

**EXAMINING THE DELIVERY OF EXTRA JUDICIAL SANCTIONS PROGRAMS IN A
COMPLEX URBAN COMMUNITY**

**AN ASSESSMENT OF THE NOVA SCOTIA RESTORATIVE JUSTICE INITIATIVE
IN METROPOLIAN HALIFAX**

PRESENTED TO NOVA SCOTIA RESTORATIVE JUSTICE

AND

THE YOUTH JUSTICE RENEWAL INITIATIVE

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“Restorative Justice is an approach to justice that focuses on repairing the harm caused by crime while holding the offender responsible for his or her actions, by providing an opportunity for the parties directly affected by a crime - victim(s), offender and community – to identify and address their needs in the aftermath of a crime, and seek a resolution that affords healing, reparation and reintegration, and prevents future harm” (Cormier, 2002).

INTRODUCTION

The NSRJ program began after two years of planning, featuring extensive discussions among the criminal justice system (CJS) role players at the four levels (police, crowns, judges, probation officials), provincial Justice administration managers, and the non-profit societies then delivering alternative measures (AM) for youth in different parts of Nova Scotia. It had “a big vision”, namely restorative justice processes (RJ) potentially available for all offenders and victims throughout Nova Scotia where referrals to the former alternative measures service providers (now reconstituted as RJ societies and funded more significantly by the provincial government) could come from all key levels of the CJS. It was expected that the particular character of the RJ intervention would differ depending on the nature of the offence, the offender’s situation and so forth. The initial plan was to start with youth then extend the program to adults. The objectives included realizing benefits for the offenders, the victims and the community at large through the permeation of the CJS with a philosophy or approach that could more effectively get at the underlying issues, engage the parties (offenders, victims, supporters and the community at large) and better respond to the needs and concerns of the parties and stakeholders impacted by the offending behaviour. Other anticipated benefits included freeing up the formal court processing for more serious cases and enhancing the public esteem of the justice system (see Restorative Justice: A Program for Nova Scotia. 1998). It should be noted that the RJ initiative did not just suddenly appear. There were comparable social movements seeking similar goals in the 1960s and 1970s. Moreover, other kindred social movements were happening simultaneously in Canada and elsewhere, namely the problem-solving court (e.g., domestic violence courts, drug treatment courts), aboriginal justice innovations, community-based policing and of course the changing CJS approach to young offenders (i.e., YOA in 1984 followed by the YCJA in 2003).

This writer has been the evaluator of the NSRJ program over the first six years of existence, after carrying out ‘pre-implementation’ research prior to its launch. The extensive and long-term evaluation generally found that the NSRJ program has been well implemented and consequently its assessment could be heuristic (often programs are implemented poorly and superficially, and consequently offer little insight into what benefit a new approach might yield). The objectives of the NSRJ program have been achieved to a significant degree. The approach and its underlying philosophy have been well received by its “clients”, namely the young offenders, the victims, and the supporters of either party; it has also reduced court workload.

Virtually all CJS officials and community members who participated in the RJ sessions spoke highly of the RJ alternative. Perhaps the most significant accomplishment of the NSRJ has been that it has become a regular part of the Nova Scotia Justice programming. It has, in other words, become institutionalized which means that it has a place at the Justice table, that its leaders and advocates can engage in planning and respond to major challenges without worrying overly about year to year renewal. The NSRJ is unique in Canada in its scale, its engagement of the entire CJS (i.e., referrals to RJ come from all levels) and its institutionalization. Certainly the program represents a major commitment, financially and otherwise, on the part of the Nova Scotia government.

There are, as noted in the Final NSRJ Evaluation Report (Clairmont, 2005), several major challenges facing the NSRJ program. It remains at the youth level and still abides by a moratorium on offences involving any degree of sexual assault or spousal / partner violence. In these respects it has not achieved the “big vision” initially laid out by its advocates. Assuming it remains at the youth level for the near future, there are still major challenges, especially related to recidivism and to equity. If the NSRJ can demonstrate successful impact on recidivism, and if it can demonstrate that it can provide at least equal value for those of diverse race and ethnic and socio-economic backgrounds – as well as the intellectually challenged or special problem youths – then, even were it to remain focused on youths, its accomplishments would be much more noteworthy and even more valuable for RJ approaches everywhere. This assessment focuses directly on facilitating that achievement by examining the issues of how the RJ approach relates to (and might better relate to) youth offending in a complex urban community such as metropolitan Halifax (HRM).

