personnel at the various entry points - police, crown attorneys, judges and correctional officials. While the restorative justice agencies can try to influence these CJS officials to send cases to them - and do so in a variety of ways, such as by orientation sessions, being present at court, and sometimes even reviewing files along with the CJS role players - they have to be aware (and undoubtedly are) of the limits in how far they can go in taking the initiative. It is important then to analyse how the CJS role players exercise their discretionary authority in deciding whether or not to utilize the alternative justice options. At this stage in the implementation of the NSRJ, as documented above, the police entry point is where most of the action has been, and, accordingly, police discretion has been the focus of the evaluation. In this section, police discretion will be examined utilizing several samples. First, there will be examination of a follow-up to the analyses of Year One based largely on the responses police were required to provide on NSRJ checklist forms when they were not cautioning or referring a level one or level two youth offence, but rather laying charges. Included here, as in Year One, will be examination of limited but interesting background data, on sample cases, which were provided directly to the evaluator by HRPS and CBRPS. Secondly, there will be an examination of police discretion exercised at Family Court in Halifax where cases of youths aged 12 to 15 are processed. This is a valuable sample because here the youth docket involves younger youths accused generally of minor offences, and the issue of whether it is best for the youth and for society at large to proceed through the courts or by alternative justice could be expected to be challenging for the police officers. Thirdly, there will be an brief examination of police and crown attorney divergences in recommending or not recommending alternative justice. Drawing upon special data describing pre-charge screening consultations between police and prosecution at the Family Court, this analysis can shed light on the different perspectives that these two types of CJS role players may bring to the exercise of their

discretion with respect to the options provided in the NSRJ program. Implications for future research as the RJ referrals become more widespread throughout the CJS will be considered in the conclusion.

INITIAL FINDINGS CONCERNING POLICE PATTERNS OF DISCRETION

Examination of a representative sample of over 500 checklists, available through the NSRJ program for 2000, found that police reasons for not cautioning or referring a case fell into one of five broad categories, each having a few subcategories, namely

- (a) victim-oriented reasons (30 times or 6% of all comments)
 - victim wishes
 - aggravating factors in victimization
- (b) "legally relevant" reasons (270 times, 54% of the comments)
 - criminal record
 - breached court conditions/requirements
 - facing other court charges
 - seriousness of the offence
- (c) youths' attitudes/characteristics (160 times, 32% of all comments)
 - lack of remorse, uncooperative
 - "out of control", violent
 - no responsibility taken for the offence
- (d) officers' judgment (20 times, 4% of all comments)
- (e) special conditions or factors (20 times, 4%)

It is clear, that the police officers' reasons for proceeding with charges and court action primarily focused on generally accepted legally relevant factors and on the attitudes and disposition of the youth. The former included the youth having a criminal record (almost always the comment referred to several convictions, not simply one), breach of probation or other court-directed undertakings, seriousness of the offence (e.g., "a violent crime", "a high speed chase"), other charges laid or pending (usually the comments stated that such charges involved more serious offences than did the incident under consideration), and previous opportunities having been provided for cautioning and referrals (here the officers typically wrote that these options had been

not deterred the youth). In citing youths' negative attitudes and disposition regarding the offence, the comments were roughly equally divided among those emphasizing a lack of remorse and cooperation ("displayed a lack of caring", "lied"), those suggesting the youth was violent and out-of-control at home, school and in general ("out of control" was a commonly used expression), and those reporting the youth did not take responsibility for the offence and thus was ineligible by the NSRJ protocol (often here it appeared that the youth simply refused to say anything about the incident).

Other reasons provided by police officers for not diverting youth from court processing were less frequent. For some officers victims' wishes were quite important, especially if the incident involved a repeat violation (e.g., shoplifting at the same store where previously caught, persistent threatening). In a small number of cases the police officer expressly cited his or her judgment on the matter (e.g., "accused needs court-imposed conditions", "the writer feels that the [NSRJ] program will not help her"). Finally, there was a score of cases where the comments were specific but more idiosyncratic (e.g., "can't locate the youth", "the protection of society", "car theft is a problem plaguing society") or suggested that "post-charge referral may be considered" (the implication here appears to be that officers think that sometimes laying the charge is itself a deterrent).

In addition to the above sample, special forms were completed by two police services (Halifax Regional and Cape Breton Regional), which went into greater depth concerning how they perceived the offender and his/her family, social life etc and why they did or did not divert in particular cases. In both police services the most important factors in their discretion were the nature of the offence and whether or not the youth had a criminal record; for example, level two offences were rarely subject to diversion and shoplifting was diverted almost as commonly as not when the youth was deemed to have a negative attitude, poor home environment and high prospects for re-offending. In both police services' samples, it was rare to find a youth with a criminal record receiving either a caution or restorative justice referral. But there were occasional anomalies where it was unclear on what basis the case was diverted or where the type of victim seemed to be important (e.g., school officials wanting diversion). Perhaps the most important finding was how different the two police services were in opting for either cautions or referrals. HRPS gave as many

letters of caution as they did referrals, while the Cape Breton Regional (CBRPS) unit gave no cautions whatsoever.

PATTERNS OF POLICE DISCRETION IN 2001: WHY THE COURT OPTION?

A random sample of 167 checklists was selected where the police had decided to lay charges rather than caution or refer the youth, and the written reasons provided on the checklist for that decision were scrutinized. For the most part the officers highlighted one particular reason but in some cases several factors were cited with apparent equal emphasis. As in 2000, the most common reason for laying charges fell under the broad category of "legally relevant" (i.e., factors that would be expected in law to justify more severe sanction). On almost 60% of the checklists the officers justified the decision by noting that the youth had a criminal record or had committed a quite serious offence or had breached probation / other court-directed order or was facing other charges.

Typically, when citing a criminal record, the officer indicated that it included multiple convictions, often for the same offence; for example, in the case of a 17 year old youth charged with uttering threats, the police comment was "prior history of similar offences and serious potential for bodily harm". Pithy expressions such as "chronic offender" and "extensive criminal history" were commonly used by officers. When calling attention to the offence itself as the key reason for laying charges, officers wrote a variant of one officer's comment, namely "serious charges, need court action". In a few instances the offence was a level three offence such as robbery or sexual assault, ineligible in any event for police referral; for example, one officer wrote, "This is an armed robbery where an imitation weapon was used by the accused while being masked, too serious an offender for restorative justice". Clearly, a breach of probation or other undertakings while awaiting court adjudication is regarded by most officers as a serious offence in itself, and also as virtually prohibiting diversion on other offences. Breaches were frequently cited; for example, in charging a 17 year old female, an officer wrote, "she is on probation and bound by an undertaking; she repeatedly violates both orders", while, in another case, an RCMP officer wrote, "X is not making any effort to improve his situation. Disregard for efforts of Family Children Services, relatives etc. Disobey court order by judge. Very serious". It was also common for officers to justify laying

charges in an incident by noting that the youth was facing other charges, sometimes re-offending even while the officer was contemplating what to do about the earlier incident; for example, in one not-atypical case, an officer wrote, "not a good candidate for restorative justice, presently in custody for numerous offences"; in another instance, an officer, in charging a 16 year old youth for a breach, commented, "there are three pending charges before the court. Accused has shown that he does not wish to follow rules set by the court i.e. curfew". Where youths faced other charges, had re-offended or breached probation, the common police view apparently was that diversion on the incident under consideration was rendered meaningless.

Somewhat on the margins of "legally relevant" reasons, was the officers' citing "unofficial" criminal involvement on the part of the youth, and the need for court action to deal with this situation. Here, in about ten instances, reference was made to the youth being a suspect in previous incidents, to police files and other data detailing the youth's criminal associations, and to the need for strong sanctions to deter the youth. Being formally charged and having to appear in the presumably intimidating court milieu appear to be the major components of the strong sanctioning in the police perspective. One RCMP officer in laying charges for illegal possession of liquor against a 16 year old, without any kind of official record, wrote: "she is known to drink often and has bragged about getting away with it. Member believes charges are best to deter further drinking and/or possession of alcohol". The long reach of police information is evident too in the following police comment when charging a fifteen year old with no record (whether court or diversion) with theft of goods valued at \$550, "this individual is not cooperative in returning the stolen item ... this party has been charged before with property damage but CNI indicates there was no prosecution". In a similar vein, another officer wrote, "Y does not have a criminal record but PIRS shows his involvement in several violent crimes".

In roughly 25% of the checklist forms, the officer emphasized the negative attitude of the youth, his or her lack of remorse and lack of cooperation with police, or refusal to take responsibility for the offence, as the pivotal reason for charges being laid. In the case of a youth charged with "damage under", the officer commented, "The accused is completely out of control and has no respect for people, property or law. Uncooperative all the time". In the case of a 17 year

old, who had previously had an RJ referral and was now charged with shoplifting, the officer wrote, "The offender was resisting and uncooperative with security and expressed that she was going to continue stealing when released". A 16 year old without any kind of record was charged with uttering threats (i.e., threatening his mother with a knife) as the officer noted, "on-going problem between mother and accused; violence may escalate". In charging a 16 year old for trespassing - violating an order to stay away from a mall - an officer wrote, "accused has no regard for the privilege of being on private property, disrespectful to police and security, verbally abusive". In another case, an officer, in charging a 15 year old (who had previous convictions and an RJ referral) with a liquor act violation, observed, "very uncooperative with police; police gave chase to catch him. Banging knuckles on the wall in lockup. Appeared not to care about charges pending". In two other instances, 16 year old youths with no record of any sort, were charged with liquor violation apparently basically because of their negative attitude; in one case the officer wrote, "X resistant to arrest, uncooperative, treated the incident as a joke, told members he'd drive whenever he wanted. He had been drinking and the smell of marihuana was in the vehicle"; in the other case, another officer wrote, "accused admitted to the offence but doesn't believe he did anything wrong. Indicated this would not be the last time he would be involved in this type of situation". In a few cases the officers simply wrote that the accused did not take responsibility for the offence; in the NSRJ guidelines taking responsibility is a prerequisite for alternative justice processing.

There were two other general types of reasons advanced, with roughly equal frequency, by officers when deciding to lay charges against youth in level one or two offences, namely the wishes of victims or parents, and the previous exposure to RJ processing. Each type of reason accounted for 13% of the checklist comments. Examples of the former included the case of a 17 year old youth, with a previous caution and RJ referral who was charged with theft under, where the officer wrote, "been through before on the same charge at the same place. Uncooperative. Zellers are demanding charges in this case. X fought with staff causing quite a stir"; in a similar incident the officer's stated reason coupled unofficial police knowledge and victim's wishes as follows: "accused [no record of any kind] has been criminally active in Bedford during the later part of 2000 although not listed on the in-house ...Empire Theatres wished party ticketed for violation". Police officers clearly often heeded the views of apparently responsible parents who contended that the incident

was symptomatic of underlying behavioural problems and urged the "strong sanctioning" of laying charges. In one case, for example, a 16 year old with one previous conviction was charged for a liquor violation and the officer wrote, "X's father feels a charge is justified because of X's continued downward behaviour pattern, drinking, not living at home"; in a similar case, a 16 year old with a previous RJ referral was charged with theft under and the officer noted, "subject went through restorative justice for theft. Mother does not feel subject will benefit from it again". Another youth, without any kind of record but charged with stealing his father's rifle, was charged with theft and the officer wrote, "Indication of ongoing problems with subject. Father adamant about the theft charge".

Heeding the views of victims and of parents and guardians, according to some police officers, led them to lay charges since by doing so they were able to attach undertakings which facilitated some control over the youth (e.g., curfew, places and people to avoid), The undertakings would be applicable till arraignment in court and violations could lead to further charges (i.e., cc145(1)). Subsequent to arraignment, any undertakings would have to be established by the court, usually at the recommendation of the crown prosecutor.

The general theme drawn from reading the many checklists was that recourse to alternative justice was seen more as a "break" for the youth than as a real opportunity to meet victims' needs and to delve deeper into the youth's problems, hopefully building up a normatively supportive social network for him or her if necessary. There were common references implying 'okay the offender has had a crack at alternative justice, now let's get serious!' Officers in laying charges frequently wrote simply, "previously through alternative measures", "do not feel RJ will be sufficient to deter this behaviour". Court was seen as providing more of a "wake-up call" than an RJ referral, as is evidenced in the following remarks of an officer (who laid charges against a 17 year old with no previous record of any kind, accused of a liquor violation), "highly uncooperative, verbally abusive, no comprehension or acceptance of wrongdoing. Even in the presence of his father who appeared to have no or little concern as well. Writer believes the formal court process would be beneficial to accused". In a few cases, charges were laid perhaps more in frustration that alternative justice has not deterred the youth; for example, one officer, charging a 16 year old youth

with theft under, wrote, "subject already received formal caution, is in the process for restorative justice for another matter. Offender is not learning from his past behaviour".

Overall, then, in analysing the reasons police offered in 2001 for not proceeding on a youth's case through alternative justice, the similarity to Year One (i.e., 2000) is most striking. "Legally relevant" considerations and youths' "negative" attitudes were the chief reasons advanced and they were advanced in roughly the same proportion of the checklists as earlier (i.e., 60% and 30% respectively). Modestly more frequent than in 2000 were comments by the police officers that the youth had previously been cautioned or referred to the restorative justice agencies, implying either that the youth had used up any credit or that the non-court option was an ineffective deterrent. There was evidence for a police culture response pattern that emphasized the likelihood of charges in the case of recent repeat offences, breaches, blatantly rebellious youth, and where responsible parents were at wits' end and themselves urging charges. The court, not restorative justice, was seen as delivering appropriate, strong sanctions and there clearly was more of a punishment rather than reconciliation/support construction of dealing with youth problems; under this perspective, there were major limits on the utilization of the diversion option by the police officers.

SPECIAL POLICE SAMPLES

With the collaboration of HRPS and CBRPS, it was possible once again to delve more deeply into police use of their discretionary authority in handling youth cases. The two police services completed special forms, and/or were interviewed, for a sample of their youth cases, whether sent to the court or dealt with via alternative justice (i.e., cautioned or referred to RJ agencies). The information conveyed revealed the in-depth knowledge that police often, if not usually, have of the young accused and his or her social milieu. CBRPS's sample included 45 cases of which 25 went to RJ referral, and 20 to court; there were no cautions issued by this division of CBRPS. Twenty-one of RJ referrals were for shoplifting and the remainder for liquor control act violations. In all but two of the referrals, the youth reportedly had no previous record of any kind, good or unknown parental involvement, no criminal involvement, and no "bad attitudes". In one exception, the youth's family support was deemed poor and the youth seen as having an

abuse problem. The more anomalous case among the referrals, concerned a youth with a record who still got referred; it may have had something to do with fact that here the victim of the theft was a school board. As for the cases sent to court, half were for breaches while assault, shoplifting and threats equally contributed the remainder. In all cases but one there was a record of previous offences or reference to criminal activity or to "bad attitude", though family background was indicated as positive in nearly half these cases. There was one anomaly where charges were laid against a youth who had shoplifted from a corporate retailer but had no record nor any specified personal or familial negativity; this exception may have to do with the company's attitude on the incident.

In the case of HRPS, supplemental forms were only available on some 25 youth cases but there were six interviews where other cases were discussed with the officer exercising the ultimate discretion in the processing of youth cases. Like his CBRPS counterparts, this officer exhibited considerable knowledge of the youths based on his long experience as youth officer, access to different informational sources and telephone interviews with all parties to the incident, especially the youth's family or guardians. Cautions were as frequently rendered as restorative justice referrals and in both types of instances theft under (e.g., shoplifting) was the most common offence, particularly of course for the cautions. First time offenders of level one offences (e.g., theft under, provincial statutes) were routinely directed to these alternative justice options and the officer's general practice was to allow for repeat offenders to be so directed if some time (at least a year) had elapsed since the previous incident. Multiple offences, if seen as constituting a spree, did not rule out an RJ referral. HRPS policy was to encourage formal cautions under the above circumstances and where there was no special aggravating factor, but often simple shoplifting cases were referred to restorative justice because the local RJ agency had what police considered to be a valuable "Stoplifting" program. In another set of cases the officer indicated that he would have cautioned the youth but the parents or guardians convinced him that more than a letter of caution was required to impact on the youth's attitudes and behaviour. Generally, recourse to alternative justice options did not appear to be dependent upon the youth having a positive family background or even the youth's disposition, as seen by the officer (in more than half the referred cases family background and youths' attitudes were assessed as negative). There were few anomalies in the cautioning or RJ

referrals but, occasionally, the officer, a self-professed advocate of restorative justice, decided in a more serious matter (e.g., burglary of a train) that restorative justice could be effective and so referred the youth.

As in the case of CBRPS, there was more complexity and heterogeneity in the HRPS youth cases directed to court. In this sample, HRPS youth cases sent on to court often were more serious but, on the surface at least, were as likely to involve level one offences as level two ones. In about half these cases the youths had a recent criminal conviction as well as a previous caution or RJ referral; in the others the individual usually had a previous caution or referral but there were several instances where there was no record of any kind and the offence was a level one offence. In almost all these cases directed to court the youth's family background was deemed by police to be quite negative as was the youth's own attitudes and peer group. Typically, too, the youth was deemed to be oriented to crime (often evidenced in police eyes by being a suspect in other incidents). In a few instances where minor shoplifting was involved (i.e., items less than \$25 were stolen), charges were laid partly because the youth had a record of previous offending and partly because the youth's parents contended that the "out of control" youth might profit more from a court experience. Clearly, then, the decision by the officer to proceed to court was based on a complex of factors, chiefly record and offence, but also including the youth's attitudes and social milieu, and the views of presumably supportive parents or guardians who were trying to effect more appropriate youth behaviour.

Overall, the HRPS and CBRPS special sample follow-ups yielded similar patterns to those found in 2000. Offence type and criminal record dominated their exercise of discretion exactly as noted earlier. In 2001, it remained uncommon for a youth to receive a caution, and only slightly less uncommon to receive a referral to restorative justice, if s/he had a prior criminal record or diversion experience. The Halifax police service was more liberal in diverting repeat offenders and youth with "negative" attitudes. And, as in 2000, while HRPS issued as many cautions as referrals, the CBRPS unit in this sample gave no cautions even in the case of minor shoplifting done by a remorseful youth, without any criminal record and having a strong, positive family supporting her or him. Both police services possessed much information on the accused youth. While it was

unclear how information about family background and the youths' "unofficial" criminal proclivities impacted on police discretion, there is little doubt that when combined with other factors (e.g., previous offending, wishes of supportive parents, evidence of serious behavioural problems) it did have an impact on whether a case would be processed through court. It is of course not inappropriate for police to consider all these factors in deciding how to process cases nor is there any evidence at hand suggesting the discretionary decision was unwise. At the same time, it does raise issues about whether some offences should be presumptively directed to extra-judicial measures, the accuracy and relevance of some unofficial police information, and the possibilities for and feasibility of affirmative action policies.

In conclusion, then, examination of police discretion in both 2000 and 2001, and incorporating both checklist and special follow-up data, establishes that police most commonly cite legally relevant factors as reasons for neither cautioning nor referring young accused persons. It is very uncommon for a youth to be diverted - certainly to be cautioned - where the offence is level two or greater or where the youth has a criminal record including previous diversion opportunities or where the youth has breached probation or a court undertaking. Officers also appear to rigorously apply the NSRJ protocol which requires that the youth take responsibility for the offence in question and this bars many from being diverted. Indeed the line between taking responsibility and not cooperating or showing remorse seems to be a rather shifting one. Certainly youths' attitudes and dispositions, as perceived by police, are also important factors.

While there appears to be significant variation among police officers and police services in the use of cautions vis-a-vis referrals, there is a recognizable set of norms (with some allowance for special circumstances) about the conditions under which the alternative justice option itself is appropriate or not appropriate. Diversion is generally seen as an earned privilege and there appears to be a widespread sense that it is a "soft" option. Given the police mandate (e.g., do not induce admissions of responsibility by promises of benefits, some acknowledgement of responsibility is required, be sensitive to the needs and wishes of victims), the police subculture (e.g., break and enter is a major crime, criminal subsystems are difficult to wean youths from, respect on the street is important), and the police responsibility to exercise discretion, it is not surprising that so many

youths have been directed to the courts. Also, at the police-accused youth contact point, one can well often expect to find youths denying responsibility and being uncooperative and without apparent remorse (such police-accused contact relationships appear common between police and Afro-Canadian youths). Certainly, officers appear to understand what is permitted under the cautioning and restorative justice protocols and are acting on their sense of what is appropriate at their level of CJS. There seems little doubt that, at this level, the "cream offender pool" is being diverted but, in so far as that concept refers to youths with minor offences, no criminal record and with attitudes that the police consider cooperative and remorseful, one could expect nothing less. It may be possible to socialize police into adopting a more expansive liberal view of alternative justice but it would seem that the crown prosecutors, and less so, the judges, are pivotal if more different youth and offences are to be handled through extra-judicial approaches. At these levels one might expect both to encounter more youth cooperation and apparent remorse, and to balance the divergent societal objectives bearing on the various offences (e.g., punishment, rehabilitation, cost-reduction etc).

POLICE DISCRETION IN A FAMILY COURT MILIEU

This analysis is based a snapshot sample of cases where the outcome of police discretion was to lay an information and have the case processed through the court. This sample is interesting since it involves largely minor offences (cc266, cc334, cc430 and, later, cc348) where the accused youths were between 12 and 15 years of age. There are 129 cases, a roughly 10% sample of the total number of these four offences that HRPS and RCMP officers filed between June and December 2001 at the Devonshire court which handles all criminal cases for such youth in the Halifax Regional Municipality. In the following analysis the focus is on the reasons the police officers provided for their decision to lay a charge rather than caution the youth or refer the matter to a restorative justice community agency.

Approximately half of the 129 accused youths were identified as having "priors", whether these be criminal code convictions, police cautions or restorative justice referrals. The other half were equally divided between those youths for whom it was known that they had no "priors" of any

kind, and those for whom such information was unavailable or incomplete. As noted, the 129 cases were distributed over a six to seven month period with almost two-thirds being filed in the three months of September, October and November. Simple or summary assaults accounted for 49 cases while theft under (typically shoplifting) cases numbered 41, mischief 17 cases, and break and enter 25 cases. A reason for laying the charge was provided by the officers in 113 of the 129 instances, and the distribution by reason is provided in the following Table 5.1

TABLE 5.1
FACTOR EMPHASIZED BY OFFICER IN LAYING CHARGES
DEVONSHIRE COURT SAMPLE, 2001

FACTOR	NUMBER	PERCENT
NO RESPONSIBILITY TAKEN	18	16%
BAD ATTITUDE OF YOUTH	19	17
PARENT/VICTIM WISH	17	15
OTHER CHARGES PENDING	19	17
CRIMINAL RECORD	23	20
THE OFFENCE ITSELF	6	5
OTHER OPTIONS INADEQUATE	11	10

Officers, in about one third of the cases, wrote that they were laying a charge because the young accused person had either refused to take responsibility for the offence or exhibited a bad attitude by showing flippancy or no remorse or by lying on some pertinent issue (e.g., lying about not having had a previous RJ experience). While these two reasons are distinct in theory and in justice policy (i.e., an accused "taking responsibility" is a formal prerequisite for an officer cautioning or referring a case), in practice they blended into one another. Some officers, for example, defined taking responsibility as clearly admitting guilt while others employed a more liberal operationalization of the concept. Failure to cooperate in the investigation was also taken by some officers as evidence of a bad attitude, if not shirking responsibility. The range of police comments reflects the shifting boundaries; in one instance an officer commented straight-forwardly that "this youth does not accept any responsibility for his activities in this matter", while, in another case, an officer wrote "accused's attitude at the time appeared indifferent to being charged", and, in still another case, the officer noted, "accused showed no remorse, refused to cooperate with police to get back the missing property". One officer's comments expressed well the view of many other officers who laid charges in these youth cases, namely "suspect does not show any remorse and in the opinion of this officer will re-offend".

As noted, the officers were required to state reasons only when laying a charge, not when resorting to alternative justice strategies. Still, in a few cases, referrals were accompanied by comments and these underlined the emphasis on attitude and atonement (e.g., "offender very emotional, sorry for the incident, seemed to be afraid of the consequences"; "the accused paid for any damage done to the vehicle that occurred from the theft"). In a case of burglary where none of the three accused youths had a record of priors, two were referred to restorative justice because they were deemed to be remorseful, while the third youth faced charges because "[he] was uncooperative, untruthful and would not take responsibility for his actions". In some instances the allegation of "bad attitude" referred to a serious disorder or behavioural problem, as in the comments of one officer, namely "accused is very violent and becoming more threatening over time ...determined to harm the victim, feels no remorse" or, as another officer wrote in a different case, "accused took pleasure in assaulting a defenceless victim by kicking victim in the head, leaving the imprint of sneaker on victim's forehead, choked and punched victim". There is evidence in the officers' remarks that they have become very sensitive to societal concerns about bullying among youth; several officers referred to bullying to justify laying charges, as in the following comments, "accused involved in numerous incidents and intimidating other youth".