THE TASK

While the NSRJ coordinates a province-wide program, there is little doubt that its biggest challenges lie in HRM. The non-profit agency providing RJ services there, the Halifax Community Justice Society (HCJS), deals with roughly 44% of all RJ referrals and over 66% of all post-charge referrals in Nova Scotia. HRM is the only area in Nova Scotia, too, where, according to both statistical crime reports and the expert assessments of CJS officials (e.g., police), quasi-gangs constitute a significant problem. Robbery offences by youth hardly exist outside HRM but are plentiful within it; major assaults and administration of justice offences (e.g., ‘no-shows”, breaches of undertaking) are also more common among youth in HRM (Clairmont, 2005). Social diversity among youth and especially young offenders is also most characteristic in HRM. Youths in residential care, commonly known as Group Homes for youths – a leading contributor to RJ referrals – are concentrated in HRM. Afro-Canadian youth account for a quite disproportionate number of both court cases and RJ referrals in HRM. Of course only a minority of African-Canadian youths in HRM (where more than 70% of Nova Scotia’s Black population resides), let alone Nova Scotia as a whole, account for these statistics and typically they have experienced significant socio-economic disadvantage. Preliminary evidence suggests that recidivism among youth in Nova Scotia is closely associated statistically with living in the metropolitan area, being Afro-Canadian, living in a Group Home, being referred to RJ post-charge (usually by crown prosecutors) and having committed a more serious offence (Clairmont, 2003, 2005).

Trend analyses indicate that the already complex youth offending situation in HRM is becoming more so as RJ becomes more accepted throughout the CJS and as the impact of the YCJA is more fully realized. The greater acceptance within the CJS means more post-charge referrals (i.e., cases that the police thought inappropriate for them to refer to the RJ stream) while the impact of the YCJA, thus far at least, has been to reduce the likelihood of the more minor cases (e.g., provincial statutes, theft under \$5000 etc) being referred by police who can deal with them informally. The implication of these and other factors is clearly likely to enhance the complexity of the RJ referrals in HRM and challenge the RJ approach even more regarding serving well the less-advantaged and more at-risk youth, and with respect to responding effectively to recidivism. The referred cases will more likely also feature violence and person victims. These service demands and pressures certainly challenge the HCJS which depends on volunteer facilitators for the RJ sessions much, much more than the RJ agencies elsewhere in Nova Scotia or elsewhere in Canada when serious offending is targeted by RJ programs. In the latter milieu full-time, paid staff do the lion's share of facilitation as well as intake and case management, whereas, in the HCJS, the full-time staff is likely to be more engaged in publicizing and advancing RJ, intake, case management (pre and post session), and securing and training volunteers, leaving the lion's share of facilitation itself to the volunteers. Thus, it is crucial to examine how well the RJ approach is working in HRM, what management and RJ strategies are being developed to deal with the service pressures, what else might be done, and to learn from other RJ programs and analyses what alternative responses might be helpful in achieving greater efficiency, effectiveness and equity. Examining the NSRJ program in HRM along these lines hopefully can not only assist in its meeting the challenges identified but also advance appreciation of how the RJ approach can respond to its emerging strategic function in complex urban communities everywhere. It should be added here that the HCJS has a number of "pluses" in meeting its challenges. It has a well-trained staff, a committed local board and an impressive volunteer grouping. Recently, special projects have been launched directed at greater engagement with Afro-Canadian communities and negotiations with officials for Group Homes and also with Children and Family Services regarding youth under twelve years of age.

The task then has been to thoroughly assess the challenge, the service delivery response and the options – especially 'identifying the impact of service pressures on the Extra Judicial Sanctions Program - and to contribute to developing a response that could result in a better and more effective youth justice system for youth "in conflict with the law". The evidence-based review of these issues for HCJS highlights the provision of a complex extra-judicial sanctions program in a high volume, serious offending milieu and allows for action planning advice for improvement of services which will take into account local challenges related to repeat offenses and diversity issues.

THE CENTRAL THRUSTS

The central thrusts of this assessment have focused around several themes, namely

1. **The direct service delivery pressures** – describing and analyzing the referral patterns for metropolitan Halifax, the evolving offence and offender

profiles, patterns and correlates of recidivism, possible escalation of offending behaviour, and the effectiveness of the RJ intervention..

2. The **organizational structure of the service providers' service delivery model, work plan and specific services or programs** – assessing whether these have been well-operationalized and well-implemented; determining how well they effect the RJ mandate, and exploring possible desired or needed changes and new programming; examining how the agency's responds to the service demands – intake, case management, RJ intervention strategies, engagement of volunteers, and the lessons learned.
3. The **diversity issues** - examining how the HCJS is currently dealing with these issues and how best to respond to the special circumstances of immigrants, residents of Group Homes for youth, African-Nova Scotian youth and other youth-at-risk concerning conflict with the law.
4. **The resource situation** – what resources, financial and otherwise, are available to the HCJS to respond to service demands and pressures? Are the resources available adequate and appropriate to its achievement of objectives? Are the resources administered in appropriate and effective fashion and with sufficient accountability? How might the resource picture be changing as the HCJS evolves and becomes engaged in other programs and services appropriate to its mandate and stakeholders' viewpoints?
5. What have been **the major successes and accrued value of the RJ approach in HRM?** What problems and issues have emerged, again from the various standpoints of the different categories of stakeholders? What solutions and suggested trajectories have been and can be advanced?
6. What **developments in restorative justice possibilities** could be salient for the challenges facing the RJ approach / program in metropolitan Halifax? What is happening in RJ elsewhere in Nova Scotia especially Sydney (where there is a strong community network and significant interagency collaboration), Truro (e.g., where there is a strong probation linkages), and the Mi'kmaq restorative justice program (where there is much emphasis on 'circles', healing and reintegration). What can be learned from RJ initiatives elsewhere in Canada which have focused on serious youth offending in high volume, complex urban milieus (e.g., the Collaborative Justice Program in Ottawa which targeted serious offenders)?
7. **Future Directions** – suggestions and possible trajectories and strategies based on the data analyses and the examined suggestions of the interviewees and focus groups.

THE APPROACH FOLLOWED

The basic methodology employed entailed

- A. Gathering and analyzing statistical data available through the provincial data systems, restorative justice (RJIS) and court based (JEIN). These activities followed up on work carried out earlier by the researcher on agency workload, recidivism and serious youth offending in both the RJ and conventional criminal justice system. They represent a significant updating and focusing of the earlier data gathering and analyses.
- B. Marshalling (re-analyzing) data gathered by the author on the RJ sessions and on the views of the session participants (i.e., offenders, victims, supporters and others)
- C. Individual interviews with the staff, board members and volunteers of HCJS, Justice officials, different types of stakeholders and also with key informants outside HRM (e.g., the RJ service providers in Nova Scotia) concerning the thrusts or themes delineated above.
- D. Supplemental discussion groups with four groupings in particular, namely the staff and the volunteers of the HCJS agency, staff members associated with several Group Homes in HRM, and local leaders in HRM's Afro-Canadian community.
- E. Exploring RJ programs in other Canadian locales that deal with similar service pressures entailed in RJ intervention in cases of serious offending. Associated with this latter endeavour has been a modest 'review of literature'.