In roughly one-sixth of the cases, officers in rejecting alternatives to court action, cited the wishes of the parents/guardians or other victims. In the former instances it was often stated that the youth "was out of control". While sometimes it was not clear what the parents' wishes were (e.g., "officer believes accused will continue violence and rebellion with parents and police; she fled from police and parents"), in most instances the officers indicated that the parents were at the end of their tether (e.g., "dad fed up and frustrated; kid has mental health and drug problems"; "abusing mom in all ways for a long time and this time she finally called police"). Police, like many parents, tended to contend that processing the case through the courts was necessary to bring the youth "back into line". One officer, recommending court action for a thirteen year old with no record of any kind, who had been accused of simple assault, commented that "it is a domestic situation [violence against parents] that will escalate unless steps are taken to control the problem". In another case the officer wrote, "ma wants a charge as [accused] has been getting into lots of trouble and there have

never been any consequences". In a variety of comments the police officers exhibited sensitivity and sympathy to victims, especially to the wishes of parents, guardians and counsellors (e.g., group home staff) and apparently believed that, given the victimization of these presumably supportive, authority figures, neither cautioning nor restorative justice referral would be an effective intervention.

In over 40% of the cases the police officers rejected cautioning or restorative justice referral on the stated grounds that the youth had a criminal record and/or was facing other charges ("other charges pending"). This factor was especially common where the pending charges involved more serious offences than the offence under consideration or where the youth had breached probation or an undertaking or where the youth had re-offended within a year or less; such features caused some police officers to define the youth as a more serious offender whose actions required courtroom sanctioning. In a few instances the officer specifically focused on the offence itself as requiring court action; for example, in one case where a youth charged with simple assault was neither cautioned nor referred, the officer wrote "accused spit in mom's face, has been charged numerous times".

In about 10% of the cases the police officers specifically indicated that, in their view, alternatives to court processing would be inadequate. In a few instances, the officers wrote that the youth had previously been referred, unsuccessfully, to the restorative justice agencies (e.g., youth did not complete all the RJ requirements or continued to commit the offence). One officer, for example, rejected cautioning or referral on a provincial statute offence, noting "many repetitions of the same offence. Been through the [RJ] program; obviously no help". It would appear, too, that some police officers think the restorative justice alternative is out-of-its-depths when youths with serious problems are involved. A common comment in the police remarks was "youth out of control". This latter theme is reflected in the remarks of one officer who did not refer once more a youth who earlier had been cautioned and also sent to restorative justice, namely "kid violent parents say; restorative justice can't handle all his problems". In another case where the youth had no criminal record but had received an earlier caution, the officer commented, "police are having dealings with the accused, charges are pending, mother can't control him". In still another case, where the youth had prior convictions and restorative justice referrals, the officer's commented, "a

bully, needs to have some CT [court] measures to curtail her activities". Clearly, the police remarks suggested that, in their view, court direction provided "something" that restorative justice did not, as far as dealing with problem youth was concerned. It was never specified what this "something" was but the implication was at least a good scare if not probational supervision.

In conclusion, the sample, drawn the police handling of the formally most minor offences committed by youth aged 12 to 15, yielded patterns similar to those found with other samples of police discretion discussed above. Legally-relevant variables were highlighted by police (e.g., criminal record (whether prior convictions or alternative justice involvement), the seriousness of the offence, breaches, and "other charges" pending) as were "bad attitudes" and "not taking responsibility" on the part of the accused youth. And the same essential norms that limited recourse to cautioning and RJ referral were in evidence. A few themes were more pronounced in this sample. The blending of negative attitudes or dispositions with reported failure to accept responsibility (a prerequisite for diversion under the NSRJ protocol) was quite evident. The wishes of the victims seemed to be heeded more, especially if the victim was seen by police as supportive and in an authority relationship vis-a-vis the youth (e.g., parent, group home counsellor). The need to bring more sanctions to bear on problem youths acting up was also highlighted. It seems reasonable to conclude that police on the whole see cautioning and restorative justice referral as a "break" (e.g., providing a less intimidating milieu, yielding no criminal record), something that the youth has to deserve (e.g., by completing well any previous participation in the NSRJ program, by not re-offending too quickly, by cooperating with police and so on), and limited in their interventionist efficacy (e.g., not able to deliver a stern message, unable to cope with potential serious offenders or youths rebelling against parents and guardians).

It is interesting, then, to speculate on how cautioning and RJ referral coming from different entry points (e.g., the crown attorney level) might differ from police-level discretionary acts and premises. What would crown-level cautioning and pre-charge screening - both encouraged in the new Youth Criminal Justice Act - bring to the table for appropriate diversion? Perhaps the central advantages of crown cautioning centre around the different context of crown-case contacts or relationships (e.g., the passage of time and more formal relationship may discount negative attitudes or dispositions on the part of accused youth) and the issue of "taking responsibility". With respect to

pre-charge screening, what would crown prosecutors bring to the consultation that would be different from police officers' views and priorities? As will be reported below, perhaps the central difference might be the crown's re-focusing the issue of discretion by highlighting the act more than the context (e.g., the specific offence more than the criminal record or the youth's disposition and social environment). This section on discretion and alternative justice concludes with an assessment of some of these considerations drawn from studying pre-charge screening consultations between police and a crown attorney representing the Nova Scotia Public Prosecution Service (PPS) in 2001.

RECOMMENDING ALTERNATIVE JUSTICE: POLICE AND CROWN ATTORNEY DIFFERENCES ON EXERCISING OPTIONS

In 2001 the Public Prosecution Service (PPS) initiated a pilot project calling for pre-charge screening consultations with police handling youth cases in metropolitan Halifax. It was largely an exploratory initiative occasioned by the encouragement of such practice in the new YCJA. In Nova Scotia the autonomy and integrity of the respective roles or domains of police and prosecution (i.e., PPS) had been a major theme of the CJS since the famous Marshall Inquiry in the late 1980s. The police were deemed to have complete and exclusive authority with respect to the investigation of criminal behaviour and the subsequent laying of charges. The Marshall Inquiry was a watershed event in this regard. Police-crown, pre-charge consultations did not vanish, and in fact by time this PPS project was launched, might well have been back to the pre-Marshall levels; however, the consultations since Marshall were basically at the discretion of the police officers. Nova Scotia also has an unusual court structure in that cases involving youths aged 12 to 15 are adjudicated in a family court milieu while accused youths 16 and 17 years of age are processed at the regular provincial court. At the Devonshire family court, where all metropolitan Halifax criminal cases for 12 to 15 year olds were processed, there was an informal team approach among the CJS role players so, clearly, consultations were extensive and intensive there. The PPS, mindful of the tradition of autonomy, wanted to examine in a sensitive fashion how the YCJA's imperative might play out given the Nova Scotian legacy. It was anticipated that "any significant change to the current roles of police and crown would be met with resistance". Accordingly, discussions were held with senior officers of the metropolitan police services (i.e., HRPS and RCMP) where their support for a pilot

project was obtained. Also, the pre-charge screening was only to be carried out in the Devonshire court and only for minor level one offences.

There was much uncertainty concerning how the pre-charge screening project would work out. The very term, pre-charge screening, found in the YCJA, was considered problematic by both police and PPS officials since it connoted veto authority, over the laying of charges, by the crown prosecutors, quite contrary to the Nova Scotian policy. A PPS memo sent to police officers at the outset of the pre-charge screening project specified the procedure agreed upon by PPS and the police services. If the police at the Devonshire court were not going to caution a criminal case of the designated type or refer the matter to restorative justice agencies, they would be expected to contact the PPS project coordinator and discuss the case with her. No charges were to be laid until this discussion had taken place. Subsequent to this discussion, the project coordinator was to convey her views to the police officer on how the case might be processed, and the officer, then, would make the final decision.

Compliance with the above protocol varied by police service and was noticeably less among RCMP officers; only a modest proportion of the eligible cases that were to have been directed to the project coordinator were so directed. For the RCMP officers at least, it appears that compliance fell somewhere between an order and a voluntary decision. Contact between the project coordinator and the police officers advancing the criminal cases was either by telephone (primarily so in the case of RCMP officers) or in person (usually so in the case of HRPS). Essentially, in the contact, the project coordinator and the officer discussed why the case was being directed to court. While the information exchange was perhaps the major priority of the project, clearly the project coordinator was always concerned about the possibilities of extra-judicial measures and, not surprisingly, the police officers generally considered that they were explaining and justifying their decision to send the case to court. In the course of the exchange, officers and the project coordinator often raised different arguments and conveyed different priorities; for example, while both parties might agree on the intimidation factor for young youths in laying charges and going to court, officers might argue that it was needed in these cases to discipline the youth, whereas the project coordinator might have stressed the traumatic (negative) implications of being charged and/or appearing in

court, in suggesting otherwise. In any event, usually at the conclusion of the conversation, and without delay, the project coordinator's position and the officer's final decision were communicated; invariably, when the former disagreed with the latter, the latter (i.e., the police officer) maintained his/her initial decision to lay the charge.

There was no contact by the PPS project coordinator with the accused youths, their parents or their victims in the pre-charge screening project. The coordinator basically depended upon the material provided by the police officers in laying the information and elaborated upon when she interacted with them. In the original project proposal it was indicated that the categories of offences to be considered could be broadened or narrowed depending upon the cross-jurisdictional review and the experience of the pilot project. By June, 2001, virtually at the outset of the project, cc348, break and enter, was added to the list of mandated offences (Quigley, 2001). Another implementation modification was the decision to extend the pre-charge screening consultations by one month, to the end of December 2001. Overall, in the later months, more serious youth cases were discussed with police than in the earlier months. Perhaps this pattern partially accounted for the fact that the project coordinator virtually always concurred with the police officers' decision to lay a charge in the last three months (October through December) whereas, in the first four months, the project coordinator disagreed, in about 40% of the cases, with the police decision to lay a charge rather than process the matter through cautioning or restorative justice referral. Other factors that may have impacted the changing level of disagreement include the police officers' possibly changing their patterns of discretion and cautioning or referring more frequently the more minor eligible cases, or the coordinator's focusing on other issues in the face of the officers' reluctance to change their initial positions; the latter (i.e., the coordinator's change) would seem to have been more likely than the former (i.e., changes in patterns of police discretion).

In the case of HRPS, the project coordinator met regularly with the police service's designated youth officer, stationed at the Devonshire Courthouse, who for several years had been the conduit through whom passed all HRPS youth cases processed through the court or via alternative / restorative justice. While the investigating officers were encouraged to make recommendations for the processing of their cases, the youth officer, experienced and very

knowledgeable about youth and youth justice matters, could change their recommendations and, indeed, usually took responsibility for determining the appropriate course of action, especially for youths aged between 12 and 15 years old. In the case of the RCMP, three detachments were the primary contributors to youth cases at Devonshire, namely the Lower Sackville, Tantallon, and Cole Harbour detachments. Here the pattern of contact between the RCMP and the project coordinator varied somewhat by detachment and the project coordinator dealt with investigating officers as well as, sometimes, with the court officers. These RCMP officers did not have offices at the Devonshire courthouse and their contact with the project coordinator was usually by telephone.

It is not clear what percentage of the designated offences dealt with by the Devonshire court were actually subject to this pre-charge screening process but, clearly, 129 cases over a six month period would be a modest percentage, probably about 10% to 15%. The following discussion of the consultation process and outcomes assumes then that a reasonably representative sample of designated offences were considered, an assumption consistent with the available information. Both the project coordinator and the police officers interviewed indicated that no more than a very few cases, if indeed any at all, were redirected to cautioning or restorative justice, but that the major benefit of the consultations was in the consultations themselves (e.g., appreciating one another's perspectives, learning more about police and prosecutorial imperatives vis-a-vis youth cases).

Analysis of the cases, where the project coordinator and the police disagreed on the best course of action to follow in handling a youth accused of crime, sheds light on the exercise of discretion from the different perspectives and could be valuable for appreciating cautioning and restorative justice initiatives at these different levels in the CJS. After examining the coordinator's files, 32 instances of disagreement were identified, 9 of which could be labelled "reluctant agreement" rather than "disagreement". With one exception, the disagreements concerned the mandated offences of theft under (14 cases), simple assault (13 cases), and mischief (4 cases).

There were several considerations that the project coordinator, representing a crown prosecutor's perspective, raised about the police decision to lay charges. In a few instances charges were being laid basically because the accused youth could not be located either by the police or the

restorative justice agency to which the police had earlier referred the matter; here, the coordinator was inclined to suggest "try harder". In a few other instances the basis for disagreement was whether a repeat offender should be given further opportunities to go to restorative justice; as the project coordinator contended in one instance, "just because the youth had a previous restorative justice experience is not a good reason not to refer again". In several other instances, the divergence related more perhaps to different viewpoints concerning the significance for justice processing of matters such as "other charges pending" or "being wanted on a warrant"; examples of these latter issues would be the coordinator's critique in one instance that "the [police] decision seems to be made on the basis that [a different police service] may have pending charges", and the coordinator's contention in another case that the out-of-province warrant was a quite minor issue which, given the minor offence under review here and now, should not veto a possible restorative justice referral. Police typically were reluctant to caution or refer on charges when other charges were pending, while the coordinator was more likely to focus on the charge in question, even to the point sometimes of suggesting a split in a multiple charge scenario, with the minor offence being diverted. Police appeared to be of the view that if the youth had committed a more serious offence too then restorative justice would be meaningless on the minor one.

This latter divergence reflected another, related one, namely how best to teach the youth a lesson or get the youth help - where and how to intervene. It appears that police, in their exercise of discretion, were more likely to posit that some deviant behaviour would escalate "unless steps were taken" via court action, while the coordinator, occasionally even in the case of a multiple repeat offender, might ask "could this accused have a referral and then [thereby] see if any help was possible". Police seemed particularly more inclined to contend that where authority figures were the victims (e.g., agency or group home staffers), then court sanctions (including the intimidation of actually being in court) would be valuable in bringing the youth back in line, while the coordinator saw some value of restorative justice in such cases, especially given the age of the offender and the modest nature of the offence.

Without doubt the area where disagreement between police and coordinator was most common was with reference to the matter of the youth's negative attitude and failure to take

responsibility. These were very common reasons police officers advanced for laying a charge. Given the NSRJ guidelines for police cautioning and referrals, a prerequisite was the youth's "taking responsibility"; if the officer did not perceive such an admission, then presumably there was, at the police level, no appropriate course of action but laying a formal charge. Often the police would indicate simply then that the youth "won't take responsibility" or some version of "his attitude is bad, [is] indifferent to being charged". It may be recalled from the discussion of police discretion above that not taking responsibility, having a negative attitude and not cooperating in the investigation often blended into one another so "taking responsibility" was not quite as cut-and-dried as may first appear. Clearly this could be frustrating for a coordinator looking at a modest offence frequently committed by youngsters without a record or a very limited one - remember that the mandated offences for this project were basically the most minor criminal offences, what the Nova Scotia restorative Justice Initiative would define as level one offences. Frequently, the coordinator requested more information on these cases, wondered whether the options had been fully explored by the police, and speculated on whether it would be appropriate, or too much of an imposition, to ask the investigating officer to do a follow-up on the matter. Certainly, as a crown prosecutor, the coordinator was very sensitive to the changes that time, new pressures and new thoughts bring to bear on accused persons (and victims), and appreciated that, subsequent to the police contact, youth might be more inclined to express remorse and take responsibility in the matter.

In the most general terms, analyses of the pre-charge screening consultations revealed that police officers were focused more on the context and relationships entailed by the youth's act, while the project coordinator (prosecutorially based) focused more on the act itself. Police, with their more detailed knowledge of the youth, his or her social milieu, the criminal context, and the victims, quite reasonably, considering their role in the CJS, took all these factors into account in deciding whether to lay charges or divert. The coordinating prosecutor lacked that rich detail and had inadequate informational access but, perhaps more importantly, by professional training and sense of what is legally relevant to prosecution, focused more on the fact that what was being considered were "minor offences by young kids". Where police and the PPS project coordinator disagreed on a case, police explained their decision to charge in terms of this larger contextualism;

perhaps only a counter-argument based on different or re-considered contextual factors could have changed their minds; clearly, arguments based solely on the act and the value of extra-judicial measures were not effective in doing so.

There was virtual unanimity among the police officers interviewed that the pre-charge screening program was neither necessary nor desirable in Nova Scotia. While, typically, officers did not think it would be valuable even for particular types of offences, they did support the kind of informal team approach that, they suggested, characterized the Devonshire court scene. Officers identified the pre-charge screening consultations as situations where they explained to the project coordinator why they were laying a charge in a particular case. From their perspective, it was more or less a matter of their marshalling the rich detail they had and of which the project coordinator was unaware, in demonstrating that extra-judicial measures (i.e., cautioning or referral) would be inappropriate. All officers participating in consultations, reported that the consultations had never resulted in their changing their initial decision to lay charges.

Officers considered that pre-charge screening was superfluous ("an extra-step that did not accomplish a whole lot"), and an expensive and time-consuming "add-on", which, if made widespread, would require significant new resources for both police services and the PPS. A few suggested that, for ambiguous offences or circumstances, clear guidelines would be more effective. Several officers mentioned that there was much grumbling among officers about the "requirement" to consult. Of course, given the Nova Scotian legacy on charging, it was not surprising that some police criticisms were more generalized. One officer, for example, expressed a common view in contending that pre-charge screening, if regularized, would negatively impact on police status in the community, weakening the police in the eyes of the offenders and the victims, by forcing them to obtain crown approval before charging (clearly an overstatement of the pre-charge screening protocol). Other officers argued that the word "screening" implied that, in the eyes of the PPS, the police were not referring appropriate cases to cautioning or restorative justice; the implication was deemed to be erroneous.

While essentially critical of the pre-charge screening concept, the police officers were

typically quite supportive of the PPS project coordinator. There was no personal animus. In fact, several officers commented on the value of information she gave regarding how a case might play out in court, and also on the useful advice they had obtained on some cases outside the project's frame of reference. A few officers queried why the project focused on the Devonshire court (where, it was posited, there was smooth running collaboration among the police, the crown and legal aid) and not the provincial criminal courts where the challenges would have been greater and some "value-added" perhaps found with respect to police-crown consultation. Despite their criticisms, it did not seem that police would be much opposed to more pre-charge "conferencing" on an adhoc basis (i.e., for specific offences for specific time periods in order to sort out problematic issues).

There was not much enthusiasm for pre-charge screening expressed by other CJS respondents. The prosecutors were mindful of the Nova Scotian legacy and uncertain about any advantages associated with circumventing it. One prosecutor asked rhetorically, "an issue for the crowns might be, do I want to know about rumours, family background, the times that the accused was a suspect etc". Another crown attorney contended that while police-crown consultation is probably not as great as before the Marshall Inquiry, still it exists, and "there is no great value in demanding that police confer before laying a charge; it would be like we are supervising their work and would also require a lot of meetings and resources". Typically, the prosecutors did not believe that pre-charge screening could hold up to a cost-benefit analysis and some had principled objections to the idea. At the same time, they perhaps even more than the police officers, were open to the strategy of adhoc pre-charge conferencing in problematic sub-areas (e.g., sexual assault, bullying).

Citing the Marshall Inquiry and its legacy for police-crown relations, other interviewees expressed gratification that the ill-named pre-charge screening project ("conferencing" was much preferred to "screening") experienced positive police-crown collaboration and may have facilitated a more realistic and complex normative model of police-crown relations. It was contended, too, that there could be positive benefits for both parties. These latter benefits would include sensitizing the police more to equity concerns and encouraging more PPS involvement in the NSRJ program. They also considered that pre-charge conferencing might be most beneficial if applied to special and

more serious offences.

Overall, the pre-charge screening project would appear to have had limited value if redirecting youth cases headed for court was the major objective. At least in the short-run, there was little impact on the police discretionary styles in advancing or diverting youth cases or on crown prosecutors' referring youth cases to restorative justice agencies. However, if, as was the case, the objectives were to set the stage for more formal and regularized conferencing by police and prosecutors, to ascertain commonalities and differences in how police and prosecutors consider youth cases, to identify informational and resource needs (e.g., paralegal assistance?) at the PPS level in the event of future, extensive pre-charge conferencing, then the pre-charge screening project has well-served the PPS. There was not much enthusiasm from any quarter for an extensive, institutionalized, pre-charge conferencing program, which was seen as unnecessary, expensive and threatening to an important Nova Scotian legacy (i.e., independence of roles and domains). There was greater openness to the concept for particular offences and particular issues. For example, all parties responded positively to the suggestion that, in light of the current moral panic about bullying and given that the bullies are also youths and subject to the concerns of the YCJA and Nova Scotia's NSRJ program, such assaults or threats might be directed to pre-charge conferencing for a limited period of time to explore the best Justice solutions. And all interviewees praised the informal team style that has characterized the Devonshire court system's handling of youth criminal cases. Clearly, too, the project illustrated that cautioning and RJ referral at the crown attorney level, while not based on radically different premises or norms, would be at least modestly different than at the police level and draw into extra-judicial measures a more challenging pool of young offenders.

As a result of the institutionalization of the NSRJ program there will be much likelihood of increasing referrals to the RJ agencies from the prosecutorial and corrections levels, and more discussion and debate at these levels about appropriate factors to consider in making referrals, and perhaps about the agencies' role in suggesting appropriate cases for referrals. It will be interesting and informative, then, to examine further the perspective among personnel at these two levels of the CJS to discern the basis for their exercising such discretion.

6. THE VIEWPOINTS OF THE CJS PANEL IN YEAR TWO

MAJOR "YEAR ONE" THEMES

Some 140 persons were interviewed in-depth during the first year of the NSRJ initiative, apart from the regular contact with the directors of the local non-profit RJ agencies delivering the programs and the coordinating team at the Nova Scotia Department of Justice directing the initiative. This large grouping (see Table 6.1 below) was composed of key role players in the CJS and in salient community organizations in each of the five areas under scrutiny (i.e., the four RJ agencies and the alternative measures society).

Without question, the most important CJS role players for the success of the RJ initiative are the police officers. They set the basic pattern of dealing with youth crime, whether to acknowledge it as such (i.e., defining something as "crime"), and to deal with it through letters of caution, to refer the matter to the RJ agencies or to channel it through the courts. Their action is typically final, though crown and other referrals accounted for roughly 25% of all referrals received by the RJ agencies in both 2000 and 2001. Police officers also are the CJS role players most frequently in contact with the youths, victims and agency personnel in dealing with the offence, and virtually the only CJS officials who ever attend RJ sessions. In the Year One Report, it was noted that the select sample of officers interviewed, whether management or field-level, were quite supportive of the RJ initiative while also having a narrow social construction of RJ interventionism. With few exceptions, the police standpoint was that RJ referrals should involve minor crimes and include repeat offenders only under mitigating circumstances. Generally, police officers advanced a simplistic, if not stereotypical, view of the RJ agencies' contacts and sessions, depicting the total as a limited effort by well-meaning, but not terribly well-informed or trained people. Such a social construction appeared to account for some of their concern about directing more serious cases to the agencies. Equally significant, in terms of police use of their discretion, when deciding what to do with a young offender, was the police subculture, their formal mandate to be victim-sensitive, and the fact that police emphasize the relationships and contexts of offending as much as the acts of offending. It was suggested that, in order to advance the RJ approach among the officers, several strategies could be utilized, namely timely feedback on cases by the agencies, communicating with

officers about how cases of differing complexity are dealt with, persuading the officers to attend the RJ sessions, and bringing together periodically the small group of key field-level officers active in RJ across the province, cultivating them as "champions" and better arming them with "best practices" and related information, to facilitate the RJ initiative.

Police officers' referrals are the "bread and butter" for the RJ agencies but the value-added of the RJ initiative compared to the AM programs, would appear to depend significantly on referrals from other levels of the CJS, namely crowns, judges and correctional officials. In Year One, while there was variation among the views of these role players, there was clearly enough of a common perspective across the respondents at these higher - or later - levels of the CJS, to suggest the imagery of a "wall" that would have to be scaled or penetrated if the RJ initiative were to develop much in the future. CJS officials at these levels generally, had a limited vision of RJ as far as its applicability to their roles was concerned. There were wary about what it could accomplish and frequently expressed disappointment that it was not implemented for some offences that frustrated them in their everyday case processing. There was widespread scepticism that "the real government agenda in RJ" was cost-cutting and down- or off-loading justice responsibilities. And, perhaps not surprisingly, many respondents considered that they were providing an adequate justice processing. Still, they were not generally hostile to the RJ initiative and perhaps even open to considering larger objectives and implementation possibilities for RJ programming. Generally, they reported very limited exposure to the NSRJ orientation and very limited discussion about RJ among their professional colleagues.