The specific research strategies were as follows:

1. Statistical description and analyses of referrals, offenses, recidivism, offender profiles etc. and where feasible, contextual information regarding socio-demographics, educational, race/ethnic, and economic data.
2. Examination of the Halifax Community Justice Society agency's documents, reports and data, where feasible, to assess achievement of objectives across the various programs and services, especially in relation to recidivism and target groups.
3. An overview of the Halifax Community Justice Society (HCJS) from an organizational / management perspective regarding intake, case management, and "facilitation" strategies and procedures, again especially as these bear on dealing with complex cases, diversity and recidivism.
4. One-on-one, in- person interviews, utilizing an interview guide salient for each different grouping or type of respondents. That format was preferred by virtually all respondents and allowed for a more frank and far-reaching

discussion of issues and perspectives. All told there were 87 individual interviews, the large majority of which went well beyond one hour in length. There were 26 HCJS interviews (12 staff, 11 veteran volunteers and 3 board members), 9 interviews with Justice officials and court personnel, 11 interviews with chief personnel in other RJ programs in Nova Scotia and elsewhere in Canada, 25 key influentials in the area's African-Canadian community, 9 supervisors and other role players in 'group home' and related services, and 7 well-informed persons serving the area's immigrant population.

5. Discussion groups were held with four groups as identified above. The focus group or discussion group is a useful strategy to explore group / subcultural views and obtain a more complete sense of feasible new directions.
6. Scanning for recent salient developments in restorative justice experience elsewhere via internet and through modest fieldwork travel (via library, internet and travel to Ottawa, Toronto and Vancouver).

THE 'DELIVERABLES'

Within the broad framework described above, the assessment was charged with specifically responding to thirteen questions or themes labeled 'deliverables'. These thirteen themes / questions are addressed directly in two ways in this report. First there is a brief textual discussion of each and, secondly, the supporting evidence or data are provided in designated appendices. .

CONTEXT FOR RESTORATIVE JUSTICE IN HRM

As noted above, the NSRJ program is quite singular in Canada with respect to its institutionalization in the provincial justice system and its vision and scope with respect to governmental-community partnership and the range of offences and referral sources it responds to. In its current modern guise – there was an earlier phase in the 1960s and 1970s – restorative justice, community-based justice, has become more entrenched in Canada and other societies. It has stronger roots now in governmental policies, and is reinforced by kindred social movements in the justice field such as 'the problem-solving court' and community-based policing, not to mention developments in aboriginal rights and so forth. As Rugge (2006) and others have commented, restorative justice has gained considerable momentum in the past decade and while not yet a standard option in the criminal justice system, especially not for adults, the legislative and related groundwork is in place.

From the point of view of theoretical development, the restorative justice approach does not seem to be "thick" and the research side is still in its infancy. The pioneering work of Braithwaite – the perspective of reintegrative shaming – remains dominant with its central tenet of "shame is more effective [than punishment or simple tolerance] when it is felt in the presence of loved ones and in the eyes of those we respect and trust". RJ theory retains its ideal typical

character (i.e. RJ good, CJS bad) and its proselytizing sentiment. Research has been surprisingly limited, focused mostly around offender recidivism despite the policy emphasis on benefits for victims and the “community”, a fact which underlines RJ dependence on the criminal justice system. Crucial operational considerations now focus on (1) the institutionalization question (i.e., how best should restorative justice philosophy and programming be rooted and what should be the appropriate connection to the conventional processing of offenders and victims), (2) on the service delivery mode that should be adopted (e.g., what is the desirable and feasible mix of paid staff, volunteers and community representatives in RJ and what RJ formats can have value in addressing harm under what circumstances), and (3) how RJ might best respond to serious offending (cases of serious harm, chronic offenders) and to special constituencies (e.g., age groups, the socio-economically disadvantaged, youths with behavioural problems, immigrant subcultures etc). These questions are particularly salient for this assessment of RJ in metropolitan Halifax because they are indeed the defining issues for the future of RJ in this milieu. They are increasingly focused upon in RJ circles elsewhere too since there appears to be a broad consensus that the extra-judicial sanctions approach to low level offenses among first and second time offenders having caring supporters and reasonably adequate socio-economic backgrounds, has become widely accepted, and so the central question becomes “how far can we take this approach?”

A review of the literature and short site visits to other Canadian urban centers where interesting RJ initiatives are taking place has provided some insights. The vast majority of RJ or alternative measures (AM) programs and projects in Canada pertain to minor offences committed by young offenders who are not chronic offenders to say the least. There are RJ projects afoot that are indeed directed at serious offending, ‘experimenting’ with strategies for developing governmental – community partnerships, and utilizing innovative service delivery models. The Collaborative Justice program in Ottawa has pioneered the use of RJ for serious offending among youths and adults where presumably incarceration would have been the outcome in conventional court. The Peace Builders organization in Toronto has developed a community-based restorative justice project in the Regent Park area, a milieu well-known for its criminal gangs and serious crime. In Winnipeg, RJ initiatives are in place which complements RJ programming for minor offences by first or second time offenders, by focusing on more serious offences and victims who have been significantly harmed. In Regina, an RJ project has been established directed at specific serious offences such as break and enter and auto theft, and in the Vancouver area a long-standing RJ initiative has pioneered victim-offender ‘reconciliation’ in serious offending and where the offender typically is or has been incarcerated. There are other examples of leading edge RJ projects that could be cited (e.g., the social development approach of RJ in Calgary). While interesting, there are some major limitations concerning their contribution to further appreciating the issues or challenges cited above. First, most of the projects appear to be struggling with their funding and their securing of referrals from the conventional justice system. Secondly, with one exception, the projects are indeed projects, operating on a short-term basis and not well-established (not institutionalized) vis-à-vis the justice system. Given these latter two facets, it perhaps is not surprising that their staff persons looked with some envy upon the NSRJ program discussed with them by this writer. Institutionalization means programs not projects, facilitates referrals, and allows for planning to deal with expected as well as unanticipated challenges to the successful implementation of RJ. It may also be noted here that the NSRJ program is unique in Atlantic Canada as well. There is no

RJ programming in the region that has anywhere near the funding, vision and scope, and organizational structure that characterizes the Nova Scotian approach.

The literature on RJ is growing rapidly and the three issues identified earlier have been increasingly highlighted. This literature can only be touched upon in this assessment of RJ in the HRM context but suffice it here to note that the literature does not present as yet a coherent, evidence-based accounting of the three issues. For example, there is ambiguity with respect to the implications of the level of RJ implementation. The widely held expectation, based on RJ theory, would be that the fully restorative implementation involving most if not all parties (offender, victim, supporter, community representative) would yield better outcomes (e.g., more satisfaction, improved physical or psychological well-being) than less restorative ones (i.e., accountability sessions where no victim is present, ‘shuttle’ RJ where the facilitator only meets with the parties separately). The evidence is however ambiguous and a recent well-design study has found no significance differences related to level of RJ implementation (Rugge, 2006). Another example would be the impact for and of RJ in cases of serious offending, whether cases involved serious harm or merely chronic offenders. One could well expect that RJ intervention in cases of serious offending would require much more preparation before bringing the offender and the victim together (the programming based on experience of the famous Hollow Water First Nation’s decade-old initiative illustrates this point well) and, relatedly, one would expect that victim satisfaction would be more problematic assuming the offence has generated a more severe reaction on the victim’s part. The results of some recent studies conflict on the issue of seriousness of the offence and victim satisfaction with the RJ intervention.

Another important contextual area that merits attention in “placing” the RJ programming in metropolitan Halifax concerns socio-demographic patterns. Nova Scotia is basically on a trajectory where its population is in a fairly rapid decline. In 1972 some 36% of the population was aged 17 years or less. In 2006 that figure has been virtually halved and hovers at roughly 18%. The decline in youth has been both in terms of absolute numbers and in terms of proportion of the overall Nova Scotian population. As the enclosed table 1 shows, the projection is for continued decline as the number of youth between 5 and 18 years of age is anticipated to be about 14% of the provincial population by 2026. Such a socio-demographic pattern has major implications for the current NSRJ program since it focuses exclusively on youth despite a founding vision of being applicable to all ages. The challenge for survival or reaching out to the adult world of offending will be particularly significant for RJ agencies outside metropolitan Halifax. Intra-provincial migration (young persons and young families moving into the Halifax area) as well as the current immigration settlement patterns (having larger families than the Nova Scotian average and concentrating in the Halifax area) appear to guarantee that the metropolitan area will be much less affected by this demographic pattern. In this latter respect HCJS will experience less downward pressures on its workload and can realistically focus on extending its efforts on the more serious youth offending with which it is increasingly tasked by Justice officials.