Crown prosecutors typically characterized the RJ initiative as "top-down", defined and implemented with limited input on their part. With two exceptions, they usually did not conceptualize a pivotal role for themselves in the RJ programming. In their view, the flow of cases was such that the police would be the major referral agents and they themselves would be largely responding, in turn, to certain pressures or circumstances (e.g., the defence counsels' initiatives). The crown prosecutors did not envisage themselves as having to monitor or second-guess police actions in referring or not referring, nor did they hold that equity concerns about police referrals would be significant. Indeed, they expressed some resentment at what they conceived to be the

stereotyping of the CJS as "the bad guys" in RJ materials and announcements. Frequently they emphasized that compelling an offender to go to court had a more preventative or deterrent value than the actual sentence the offender received. They frequently, too, questioned the advantages of RJ, whether for victims or for general efficiency. For the most part, the crown prosecutors purveyed a modest vision of RJ as something more than AM but not too far beyond it, or better perhaps, as AM without its severe restrictions. Overall, they did not convey a sense that, under the present circumstances, there would be any significant change in the number and quality of the cases they would be referring to the RJ agencies.

For most provincial court judges, implementation of the RJ program was largely going to be the work of other CJS officials. Virtually all the judges indicated that they were open to the introduction of RJ and would consider sympathetically any such recommendations from crown prosecutors and defence counsel. They generally considered that RJ could benefit the young, low-end offender and perhaps the victim as well. The judges welcomed more discussions, more information and especially any kind of "best practices" material that could help them consider how to advance RJ in their courts, but it was stressed that "judges react rather than take the initiative".

Other CJS role players - correctional staff (mostly probation officers), defence lawyers and Victim Services staffers - had only been modestly involved in the RJ initiative in Year One. For the most part they considered that the RJ program was of limited value from the perspective of the offenders or victims with whom they were regularly involved. And they tended to be quite wary of the RJ program. There was a strong sense that cost cutting and privatization were major government motives for launching NSRJ. Among some of these respondents a sharp criticism of the agencies' capacity was accompanied by a sense of some potential competition for scarce resources. Given these perspectives, and the primary clientele of these CJS role players (i.e., more serious offenders and victims of violence), it is perhaps understandable that they would not have an expansive vision of restorative justice. Certainly, their views would emphasize that RJ focus on youth and minor offences, but most identified some area where RJ programming might be valuable. Victim Services staff referred to potential benefits for "the resilient victim" who could get closure through a meeting with the offender. Corrections staff considered that RJ agency's involvement in

school breaches and curfews could be significant and several reacted positively to the idea of being involved with the agencies in "exit circles" (i.e., when the offender is being released from custody). Defence lawyers pointed to a possible role in "minor" domestic violence cases. If these points in the CJS are to be more engaged in RJ, there might have to be an articulation of RJ that is perceived as less an alternative than a complement, and less a competitor than a collaborator in CJS activity.

THE "YEAR TWO" SAMPLE

As indicated in Table 6.1, in Year Two roughly 70% of the CJS and the salient community service agency panel participants were re-interviewed. The interview guide utilized is appended to this report. The highest rate of re-interviewing (i.e., about 90%) was in the metropolitan Halifax area where access was most convenient for the evaluation. There were differences, too, by role or community services. The follow-up was least successful among judges (50%) and among those community leaders classified as "other" (33%). There were no refusals and in all cases the failure of follow-up was due to some combination of timing, convenience and resources available to the evaluation. In a few instances, persons who were transferred and moved away or who retired were replaced in the panel. All available panel members - those interviewed in both 2000 and 2001, the replacements in 2001, and those not re-interviewed but not replaced in 2001 - will be re-interviewed in the third and final wave in 2003.

TABLE 6.1

PANEL INTERVIEWS BY ROLE OF PARTICIPANT BY YEAR

ROLE	YEAR ONE	YEAR TWO
CJS: JUDGES	12	6
PROSECUTORS	15	12
DEFENCE LAWYERS	7	6
CORRECTIONS	10	9
VICTIM SERVICES	4	4
POLICE	25	18
SERVICE AGENCIES:		
OFFENDER-ORIENTED	11	9
VICTIM-ORIENTED	11	10
SENIOR-ORIENTED	5	5
FAMILY SERVICES	9	6
BUSINESS	10	9
OTHER**	14	5

** The "OTHER" category included media persons, local government officials, minority group leaders, and area-focused community leaders.

POLICE STANDPOINTS

The police officers in the panel continued to be quite supportive of the restorative justice initiative; indeed, if any officer reported changed views, it was to say that he/she has more favourable views now than in the year 2000/2001. One officer expressed a rather common sentiment suggesting that RJ can help in "bridging the gap between the police and the kids"; he went on to give an example as follows:

...Charging a kid like that [a youth from a criminogenic milieu] is not doing anybody any favours. It is better to make that kid an ally. If the kid is badly acting out, they're probably abused at home ... you have to do something to get in there, not just lay a charge. You have to show that the behaviour was bad but not the person.

Officers occasionally evidenced their commitment to the RJ approach by citing specific cases. Several officers related instances where they resisted some pressure from business victims either to have a specific offence directed to the court stream or to have the youth shamed without reintegration (e.g., wearing a sign calling attention to the thievery committed). One Cape Breton officer told how, occasionally, when he got an RJ referral file back from the RJ agency because it could not locate the youth or the youth was a "no-show", he would track down the youth, talk with the parent, dial the RJ agency's phone number and hand the phone over so the person could make a date with the agency right then and there. A Halifax police officer also reported similar experiences.

The officers on the whole expressed the view that RJ was not being used enough. An RCMP police supervisor in the rural/small town Valley area observed, "It [RJ] is still predominantly shoplifting or mischief, minor property damage. I've never seen an assault, not even a level one ... and simple drug possession should be referred". A municipal police manager expressed similar views, contending that "the RJ program has stalled and is largely alternative measures on steroids", whereas he would want it to be "the centrepiece of the CJS not just an add-on". A very RJ-involved and experienced municipal police officer echoed this characterization, saying "right now it's enhanced alternative measures; the RJ tools are limited and we are not solving tough cases", but he was not uncomfortable with this modest implementation of the RJ program.

There was also widespread, though not complete, consensus that the RJ program should be extended to adults for minor property offences. Currently, the RCMP's own RJ program does extend to adults and the municipal officers saw no good reason for their not referring such cases; one supervisor commented,

I thought we had dealt with that [when the NSRJ initiative was programmed], that it would be extended [to adults], but we lost that when we lost even minor cases of domestic violence. That shouldn't have happened; the two issues aren't closely related. Adults make mistakes the same as kids do.

An RCMP member commented that some adults going now to the Adult Diversion program would be good RJ candidates; he added that "AD is a good program but much too heavy for some adult offenders, [involving] first offenders or minor crimes".

Whether RCMP or municipal, the officers frequently conveyed much zeal for the RJ approach, albeit seeing it applicable to a limited range of offending. One Cape Breton constable commented,

...Before I came into the Youth office, RJ was only a word to me. Now that I've experienced and seen it first hand ... how it works and its successes, I certainly believe that it is a program that is well worth it ... we need to get the message out.

A senior municipal officer reported that he was trying to convince all provincial services to adopt a presumptive policy for cautioning or referring certain low-end offences, while an RCMP officer expressed the wish that the RCMP would establish regional coordinators within Nova Scotia for RJ programs and "keep the leadership with respect to it".

In terms of the wisdom of extending the RJ option to more serious offenders and offences, and to cases involving sexual assault or domestic violence, a few officers argued that there could be a major role for RJ in such areas at the post-sentence and post-conviction levels, but, more typically, police officers displayed much caution if not outright reluctance about any alternative justice in these matters. Their common views in these regards appeared to be more congruent with those of the public at large than were the views of other CJS role players such as judges, crown and defence lawyers who were more receptive to such an extension. The officers in the sample,

however expansive or limited they saw the role of RJ, usually considered that their views on RJ were quite progressive vis-a-vis other officers in their organization. They generally considered that RJ was empowering, enlarging their discretionary powers. In their view, as one officer put it, "the officers are open to it under the right circumstances" and these circumstances were usually interpreted as entailing primarily first time offenders of minor crimes and some repeat offenders of minor crimes where there was remorse or mitigating factors. They also often reported some annoyance, if not resistance, among other officers especially concerning completing the required RJ forms. The main concerns expressed by police officers in the panel about the RJ program continued to be (1) the need for timely feedback on their referrals from the agencies (a need driven by their loss of jurisdiction over summary offences six months after the incident occurred) and (2) evidence that the RJ interventionism was indeed successful for the offender (e.g., less recidivism) and the victim (e.g., victim satisfaction).

The officers as a group reported significant contact with the NSRJ and/or the RJ agencies and those who did not, expressed confidence that they understood the RJ philosophy and the NSRJ initiative quite well. A number of officers, both RCMP and municipal, attended RJ sessions, and one expressed a common view that "it is more personal and easier to go to the hearing than sit waiting in court". In all such cases, the police attenders indicated that they found the RJ sessions valuable and beneficial for the participants. An RCMP officer who had attended four sessions noted "I think both the victims and the offenders came away with the feeling that something was done"; a municipal officer, also a multiple session attender, observed that, even a session he attended where there was no agreement reached on a disposition, was still interesting and of value to the participants. Especially outside metropolitan Halifax, the officers, both field level and managerial, reported good relations with the local RJ agencies and praised the latter's willingness to schedule RJ sessions at convenient times for the police. Municipal police in Cape Breton expressed pride that they, the youth officers, had received honourable mention for their work with youth and the local RJ agency from the Department of Justice, Canada.

The police officers readily identified benefits that RJ processing yielded for offenders, victims, and the CJS system. For the offender, beyond not getting or adding to one's record, the

benefits were seen to include enhanced insight and accountability; one RCMP officer noted "a lot of times the offenders see the crime as victimless; they don't know who in society they have harmed"; another commented, "it gives the offenders a chance to have their say and causes them to think about what they did". Some potential negative outcomes for offenders were also identified. For example, one officer noted, "some youths do not understand from the facilitator, who may not understand herself, that going to RJ may avoid a criminal record but there will still be a police record"; also, having to face one's victim in such a setting was commonly seen as challenging for offenders.

For victims, police considered that participation in the RJ sessions brought important intangible benefits such as closure, "their say" and so forth. Virtually no officers pointed to restitution or personal service work that might be a condition of the disposition/agreement. One officer commented, "They [victims] get to participate and actually ask the questions, why did you do this? why me?; they get to articulate their feelings". Another officer observed that in three of the four sessions he attended the victims said very little but

...At least they could see and hear even if they did not want to talk. The victim sees that something is being done, that a minor offence is still important to people. It gives peace of mind.

Potential negative implications for victims were identified as "the stress in confronting the offender" and the RJ session going ahead against the victim's wishes and/or without their participation. Several officers, especially RCMP officers, argued that

...The [victim's] veto should be there [as presumably it is in the RCMP CJF model]; if the victim feels strongly about it, then RJ [processing] shouldn't go ahead.

For the most part, however, the officers appeared to share the view articulated well by one RCMP member,

...With the victim present there is greater accountability in the whole forum. You can never ever emulate or articulate the point of view of the victim completely. But a session, even without a victim, is better than nothing.

Several police managers of municipal police organizations reported that they had received complaints from victims about RJ but quickly added that they also receive much negative feedback about court processing of cases.

Officers, perhaps not surprisingly, were quite explicit and confident in discussing the impact of RJ processing for the CJS and decidedly less so when discussing the pluses and minuses for the community. Concerning the CJS, they readily identified the benefits as alleviating court load and allowing cases that should go to court to get there faster, which they interpreted as translating into lower CJS costs and more prosecution focus on more serious crimes and offenders. One officer summed up this viewpoint well in his remarks,

...It [RJ] benefits the CJS the most. It frees the court system for more serious offences, lessens the costs to court, crown and police. It is more than just a feel good program.

A police manager suggested that RJ could lead to increased police workload since it could require more police contact with offenders and victims to determine the suitability of RJ but he concluded his remarks by noting that, nevertheless, RJ probably reduces the police workload since it eliminates the court process, saving time and leaving discretion regarding attendance at RJ sessions to the officers. The one negative implication of RJ that several officers identified was expressed by a senior municipal police manager as follows:

...Crowns and judges have been starting to push more serious crimes and repeat offenders through RJ. We can't capture these cases [with current data management procedures]. They cannot be tracked adequately and this limits making sound judgments about cases. It is setting the system up for failure. The whole CJS will lose even more credibility. Many people think that the system already is too easy on young offenders.

The officers were least articulate and uncertain concerning the impact for "the community". The potential for involving the community in justice was acknowledged by several officers and one officer expressed this view in a way that reflected RJ philosophy well, "schools, communities, a greying population with problem-solving skills who could participate and not just watch T.V., RJ helps a community by allowing it to be proactive". The officers typically felt that the public needs to be cultivated more; as one officer commented,

The public is unaware ...they [RJ program people] should be discussing how to publicize the thing. The community would likely be supportive of it but some would not as they are sick and tired of youth crime and have a small world mentality.

As noted above, while enthusiastic about RJ for low-end offences, police respondents generally were reluctant to see the reach of RJ expanded much beyond that level. Several expressed modest concern about increased RJ involvement by other CJS role players (especially crown prosecutors), constructing it as "lowering the threshold for RJ referrals". On the other hand, a few officers had a more expansive view about such referrals, especially if the crowns discussed the case with them and new information was available (e.g., the youth may be willing to take responsibility); referring to this context, one officer said, "We certainly don't mind if they make referrals then". Typically, and certainly at their level, police informants held that RJ should go beyond alternative measures primarily in being available for repeat offenders (especially if there is some time gap between the offences) and including more non-major crimes. As in the first wave of interviews, residential break and enter was often highlighted as a type of property crime inappropriate for RJ; as two municipal officers commented in a joint interview, "the decision to let someone not be charged when the sanctity of their home has been violated, when someone has gone through their personal things, even their underwear ... what message does this send the victim?" Certainly, the officers held, there would have to be more evidence of the efficacy of RJ, and more substance to the RJ intervention, if more serious offences and offenders were to be referred. One municipal police manager noted,

How can you trust the process and then jack it up when you are still waiting for the statistical results of the first phase? the serious offender needs a variety of programming. The RJ system has to be able to expand to offer these kinds of more intensive intervention. Then you could say, if he goes to court he'll just get a fine, but if he goes to RJ, he'll get intensive help.

Typically, too, police respondents were supportive of the moratorium on referrals of any kind of sexual assaults or spousal/partner violence; as one RCMP constable commented:

The moratorium is correct. Some issues are so unacceptable to society that they should never go to RJ. Domestic violence is such a complicated, multi-faceted, deeply embedded problem that has to do with power and domination. It has to be seen as a major societal problem. It is too serious for us to entertain community justice as a solution for it either now or in the future.

An RCMP NCO officer echoed these views, "absolutely not for domestics or sexual assault nor

could [RJ] facilitators handle the issues that come with these kinds of cases". A municipal NCO officer only lightly qualified his support of the moratorium, commenting,

You've got a hot potato there ...even what someone may think of as minor cases of sexual assault can have a huge effect on the victims. These cases all need to be sent to court and cannot be lumped together with minor domestic assault where a couple has shoved each other around a bit ... even for minor domestics RJ should be for first time offences and the threshold for 'minor' set high; for example, hitting with a closed fist is not minor. If you let it go much further, we will be back to where we were over fifteen years ago for domestic violence and we don't want that.

The variation among officers' views on these issues was modest, basically limited to some officers. like the NCO just quoted, contending that RJ referrals for sexual assaults or "domestics" might be appropriate under very specific circumstances and only for first offence, low-end offences (e.g." a youth pulling on the back of a girl's bra" was given as such an illustration by one officer).

A number of specific issues were highlighted by officers in their discussion of RJ practices. A few officers noted that one central concern they had in RJ sessions was what information to "put on the table". For example, should the officer inform other session participants if the youth has had other offences either before or since the incident in question? One officer commented how odd it felt to be discussing an incident whilst knowing that the youth has several new charges pending, but he considered that the session and the facilitator would not be able to cope with such information so he "bit his tongue and kept silent". Another issue raised was "flagging cases" (i.e., alerting the RJ agency) where the referral involved incidents masking complex underlying family or social milieu problems which required more emphasis on problem solving (i.e., educating the problems, referring to other community agencies and building support networks). One officer who reported such cases might constitute 10 to 15 percent of the referrals he made to the RJ agency, said that he sometimes tried to do this (e.g., writing a note on the file or contacting the case manager) but there was limited contact with the agency personnel. Several officers, both RCMP and municipal, emphasized that preparatory work was essential to the success of RJ sessions in many cases; as one officer commented,

The key is to have your homework done before you go to the session. If the homework isn't done then the participants won't get much out of it and the RJ process won't gain the respect, trust and confidence of the community.

The officers were generally quite satisfied with the disposition agreements reached in the RJ sessions but were troubled by what to do about "incompletes". Sometimes they would receive such notifications long past the time frame for their jurisdiction in such summary matters; sometimes, too, these incompletes led them to question the wisdom of the disposition (e.g., "a three hour "Stoplifting" session is enough for a very minor, first offence shoplifting offence and there doesn't need to be essays and letters too" said one officer).

Officers frequently indicated that they proceeded with court processing rather than divert a case to RJ because they wanted "to send a message" to the youth and sometimes to the parent, "to shake them up" as one officer put it. Often the officers indicated that just being on the docket and having to make a court appearance could have such an impact, and that a subsequent crown-level referral could be quite appropriate (i.e., they did not oppose a crown-level referral). Another major factor in police laying charges rather than diverting at their pre-charge level, according to several officers, was that such action enabled them to attach undertakings on the youth until the crown prosecutors could do so later in court. The peace officer's undertaking usually involves a curfew, limited or no contact with certain people and so forth, which the youth has to agree to and sign; the alternative for the youth is being placed on remand for a bail hearing. It appears that in many instances this "undertakings" strategy is a response by police to distraught parents who depict the youth as "out of control"; as one officer said, "what can we do to help out? well, if we can figure out a charge somehow then the youth can be charged and we can attach undertakings". As noted in the previous chapter on the use of discretion, police, for many reasons are - and have to be - focused as much on the entailed relationships and milieu as on the act or offence itself.

As in Year One there remains significant variation among and within police services with respect to the depth and style of their engagement with the RJ program. Some police services, such as Halifax Regional and Cape Breton Regional, Central Division, generate many referrals for their local RJ agencies while other municipal services or subunits generate few in proportion to charges laid. Some police services, such as Cape Breton Regional, rarely give formal letters of caution

while Halifax Regional and the RCMP detachments account for almost all the recorded cautions. The presence or absence of a designated youth officer role appears to be an important cause of variation but other factors such as regional police subcultures are also important. RCMP officers can, in theory at least, refer cases to either the local RJ agencies or to their own community justice forums (CJF). The RCMP officers generally were more emphatic concerning the need for victims and officers to attend sessions, reflecting perhaps the CJF philosophy of the RCMP. Increasingly however, with a few notable exceptions (e.g., Lower Sackville, several rural areas), RCMP officers have been utilizing the local RJ agencies where often there is neither a victim nor an officer present for the session. A few RCMP officers regretted that development but accepted the convenience offered by the NSRJ program, realistically acknowledging that the totally volunteer RCMP model makes doing pre-session preparations, obtaining facilitators, and monitoring agreements very difficult to sustain. In the Valley area for example, in 2001, 23 of 35 RCMP youth files were dealt with through restorative justice and all but one of these were referred to the local RJ agency. Since the fall of 2000, when the RCMP appointed a full-time RJ coordinator to serve all its detachments in Nova Scotia, there has been increasing collaboration in all dimensions of RJ training and programming.

Overall, then, the police officers in the panel remained solid supporters of the NSRJ initiative and believed that it has been a significant advance over alternative measures. They emphasized the positive benefits produced for the offenders, victims, and the CJS. Outside metropolitan Halifax, and especially in Cape Breton, they reported good collaboration with the RJ agencies. At the same time, as in 2000/2001, the large majority of them clearly saw RJ as appropriate to a fairly limited range of youth offending. More timely feedback from the RJ agencies, and some evidence of RJ success with respect to its objectives concerning offenders and victims, might well enlarge the range of cases for which they would see RJ as appropriate. Clearly, too, the impact of the new YCJA, encouraging police use of formal cautions and of the RJ approach, could be expected to reinforce such a development, especially for those police services (or sub-units) which, thus far, have not been much engaged in RJ activity. There do appear, however, to be significant constraints. Police continue to perceive RJ as a less impacting sanction than the court and, accordingly, often emphasize that it is important that certain cases be court-

processed in order to underline their seriousness, whether of the action itself or of the offender's disposition. Associated with this perception is the widespread view that the RJ intervention, while valuable, does not impact much on the root causes of serious and repeat offending. More practically, police commonly lay charges, rather than direct a case to RJ, because they want to impose undertakings on the youth (often at the request of parents) so RJ competes in some ways with officers' efforts to control youths' behaviour on behalf of the victim and the community. Overcoming such constraints, if desired, would appear to require, as suggested in the Year One Report, much more cultivation of a police restorative justice network in Nova Scotia (e.g., encouraging the police "moral entrepreneurs" at the field level, distributing "best practices" information etc).

THE OTHER SIDE OF THE WALL: PROSECUTORS, JUDGES AND CORRECTIONS OFFICIALS

As noted earlier with respect to the first wave of panel interviews in 2000 / 2001, while there was some variation, there was, too, enough commonality among these CJS role players' viewpoints to justify the postulate of "a wall" that would have to be breached or penetrated if NSRJ was to realize its objective of being a system-wide initiative. To continue that metaphor, there were six chief bricks or themes that constituted the wall, namely (1) a limited vision of the applicability of RJ for their own CJS roles; (2) a wariness concerning the effectiveness of the RJ interventionism as implemented for dealing with anything but very minor cases; (3) a disappointment that major CJS concerns they had were not within the RJ purview; (4) a scepticism concerning the government's agenda in launching the NSRJ program; (5) a perception that the rhetoric accompanying the NSRJ initiative underplayed the strengths of conventional CJS practices and processing; and (6) the claim that there had been very limited orientation and exposure to RJ and the NSRJ initiative. There seems to have been only modest change in attitudes, experiences and overall viewpoints in 2001/2002. More crucial, however, has been the institutionalization of the NSRJ program in the provincial Department of Justice and related "infrastructure" developments such as RJ initiatives launched by the Public Prosecution Service itself and collaboration agreements worked out between NSRJ and Corrections. Such developments set the stage for potentially profound engagement with RJ, especially among crown prosecutors and probation

officers. RJ is increasingly part of their CJS strategizing.

Judges, crown prosecutors, and correctional officials have often been the moral entrepreneurs behind RJ movements in Canada and some exerted a significant presence in the NSRJ initiative as well. Still, the RJ literature indicates that, in both Europe and North America, crowns and judges have generally been reluctant to engage in RJ and to see it as more than a fall-back (Archibald, 2001; Green, 1999; Hund, 1999). A leading RJ scholar has contended that

The strongest opposition has come from lawyers, including some judges, under the influence of well-known critiques of the justice of informal crime processing (Braithwaite, 1997, p3).

In his appraisal of prosecutors' viewpoints internationally, Archibald found

...a uniform tendency for prosecutors to see their role as one of presenting evidence in court to get convictions, rather than promoting problem-solving restorative options (Archibald, *ibid*, p38).

A major factor, causing what some observers identify as reluctant engagement in RJ, was identified in the Year One Report as how the different CJS role players perceived their roles in relation to the other roles that make up the justice system.

CROWN PROSECUTORS

Among crown prosecutors in the panel, the pockets of RJ advocacy and engagement in 2000/2001 remained so in 2001/2002. In the Valley area, for example, the crown prosecutors office was concerned about officers not completing the RJ checklist which would have demonstrated that they had considered the RJ option and provided a written justification for not using it, so the prosecution office took action:

I tried writing nice letters urging them to complete the checklist and reminding them that they had to complete them. They had no measurable effect so I wrote and told them that anything they submitted for prosecution without a checklist would result in the withdrawal of charges (i.e., in bold letters, **NO CHECKLIST, NO PROSECUTION**). Now I usually always get an RJ checklist.

Crowns at the Halifax Devonshire youth court, which focuses on those aged 12 to 15 years, continued to account for over two-thirds of all crown-level referrals made to RJ agencies in Nova

Scotia. The Cape Breton crowns in the Sydney area continued to be quite supportive of RJ and to make referrals, especially in response to initiatives by defence lawyers and for cases in those areas in their region where police issued comparatively few letter of caution or RJ referrals.

The presence or absence of designated youth court crown prosecutors, different regional subculture in police-prosecutors relationships, diverse prosecutors' personal philosophy, and "the push" (i.e., varying level of initiative exercised) from defence lawyers appear to account for variations in the crowns' direct participation in RJ processing. Examination of referral patterns indicates that crown referrals, subsequent to formal police charges, were more likely to occur when the offence in question was fraud or public damage/mischief or drug possession; in each instance the absolute percentage of such offences referred to RJ agencies subsequent to police charges being laid was 12%. Offences least likely to be referred by prosecutors, if police had not done so, were administration of justice offences, break and enter, "other federal" and "other provincial"; here the respective absolute percentages varied from 1% to 4%. As reported in the volume on Outcomes which accompanies this report, crown referrals remained at roughly the same numerical level in Year two as in Year One. It was also evident that, compared to police referrals, crown-level referrals involved somewhat more serious offences and more repeat offenders, youth having what police referred to as "an attitude".

While a few prosecutors in the panel, especially those specializing in youth court, reported regular contact with the local RJ agency, none indicated that they had attended an RJ session over the past year and few highlighted any referral with which they had been involved, whether for its positive or its negative features. Indeed, the examples of RJ processing they cited were usually negative, suggesting that the prosecutors were involved in few significant referrals and/or had little feedback on the cases they did refer. The major exception here was the common reference to an RJ post-conviction referral in a case involving a major train derailment instigated by a youth, a case which generated a lot of publicity in Nova Scotia. The panel members continued to have a strong sense that RJ largely pertained to the police level of the CJS. A major crown supporter of RJ outside metropolitan Halifax, for example, noted that 20% of the RJ referrals in his area came from

the crown level and he commented,

Frankly I don't believe they [crown referrals] should be as high as 20%. The referrals should be coming from the police. Only if there is a mistake or something has changed in the meantime such as the attitude of the offender [maybe after he talks to a legal aid lawyer], should the crown refer ... but [even here] it doesn't have to be [a crown referral] if the police follow it through before laying an information.

Several prosecutors in small towns/rural areas in particular highlighted the different roles for police and crown prosecutors regarding RJ. One such prosecutor expressed concern that if police get used to the crown prosecutors doing the referring, "they will simply pass the buck and leave it to the crown". Citing examples, he argued that, in a small town context, police might often be unwilling to refer in the face of intransigent victims, thereby putting the burden on the shoulders of the crowns, even while acknowledging that the case was suitable for RJ. Another prosecutor outside metropolitan Halifax, criticized the Year One evaluation report commenting,

My reading is that the crown's role is not as involved [as desirable]. I don't see making crowns make referrals to RJ. That's too large an involvement to require of us. [He added,] As I understand it, I am to take time out of my day to decide whether an offender should be sent to RJ or not. And who should I talk to, to get this information? Should I ask the police officer, the offender?, the offender's lawyer? Should the defence lawyer talk to us and tell us about a case? That would seem very inappropriate. And all that takes time, time that I don't have. I think there is a misunderstanding of the crown's role. We rely on the police to talk to people. We know the police officers we deal with; there's a trust built up over time ...the larger centres don't have that advantage. But you seem to want crown prosecutors to supervise the police as a sort of court of appeal for police decisions about RJ referrals. I can tell you that the police don't need this kind of help ... Let the Halifax crowns be enthusiastic about making RJ referrals. It is different here.

Interestingly, in Halifax and Sydney, the two larger urban centres in Nova Scotia, some crown prosecutors also reported that they, too, were very sensitive about being perceived as "over - ruling" the police. One such prosecutor commented,

I don't know how common it is for other prosecutors but I have only one memory of over-riding a police officer and I don't think other prosecutors have diverted more than a few that the police have missed. It's the defence attorney's suggestion that usually triggers [crown] referrals to RJ.

Several crown prosecutors and other officials in the Public Prosecution Service observed that,

while such sensitivity would be greatest among per diem or contract prosecutors and those employed outside the larger centres, crowns in general (outside designated youth prosecutors) would be unwilling to push RJ without pre-charge screening since their information is so limited. And several crowns in the larger centres reported that they had received complaints from police officers for referring cases to RJ when the officer thought the case should be processed through the courts.

A Halifax crown who did not specialize in youth cases but did refer to RJ a few cases involving 16 and 17 year old youths, also criticized the Year One report, though for different reasons. He noted,

It is written by someone who is already sold on RJ and looking for ways to make it work. But what evidence is there that RJ is any better over and above other methods? You are trying to sell it to people, police and crowns, who are very sceptical and think it will not work anyways ... I don't even know about minor offences, for cases that are going to RJ now; they may not have re-offended anyways! If you are getting basically good kids who have done something wrong, as all of us do, once in their lives and they are able to turn themselves around once they are caught anyways, then how is RJ any better than doing nothing at all. It may help the victim somewhat by giving them more say, but, frankly, we just don't know what RJ can do.

Most prosecutorial officials in the panel emphasized, as in 2000/2001, that there was no particular enthusiasm for RJ among the crowns and that RJ, in the words of one Halifax official, "is not a hot topic around the water cooler". While some cited "the way it was introduced" as a reason for this standpoint, the more common factor stressed in 2001/2002 was that the RJ initiative did not address the major priorities of the prosecutors and the PPS. Clearly, for many, the major priorities have concerned how to deal effectively with cases of domestic violence and zero tolerance in other areas (e.g., sexual assault, school behaviour). A family violence court utilizing an alternative justice philosophy and practice was seen as crucial by virtually all panel crown participants who reiterated the high level of frustration experienced by court officers with these cases where, as several reported, "there's 80% recantation post-charge". In its absence, perhaps expectations focused around the possibilities of the RJ initiative but, as these were thwarted by the moratorium, RJ was

discounted. One Halifax crown put the argument this way,

RJ really isn't on the front burner for us. It's not something we talk about between ourselves. But we talk about our frustrations with domestic violence every day. It is foremost in our minds and we bump into that all the time. And that is where RJ could make a huge contribution.

Another management-level prosecutor, supervising in regular provincial criminal court where only older youths are tried, echoed these views and concluded by suggesting that RJ was quite marginal in her area of responsibility, using the descriptive phrase "no complaints, no push".

In Nova Scotia crown prosecutors have a central role in the adult diversion program so perhaps it is not surprising that crowns in the panel grouping were quite open to having RJ extend to adults. One non-Halifax prosecutor commented,

There are big dividends to be had from getting adults into RJ. The number one impediment for kids is their attitude as indicated on the police checklist (e.g., 'didn't take responsibility, terrible attitude') but lots of adults get charged who don't have that attitude at all and they would be just as good candidates, perhaps better candidates, for RJ.

Another prosecutor, very positive about the NSRJ, commented "My wish is to see RJ for youths and adults throughout the province, period".

Other possible extensions of the RJ approach were supported to varying degrees by the prosecutors on the panel. All respondents were asked about the moratorium. It has already been noted that the prosecutors typically wanted low-end, first time, spousal/partner offences to be processed through a restorative justice program, most desirably in conjunction with a domestic violence court utilizing an alternative justice philosophy for even more serious cases. One Cape Breton prosecutor commented,

Everyone wants RJ in these areas and now we are just going through the motions [processing these cases in court] and, more than that, we are hurting families, making conditions worse for families that are salvageable [by sanctions such as no contact rules].

A Halifax crown argued that,

We [prosecutors] think that the prosecution process has been exceptionally ineffective, inefficient ... anything you want to call it, in dealing with domestic

violence ... they [spousal/partner violence cases] should be in RJ. It's tailor-made for setting people down and talking about power issues and destructive perceptions about women and men.

Most prosecutors took the same position with respect to "low-end" sexual assaults (a construct deemed appropriate in principle by the prosecutors and exemplified by them as bum-patting, snapping bras and invitation to touch), though here there was occasional support expressed for the current moratorium. The prosecutors typically did not think that the political will existed to challenge the exclusion of such offences. Most crowns saw potential in using RJ for crimes of interpersonal violence, arguing that it can provide the victim an opportunity to express and unload feelings (i.e., experience positive catharsis), and added that, if more resources are necessary to enable the RJ agencies to do these cases, "then give them the resources".

The prosecutors' views on the use of the RJ referral for more serious offending were complex. One Halifax prosecutor reported that he had a high threshold for what is appropriate to refer to RJ:

I have a line of what I'll refer and what I won't. We will only re-draw that line when we get more evidence that RJ works and for what kind of offender and crimes it works for. We are mostly agreeing with the police. That may be contrary to what the NSRJ program wants but we need more proof to be more confident in RJ. We don't see RJ as punishment. It's restoration. There will always be a role in punishment in the CJS.

A Cape Breton prosecutor mentioned several times, during the discussion of possible RJ extensions, that he would only refer "appropriate cases", conveying the impression that he, too, would have a high threshold. Another prosecutor contended that crowns and others saw RJ within the "historic path" of warning - RJ - court - jail, so extending the approach to more serious offending "would take some getting used to" and he himself had some reservations. Several crowns, elaborating on this issue, contended that the sparse investment and political commitment in RJ limited the value of the approach compared to the punishment model when serious offending was involved. Dealing with more serious offending and repeat offenders in a non-punishment mode, they argued, required innovative approaches to the macro- socio-economic conditions (e.g., poverty, mental illness) and criminogenic milieus that foster such behaviour and what is RJ offering here?

Several crown prosecutors did identify some changes that the NSRJ has effected in their view; a few observed, as one said, "we hardly ever see shoplifting cases any more", attributing the change to police use of cautions or RJ referrals. Also, in 2001/2002, crowns more often discussed how RJ has been part of their strategy of processing cases. One Cape Breton crown noted that if an offender was likely to get a lesser sentence for a new offence than he got for previous offence, then he might refer the new charge to RJ since he believes that there should be a progression or historic path wherein sentences get stiffer the more one comes to court. Another crown reported that he might use the RJ process if an undertaking is useful; he could refer the case to RJ and adjourn with an undertaking, the latter being in place until the RJ is successfully completed. A youth court crown commented how, if he had an offender facing two charges, he might refer one to RJ and stay the other, dropping the latter if the RJ was successful, A Halifax crown discussed the possible strategy of using the RJ agency to "bounce off" possible referrals and to have them check on whether an offender was now remorseful and willing to take responsibility for his/her actions.

There were clear signs that the crown prosecutors were open to more engagement in RJ. One senior PPS administrator noted that the NSRJ people are now at the table so the time is ripe for a major educational / orientational approach to the crowns. Even sceptics and critics among the crowns indicated that they would be more engaged if RJ proved itself, evidencing how it facilitates community mobilization and garners resources to help offenders and victims. More contact with and feedback from the agencies was identified as pivotal by the crowns who were most enthused about RJ processing. Central obstacles to more elaborate crown involvement in RJ were the paucity of information that crowns could readily access and their construction of how the RJ process fits with the conventional CJS.

JUDGES

None of the judges on the panel who were interviewed reported significant involvement with the RJ program in 2001/2002, apart from receiving an update from the NSRJ coordinator in the fall of 2001. Several judges indicated that judicial level involvement varied somewhat throughout Nova Scotia and appeared to be more modestly visible "in the western counties"

because of the provincial court judges presiding there. At the same time, they reported themselves both to have read on the subject and to have a good grasp of the RJ philosophy and the NSRJ program. The judges continued to be positive about RJ in general, seeing it, to quote two judges, as "a very worthwhile project", and "no panacea but it certainly is a good alternative". Two judges reported themselves to be among the early advocates of RJ in Nova Scotia; one judge, in the court of appeals and removed from much contact with RJ, commented, for example, "I've had a fairly positive approach to it from the beginning. It was from my pushing that we started ... that we discussed it with the Chiefs [chief judges of the various court subsystems], because I said, "if I don't know anything about it, do the others?" They didn't seem to so I said, "well, we'd better all find out about it". This same judge felt that,

RJ should be used as much as it possibly can if it's going to have any impact on the court system so there needs to be more education, more ongoing education, of the people who would initiate it. That does include judges but I'm not sure how far you're going to get with the judges. If nobody else knows about it, the judges won't put themselves out on the line for it... so, the defence bar has to be brought up to speed too.

Interestingly, one judge attended an RJ session [involving property damage] as a community member, not a judge, and he found the experience very positive. He commented, "The process worked well. It was a good group of people and, from the way the youth reacted, it had a good impression. I felt that I had done something positive for the justice system, for the community and for the offender".

Typically, the judges reported that their proactivity with RJ would be inherently limited. One provincial court judge noted,

I've inquired about RJ and recommended it several times to the prosecutor ... it's the crown's role to recommend ... I'm not dogmatic about that but they do know a lot more about these cases than the small snippet I get.

Another provincial judge echoed this quite common viewpoint:

If it's not raised by the lawyers or somebody in the courtroom, unless the judges get a lot more information and feel comfortable that they can recommend it, which they don't have at this point [then they will not be much engaged with RJ].

Another provincial court judge said he saw no particular judges' mandate in the RJ program and

indicated "we were not going to be potent gatekeepers". This judge commented that he would not normally ask in open court whether RJ had been considered since "I would not want to second-guess" but he might do so if the defendant was unrepresented and perhaps too quick to make a plea of guilty. Several judges indicated that being limited to youth was quite a constraint for RJ in Nova Scotia and that for their own role, "We may see some implications when adults are brought into RJ but not right now".

Judges also continued to see RJ as largely applicable to minor offences, a factor which further limited its relevance for their role in the CJS. The image of the RJ intervention or alternative remained one where pre-session contact and the session itself was quite modest, something that one judge said, would not get at serious crime or the criminally-oriented but could help those who just went off the rails. One judge said "RJ puts a human face out there for the young offender who may not truly appreciate the harm he has caused". Judges certainly considered that in the post-conviction context (i.e., sentencing) they often try to convey these meanings or definitions to the offender, by taking into account the victim's comfort and compensation, allowing a victim's statement and sometimes directing

an offender to send a letter of apology to the victim care of a probation officer so there is no confusion, ill-meaning and so forth.

The judges were quite ambivalent and cautious about any direct involvement in RJ sessions (e.g., sentencing circles). One senior provincial court observed,

Judges are often very sensitive to public perception of bias and for that reason, plus time constraints, are not willing to participate in things like sentencing circles. Judges have to maintain the image of objectivity and impartiality. The courts would most likely go along with the disposition that the RJ session came up with. It's much like a joint sentencing submission from the counsels, not likely to be interfered with except in exceptional circumstances. Counsels should request an adjournment if they want a case referred to RJ; the judge is put in an uncomfortable position if the offender is back later pleading not guilty to the same offence.

Another provincial court judge, who participated in a sentencing circle in 2000, noted that he felt "a

little compromised" there, since a consensus began to emerge after the second go-around, a "sentence" not what he would have rendered but to which he felt some obligation. He reasoned, he said, that it was like a joint submission in court, something that could not be turned down without some explanation. Moreover, he added, he had heard a lot and it was reasonable and then, too, some decisions he made in the past were occasioned by joint recommendations which also went against his grain so what was different he said, with a shrug of his shoulders. He did not think it was possible for a judge to withdraw from a sentencing circle after the first go-round and before people began discussing the appropriate sentence. Accordingly, he thought judges would be reluctant to become directly involved in RJ; besides, he added, they required far too much work for everyone to arrange and implement. A young provincial court judge said emphatically that most judges would not think it particularly appropriate to do full-fledged circle sentencing but might be open to sentencing circles conducted without their presence and making recommendations to them that would carry more significance than a pre-sentence report.

The judges readily identified benefits for all interests in having more criminal matters handled through RJ processing as RJ is currently implemented (e.g., types of crime etc). Several shared the view expressed by one provincial court judge, namely "there are no real drawbacks from my perspective". The offender benefits articulated were basically the same as advanced by other CJS role players, such as avoiding court and a record, having more input, taking responsibility and the like. As for victims, a common view was that,

It may be a plus for victims to meet with the offender and get answers, although their level of fear and apprehension may be a problem. It is not as clear what interests victims may have in being involved compared to the offenders.

All judges emphasized that RJ's effectiveness is limited if victims do not attend the sessions. One senior judge commented,

...To me the effect is lost if the victim is not there ...it's the direct contact that I'd look at or think about ...the confrontation. The offenders learn what the feelings are of that person (i.e., the victim) and how it's affected them. If you don't have that, what value does it have? Maybe that's why you have so many repeat offenders; they haven't really learned anything from it.

The other judges allowed that while victim participation and attendance should be encouraged, it should not be pushed in the face of victims' wishes nor should there be a victim veto. It was also

observed that difficulties in getting victims to participate happens often in the formal court setting.

All the judges considered that basically the RJ approach should be extended on a cautious and experimental basis to serious young offenders, adult offenders and to crimes currently excluded by the moratorium, excluding only the most serious crimes of violence and complicated white collar crime. Referring to more serious young offenders, one senior judge noted that "we don't know whether it [RJ] will work or not, so let's check it out". A high-court judge commented, "It could be used for more serious crimes at different levels, not at the intake level; people may change attitudes later in the system and let's give them the opportunity to do something about it". All judges considered that the RJ approach should be applicable to adult offenders. One judge noted,

It might just work among older offenders ... the well-known pattern of criminal behaviour dropping off with age may play into this, with older, supposedly hardened, offenders being offered a way out.

Another senior judge referred both to specifications for such extension and also the importance of the extension, commenting,

...especially to first time adult offenders but even to more serious adult offenders ...if it [RJ] was working, it would work all the way through the system; but we don't know that it's really working yet ...I would like to see it extended though. You might have to have some narrow parameters to start with but it [RJ] won't happen until we get it into the system a lot more than it is now.

Like the crown prosecutors, the judges expressed some concerns about the current zero tolerance and RJ moratorium regarding domestic violence and, to a lesser extent, sexual assault. One provincial court judge put it bluntly,

Getting spousal abuse effectively dealt with is our main area of concern. The court is not the best place to sort out the various contradictory testimony in spousal abuse cases ...right now with the zero tolerance policy, we are washing everyone with the same paint brush ...there has to be some discretion and reasoning [in the case of 'less serious' cases]... It is important to allow crowns to decide about the public interest.

Another such judge made the same point as follows:

If anything, that's where RJ should be used. Many victims do not want the charges

to go ahead, want to resume their prior relationship, and many victims will go so far as to perjure themselves to achieve that. Surely, RJ would be more appropriate in such cases.

There was less unanimity with respect to sexual offences but judges did distinguish between low-end and more serious sexual offences and pointed to the current practice of conditional sentencing; one judge put it this way, "you see a lot of conditional sentences for sexual assault ... they're across the country ..so it's hard for me to suggest that you shouldn't be able to have RJ for sexual assaults ... surely this would help".

Overall, then, there was not much change in 2001/2002 in the views or experiences of the judges on the panel with respect to RJ. A few provincial court judges reported that they had noticed some processing changes but were uncertain about the long-term implications; one judge summed up this view as follows,

We see a downturn in minor offences in court. But perhaps we'll see an increase again because of repeat offenders who have already gone through RJ once, the ones for whom RJ has not been a success. The same thing happened with the conditional sentencing process.

The judges defined themselves as quite open to RJ initiatives, conveying the view that youth court can only make a modest impact on the young offender so, perhaps, RJ can contribute. Generally, too, they were critical of the impact of incarceration but allowed that "sometimes you have to park them there and hope for the best". Judges supported a potentially wide mandate for RJ, seeing it as appropriate, cautiously to be sure, for more serious offending, adults, and even in some instances of domestic violence and sexual assaults. Their engagement, they indicated, will depend on counsel and they particularly targeted possible initiatives from defence whom they felt were not pushing it due to a "lack of awareness and thinking through how it could be useful for them". Judges also thought that positive results for RJ at the level of minor crime would generate more confidence about RJ in the CJS and among the public. facilitating greater RJ penetration of the CJS. Several judges thought that more orientation to the judiciary by NSRJ would help, especially an overall presentation "since we get tons of reading materials". Still, the judges' bottom line appeared to be that judges would have a limited role in RJ because of their limited access to the salient information, Akin to the crowns, and for the same basic reason, they advanced a social construction

of RJ processing wherein their role would be primarily that of a back-up.

CORRECTIONS

Among all CJS role players, perhaps the most change in viewpoint and experience regarding the RJ program in 2001/2002 occurred among corrections panel members. There was not a significant increase in RJ referrals reported at this level, nor for that matter was there a major change in standpoint concerning the efficacy of the RJ intervention, but there was much evidence of more collaboration and of correctional officials increasingly considering RJ as a resource that they could utilize in achieving their own objectives (i.e., incorporating it into their own business plans and strategizing).

Since the RJ agencies have had a long history of involvement with Correctional Services and have continued to handle community service orders on its behalf even in their RJ era, corrections panel members could and did claim to have much knowledge of the local RJ agencies and their staff. While none had referred a case to RJ or attended an RJ session in the past year, several persons had attended such sessions in the past. All the panel members indicated that they had had in 2001/2002 some in-depth discussion with RJ officials concerning specific cases or protocols for their collaboration in RJ. A few persons had been participating in local area working groups involved in the phase 2 province-wide implementation of the NSRJ initiative. Others had participated in discussions whereby probation staff and local RJ personnel would review probation files to determine if any cases might be appropriate for RJ referral. A few panel members indicated that they were awaiting further information on some cases they were thinking of referring to RJ. The specific cases mentioned here appeared quite challenging, involving matters such as home invasions, parental abuse by youths and serious assaults, offending well beyond the AM template. None of these cases/referrals resulted in an RJ session in 2001/2002 and a few attempts were aborted after considerable investment of RJ agency time and resources for a variety of reasons (e.g., victim reluctance).

A senior Corrections official reported that, after appreciating the low level of engagement in

RJ processing by local probation staff, from the Year One evaluation report and other sources, three steps were undertaken to change the situation in 2001. First, local staff met with the corresponding RJ agencies to get more information on RJ and on the resources/contacts it made available. Secondly, senior probation officials met with their local staffs to encourage them to utilize the RJ agencies more. As one senior official commented,

POs spend a good part of their time, maybe 60%, scrounging around for resources at the community level to assist their clientele, so they should be seeing this [the RJ initiative] as a resource to work with.

Thirdly, the practice was encouraged of probation officers "routinely reviewing their files" to assess any RJ possibilities and to formally do so at intake (i.e., to make RJ theoretically presumptive). At the field level, where corrections' referrals to RJ would be made, there is now an increasing parallel to the police situation, namely both a presumption and some significant organizational push to consider the RJ option. Probation officers, in completing their forms on "Youth Level of Service and Case Management Inventory", have to indicate whether there is an RJ referral possibility and "if not, give reasons"; further, as noted above, since February 2002 the RJ agencies and Corrections have been working on a protocol to be formally signed by NSRJ and Corrections which would allow local RJ agencies to regularly review probation files with their Corrections counterpart level and suggest possible cases for RJ action.

All panel members indicated that the new YCJA with its emphasis on conferencing as a way of dealing with youth offences could lead to more Corrections referrals when it is implemented in the spring of 2003; indeed, several panel members suggested that perhaps all breaches would then have to be seriously considered first for possible RJ processing. A Youth Centre official thought that the new YCJA with its emphasis on reintegrative programming would highlight the value of RJ in that regard. She observed,

The youth is coming back to the community sooner or later and a reintegrative meeting helps the community prepare for the release. It's an attempt to change the kid's returning home. He may have been sentenced to eight months but that passes in a heartbeat. He's back and walking the streets before you know it. So an RJ forum before the release will help prepare the kid and give notice to the community that he is being released so that it will not come as a surprise. A lot of victims live in fear of the offending returning, even though it was usually a spur of the moment crime, not aimed at them specifically ... so the victim has a lot to gain usually by attending a forum.

There appeared to be significant regional variation in the level of collaboration that has followed from these developments. Referrals were few and none of the field level panel members in fact reported routine review of probation files actually being undertaken with RJ personnel. It was, however, commonly asserted that it was about to happen particularly in parts of Cape Breton. There was much inter-agency discussion, though not file review, reported in the Amherst area. Halifax officials reported little activity with the RJ agency and one senior local manager commented. "It [RJ-Corrections collaboration] doesn't fit in right now ... the resources are not there". Cape Breton officials, on the other hand, said that the significant collaboration was happening there.

At the managerial and supervisory levels of Corrections there was consistent positive assessment of RJ processing. It was suggested that the RJ agencies could bring a different set of skills to dealing with young offenders, at the post-sentence level primarily facilitating the reintegration of offenders into their families, and, at the level of breaches, perhaps "changing the youth's mindset"; one panel members observed that breaches were very common and often a youth's long involvement with the CJS was based not on the original offence but on the youth's rebellion against the sanctions imposed. These panel members stressed that the "verdict is not yet in on RJ" for the "high-end" cases that Corrections deals with but, still, the program was a big improvement over alternative measures; as one said, "The slogan, we've come a long way baby applies to it [RJ]". Another very well informed senior supervisor noted that,

The RJ initiative has been quite an accomplishment given the history of the CJS in Nova Scotia ... even if there are some shortcomings and only modest value-added [compared to alternative measures] to date, it has come a long way and is on the right track and is a lot better than other provinces.

Field-level corrections panel members were sceptical that the organizational developments - aside from the possible implications of the forthcoming YCJA - would lead to a major increase in RJ referrals for several reasons. It was noted, for example, that for offenders already sentenced, there was "no obvious carrot" or incentive for their voluntary participation. Moreover, at their level

of referral, the RJ session would be more of a healing circle, something quite "difficult to pull off" within limited resources and time pressures. Citing cases that were not able to be processed through RJ because of offender or victim reluctance, one probation officer commented, "We need a success story to build upon".

Several panel members indicated that the probation caseload had changed such that now they were dealing with fewer "natural minimum" offenders who normally would be very appropriate referrals to RJ. One panel member explained this as follows:

They [the RJ agencies] want kids to come to them and say I messed up. This voluntary principle is the reason they don't get referrals [from us]. Our cases contain very few kids who feel remorse, accept responsibility and want to make amends for their actions. There are almost no voluntary cases left in our provincial caseload ... no 'natural minimums'... [Here the respondent discussed at length the probation concepts of maximum, median and minimum groupings based on the formal assessments made of the young offenders' needs and risk factors]. There used to be more minimums, especially natural minimums but RJ referrals by police - and declining youth crime outside metro - have been effective in siphoning off these ... so RJ agencies get the idea that offenders are mostly like those referred by the police - WRONG.

Several panel members also indicated that the probation service has developed new programs itself, such as Intensive Supervision and Support, targeted at the more serious young offenders.

Notwithstanding the above reservations, the corrections panellists usually indicated that they thought RJ benefited the participants and should be extended to deal with more serious offences and offenders, adults and even to "low-end" spousal/partner and sexual assaults (although there were a few strong dissenters on the appropriateness of RJ for these latter offences). Several panel members mentioned serious offences that they were considering for RJ referral and another panellist, observed that in reading victim impact statements in serious crimes she frequently thought that RJ would be helpful for the victims. She suggested that in reviewing cases with local RJ agency staff, probation officers should adopt a low threshold and leave it up to the RJ agency to see

if the victim could be convinced to participate. Another panel member suggested that, while there was "a mountain of resistance" for extending RJ to adults, a small pilot project should be undertaken to keep the RJ momentum going in the throes of discussing quite serious offending. Several panel participants pondered about how RJ might be utilized in the ISSP program developed to deal with serious young offenders.

Among the issues raised by the corrections panel, the two central ones involved separate matters of procedure and substance. Concerning the former, a few persons complained about feedback and lack of invitation to the RJ session when it involved an offender already on probation. As one panel member put it,

I don't think the message has gotten through to the RJ people, that if you have a person going through the program and they're on probation, **YOU HAVE TO CONTACT THE PO** who is acting as the case manager because if anything comes up in court, we're the people attached to the case.

This concern was expressed most in metropolitan Halifax, Perhaps the issue is complicated by the fact that cases involving breaches of probation may be referred to the RJ agencies by the police not the probation officer (two panel members reported that for a while Corrections much encouraged the convenience of police laying such charges but that now POs are as likely to do so). Concerning the efficacy of the RJ intervention, a number of the panel participants remained sceptical. Several persons suggested that turnover in RJ agency staff, limited RJ staff training (especially for volunteers), the commonality of what one described as "victimless mediation", and the limited programs that the agencies can offer for offenders, minimized its value. Other Corrections panel members, more often the senior officials, were more positive, pointing out that POs typically do not have the victim-offender mediation and facilitation skills that RJ agency personnel have and that in virtually all the adult diversion cases, which are handled exclusively by probation officers, there is no victim present. Another issue raised concerned the "timing factor"; as one senior probation manager commented in suggesting that the number of Corrections referrals would always be small, "time is often of essence to probation officers and sometimes the agencies cannot respond fast enough".

Overall, then, there has been significant change at the infrastructural and programmatic

levels from the point of view of the corrections panel regarding RJ. There was much less of the sense of competition found in 2000/2001 and more acknowledgement of RJ and a view that here is a new resource and, whatever its limits, let's see how we can utilize it in our roles. Clearly, the panel members considered that, as a resource, RJ would be more valuable if the agencies had programs [or at least access to programs] for offenders that, at the probation level, increasingly were challenging offenders (i.e., not "natural minimums"). Some field-level corrections panel members articulated a strategic model involving,

...keeping enforcement and supervision of offenders in the hands of probation, while constantly shifting the softer stuff out into the community. Probation would do primary case management, set up a case plan but some of their work would be farmed out to RJ. As caseload came down, POs could spend more time in programming than they do now.

Whether or not this is a desirable model in the eyes of NSRJ and others, it illustrates well the institutionalization of the program in Nova Scotia's CJS.

DEFENCE COUNSEL

Defence lawyers in the panel were quite supportive of the NSRJ initiative; as one senior administrator observed, "anything that can increase the number of options in the system is a good thing". A private lawyer, practising outside the metropolitan Halifax area, commented that "RJ was catching on" and becoming more an integral part of the CJS. He noted that in the past, with alternative measures, diversion was not openly discussed in court but rather, on plea date, there would be a joint submission from the crown and the defence asking for a 60 day adjournment, code for having the case sent to alternative measures. Now, however, he finds that the question of whether RJ is appropriate can be openly addressed in court - "we do say that it is for RJ and make it clear to the judge". Legal aid lawyers in Halifax represent over 90% of all youth defendants in that jurisdiction (a small number of youths use private lawyers and, reportedly, less than 5% are unrepresented by their own choice). These lawyers contended that there was still much too little utilization of RJ in the criminal justice system. One such lawyer who dealt exclusively with youths aged 12 to 15 reported that, in the "team atmosphere" of family court, he has numerous conversations about cases with police and crown prosecutors and has some influence in getting the latter to refer cases to RJ; still, in his view, neither the police nor the prosecutors are exercising fully

the discretionary powers that they have in this regard. Another legal aid lawyer, operating out of the provincial court and representing, at the youth level, only defendants age sixteen or more, reported that there has been a failure to get these older youths into the RJ stream. He indicated that his own efforts to influence crown prosecutors or judges to refer cases have been largely unsuccessful, citing "systemic factors" and noting that "by the time I become involved it's too late; the system is geared to prosecute". Still another legal aid respondent observed that perhaps defence lawyers could do more but they cannot refer cases to RJ but only "bug others to do it".

None of the defence lawyers in the panel had attended an RJ session since the NSRJ initiative was launched and, apart from a seconded legal aid lawyer, only the legal aid lawyer involved in the Devonshire family youth court reported receiving any significant orientation or materials on the subject. Still, they were confident that they understood the RJ approach though, like other CJS role players, they were eager to receive information on the effectiveness of RJ for both offenders and victims. Generally, they identified benefit in the RJ programming for all parties, offenders, victims, the community and the CJS. For offenders, RJ was seen a way to avoid the considerable stigma of going to court and being convicted; moreover, RJ was deemed to be represent "the possibility of [the offender's] finding a constructive way to deal with happened". For victims, the contention was that victims are treated poorly by the justice system so anything that keeps them away from the courtroom would be a good thing. For the CJS, the positive impact, reportedly, could be having another option and "taking the load off" the system, thereby reducing the number of unrepresented clients and the waiting list. There was no mention of any possible, negative impact of RJ processing for the young accused persons, One respondent did mention, upon prodding, that the defence usually advises defendants "to clam up rather than disclose" so there might be some concern about what is said in an RJ session, particularly as, in her view, the law is ambiguous on whether what is spoken there is confidential. Concerning victims, however, there was much appreciation that getting victims to attend RJ sessions might be difficult because there could be fear, a questioning of how they will benefit from participation, and a sense perhaps that they could not change anything (e.g., "that they're just a small cog in a big machine"). One of the panellists, who allowed to having only a theoretical knowledge of the RJ initiative, reflected that a potential flaw for the CJS might be that RJ would result in a new unregulated adversarial process if

the sessions were too intense, adding that,

...if it does and if it becomes known, offenders might come to prefer the existing system where they are treated politely.

Perhaps not surprisingly, the defence lawyers usually considered that RJ implementation should extend to more serious offending, include adults and, at the post-charge level, would be appropriate in some cases (usually defined by them as "low-end") of spousal/partner violence and sexual assault. A private defence lawyer argued that repeat and serious offenders should not be automatically excluded but rather considered on a case-by-case basis. A legal administrator contended that, "the true test of a program like RJ is in its ability to deal with more serious offences". Like the prosecutors and judges on the panel, the defence lawyers railed against the zero tolerance implied in the moratorium on sexual assaults and certain domestic violence, claiming "it's the worse" and "frustrating to all parties"; as one lawyer put it, "it's putting marginalized people against marginalized people to no one's benefit. There has got to be a better way". At the same time, they were cognizant of the need to combat deep-seated cultural patterns and of the danger of power imbalances, so acknowledged that caution is important and RJ might not always be appropriate.

Generally, as noted above, both crown prosecutors and judges highlighted the role that defence counsel could assume in initiating the RJ process and stressed the value of more RJ orientation for them. Interestingly, the Island RJ agency in 2001 / 2002 reported that it experienced a significant increase in post-charge referrals once a pilot project began in Legal Aid at Sydney where a para-legal, among other things, reviewed cases for possible RJ recommendations by Legal Aid lawyers to the crown prosecutors. The defence lawyers in this panel appeared to quite willing to become more engaged in RJ processing.

VICTIM SERVICES

Provincial Victim Services personnel have been quite involved in the RJ initiatives both at the level of NSRJ steering and implementation committees and in the working groups established by the local RJ agencies to assist in their transformation from alternative measures to restorative justice programming. In addition, Victim Services has collaborated in the training of RJ agency

personnel. From the outset, a protocol has been established whereby local RJ agencies would notify the local Victim Services unit whenever they received a post-charge referral (involving a person victim) so that the latter could keep abreast of victimization and perhaps take the initiative in contacting the victims. There has then been much organizational interaction, especially in Cape Breton where, as a Victim Services panel participants noted,

This is Cape Breton. We all sit on the same boards and see each other all the time and once it [RJ] gets to more serious crime, then we will have more contact, I'm sure.

Despite this considerable structural engagement, it appears that, apart from one region, there has been only quite modest participation in the actual processing of cases by the RJ agencies. The large majority of referrals to the agencies, as noted, have been at the pre-charge level, thus not requiring contact by the agencies with Victim Services. Moreover, at the post-charge level, many of the youth cases have been either "impersonal offences" (e.g., theft from businesses) or "victimless crime" (e.g., possession of drugs, breaches), offences where there was not, directly, a person victim.

Several panel members reported attending an RJ session or two since the RJ program began and making some contacts with victims associated with RJ cases as per the protocol noted above. But, on the whole, there was little participation reported in actual RJ processing. One panel member commented, "It [RJ] seems so separate; there was a perfect opportunity for the system to work together from the "get go" but this has not happened". A senior administrator considered that, overall, the RJ agencies were not yet doing much differently than they did before [as AM agencies], basically operating at the low-end of seriousness with little indication of significant victim involvement.

The general standpoint of Victim Services panel members did not change in 2001/2002. They remained supportive of the NSRJ initiative while very sensitive to its limits as they perceived them. One person summed up a common view when she commented,

It's [RJ] a viable alternative. I can see cases that make a whole lot of sense ... the court system isn't necessarily working ... the work with the victim is certainly very important.

At the same time, there was pervasive concern expressed about the adequacy of the RJ intervention as it moves beyond the minor crime, pre-charge level. It was emphasized that more victim traumatization would be likely and "to get more of a victim's perspective, it takes more preparatory meetings". Another panel member commented,

It's important that they [RJ agencies] have the time and staff to live up to the process as designed; for example, most of the programs have been designed with a victim worker. I don't know of any that have a victim worker now.

Two field level panel members indicated that they were beginning to see some post-charge cases and that now there is a need for better coordination between the RJ service and Victim Services - "the client has to be confident that the service providers have their act together".

Panel members readily identified potential benefits for offenders involved in RJ, citing avoidance of court and a record, getting a better understanding of what they did, perhaps meeting some underlying need for atonement (e.g., apologizing to the victim), and a wake-up call for the families. One person allowed that the RJ process might even be "tougher emotionally than the court system"; this Victim Services panel member, the most positive about RJ, added that "RJ can be really effective even if the victim isn't present, for sure". The field level panel members also considered that RJ could benefit the community, especially if there was "public awareness that it's not just an easy way out or a budget issue for the court but a viable process on its own." One respondent noted,

I ask myself now, what are we really losing [by going the RJ route]? Does our community have a perception of justice being done now? Most people don't! So what are we losing? Nothing! Letting people know, that is what has to be done.

There were mixed views about the cost-effectiveness of the RJ approach. While most panel members perceived NSRJ as a limited resource investment by government, one panel member suggested that the "resources to workload ratio" is better than in Victim Services and that the RJ agencies represent expensive ways to do minor tasks.

Perhaps not surprisingly, the Victim Services panel members were less positive about the benefits of NSRJ for victims. One observed,

It's not as obvious for victims that there are a lot of pluses for them ... RJ education is labour intensive ... someone has to explain it to the victims and give

them time to voice their concerns ... without a veto they can feel very disenfranchised.

Another panel member commented, "The face to face and agency support is positive but it takes a lot of preparation to be sensitive to victims' needs and also there may be fear of retaliation". The emphasis clearly was on the large commitment that would have to be made to work with the victims in order to involve them adequately in RJ. As one Victim Services staffer said,

It's a challenge for sure. I have to constantly encourage and coax the victims to participate [in court]. It's labour intensive. Sometimes we call a victim and leave messages for three days in a row ... it takes a lot of effort. And if they [RJ agencies] don't have the time and staff to do that, then who would show up.

Victim Services panel members were very wary of extending the RJ approach to more serious offending, to adults or to partner violence and sexual assault, certainly without profound changes in the RJ program, if at all. All the participants indicated that the present court processing left much to be desired (e.g., "the adversarial system doesn't work") but also that alternative approaches in these matters required more long-term, professional involvement. One panel member summed up the common viewpoint in her remarks,

I don't think the [RJ] programs, as they are now, are prepared or able to cope with some of the needs of complicated victim issues. I think any program that's running on the shoulders of volunteers, that would be the case. Take sexual assault cases, these are very high need, demanding cases, beyond volunteers who have three days of training who may be well-meaning and have many skills. The CJS is not meeting the need, for sure so I do think we need to look at an alternative. As for adults, again the needs, the skill level, the training needs will be high. These are agencies that have historically dealt with young offenders and it has been a major demand

[...continued]

for them to deal with victims. Adult clients, adult victims, a whole new layer of skills is going to be required since there are histories, social problems, power imbalances. They were comfortable with the young offenders. The only new piece they were taking on was the victim issue. Well, they are still struggling with the victim issue and they are going to be given a whole new population that they've never dealt with before? In a perfect world they'd work out the bugs first and the funding and the staffing ... we're not in a perfect world but I don't want to be irresponsible either.

All panel members stressed that dealing with serious young offenders and serious crimes including sexual assault requires professional qualifications; as one said,

People have to work for years to obtain qualification in this area and it is not available through simple training sessions ...higher end or multiple, repeat offenders have a host of personal family and psychological troubles that have to be dealt with professionally.

The general standpoint, then, among this panel subgrouping, was that RJ is best focused on minor youth offending and, at this level, can be valuable and beneficial for all parties especially if the agencies continue to work at involving victims and transcending their "AM offender mindset". With modest qualification, it was also commonly held that for structural reasons (e.g., the reliance on volunteers, the typically one-shot session, the few resources that can be commandeered) the RJ agencies should not handle more serious offences and offenders. There was some ambivalence about the extension of RJ to adult offenders. Two persons saw no problem in the RJ agencies dealing with minor adult property offences but others pointed out that for these types of offences there is already an adult diversion program operated by probation services, and all panel members suggested that victim traumatization (presumed to be beyond the agencies' capacity) often occurs when there are adult offenders.

OTHER CJS STANDPOINTS

The two remaining panel members had significant roles in the generation of the NSRJ, and continued to be active and influential, strong advocates of a comprehensive RJ approach throughout the CJS. Both had roots as defence counsel. They both considered that the NSRJ initiative had been successful to date but that much more remained to be done, especially at the crown and judicial levels within the CJS and also with respect to the community or public at large. Both talked about the need for more "RJ champions" within the CJS level. One person emphasized a concern about the NSRJ objectives of improving public confidence in the CJS and strengthening communities; accordingly, this panel member stressed the importance of social cohesion and the need for comprehensiveness of the RJ implementation in the CJS. In that regard, the panel member pointed to some progress in 2001/2002 in advancing public information and securing additional funding for agencies' training needs and for public dissemination; but the appreciation, too, of modest substantive gains to date is reflected in the

following comment,

I am realizing that RJ development is not for the faint of heart nor for the moderately inspired. Where it has flourished, in the pockets it has around the country, it has happened on the great inspiration of a few people.

The other panel member thought that major gains had taken place in 2001/2002 for NSRJ in institutionalization and support from the provincial government and the Justice bureaucracy. Also noted were developments in Corrections (e.g., new protocols, agencies' discussion with Correctional staff), and the possible positive impact of a special project launched by the prosecution service for cautioning offenders. In her view the NSRJ initiative has been fairly successful but had a long way to go, especially with crowns and judges who, while exhibiting some diversity in their view, largely reflected "the public views that we are already too lenient on youth and that incarceration for youths and adults is useful and appropriate". Both these panel members advocated an extension of NSRJ to adults and to more serious offending.

CONCLUSIONS

Overall, then, the viewpoints and actual experiences of CJS panel members in 2001/2002 were marked more by continuity than by change vis-a-vis 2000/2001. At all levels though there was some detection by the panel members of modest changes, whether it be police officers' perception that more referrals involving more serious offending were being made at subsequent CJS levels, prosecutors' and judges' sense that fewer minor cases were being court-processed, defence counsel's belief that the RJ option was being acknowledged more in open court, Victim Services staff "beginning to see some post-charge cases" or correctional officers' sense that "natural minimums" were vanishing from their caseload partly because of the RJ initiative and that collaborating with the RJ agencies was increasingly incorporated in their case management. "Other" CJS panel members, leaders in the RJ initiative, referred both to significant accomplishment and to significant challenges for the NSRJ program. There was a widespread recognition that the RJ program was now an established part of the CJS and could figure substantially in future CJS strategizing, particularly if the results demonstrated efficacy and efficiency.

Knowledge of, experience with, and appraisal of RJ did not appreciably change among the

different CJS role players, with the exception perhaps of Correctional Services members where the linkages with RJ agencies increased considerably at an organizational, if not actual case processing, level. With little exception, among all CJS roles, the more contact and, particularly, the more participation in RJ sessions, the more positive the panel members were about the RJ approach. Police officers on the panel were especially positive and engaged in RJ, perhaps not surprising since they often were designated officers, not representative of police officers as a whole. There was evidence of RJ becoming more a factor in the strategic planning of police, crowns, correctional staffers and Victim Services officials. And this development was expected by many panel members to be enhanced due to the imperatives of the forthcoming YCJA which emphasizes conferencing and re-integrative programming for young offenders.

Generally, panel members readily identified the potential benefits of the RJ approach for all parties but especially for offenders and for the CJS as a whole. There was more ambivalence concerning the impact of RJ for victims, especially among panel members from Victim Services but also among the crowns and judges. With few exceptions, the panel members thought that the RJ programming should be extended to adults for minor non-violent crimes at least. There was much divergence of views about whether the RJ programming should extend to more serious offending than it does now and to the moratorium offences whatever their level of seriousness. Panel members from policing and Victim Services were quite wary of the lifting the moratorium and of extending the reach of RJ. Defence counsel encouraged a broader implementation of the RJ approach. Crowns, judges and correctional panel members generally supported a broader implementation of RJ but their viewpoints were quite nuanced, often referring to trial periods, restrictions against repeat offenders, and the necessity of more in-depth RJ programming (i.e., a more substantial RJ intervention).

The different role players raised different issues concerning the RJ initiative, ranging from police concerns about what to discuss at the sessions to "Others' panellists' concern for inspiration and "champions" from all segments of the CJS. Panel members usually emphasized the need for timely feedback on referral made and for some evidence concerning the impact of the RJ interventionism for both offenders and victims. For some role players (e.g., police, Victim Services), RJ was seen as appropriate for a limited range of offending and for most of the remainder

(e.g., crowns, judges), RJ was seen as largely falling outside their initiative. In the case of defence counsel and correctional officers, there was uncertainty about how extensive their engagement might become. The "Wall" referred to in Year One's report was still standing, its bricks clearly discernible, but there were many cracks and openings showing.

Information and knowledge was a crucial factor for RJ referring, operating in different ways at different levels of the CJS. For police, knowledge of the victims, the family background and the milieu was important to the exercise of their discretion. For crowns, their lack of such detailed background knowledge was central in their standpoint that RJ referrals should be left to the police save in special circumstances (e.g., defence counsel initiative etc). And judges, in turn, emphasized that they did not have sufficient relevant knowledge of the cases and offenders to exercise initiative without requests from either prosecution or defence. Of course, other factors were found to be important, and to interact with the knowledge factor, especially important here being the panel members' view of their role vis-a-vis other role players. Clearly, if the objective is to obtain more and higher end referrals, then a strategy has to be developed for each CJS level; for example, some guidelines for prosecutorial or judicial referrals that transcend mere designation of eligible offences.

7. THE VIEWPOINTS OF THE COMMUNITY PANEL IN YEAR TWO

MAJOR “YEAR ONE” THEMES

Sixty community leaders were selected in Year One to constitute the panel of local influentials to be interviewed several times over the next few years in order to gauge their reaction to, and potential involvement in, the restorative justice initiative. The types of persons or role players interviewed covered the gamut of community leaders, a sample of convenience aimed at an inclusive grouping of salient community influentials whose views and behaviour could impact considerably on the implementation of the restorative justice program. A major criterion was to have ample representation from offender-oriented and victim-oriented social organizations or agencies. The latter in turn could be differentiated into those primarily concerned with property and business victimization and those organized around person-victim advocacy such as battered women. Most other community influentials interviewed had organizational mandates that were quite inclusive (e.g., family counselling, school officials, local politicians). In the Year One report the standpoints or social constructions vis-a-vis RJ were especially elaborated for three groupings, namely advocates for female victims, business leaders, and leaders in community-based, offender-oriented agencies and organizations. There were sharp contrasts found among the standpoints, especially between the offender-oriented and the female victim-oriented leaders. Not surprisingly, the former were quite positive about the RJ initiative while the latter were quite guarded, if not deeply critical. Variations were found also among community leaders in different regions of the province; in particular, there appeared to be more involvement of these community activists with the RJ agency in the Cape Breton area.

Despite the considerable diversity of standpoints and specific presumptions and claims that characterized the community influentials sample, there were some common threads. As a group they were much more likely than the CJS sample to explicitly refer to the need to deal with underlying social factors such as poor parenting, poverty and cultural patterns. Most community influentials, nevertheless, held that the justice system needed major improvement, though the emphasis on serving the victim, dealing with offenders' problems, or protecting the community,

varied according to the respondent's organizational association (i.e., victim-based, offender-based or other). Some expressed this view with much feeling; for example, a female respondent decried that, from the victim's standpoint, the "court does not respect the seriousness of the crime and the great loss they [victims] have suffered", while a staffer in an offender-based organization contended that the justice system needed a total overhaul. To a significant extent all these local leaders thought that dealing with minor youth property crime offences through restorative justice programming was a step in the right direction.

The community panel, on the whole, was sceptical of the provincial government's commitment to restorative justice. While hoping for some re-direction of resources through the potential savings associated with restorative justice diminishing the costs of the CJS, most suspected that the RJ initiative represented a down-loading and off-loading which was driven by governmental budgetary objectives. Victim-oriented influentials were the most adamant on this score but offender-based influentials and other community leaders shared the scepticism. Few respondents of any persuasion considered that an RJ program of significant scope would ever be efficient vis-a-vis the court system, largely because it would be responding to individuals; as one seniors' advocate put it, "the word efficient is not part of the healing process".

Another commonality was the expression of caution, emphasizing that the restorative justice initiative should "go slow" beyond minor youth property offences. Of course, influentials on the victim side were especially reluctant to see restorative justice expand beyond that level in the near future.

Community influentials generally were of the view that the restorative justice agencies basically involved a number of volunteers (usually presumed to be young, inexperienced ones at that) doing the actual restorative justice work under the administrative eye of a few paid agency staff. Their characterization often blurred the distinction between session facilitators as orchestrating a process, and counselling, where the interventionist provides solutions if not therapy. Presumably, in principle at least, the facilitators are more like orchestra leaders than therapists or counsellors. The simplified characterization of the agency's operations, however, undergirded the

view that the agencies did not have the capacity, in terms of resources or personnel, to take on serious offenders or serious cases, especially in the areas of domestic violence and sexual assault. Victim-oriented influentials were even more emphatic on this point, suggesting serious flaws in the RJ vision itself that even experienced professionals cannot readily surmount. Finally, all the community leaders expressed interest in the restorative justice initiative and were quite willing to be re-interviewed on a regular basis.

THE “YEAR TWO” SAMPLE

As noted above, approximately 70% of the community panel members were re-interviewed for this Year Two report. The chief significant shortfall was the failure to interview persons identified as "Other", essentially people in local government, media and service agencies not directly relating to the CJS; typically these persons resided outside metropolitan Halifax and the reason for their not being interviewed was a combination of resources and availability. Virtually everyone from the three groupings highlighted in the Year One report - victim, offender and business stakeholders - was re-interviewed.

OFFENDER-ORIENTED INFLUENTIALS

Panellists drawn from offender-oriented community organizations, with one exception, worked out of offices in metropolitan Halifax. As a group they were well informed about the RJ initiative and a few were engaged in the provision of RJ services (e.g., RJ programming, allowing young offenders who had been through RJ to use their computers to type up projects, apologies and so forth). Most panellists had participated in some way in "RJ week" and had read RJ materials, listened to presentations and/or discussed the approach with informed others. They usually considered themselves quite well informed about RJ and its implementation in Nova Scotia; indeed, one agency manager noted, "we [his organization] are the leaders in RJ in Western Canada". Even the few participants who had no contact to speak of with NSRJ or the local RJ agencies, reported having discussions with colleagues about it and reading RJ materials. They felt that they understood the philosophy well. One such person defined herself as, "supportive of RJ, of

anything that can prevent a woman from going through the [court] system".

Panel members were very supportive of the RJ initiative and, when they reported changed views, it was to say that they were even more positive in 2001/2002 than before, stimulated, it appears, more by the many discussions around the new YCJA than by any particular RJ experience. A panel member with an agency providing services to women in trouble with the law, and who reported involvement with RJ at all levels (provincial, local), referred to the NSRJ initiative as "a very positive step compared to the conventional justice system". One church-based panel member commented,

RJ may get at problems earlier in life ... if you could see the people that get dumped on my doorstep after twenty years of encounters and rejections within the justice system.

Two respondents involved in an agency serving homeless and other youths summed up the wider viewpoint among this grouping:

RJ involves working with the offender in a way that includes the victim and the community but the most important thing is in fixing things, in repairing the harm that has been done to all involved ... It is an approach that is not punitive.

While positive about the NSRJ initiative, there was some uncertainty among most offender - based agency panellists with respect to how RJ connected with their organization's or agency's interests. A participant from a youth agency commented,

I feel like I don't have enough time to jump into it with two feet. I don't know how operationally effective or functional it is. We are dealing with youth with drug, health and psychological issues. And I don't have a good sense of how RJ could help.

A panellist, managing a program dealing with male wife/partner batterers and family violence more generally, observed that,

In general I see what is going on is positive in nature but I haven't been given any information to alleviate or confirm my concerns ...that RJ can work in domestic abuse settings versus a setting where power and control are not so central to the reasons for meeting.

Another panellist, who works with ex-inmates, wondered how RJ could help people get out of

prison or smooth their re-integration but he was confident that, at the "front-end" (i.e., pre-sentencing),

The community will not allow RJ for violent cases. No way. It's not going to happen. But for non-violent cases, RJ will be acceptable and it is a much more sensible way to do things.

Addressing the pluses and minuses of RJ processing, all panel members emphasized the benefits, beyond avoiding court and a criminal record, that the RJ approach could yield for all the parties. One youth worker commented,

The human impact for the offender is an important thing to help them to stop doing it again. I've heard youth say that is more scary for them to face the victim than to go to court. It's easier to have a lawyer speak for you. A real advantage also is not to get a criminal record. Even though it is written up somewhere, when you go to RJ, it doesn't affect you when you go to get a job.

The director of a well-known agency for helping offenders noted that,

It's giving those who want to participate an opportunity to make amends for their actions in regards to the victim ... and facilitates the returning of the offender back to the community where the crime took place.

A panellist working with ex-inmates expressed similar views, "It's not just the victims that need closure. Sometimes offenders need to say they are sorry". None of the participants stressed any especial downside for young offenders in the RJ approach though a few thought some youths might just see the RJ experience as "a better deal than the courts".

The panellists were less certain about the benefits of RJ processing for victims. Several, in fact, indicated that they did not want to speculate on that since they have had hardly any contact with victims (e.g., "We [his organization] sort of fall short in that area"). Those who did discuss plus and minuses for victims stressed that RJ, unlike the court, presented the victims with

...a chance to say their piece ... to say what they think should happen and what the offender should do to make it right for them.

Others considered that, apart from having their say, and "perhaps repaid for something that they've lost", the victims may get closure from learning more about the motivation of the offender and a sense that the offender would not do it again. One panellist allowed that there was a chance of re-victimization "but the best way to avoid that is to have very well-trained facilitators and volunteers.

Preparation before a session is so important".

Panel members generally appreciated that the victims may be reluctant to attend, sometimes because "they've moved on", or "they may be afraid" or "they're trying to forget", and perceive such a

meeting as re-opening old wounds. Despite emphasizing the importance of the victim's presence, for both the offender's and victim's benefit, none of the panellists considered that this presence was required for successful RJ. Indeed, one person, exhibiting almost a complete focus on the offender, commented that, [the victim's absence] is no problem so long as the offender is getting help ... all the victim needs to know is that the offender's problems are being dealt with". Two other panellists stated the case more strategically.

It's difficult for RJ to be productive if the victim isn't present, but sometimes this just isn't possible. Compromises and flexibility are at the root of RJ. There are lots of ways to have the offender understand the impact of what they've done. The key is that the caseworker needs to meet with every single participant, often several times, before the meeting, if it is going to be effective.

The panellists also stressed the positive benefits of RJ processing for both the community at large and the CJS. For the community, RJ was seen as having potential to reduce crime, yield "dollar savings", generate some collective sense of shared responsibility, and mobilize community resources (e.g., one person noted, "trained volunteers translates into more people with good problem-solving skills") but most panellists emphasized that these gains required extensive public education about RJ. One participant expressed the latter point as follows, "RJ is going to be frowned upon. I have my problems with the way the media portrays things". As for the CJS, the general view among these offender-oriented influentials was that the situation was, as one person said, "win, win for all", with little downside. A social construction was commonly advanced of reduced workloads, less expensive incarceration and less recidivism on the one hand, and offender and victim benefits on the other. One panellist warned of net-widening if the RJ program stayed focused on low-level offences where, for one reason or another, an offender might be acquitted in court. Another participant cautioned that the verdict was still out on whether RJ will work so the

return on the investment in time and money for RJ was not guaranteed.

In general, the panel members conveyed the viewpoint that the RJ program had much potential and should be more broadly implemented in order to realize better its benefits. One youth program manager, asked about the wisdom of extending RJ to more serious youth offenders and offences, replied, "I think it would be wonderful. I think the key is to do the training and the preparation work,

the investment in the program, before you bump it up a notch". Other panellists echoed this view in its entirety, namely, yes implement it further but do it cautiously since,

There needs to be time taken for the community to become comfortable with RJ dealing with less serious crime before it is allowed to be extended.

A few other panellists, while positive in theory about this extension, thought there should be a case-by-case assessment of the possible referrals. In encouraging the use of RJ for more serious offenders, a number of respondents specifically noted that RJ could be utilized, sometimes more appropriately, as a "post-conviction stratagem" (i.e., not diversion).

The panellists, most of whom worked with offenders of all ages or, if just youth, drew upon a broad age definition of youth, were also very supportive of extending RJ to adult offenders. The common view seemed to be, as follows, "Age is a number. It doesn't mean anything. RJ can work for adult offenders. We already have adult diversion and it's not much different [from RJ]". One panellist commented, "People have more sympathy for youth and think that RJ is a way of getting them off easily, but, if RJ is done well, it may be more severe than the court system so we have to stop thinking of RJ as the soft way out and that it should only apply to youth". One panel member went against the consensus here, contending that "it is important to deal with youth during the formative years but adults should accept responsibilities".

There was less consensus about the use of RJ in "minor" cases of sexual assault and domestic violence. Some panellists distinguished between these two types of offences supporting RJ in one but not in the other. The general view was in favour of such an extension but

conditionally; e.g., "both parties have to be agreeable and you have to have very well trained people". One manager of a youth organization acknowledged the considerable controversy over adjectives such as "minor" and the appropriateness of RJ; she contended,

I think there is an error in thinking. There may be huge power dynamics where the woman is fearful and dominated, but it is only a minor offence. Making sure that everyone can say what they want to is [a challenge]. There can be terrible re-victimization after the offence. It takes an awful lot of casework before the session but it can be done. We need to be looking for solutions to the zero tolerance policy

[...continued]

because it really isn't helping anyone except the lawyers' pocket books. It certainly isn't helping women and the offenders. We really need an RJ program that is well thought out, well funded and well implemented. If we don't get that, then it is no better than what we have already, and it is not worth the effort.

An influential with an organization working with male batterers had quite a different view; he argued, "RJ should not be used under the present circumstances and I doubt it could be made to work but I would be open to any ideas that could or would make it work".

There were several issues raised by this supportive grouping of panellists. The church-based respondents pointed out that a key element in RJ is spirituality but RJ is rarely discussed in that context. Several panel members anticipated that with the forthcoming YCJA there would a need for more training and orientation provided to their organization by NSRJ since they would be expected to become more involved in RJ sessions or dispositions. Some panel members worried about "RJ being used only in the lowest level of crime and being marginalized to the point where there is no real 'I get it' moment for the offender". Along these lines, one panellist who works closely with problem youths raised the issue of "creaming"; she commented,

My concerns are that the youth we work with would not be considered as good candidates for RJ. It is likely that they would be less likely to be referred even though they may be the very people who could benefit from RJ the most ...I think that police will be more likely to refer kids with supportive families who have more respectable behaviour, are better dressed and so forth.

Several panellists wondered about the resource commitment to RJ; as one woman contended,

It will take years to make RJ a viable option. We've found that it takes literally years to understand the nuances of why youth engage in crime. Youth can be really intimidating and they can run the show. You have to have a lot of experience and

training and that requires a substantial investment ... I really don't think that volunteers alone will be sufficient. I think they will need more professionals ...if RJ is going to go anywhere.

A few panellists, anticipating the elaboration of NSRJ for adults and more serious offending, discussed the need for NSRJ to detail safeguards for the vulnerable where relationships and power imbalances are involved and to specify how professionals in the field would be consulted with. A general concern among this panel grouping was for more public education since the larger public was seen as thinking that the CJS already is too soft on crime and especially that youth offences should receive more serious court-directed sanctions.

VICTIM-ORIENTED AND FAMILY / SENIORS ADVOCACY INFLUENTIALS

This large grouping of twenty-one panel members included community influentials drawn from three broad areas of advocacy, namely victim-advocacy, family services, and seniors' advocacy. The grouping was equally divided between those working in metropolitan Halifax and others employed elsewhere in the province. The functional differentiation among the subgroups is somewhat arbitrary in that there is significant overlap in scope and interest and all are subjected to "pigeon-holing" for RJ evaluation purposes. The victim-oriented advocates, with one exception, associated with transition homes and other women centres, provide a wide range of services, and have interests that transcend a simple offender-victim distinction. Indeed, most belong to an encompassing Women Seeking Equality Association (WESA) which suggests the broad scope of its advocacy and, further, collaborate with women offender-oriented organizations in FEMJEPP (Feminists for Justice and Equal Public Policy). Still, their organizational counterparts have usually been identified throughout Canada as important role players representing the interests of female victims of crime. The other victims advocate, the exception noted above, directs an organization focused on a non-gendered victimization theme. The panel influentials representing seniors' interests similarly are grouped here, despite their obviously larger mandates, since seniors are usually the victims of crime, not the offenders, and it was considered important to get their perspective on the NSRJ initiative. Local leaders in family service organizations are included because it was presumed that RJ would be very salient for much of their work in that these influentials would have considerable information about, and experience dealing with, the harm done by crime, abuse and conflict.

GENERAL VIEWS ON AND ENGAGEMENT WITH RJ

Panellists involved in female-oriented victim advocacy were interviewed in all four phase one regions. Most had engaged in much discussion and thinking about RJ in 2001/2002. They had participated in, and kept abreast of, an initiative involving a co-ordinated inter-agency approach, under the leadership of umbrella organizations such as WESA and FEMJEPP, examining the appropriateness of restorative justice for women's issues (e.g., sexual assault, women in abusive relationships, women in conflict with the law) and ascertaining the wishes of women regarding the RJ approach. None of these panellists reported having changed their views much on RJ and the NSRJ initiative but several indicated that they were awaiting findings from the above research project. As one leader commented,

We will have to complete our research and then perhaps we can come up some good suggestions. I don't want to leave you with the opinion that we are completely against RJ. We do see the value of RJ for many cases, and there may be ways in which we can work with RJ. But we still don't have everything we need to know yet.

Overall, the standpoint towards NSRJ was that it was limited program that was good in its place (e.g., minor property and federal/provincial statute crimes by youth) but would need to be quite different if it were to be utilized at all for serious offenders and offences. In particular, these panel members strongly supported the current moratorium against RJ referrals, from any level of the CJS, for sexual assault and spousal/partner violence.

The female-oriented advocacy panellists usually reported that it was very unclear, if not very doubtful, how RJ could adequately address women's issues and the serious concerns of safety, coercion and sexism that were associated with that kind of intervention. Examples were cited to illustrate the problem, examples drawn more from a previous Nova Scotia program of government-imposed mediation in cases of family break-up, and from the larger RJ literature, than from NSRJ experience. Given the moratorium, the RJ restriction to youths, and, as one person noted, the fact "RJ had not trickled down to the women we serve", there was little available information from the NSRJ program bearing directly on these issues. As in 2000/2001, the panel members viewed the RJ agencies as having little professional expertise in dealing with sexual assaults and domestic

violence, and especially decried the dependence on volunteers that rendered the RJ approach to these kinds of offences potentially dangerous in their view. As one panellist observed,

Volunteers often have different motivations and a different skill set. Their understanding of the dynamics in abusive relationships is not well developed - How could it be? - as that of the front-line workers such as workers in women's shelters.

Some panellists contended further that, even with more trained volunteers and professional agency expertise, the RJ approach itself would place victims in jeopardy, particularly victims of the moratorium type offences.

While some of these panellists rejected the RJ approach itself at whatever stage in the CJS process (e.g. charge, conviction and post-sentence) for a certain range of offences, others suggested that with adequate resources and guidelines to protect victims and to harness professional expertise, there might be some scope for RJ in person offences. One non-metropolitan women shelter employee commented that, having looked at things from the perspective of women in conflict with the law,

You can't quickly dismiss RJ... Lots of women are incarcerated because of retaliation. How do you do this [have alternative justice for them] without creating a double standard? If it is okay for women offenders to go through RJ, is it not appropriate for men to go through it?.

The other panellists in this score of interviewees generally exhibited a similar standpoint with respect to RJ. The panel members most engaged with RJ programming, not surprisingly, had positive views. One, a Crisis Service employee, active in the local RJ agency, expressed a fairly common sentiment in her statement: "I have positive views about RJ. There are some cases that aren't suited to RJ, but, for the type of cases that have been referred [minor, mostly property crime], RJ is very beneficial." The other, a seniors' representative, also much involved in an RJ agency, commented, "I think the program is really worthwhile ... the seniors in Cape Breton have accepted the program as a legitimate program with real value." Other panellists were supportive of the RJ initiative, as a concept and an experimental alternative to current CJS practice. One victims' advocate said simply, "I think it is a good idea still; nothing has come across my path to change my view about RJ yet". A family services-based participant noted,

Creating a different approach for responsibility for the perpetrators, greater understanding on their part, to face and correct the situation for those who have been wronged, outside the court system, is a positive thing.

A panellist in the same professional field considered that the RJ initiative could work well for minor offences - "I thought they could get good results with some crimes" - but reported that it was "a top down project" and that there was unwise pressure to extend it to offences where it should not go [serious crime, family violence]. Other panellists stressed the idea of an experiment, namely "nothing else is working and something new should be tried", and "I know little bout it but it's worth a try so long as it starts small". A few panel members, two seniors' representatives and a family services manager, remained critical of the RJ initiative, as they had been in 2000 / 2001, contending that it

contributed to the imbalance in the CJS in favour of offenders' rights and offered little, if anything, to the victims or to the community. None of these latter panellists had any contact with the RJ program at any level; indeed, one person, asked whether there had been any change in her views, replied, "No, no that would be impossible, given that I'm not really seeing a lot. How can you change something that you don't know much about?"

All of the female-oriented victims advocates on the panel were well-informed about RJ as a philosophy and as an approach to processing offences in Nova Scotia. Most had consulted significant reading materials made available through provincial committees and organizations such as FEMJEPP. They were also quite well-informed about the NSRJ program, generally being aware of the four levels of referrals, the moratorium and other CJS connections. Several persons also had had contacts with local RJ agencies, although none reported attending an RJ session. One such respondent noted,

I am very familiar with [gives names] agency and got an inter-agency presentation from them. It put a positive spin on RJ for me. The difficulty we have with it is when alternative sentencing is applied to sexual or domestic violence.

Among the seniors' representatives and the family service respondents, there was much less knowledge of either RJ as a philosophy or the structure and operation of the initiative in Nova Scotia (i.e., NSRJ - local RJ agencies). Several panel members, however, reported extensive

involvement in the RJ programming (e.g., board members, attending sessions) and were confident in their knowledge of RJ. A few other panellists - influentials in family service agencies - had had discussions with their professional colleagues about RJ, read some materials on it, and were confident that they understood its essence, even if they had little awareness of NSRJ and the RJ agencies.

BENEFITS AND DRAWBACKS OF RJ PROCESSING

Most panellists could not draw upon specific RJ experiences or other information on actual RJ cases, so their standpoint on benefits and drawbacks reflected more their social construction of the RJ approach and their hopes and fears about its implementation. Typically, they were able to articulate

RJ's beneficial potential more readily for offenders than for victims. Benefits for the offenders were deemed to go well beyond avoiding court and not getting a record but there was a concern that RJ could lead to more manipulative and inappropriate behaviour, especially if used in cases of interpersonal violence. The panellists often saw some possible advantages for victims but were less certain on this score and a few considered that there would be little benefit at all for them. Certainly, the panellists perceived much more "downside" potential for victims than for offenders. Most panellists depicted the RJ initiative as yielding possible benefits for the community as a whole but here the central theme for many was the issue of governmental downloading of responsibilities. As for the CJS, panel members identified potential benefits of the RJ initiative (e.g., a more sensitive CJS perhaps, opportunity to focus on more serious offences) but there was much scepticism that problems were merely being shifted around to the overall detriment of the CJS.

Virtually all female-oriented victim advocates considered that RJ could provide substantial benefits to young offenders. One women centre staffer observed,

For youth it seems like an excellent tool. For example, a kid who is booted out on the street and then gets into a bad cycle for themselves ... sometimes these things

could be avoided if they were handled differently at the start.

Her counterpart in Cape Breton stressed the greater accountability and learning possibilities, commenting,

It makes them accountable for what they've done in a meaningful way. It's a vehicle for the victim to state how they've been effected and hopefully this makes the offender realize that they were dealing with a human being who has feelings and this will have more of an effect on [than court] and that they won't do it again ...[it] may cause remorse. Parents may get some control back if it is in the family ...the offender might get referred to another program. I may not agree with alternative sentencing for all cases but I also don't agree with just incarcerating people. There's got to be something more meaningful than that!

The head of a victims' organization, living outside metropolitan Halifax, observed,

Healing the offender before they return to their community could be an important element in RJ. Forgiveness and apology are still very important and combining the victim and offender to find solutions is a very good idea.

Among seniors' advocates and panellists in family services, the views were quite similar though there was much within-subgroup variation. The family services group usually stressed the positive possibilities, referring to the offender getting more understanding of the impact of his/her actions, and having "an opportunity to make amends to the victims and to the community in a format that is complimentary to all parties". One such panellist commented,

It gives the opportunity to understand the impact of their crime on others and to understand it enough that they won't re-commit. They get a fresh start and hopefully a positive one.

As for the disadvantages of RJ for offenders, the main point that most victim-oriented panellists made was there was little "downside", but a number cautioned that the experience might facilitate the youths' perception of "no consequences" and thus cause more unacceptable behaviour. One women's centre manager expressed a common viewpoint as follows,

I can't think of any real drawbacks. Maybe if the offender doesn't get help or if the youth gets off too easily, RJ may cause the situation to get worse. The family or the person in the on-going relationship may feel more intimidated. It is very important that adequate referrals and supports be in place.

This same basic viewpoint was expressed in a slightly different way by a family services panellist:

I can't think of a negative. But I don't know enough about the program. If the offender doesn't take it seriously, then everyone loses. To me that is a negative impact for the offender and for the system. It's a huge missed opportunity to catch a young person before they get involved in serious crime. That's why I say that it is so very important that the people conducting the sessions be extremely well-trained and well prepared. They are the first link in our defence against crime so we need to invest in prevention.

Another victims' advocate mused about whether RJ would be more or less tough for the young offender; she noted, "Some people say that RJ is more lenient than the courts but I really don't know. Youth often know too much now and know how far they can go in bending the law". Several panellists considered that the "informal setting" of the RJ intervention could lead offenders not to take the process seriously thereby neither improving their understanding nor being much of a sanction; their bottom-line assessment varied on whether such a possibility represented "a chance we have to take".

As noted, there was more uncertainty expressed by panellists regarding the potential benefits of RJ for victims. Certainly, most allowed, as one women's centre participant observed, that "they have a chance to say how they were affected and tell about the impact it had on them". Another panellist commented, "We are mostly a victims' group so it is the victims' perspective that we see most easily. In some cases the victim could get closure from RJ. Our group is a group that you become emotionally involved with very quickly because of the stories we hear from victims. We still feel that the justice system and RJ put too much emphasis on the offenders and tend to neglect victims' concerns. It's important that victims and their families get to have their say in RJ and they get to tell the offender exactly how the offence affected their lives. The regular court doesn't always provide justice, and RJ may be better than that". In this vein, a family services panellist, now quite engaged in RJ programming, contended that,

Getting answers is important for the victims. They want to know 'why me?' This is the most important question. And to hear an apology first hand is sometimes the only thing a victim wants from the offender ... It can put a victim's mind to rest. They can realize that it won't happen again.

A number of panellists, victim advocates, seniors' representatives or family service staffers alike,

mentioned a possible benefit (e.g., input, having a say in the sanction or outcome) but discounted the net value of RJ for victims in the light of other disadvantages. One seniors' representative, who argued that the net value was positive, commented,

I suppose a negative for the victim would be that some people think that the book should be thrown at them [young offenders]. And maybe they won't be happy with RJ. There is also the time factor of the victim having to come to the sessions. I think it's well worth the effort. It's important to show people the facts and figures of how RJ works. Then they will support it. Just nailing kids hard and heavy is the old way. RJ concepts of how healing and justice can be done is more pro-active and constructive.

The panellists generally identified significant disadvantages for victims in the RJ approach. One female-oriented victims' advocate noted that re-victimization might occur and although the victim may have such a fear, "it would look bad if she didn't [participate] so you're damned if you do and damned if you don't". Other panellists - seniors' and family service representatives as well as female-oriented victim advocates - also stressed the possibility of re-victimization and fear. Several panel members discounted any benefit whatsoever and one declaimed,

It's all for the offender and not for the victim. Will it really be a level playing field when victims and offenders are brought together to work things out?

Despite the disadvantages or lack of benefit, few panel members called for a victim's veto, at least for the current range of offences being processed in RJ. Certainly, all held that the victim's participation should be totally voluntary and that the victim's absence would vitiate the RJ session's impact. There was widespread consensus that, in the latter eventuality, "I'd say that if the victim doesn't attend, there is something important missing". A women's centre panel member noted that,

The perpetrator may not verbalize it but may feel an increase in their power by thinking that 'I sure did a good job intimidating that person. They didn't even show up! That kind of thinking isn't going to help the offender get any better.

Two other female-oriented victims' advocates suggested that failure to get victims involved "is failure of the program on one of its stated goals". A handful of other panellists, drawn from all the subgroupings, agreed with the related comments of a family services participant, namely,

What's that [victim's non-participation] telling you? You have to go back and look at something and make some adjustments or changes.

Still, the majority of this subgroup of panel members, like the offenders' supporters and business subgroupings, agreed with the view of the victims' advocate who said, "RJ will still work without the victim present, but it is improved if the victim is there".

Panellists' views on the benefits and disadvantages of RJ for the community as a whole, and for the CJS in particular, were bracketed by two themes, namely a commitment to community activism, and a critique of the CJS. Most panellists identified potential RJ benefits for the community, such as more public understanding of the reasons for and impact of crime, more community input including a voice in setting the consequences for crime, healthier, less crime-ridden communities, and reduced costs for dealing with crime. Some envisaged the possibility of strengthened communities. One victims' advocate commented,

Good things can come out of bad events. Community people can learn and develop coping skills. There are more pluses than minuses. It brings people together and helps them to care for their own. They can take more pride in their community.

A family services representative noted:

It [RJ] can help, if a community becomes involved in finding resolutions to crime, because it puts the community in a position where they know more about their community members ...[there's] less sweeping things under the rug.

At the same time, most panellists were sceptical of such potential being realized in this instance. In particular, they reported little evidence that the community has been much involved in this case of what most saw as "downloading responsibilities by government". They posited the need for a much less CJS-driven program, more government consultation with community-based groups such as their own, and more attention to informing an apathetic, punitive-oriented public about alternative justice. Indeed, several panellists suggested that without such investment of resources, unlikely to happen if cost-cutting was a major motivation for the NSRJ initiative, there would be minimal community impact.

The panellists readily identified possible benefits for the CJS. Most cited the conventional,

predictable, potential benefits such as cost-reductions, smaller court loads allowing more time to be spent on more serious cases and shorter time lines for court processing, and, overall, a better re-designing of a less exclusive CJS in terms of both efficiency and efficacy. Most panellists saw RJ as a more personal process, and considered that, if it could "nip in the bud", early intervene to prevent crime among youth, it would be more efficacious than the court in that regard. In the latter scenario, direct costs savings would not be as important as long-term gains in prevention, victim-sensitivity and the like. But, as with potential benefits for community, there was much scepticism. Several panellists, particularly most of the seniors' representatives, considered that RJ would be negative for the CJS, contending that there is mostly just a shifting of problems, "building in failure" to the CJS, and accentuating the worse aspects of the CJS (e.g., enhancing offenders' rights). The family service staffers stressed the "isolation" of the RJ initiative, arguing that "there is no quick fix for kids in the justice system". The female-oriented advocates emphasized that there could be no cost-savings if RJ was implemented properly and worried also that it might negatively impact on some useful recent CJS policies (e.g., the pro-charge policies in family violence).

EXTENDING RJ IN NOVA SCOTIA

All panel members, victim advocates, pensioners' representatives and managers of family services essentially contended that RJ should only be used in a selective way, and, especially, that physical and emotional violence is beyond its capacities. One women's centre manager summed it up succinctly, "the levelling of the playing field in these situations just cannot be accomplished". Another panellist, engaged in a family service program, commented,

Where there's violence, serious violence, the victims don't want to revisit the situation ...there is no way that they even want to think about it ...so how is RJ going to be part of it? I don't see how that is possible.

Panel members sometimes cited the type of offending, and sometimes the capacity of the RJ agencies, as factors shaping their viewpoint. A victim-oriented advocate was an example of the former; she commented,

I don't think that offenders should get any more than one chance at RJ and for serious offenders RJ should only be in addition to a sentence. I think it should only be for property damage. There needs to be a genuine attitude of remorse. And

it shouldn't be for repeat offenders.

A family services panellist, active in her local RJ agency, was an example of the latter with her comment that,

Personally, no, not at this time. The training that the staff and volunteers get is still not to that extent. These are non-for-profit organizations being faced with liability. That should be a concern.

All seniors' representatives, despite their different levels of engagement in RJ programming, shared the view that RJ should not apply to more serious offending. One such person, with little knowledge of RJ processing, stated "if it isn't working with minor crime why should we repeat the mistake by applying it to more serious ones"; another, positive about RJ and with much actual RJ engagement, commented, "serious crimes are something different; a lot of seniors feel that this is the place for the real justice system not RJ".

A number of panellists disagreed, too, with RJ for repeat offenders. One victims' advocate noted,

I'm not in agreement with that. Repeat offenders mean that they haven't gotten the support that they need or we have caught them too late. I think that if a youth breaks their alternative agreement then they automatically should go straight to court and to jail.

A seniors' representative contended that certainly there should be no going beyond the second time offender as "they've already demonstrated that they don't give a rat's ass anyways". Several panellists mentioned the possibility of using RJ in conjunction with court processing for more serious offending and for repeat offenders. More common, however, was the viewpoint was that any extension of RJ should be cautiously implemented and that it would be preferable to wait until the evidence is in on whether RJ is effective even with minor offences.

There was less consensus concerning the extension of RJ processing to adults. One panellist expressed a common viewpoint that caution should rule,

I would have to be very cautious on that one. I don't think that extending it can be done easily. [If it leads to more monitoring responsibilities by women] shifting the burden, often to the woman to enforce agreements and house arrests can be a really bad idea ... too much stress ... fear of retaliation.

Another respondent, a self-defined "strong victims' advocate", expressed this standpoint as follows:

I think baby steps are the best approach. Make sure you can deal with first time young offenders with property crimes before you extend it. Some criminal minds are sharp and they know how to manipulate the system. It's important that all the checks and balances and protections are in place before you take on more than you can chew.

Along those same lines, a seniors' representative opined,

Adults are a product of their experiences in their youth. If they've grown up with a criminal background, they become set in their ways and RJ may not be the solution for these hard nuts to crack.

A number of panellists considered such an extension appropriate for low-end, first time adult offenders accused of property crimes but, again, expressed a wariness and some called for "a careful consideration on a case by case basis". There was much agreement with the views of one seniors' advocate who contended that any extension should wait for proof that RJ works with youth and minor crimes.

There were several discordant voices on this issue. One favourably disposed panel member, involved in an organization providing assistance to all possible victims, observed, "It always amazes me when, for a good program, one is eligible one day then dropped as soon as they have a birthday". Also, a family services panellist, much engaged with her local RJ agency, commented,

I think that extending RJ to adult offences for the more minor offences is a good possibility. There is adult diversion and it's somewhat like RJ. We should try it. It could be a very good thing.

On the hand, there were also a few cases of outright rejection (e.g., "no, no case for it at all"; "RJ is just for young offenders").

As noted, victim advocates were opposed to extending RJ to the moratorium offences. One person observed, "Our group deals with women and their families so we see the benefit of RJ for youth. But we don't want it applied to sexual or domestic violence". The arguments in support of the current restrictions were many, starting with "who gets to define 'minor' or 'low-end' sexual or domestic violence". As one panel member commented,

How is anyone going to know the severity of the assault for the victim? And if we let this person [offender] go then the victim can be imprisoned in their own homes, afraid to venture outside because they fear for their safety. Yet the perpetrator is free. That's not fair and that's not justice.

Indeed, a common view among the female-oriented victims' panellists, in particular, was that lawyers, judges and the CJS as a whole have failed badly in the past in fulfilling this mandate of defining sexual assault and domestic violence as crime. Most panellists thought that it would be very difficult for the victims to participate in the RJ sessions. Perhaps the most common position was that the RJ interventionism would be inherently insufficient. One victims' advocate, not involved herself in these cases of victimization, captured the essence of this standpoint well in her remarks that,

I'd be very nervous about that. Long-term counselling may be needed for even what you might think are 'minor' cases. I really don't know enough about it to say. This [RJ processing] would be far too large a step ...and too early. There has to be something more in-depth than RJ for these cases. These victims can be living in terror from day-to-day. So there has to be some really serious intervention for them.

Several panellists, while adamant on current policy, also said they were in favour of discussions between CJS officials and women's organizations on these issues and allowed that if there were guidelines, transparencies, a high threshold for referrals and the like, there may be some possibilities for utilization of RJ.

Seniors' advocates and leaders in family service organizations shared these sentiments against the use of RJ in sexual and domestic violence. One panel member, representing seniors' interests, commented,

...definitely not and I am offended by the label 'minor'. People committing certain offences simply belong in jail, and do I have a problem with my tax dollars being spent to house and feed them? NO!

A seniors' panel member who had attended a handful of RJ sessions, echoed that view, adding, "Long-lasting crimes like those ones are not helped by an RJ meeting". Family agency panellists shared this common viewpoint. One said simply, "if [RJ processing of such cases] is on the scale, it shouldn't be". A family services provider, active in an RJ agency, stressed the complexity and challenge of such cases, adding,

I am in agreement with the moratorium. I do not believe that a not-for-profit agency working with volunteers can reach this level of training and long-term commitment to healing that is required for these offences, regardless of whether they are considered 'minor' or not.

Another family services panellist observed that the support that might allow for some RJ intervention is simply not available; she noted,

It's hard to see how abused women can take an active role with the offender in something like RJ ...we go back to that again [the support provided victims] ... giving them some power.

This same participant, citing a recent documentary that she had seen where a victim apparently obtained some satisfaction from a session, was the only member of the broad grouping representing victims who considered that some RJ intervention might be appropriate in some cases of sexual assault, albeit with a high threshold being set and much pre-session preparation. Another panellist, also involved in family services, allowed that RJ, or something like RJ, if carried out in addition to court processing, might be helpful "if you want to break the cycle of crime-violence-abuse".

SPECIFIC ISSUES CONCERNING NSRJ AND RJ

A number of issues were raised by the panellists. Female-oriented victims' advocates were concerned that the moratorium remain intact on sexual assaults and spousal/partner violence RJ referrals, from any level of the CJS (at least until their own in-house research becomes available). They expressed concern, too, that some such offences may be entering the RJ stream through different labels (e.g., assault rather than sexual assault). A number of panellists raised issues relating to the downloading of CJS responsibilities to women and parents, specifically the implicit supervision of offenders on some form of house arrest, and were concerned that RJ might further such developments; as one panel member commented:

It puts the women in a position of having to enforce his good behaviour ... [house arrest] puts the male in a bad mood and escalates the chance for violence in the home ... the woman may feel obliged to volunteer such supervision to keep the youth from going to detention or to avoid retaliation ... this needs to be avoided.

Some panel members, especially in family services, raised other issues of equity or fairness in relation to which youths get access to RJ processing; here their concern were especially that youths from conventionally "solid" families with appropriate attitudes and appearances would be favoured. Panellists raised issues concerning the adequacy of funding for RJ programming and the

need for more attention to educating the public regarding RJ, youth crime, alternative justice possibilities and the like. In particular, family service panel members emphasized the need for a more holistic approach, a less exclusively CJS approach, to the problems of crime, especially youth crime. They wanted to see more inter-agency collaboration with the RJ providers and more utilization of their counselling and other professional services, especially if RJ programming were to become more involved with more serious offences and offenders.

BUSINESS AND OTHER PANEL MEMBERS

The business people (store managers or supervisors, franchise holders and business spokespersons) on the panel reported modest contact with the RJ program in 2001/2002 and no change in their viewpoints on it. The panellists were located in Cape Breton, the Valley and metropolitan Halifax. The Sydney area panel members reported the most regular contact. Two panellists there shared the following experience,

Sometimes the people in the Sydney office will call me and ask for an opinion and I have talked with ...[Here he names an agency staffer.] She will tell me how cases have gone and sometimes they will send a letter about the cases.

Virtually all the offences involving their own and kindred operations were minor property crime (e.g., shoplifting, trespassing). On the whole, business panel members remained rather critical, essentially espousing the position that the RJ intervention is a soft sanction and, while acceptable for the first time offender, should not be given to repeat offenders. One businessman opined,

The system [for both youths and adults] is not harsh enough ... we see repeat offenders and that is not good ... [it's] frustrating ... we see the same people over and over again and it's just a free ride. We also see people who have gone through RJ and then the court system and then get picked up for shoplifting again. Neither system works as well as it should.

Another businessman declaimed, "I agree with RJ as a first chance. If a young person gets a break out of it, then it's a good thing. If the offender re-offends then there is no second chance. One crack and that's it." Indeed, this panellist contended that even the first RJ referral can be actually the last stage of a three stage process of verbal warning, formal police caution, RJ referral, underlining, in his view, that one "crack at RJ is enough".

The business panellists considered that they understood the RJ approach and appreciated its advantages. They often emphasized that they were discussing it in a context of "high levels of shoplifting and new scams all the time". One business leader, quite positive about the RJ philosophy, pointed to macro-socio-economic factors which, he thought, may be at the root of youth problems causing much property crime; here, he noted,

Our values and the prevalence of commercialization. I think we treat people [in court] who have offended in a way that is not very helpful ...nowadays there is so much pressure on families and for both parents being income earners, there often isn't time to teach them lessons [like he was taught by his parents when he stole] or even to catch the kids before it's too late. I don't blame only the kids. The latch key kids are heart breaking ...that's not the way to grow up.

A Valley panellist who reported that he attended, "out of curiosity", an RJ session, involving shoplifting from his store, found the experience quite impressive. He said he learned more about the background of the kid, saw the concerned parents, and realized that "the program was not as bad as I had first thought it was". Still, he contended that the incident might have been an exception rather than the rule, noting that another store manager attended a different RJ session and came away saying the whole thing was a farce, and "he didn't have the same sense of family involvement that I had".

Generally, the business panellists feared the presumed increasing routinization of property theft and were concerned that RJ might contribute to that pattern rather than work against it. As one said, "RJ is not for the hardened. For them it's just an easy way out ... they aren't dealing with embarrassment because they aren't embarrassed about it. For them you need something tougher to make the point". Another panel member made similar remarks,

Everything is done secretly [in RJ] and is never publicly known ... it's gotten to be routine. They shoplift and then all they have to do is write a letter of apology. It's like a catholic in confession. You say you're sorry and then your sin is forgiven and you can go out and sin again.

It was in the context of such musing that the panellists typically asked whether there was any

evidence that RJ interventionism did work and did reduce recidivism. Some conveyed, too, a sense of powerlessness that sharpened this issue for them, saying that they should have the right to decide whether a theft offence against their business case would proceed by charge or through RJ, but they do not. Almost all businessmen also reported that their company policy is not to send a representative to the RJ session on the grounds of inconvenience and loss of further time and money. Thus, the panellists exercised little control over whether a charge was laid or the disposition the youth received.

The central issues for themselves raised by the RJ approach were considered to be recidivism and marketing. Regarding the former the question was simply, as one put it, "the number of times an offender can get cycled through the system"; regarding the latter, one panellist summed it up best,

I am kind of a peer group leader [in the business community] ... We need to know whether this program is working and that it is justified in order to be supportive of it. We are very concerned that the government balance its budget. So, if we are going to support its spending on programs, we need to know what they are about. It's important that programs, particularly programs like restorative justice be promulgated well.

The panellists identified the benefits for the young offenders of the RJ approach as being no criminal record and no public embarrassment. One panellist went further, commenting,

My sense is that if it [RJ] is done well, it can give people a better sense of values and they may become more aware of the consequences of what they do and change the way they behave ... we need to give people a sense of self worth. I don't think we do that enough.

The negatives for the offender were seen as RJ possibly encouraging recidivism. One panellist commented here, "I would like to see there being something more than just talking, getting them to apologize and writing an essay. It has to be significant".

As for the benefits of RJ for victims, all business panellists focused on their own victimization and, accordingly, stressed, as one said, "This program keeps me out of court. I have the option of not going to a meeting"; others echoed that view with comments such as, "the system is streamlined because we do not go to the meetings any more", and "[at court] everyone goes through a whole lot of stress for nothing. I like RJ because we don't need a follow-up with it. It

saves us time, dollars and effort". The downside, of course, was seen as recidivism; as one person put it, "the punishment is so weak that people are re-offending again".

There was some uncertainty expressed about the benefits or costs of the RJ option for the community and no one indicated a sense that the community itself was represented or involved at the RJ sessions. Still, one panellist allowed that, "If we catch the offenders earlier then we have a better chance to turn them into better adults" and another person answered, "I see the RJ system almost as a substitute parenthood role". The panellists did readily identify the impacts for the CJS, essentially citing reduced work load and paperwork as the benefits (e.g., "I imagine it would be cheaper to go the RJ route and it would free up court time for more important things") while the downside was defined as "the justice system could be seen as too lenient".

Not surprisingly, in light of the above findings, the business panellists were not supportive of any more elaborate implementation of RJ, as they understood it, in the CJS. They all felt that the RJ option should not be used for serious crimes and had a rather broad definition of serious crime; one person commented, "No, and I mean by serious crimes, when someone gets physically hurt or there is break and enter", while another panellist said "break and enter and personal injury should not be referred through RJ and there should not be breaks for the first time offender". The business panellists also did not think that sexual assault and domestic violence offences should go through RJ, contending that "any is serious" and, in the case of "minor" sexual assault, "the problem is where to draw the line", while, for the domestic offences, professional counselling would be required and that was deemed to be beyond the capacity of the RJ agencies. The panellists were divided on whether RJ should be an option for adult offenders; a few respondents argued that age itself should not be the major criterion (e.g., "I've seen breaks go to adults and it has really worked out for them"), while the others were emphatic ("NO! NOT AT THIS STAGE!") that such an extension, at best, should await evidence on the efficacy of RJ among youth.

The viewpoints of the business panellists were perhaps less cut-and-dried than articulated. Their rejection of repeat offenders' use of RJ and of almost any further implementation of RJ in the CJS was, at least partly, related to their conception of RJ as solely an alternative to court processing

(i.e., diversion). Often in elaborating on their positions, they displayed much pragmatism, referring to the need for "a case by case" approach to determine if an RJ referral would be appropriate and wanting to see what the evidence shows regarding the efficacy of RJ. Their views on the importance of victims being present at RJ sessions also reflect this pragmatism. All the panellists agreed that the session would be more effective if victims were present (e.g., "I feel that the offender would probably show more remorse if we went but sometimes the person just doesn't care"). They also all agreed that practical matters usually made that undesirable for their company (e.g., "it's not worth our while to take a person off the floor in terms of time and manpower. We would lose more in that case"). Their bottom-line then became the standpoint that (1) their attendance was not necessary because the people who ran the sessions were good and the session could still be effective; (2) non-corporate victims and victims of a personal loss should attend sessions. Certainly, the business panellists' views were not cast in stone and they expressed much interest in feedback from the agencies and statistics on the impact of the RJ program.

OTHER COMMUNITY ACTIVISTS

The other community people on the panel constituted a melange of interests, namely a community health nurse, two school administrators, two school guidance counsellors, a local political official, three multicultural association staffers and a community service association leader. As in the case of the business panellists, these panel members were drawn from the Valley, the Sydney area and metropolitan Halifax. Only one of these panellists was much engaged in RJ activity, namely the service association leader who also served on the board of an RJ agency and occasionally attended RJ sessions as "the community representative". The other members of this grouping had had little contact with RJ programming and did not consider themselves well informed about the RJ approach. Most had earlier attended some presentation on the program by the local RJ agency but reported little exposure to RJ over the past year. For these respondents, the chief source of information about RJ came from the evaluation interviews and the executive summary of the Year One report which had been sent to them.

Almost none of the panellists had read any materials on RJ or discussed the RJ initiative with their colleagues or interest group. Three of the four school officials could not recall the program ever being mentioned at their schools, let alone being used in any offence that occurred there. A guidance teacher in Halifax reported that he had some discussion with school colleagues on how RJ might apply to some students' actions, though "that was all". A Cape Breton community service person reported that his service club has had many discussions about RJ and there is much support for the program there. The panellists involved in multiculturalism activity also reported little exposure but wanted to learn more about RJ and generally thought that it could be very valuable within the ethnic communities and in instances of ethnic conflict. One such person considered that RJ would be harmonious with her holistic Islamic culture while another suggested that the RJ emphasis on shame and support would be crucial in conflict resolution among many ethnic groups. At the same time, these panellists warned that "It [RJ won't work for everyone" since in some cultures the invasion of privacy would be unacceptable, the family shame might be too much, or the RJ forum would not be accorded legitimacy. Their common views were reflected in the comments of one multicultural worker, "I have a general idea of the concepts but I would like some concrete examples and information about cases that have been referred to RJ and how they turned out. I wonder about the applicability to the various cultural communities".

These panellists usually felt that they understood the basic idea of the RJ approach (i.e., offender taking responsibility, bringing the offender and victim together, emphasizing restoration and reintegration, combining shame and support) but not much more, so, not surprisingly, they did not adopt strong positions about it. They saw advantages and potential disadvantages in RJ processing for all the parties - the typical ones cited by other panel members such as avoidance of court and a record, having input, direct communication - and the general view was expressed well by a guidance counsellor, namely that "there are not many minuses as long as the offender gets some real consequences and the victim feels that justice was served". The other guidance counsellor emphasized the benefit for the offender as "the RJ experience would give a truer understanding of how the crime impacts society, personalizing it by the offenders meeting with the victims" and, for the victim, as "they would hopefully get a clearer understanding of the reasons for the crime ... some amends made to themselves and to society". The service club panellist saw the special advantage of RJ processing as the offender and victim directly contributing to the agreement on

what should be done, as opposed to the court where there is an adversarial model and a sentence "arbitrarily" imposed by the judge. On the negative side, the multiculturalism panellists worried that some offenders would be insincere and take advantage of the process, becoming more resistant to their parental supervision - "I get parents telling me this all the time ... the children have too many options. There aren't enough controls". Other "minuses" highlighted by the panellists included the possibility that the victims might experience some on-going threat or just want to put the whole incident behind them.

All the community panellists emphasized the importance of the RJ session's involving the meeting of offenders and victims, and they agreed that, without the victim present, the efficacy of the RJ intervention would be more questionable. Still, only one person argued that there should be a victim's veto. The general position was that the victim's presence had to be voluntary and if the victim did not want to attend, perhaps less attractive substitutes could be found such as a written statement, other family members, or a victim's representative; as one panellist said, "the RJ option would still be worth pursuing".

The community panel members thought that RJ brought advantages and few "minuses" for the community and the CJS. One panellist commented,

Courts do not make things better and they can make things a lot worse. If it can be resolved through RJ, it might be better. The offender, victim, supporters and the community are part of the process and the outcome and not left on the outside. If we could deal with things through RJ so that it costs less money for the community, the justice system and the individuals, then that is a real plus.

The service club leader and the multiculturalism activists contended that RJ could strengthen communities (including community relations) and improve their problem-solving skills. A school official thought that a major gain for communities could be long-term educational effects that reduce crime but cautioned that more community commitment might be required. As for the CJS, the panellists expected that RJ would reduce costs for lawyers, courts and corrections but, for some, the major advantage would be a fairer CJS and progress in developing ways for coping with crime other than through a punishment mode. The possible downside for the CJS was seen as public criticism and general disrespect if the high hopes for RJ were not realized; for example, one panel

member observed, "If the perp sees it as a soft system, he lets a few crocodile tears out and moves on, then he's back in Zellers in the afternoon [disrespect would set in]".

The community panellists considered that RJ was most appropriate for minor property offences where the harm caused to the victim was not as great as in physical violence. The grouping was ambivalent about allowing repeat use of the RJ option but had little confidence either in the effectiveness of the courts or incarceration at the Youth Centre. One respondent commented,

You need to give it [RJ] a try several times to see whether it will be effective or not sometimes. They [the offenders] have to look into the eyes of their victim and at some point the light bulb will come on in their head.

There was common wariness about extending the reach of RJ into more serious offending, especially until more is known about the impact of RJ for minor youth crime. One teacher commented,

I'd be worried about that one. It would depend on what you call 'more serious'. Is break and enter or threatening with a weapon? I'd have to see it work to really know if these should apply.

A guidance counsellor expressed reservations but wondered whether RJ might apply in a post-sentence stage (specifically, after a youth has been locked up for the crime). One panellist, a strong, engaged advocate of RJ, went against the flow, responding, "I don't see a problem with that. I can see a place for serious crimes in RJ. A lot of what happens in court is either luck or resources. It's not always just". The panellists, who exhibited no awareness of the adult diversion program in Nova Scotia, expressed few reservations about extending RJ to minor adult offending, generally arguing that "if RJ is effective, it could be effective for any age", and suggesting that such an extension could save a lot of time and money and allow the courts to deal with the most serious cases.

The community panellists were quite divided on the salience of RJ for incidents of "minor" sexual assault and domestic violence. Those panellists working with youth were supportive of such initiative, their support typically qualified with a statement such as, "with close monitoring with a watch out for repeat offenders and with a focus on educating people" or prefaced by a critique of the current court response such as, "Courts aren't working well and it costs so much. Perhaps we

should try it [for minor cases] and see if it is more effective and helpful to people to do it through RJ". The multiculturalism activists were quite ambivalent and desirous of more evaluation of RJ before making a judgment but examples were cited of how cases of domestic violence dealt outside the court process had been effective for "newcomers, under a great deal of stress ... needed help to get the skills and tools to deal with their problems".

Some issues were raised by the community panellists with respect to how RJ might impact among their interest groups. Teachers saw potential relevance but wondered whether RJ could be used proactively or only after a charge has been laid; a counsellor observed,

Violence and youth crime are our primary concerns. In this school there isn't a lot of visible violence but there is an inducement of violence that is not easily seen. Most students, wisely I think, try to deal with it on their own. I would hope that RJ could help in those cases that are reported.

Another issue raised by several of the panellists concerned the public perception of crime; they considered that there was widespread criticism that the sentences given for youth crime and crime in general were inadequate and wondered, "Would RJ be any different? What is being done to get it better understood?". A local politician thought that neither RJ nor the court system provides a good direct answer to serious offending so the issue should be "which does the best job at crime prevention". Most panellists wanted more information about RJ and especially on its impact. This desire was especially apparent among the multiculturalism panellists who contended that there are cultural clashes

in school and work and, if the government is serious about RJ they should educate the different cultural communities about it.

CONCLUSIONS

The 2001/2002 re-interviews of community panels found considerable continuity in viewpoints and experiences with respect to NSRJ and RJ programs. There continued to be sharp differences in enthusiasm of support and anticipation of benefits between the offender-oriented service panellists and those more identified as representing victims' concerns (i.e., female-oriented

victim advocates, seniors and family services representatives) and other community interests (e.g., school officials). Still, the common themes identified in 2000/2001 continued to undergird the different perspectives or standpoints. These include an emphasis on the macro social factors in the causation and prevention of youth crime, a general belief that dealing with minor youth property crime via the RJ approach is a good strategy, a caution about too quickly implementing a more elaborate RJ approach, a sense that the RJ agencies have limited capacity and that the RJ intervention itself, as presently designed, is limited in its efficacy for dealing with offenders, a contention that the NSRJ initiative has been top-down, CJS-exclusive and largely driven by downloading and costs considerations, and a scepticism about the adequacy of the resources that government is prepared to invest in the initiative.

The offender-oriented influentials were knowledgeable about the NSRJ initiative and often quite engaged with it. They were very positive about the RJ approach and saw lots of potential benefit in it for offenders but also for victims, the community at large and the CJS, There was much consensus among the panellists with respect to both the benefits and the possible extension of the RJ approach to more serious youth offending and to adult crimes. On offences of sexual assault and family violence, the panel members' views were quite varied but all exhibited some concerns about the utilization of RJ without guidelines, more agency resources and some evidence of RJ's effectiveness. Three issues were highlighted by panel members about the impact of the NSRJ initiative, namely implementation resources, fairness (equity) concerns in terms of accessing RJ, and the need for getting the public on side.

Among the panellists chosen to represent more the interests of victims and the community at large, there was much less enthusiasm for the RJ approach but, nevertheless, a widespread sense that it could be appropriate at least for a narrow range of youth offending. Even the panellists most engaged in RJ programming, while clearly more enthused about its achievements and potential, were wary about any significant elaboration of the program. Three factors appeared to account for this viewpoint on the RJ approach, namely panellists' views of crime and justice, of the nature of the RJ intervention, and of the resources available to the RJ agencies (for training, in-depth session preparation etc). These panellists typically did not think that more serious youth offending, adult

offences, and sexual assault or family violence cases, should be referred to RJ, certainly not at the pre-court level, if at all.

There was virtually no change in standpoint reported by the victim-oriented panellists nor had their involvement in actual RJ programming increased. The female-oriented victims' advocates were much more exposed over 2001/2002 to literature and debates on the RJ approach via research carried on by their provincial organizations. They had considerable knowledge about the RJ philosophy and its implementation in various contexts though not in Nova Scotia (but their research might well be filling that gap). The other panellists, with a few exceptions, had limited awareness of the RJ approach and equally limited familiarity with NSRJ and the local RJ agencies. The victim-oriented panellists, on the whole, perceived the RJ programming as benefiting offenders and also possibly having some benefits for victims, the community and the CJS. At the same time, they thought there was much "downside" in RJ for victims and expressed scepticism that the potential benefits for the community and the CJS would be realized. The panellists raised a number of general issues, such as the importance of maintaining the moratorium against use of RJ for certain offences, the burden that downloading of what might have been probation responsibilities has produced for women and parents, the dangers of inequity in access to RJ, the need for a more holistic, inclusive approach to youth and other crime problems, and the need for public discussion fuelled by appropriate statistical and other evidence.

Business and other community leaders generally expressed views most congruent with the victim-oriented panel members. They were not well-informed about RJ, whether as a philosophy or as operationalized in Nova Scotia, and they acknowledged their marginality. They supported the RJ approach for a limited range of youth offending but were concerned about any more elaborate implementation. The main issue advanced by these panellists was the need for more information on the program and evidence concerning its impact.

8. OVERALL CONCLUDING OBSERVATIONS AND RECOMMENDATIONS

YEAR ONE THEMES

In the Year One evaluation report, there was discussion of the extent to which the NSRJ objectives were being met. Limited evidence was available (e.g., none on recidivism) but what was available, did indicate that the RJ sessions produced substantial satisfaction for victims and offenders and other participants. There was evidence also for the objective, strengthening communities, in the greater mobilization of volunteer resources by the RJ agencies, the use of more community facilities to house RJ sessions, and more community discussions of RJ and youth crime. Little could be said concerning the objective of strengthening public confidence in the CJS but the RJ agencies developed their implementation plans in collaboration with local working groups, and community participants who did attend actual RJ sessions were positive about the experience. Panel interviews established a baseline for assessing how CJS and community influentials regarded the RJ initiative. It was noted, too, that the RJ initiative had effected a modest reduction in the number of youth cases that had to be addressed by the court. In terms of process, it was noted that, apart from a moratorium being imposed, barring any RJ referral of sexual assault and spousal/partner violence at any level of the CJS, the NSRJ, after considerable preparatory planning and program development, was implemented as planned. Referrals to the RJ agencies came mostly from the police and concerned level one offences, so the value added of the initiative vis-a-vis AM on this score was modest. Process progress was also effected through training and/or orientation sessions for agency personnel, and CJS role players, and through strengthening the capacity of the RJ agencies in various ways.

The report also identified a number of challenges, from the perspective of the NSRJ realizing its stated objectives and the agencies' functioning efficiently, effectively and with equity. These challenges included securing referrals from beyond the police level (the metaphor of a CJS "wall" limiting the penetration of the RJ approach was advanced), achieving more balance in the RJ agencies' serving offenders and victims, and establishing a more collaborative vision with other CJS segments and with other community agencies. Recommendations were fourfold, namely revitalizing provincial government leadership in the NSRJ; developing strategies, particularly at the crown attorney level, to penetrate the CJS "wall"; developing more guidelines for the actual RJ sessions, especially highlighting the victim-offender dynamics where family members are involved; and encouraging closer collaboration and experience-exchange

among the RJ agencies.

SUCSESSES AND CONTINUING CHALLENGES

This report on Process, and its companion piece on Outcomes, have described the significant progress that has occurred over the past eighteen months. The evaluation has found a continuing high level of satisfaction among all RJ participants (victims, offenders and others), another significant reduction in court-processed cases, increase referrals to RJ agencies, and a modest increase in post-police referrals. Evidence was also produced suggesting a significant impact of RJ processing on recidivism; indeed, comparisons with a small sample of court-processed cases suggested positive comparative benefits for RJ processing on all NSRJ objectives. On the process side, NSRJ was implemented throughout the province for youth while the moratorium for sexual assault and spousal/partner violence continued and the extension to adult offending was relegated to the back burner. Training and orientation for agency personnel and CJS role players continued apace. There was a considerable revitalization of provincial government leadership and commitment, reflected in the reactivation of the NSRJ steering committee chaired by the deputy minister of Justice, the spawning of active subcommittees, and the allocation of more resources to the NSRJ initiative (e.g., allowing for beneficial overlapping in the coordinator's role for a number of months in 2001). Along with this greater governmental activism went the transition of NSRJ from a project to a program in the Department of Justice. Other process developments, associated with the Year One recommendations, included greater collaboration with Corrections, more training for volunteers in the RJ approach, and more utilization of other community agencies and services by the RJ agencies (e.g., use of professional counsellors to advise on some RJ referrals). There was also a considerable amount of community activity by the agencies as they informed schools and public gatherings about RJ and the YCJA, and, in these and other respects, more collaboration among the agencies themselves.

A number of old and new challenges remain for NSRJ and the RJ agencies, particularly as, now that institutionalization is complete, the central focus becomes strategic planning about persistent problems and future development options. One continuing challenge or issue concerns how RJ fits in with other CJS activity, especially, but not only, the implications for referrals.

Police continue to be - and will likely always be - "the bread and butter" for agency referrals. There has been improved contact between police and RJ agencies over the past eighteen months, and the relationship appears quite good. Still, if there is a need to encourage more police use of cautions (the evaluation has found the cautions to be an effective tool) and their referring more modestly serious cases to the RJ agencies, the chapter on discretion shows that this will be a challenge. As suggested earlier, there seems to be significant value in encouraging more police RJ advocates at the field level, bringing "champions" from the various police services together to exchange ideas, experiences and advance suggestions to NSRJ and the agencies. Much work remains to be accomplished as well penetrating the "wall". There have been significant procedural breakthroughs with Corrections but it is not yet clear how this will translate in terms of more and different types of referrals. Corrections has been the level, beyond the wall, where most process innovations occurred since Year One. The special PPS projects underway among crown attorneys may ultimately impact more for crown cautions and crown referrals to NSRJ. If the objective remains for NSRJ to obtain more and higher-end referrals from beyond the police level, then a strategy may have to be developed for each level (e.g., some guidelines for prosecutorial or judicial referrals that go beyond mere designation of eligible offences). Some useful recommendations have also emerged from the NSRJ Steering Committee's subcommittees concerning the reactivation of local working groups, enhanced by linkages with local CJS role players and representative of salient community groups.

A continuing challenge remains to improve the training offered to volunteers, and perhaps more importantly, their systematic learning from their RJ experiences. There has been increased collaboration and sharing of experiences at the agency director level, but these meetings have more to do with general RJ policy. At the service delivery level, there has been much less exchange among agencies and, certainly for most volunteers, limited debriefing and feedback within most agencies. There is, in RJ delivery, a "train the trainers" approach and this could lend itself to significant agency variation in preparing the volunteers. And there do not appear to be formal operational guidelines for more serious cases and potentially problematic cases (e.g., victim-offender dynamics in family incidents). As noted below in analyses of agencies' dilemma, this could become a more significant challenge as agencies' caseloads change and if there is

increasing dependence on volunteers to carry out the facilitators' tasks. It would seem appropriate for NSRJ to assume a greater role in RJ training for volunteers.

It has been contended above that perhaps the most important change over the past eighteen months has been the considerable governmental activism regarding the RJ initiative. That level of attention will have to continue as major strategic planning becomes the priority agenda item for NSRJ and the RJ agencies. Quite apart from this agenda, there appears to be a need for governmental action to stabilize the current status of the program and ensure its smooth functioning; three considerations seem to be paramount here, namely, improved compensation for the core agency staff, resolving liability concerns of board members, and developing more training oversight by NSRJ.

Much strategic planning will have to be directed to determine whether the original NSRJ objectives are still salient and/or whether they should be put on the back burner for the nonce. There is no overwhelming pressure for agencies' taking on high-end offending at this time, nor even a consensus for expanding into adult cases, and certainly not much for dealing with the moratorium offences. The advocacy and the criticism of such implementation evolution have been described and analysed at length in this report. And the resource and other implications for evolving quickly to achieve the original NSRJ RJ vision demands strategic planning exercises. At the same time, that vision has been the hallmark of the Nova Scotia initiative - an CJS thoroughly permeated at all levels, for all offences in some way or another, by the RJ philosophy. Perhaps, select pilot projects could be developed, in collaboration with CJS and with community input, to keep that vision alive and well.

AGENCY DILEMMAS

At least as identified in this evaluation, there are a number of dilemmas or tough considerations facing NSRJ and especially the RJ agencies, namely:

1. What range on the “offending continuum” can the agencies best operate at, in terms of efficiency, efficacy and equity, given the resources currently available to them? And how they can realize this scope, given their NSRJ mandate of accepting referrals from the various CJS levels? Agency personnel recognize well that some referrals they receive could effectively be dealt with through letters of caution (whether by police or crown) allowing them to adopt programs such as “Stoplifting” and soft drug prevention sessions for minor repeat offenders and carry on more substantial RJ processing (i.e., VOM, full RJ-type sessions) for other referrals involving more complex offending. At the same time there appears to be a consensus that some serious offending is beyond current agency capacity for a variety of reasons. The middle ground on the offending continuum seems to be where most agency personnel think their activity can best make a contribution (enhance the value-added). It seems likely that, as more and more referrals, and different types of referrals, come from beyond the police level, this dilemma of where to position the RJ service will become more pressing. Its resolution obviously is not simply a matter of agency decision-making.

2. Another, not unrelated, dilemma is how to respond to implications of the increasing embeddedness of the RJ initiative in the CJS system. As NSRJ participates more fully at the CJS table, it becomes more involved in the diverse CJS strategizing, as an object and as an advocate. There will be increasing opportunities for the RJ agencies to collaborate more closely - perhaps in regional assemblies - with police, prosecutors and probation officers, something which could greatly facilitate better and more activist case management (e.g., secure appropriate cases, encourage cautions etc). At the same time, the RJ agencies and their services presumably become part of the resource environment that other CJS role players increasingly scan and consider in relation to their own objectives and needs. The forthcoming implementation of the YCJA, with its emphasis on conferencing throughout the CJS, will likely strongly reinforce this tendency.

Many agency personnel already raise issues about being the repository of CJS down-loading and off-loading.

3. For a variety of reasons - such as the lack of support services in some areas, long waiting lists in others, the need for creative programming given the limitations of more extensive use of community service orders, attractive funding possibilities for RJ agencies operating on shoe-string budgets - there is some pressure for agencies to develop their own ancillary programs such as anger management, substance abuse programs, anti-racism/discrimination and the like. While understandable, such endeavours may come with significant costs. Usually the funding for these activities comes without adequate overhead allowances and the short-term nature of the funding can preoccupy and divert agency management. The dilemma is whether to be as much as possible a "one-stop" agency for meeting offender and victim needs over a modest range of offending or to concentrate more or less exclusively on the core tasks of dealing with modest offending, facilitating conferences, identifying problems and issues, and referring participants where appropriate to other community services. Is it better for agencies to respond to opportunities to utilize their unique approach in a more proactive way (e.g., taking referrals from youth group homes) or to broaden their unique approach by offering a wider range of services?

4. The RJ agencies in their transition from alternative measures and, in most cases, a focus on the young offender and his/her situation, have made a significant effort to become more victim-sensitive, to provide more services to victims and to encourage their participation in the RJ conferencing. Agreements entailing offenders' apologies to victims have become commonplace and occasionally these agreements have included restitution. Despite the effort, there often is no victim presence at the conference or session and this clearly limits the effectiveness of the RJ intervention according to both RJ theory and the views of all categories of informants as cited in this report. This shortfall seems hardly likely to lessen as cases further along the offending continuum are increasingly referred to the agencies. Agencies have tried to address the problem in a variety of ways (e.g., the Sydney agency initially, and the Halifax now, established a full-time victim support worker among their small staff complement; all agencies have used victim surrogates and victim impact statements).

Some RJ programs in Canada, and to a large extent, as noted, the RCMP program in Nova Scotia, insist on representation from the victim "side" if the conference is to be held at all. Many agencies' staff and volunteers indicate that they, too, prefer the challenge of facilitating and mediating rather than acting like a judge, a role which victim-less sessions often force them into. There remains then a significant gap between preferences and realities, perhaps a gap that could widen. It takes considerable time and skill to work with victims to achieve the kind of balanced focus that the RJ approach celebrates. And RJ agencies in Nova Scotia have two major limitations here, namely quite modest resources and a mandate to accept all eligible referrals; indeed, the NSRJ initiative could be in jeopardy if the victim's presence was a requisite condition. The issue then poses many dilemmas for the RJ agencies. It is something that demands careful consideration. Should there be a victim's veto for some referrals from some levels of the CJS? Some imaginative strategies can further attenuate the shortfall between preferences and realities. For example, on the reasonable premise that the community, sometimes directly, and always indirectly at least, is also a victim, some agencies have established pools of community people to stand in as representing the victimization; under this format victim-less sessions could largely become accidents (e.g., a no-show by either the person victim or the community representative) rather than scheduled events.

5. Part of the social construction of RJ is that, unlike the court processing of cases, it facilitates getting at the root causes of offending and the offender-victim "conflict". There are dilemmas associated with this quest, especially if letters of cautions increasingly are used for the very low-end offending and, accordingly, as the referrals get more complex. In addition to requiring more pre-session and perhaps post-session contacts, "getting at the roots" may involve more explicit consideration of what is to be fodder for discussion at the RJ session. Is it only what is pertinent to the action (as opposed, for example, to the deeper agenda of a parent victim)? Is it only what is pertinent to the relationship or incident at hand (as opposed, for example, to other offending by the youth known perhaps to the officer attending or the facilitator). If the RJ session in practice is rigidly focused, then its agreements may be less meaningful than sentences handed down in court where, after

conviction, there is much information made available from pre-sentence hearings and pre-sentence reports prepared by probation officers. On the other hand, if it to be more wide-ranging, then there may need to be a better flagging of issues, if known, by the referral agents, more guidelines and training for the volunteers if not the staff in orchestrating the session, and more interaction between case managers and facilitators outside the RJ session. And all of this latter activity would require more resources and a reasonable stabilized core staff.

6. As noted in the text, the NSRJ initiative is a hybrid vis-a-vis most other RJ programming in Canada, chiefly in that it involves significant government investment in core agency staffs and also draws upon a large decentralized, volunteer base. It seems clear that a major (but not the sole) justification for government investment is that the RJ approach in place deals efficiently and effectively with a range of offending that presumably could not be handled as well through letters of caution or the court process or by probation officers. In a hybrid model like NSRJ, allocation of resources is always subject to dilemmas concerning whether to expand primarily the core paid staffs or the volunteer pools to meet new demands (i.e., referrals). Clearly the former would require more government funding, though even expanding the volunteer base may require additional investment in core staff. Certainly the choice may depend in large part on the projected number and types of offending referred to the agencies and on whether volunteers can be expected to facilitate the sessions for the more high-end referrals. Strategic planning is needed to determine where NSRJ and the RJ agencies want to place emphasis and to identify the pros and cons of the options. Of course, to the extent that the RJ approach can be shown to pay-off considerably in the case of more serious youth offending (e.g., reduced recidivism, victim satisfaction), its value to the CJS would transparently justify further investment.

7. An evolutionary pattern for many non-profit organizations appears to be the increasing

credentialism of the staff and bureaucratization of the organization. The community mediation movement, connected with social conflict and Justice matters in the 1970s, evolved in this manner and soon ceased to be "community" either in personnel or in ethos. As RJ agencies handle increasingly serious offending (even though over a modest

range of the continuum) and become less marginal to the CJS, they will probably be increasingly subject to internal and external pressures to be characterized as a small "professionalized" staff directing a host of volunteers, in turn categorized for their ability to deal with different types of referrals. There is nothing particularly inappropriate about this model though it does generate some issues concerning the adequacy of compensation for such staff, whether their credentials are defined more as case managers or as top line facilitators (i.e., mentoring volunteers and occasionally handling themselves some complex RJ sessions), and the community character of the agency. Clearly, there are different possible organizational models and perhaps there will be some variation among the Nova Scotian agencies in how community-based they will be in practice as well as in structure.

SPECIAL ISSUES: ANOMALIES AND DIVERSITY

Reflexive organizations such as NSRJ and the RJ agencies, as well as program evaluations, usually scan for anomalies (i.e., odd patterns) in the program's operations and for diversity concerning the challenge for the service with respect to different populations and different social milieus. The evaluation has identified some possibilities here. Possible anomalies for the RJ agencies might be found in how family violence cases are dealt with; the variation in staff/facilitator training; accountability sessions and "getting at the roots" of offending. Possible diversity concerns might involve race/ethnic variations and the group home milieu.

The anomalies concerning "getting at the roots" and the extensive use of the accountability session under RJ programming have already been discussed. The training issue, too, has been noted, namely that if volunteers do indeed become the usual facilitators for RJ sessions, one could have a situation where the best trained persons in facilitation (i.e., the core staff) are doing case management, not facilitation. The volunteers apparently have received less training and possibly less standardized training (it is not clear to the evaluator how much difference there is among the RJ agencies on volunteer training); moreover, the volunteers may be less involved in sharing their experiences with other agency personnel via debriefing,

and organized or informal discussions, so they may profit less from the experience they do get. On family violence, the chief point is that it is not subject to the moratorium; only sexual assault and spousal or partner violence are, the latter much less salient for youths. Assaults versus siblings or parents can be referred by CJS authorities and can be accepted by the RJ agencies. And of course, it is known that parents who sometimes call police on a minor property offence may be signalling by the action, a call for help and an underlying pattern of violence directed at themselves. Arguably, such family violence may be indicative of at least as much pathology as low-end sexual assaults. It is not clear how much flagging of family violence occurs when such cases are referred; there is no criminal code offence per se. It is known that some agencies have assessed some referrals to indicate deep family problems and have sought outside professional assistance in the determination of whether to accept the referral. The evaluation is not aware of any formalized protocol or guidelines that exists to guide the RJ agencies on these matters.

As for the diversity issue, the evaluation has not found, thus far anyways, significant empirical differences suggesting distinct challenges for the RJ approach by gender (though males are by far the most common young offenders), age or rural-urban location. But as noted in the companion report, Core Outcomes, race/ethnicity is very important as is the group home milieu. Certainly, the very disproportionate presence of Afro-Nova Scotian youth in cautions, RJ referrals and especially court processing, as well as among the multiple repeat offenders, calls for creative and perhaps more macro-level strategies to supplement the NSRJ initiative. It would seem appropriate to advance the following fourfold program based on the premise that whatever the explanations (e.g., the legacy of a racist society or structural racism, quasi-gangs and criminal subculture, historic and continuing negative relationships with CJS role players, socio-economic conditions etc), the levels of offences, charges and court sentences are unacceptably high, and, as the Supreme Court of Canada said with respect to native incarceration rates, simply have to be reduced. The suggested initiative has these points, namely (1) set targets, such as halving the number of court-processed cases in three years, reducing level

one court cases by 25% in two years etc); (2) develop a two-prong RJ strategy of fine tuning the current RJ system (e.g., have more black facilitators, encourage police-agency consultations etc) and launching a special project at the post-charge, pre-sentence level for more serious Afro-Canadian offenders along the lines of the RJ initiatives in Calgary and Ottawa discussed above; (3) challenge the Afro-Nova Scotian community regarding participation, being role models, and mentoring; (4) challenge the senior levels of government to make available special, short-term project funding.

Another special grouping that challenges the RJ approach in Nova Scotia concerns youths in group homes. The evidence, from Halifax and the Valley at least, shows that these milieus contribute a disproportionately large number of RJ referrals and police charges. Moreover, as crown prosecutors and police officers contend, the specific offences precipitating the police intervention are usually very low-end and often, more importantly, represents the culmination for the guardians of a pattern of offensive behaviour. Some CJS officials have appropriately raised the question of whether there might be earlier intervention and the utilization of the RJ approach and the RJ agencies through referrals directly from group home authorities.

SUMMARY

In sum, the evaluation has advanced several themes, namely (a) that progress continues to be made with respect to the primary objectives of the NSRJ initiative; (b) that RJ is now established in the CJS and an increasingly relevant player in CJS strategizing; (c) that there are certain dilemmas or tough choices now facing the RJ agencies that will have to be considered carefully; (d) that there is a need for more strategic planning concerning where NSRJ and the RJ agencies are going in their continuing development of RJ in Nova Scotia's CJS, balancing NSRJ program objectives, resource requirements, and the standpoints of agency personnel, CJS officials, and community leaders in related service provision and mobilization; (e) that more strategic thinking should also be directed at developing protocols and guidelines for the sessions, for feedback and experience sharing among staff/volunteers and among the agencies, for identifying more specifically expectations and operational guidelines for referrals from beyond the police level, and for responding to special referrals (e.g., flagging family violence, dealing

with repeat and serious offenders). The NSRJ initiative, through the RJ agencies, has added value to the former alternative measures programming. The contribution is continuing and much fine tuning can be done at the current status to enhance it further (e.g., modest resources to stabilize core staff by increasing their compensation, especially fringe benefits, resolve liability concerns of local boards, centralize training oversight under NSRJ for staff and volunteers). Strategic planning, though, appears to be necessary before significant new challenges are engaged (e.g., adults, "serious" offending) or major new resources allocated. Special well-conceived pilot projects could explore new challenges while the RJ initiative remains focused on stabilizing and fine tuning what has already been put into place.