While the level cultural diversity and immigration is quite modest in Nova Scotia in comparison to Ontario and the rest of Canada, what there is, is increasingly concentrated in metropolitan Halifax. Table 2 clearly establishes both patterns; for example, over 70% of all the modest number of recent immigrants in Nova Scotia reside in the Halifax area and that

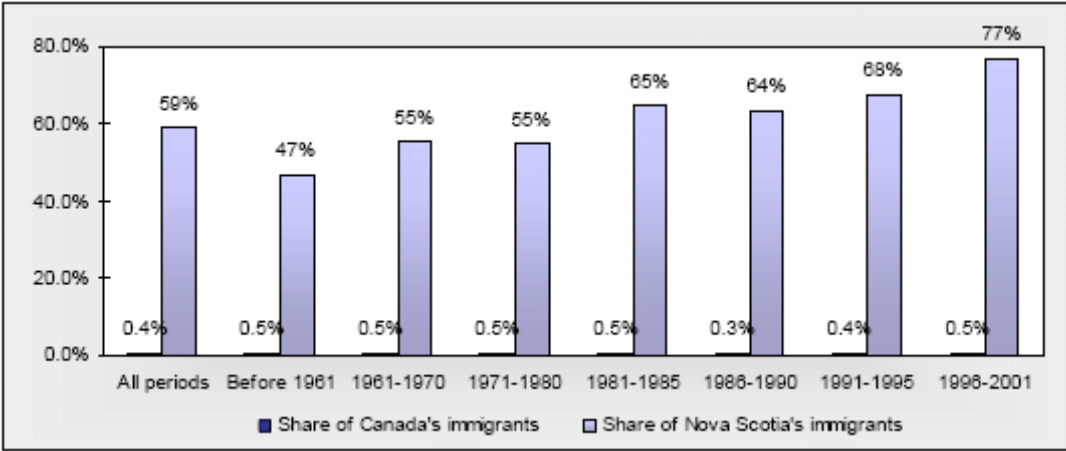
proportion is expected to increase. The Nova Scotia government is also engaged in trying to attract immigrants and encourage their staying in the province, an effort obviously driven especially by the socio-demographics noted above. While immigrants make up a small and relatively crime-avoiding subpopulation, they do pose challenges for RJ both as victims and as offenders. Also, engaging the immigrant communities, according to leading influentials in the immigrant community and service providers, requires more outreach by the HCJS. At the same time the promise and attraction of well-implemented RJ approach appears to be well-considered by immigrant leaders since it would seem to be inherently sensitive to contextual factors (e.g., subcultural factors, socio-economic circumstances) and to community input. Quite aside from immigration, there is significant diversity in metropolitan Halifax in terms of diverse constituencies that both challenge and could benefit from the RJ approach. Youth in residential care are increasingly concentrated in the Halifax area; at this point there are 15 “Group Homes” in the area and they generate a lot of referrals by authorities to the HCJS agency. The African-Canadian population is concentrated in metropolitan Halifax and some segments of that community are in circumstances of considerable socio-economic disadvantage that correlate with high levels of serious and repeat offending. Overall, then, with respect to responding effectively to diversity, as well as in terms of demographics, the HCJS is quite unique among the non-profit agencies delivering RJ in Nova Scotia.

TABLE 1**Predicted Nova Scotia Population Growth, Assuming Zero Net Immigration¹**

Year	Total 5-18 Years of Age	% of Total NS Pop	Total 19-24 Years of Age	% of Total NS Pop	Total 65+ Years of Age	% of Total NS Pop	Total NS Pop
2001	168,788	18.10%	72,950	7.82%	127,546	13.68%	932,389
2002	166,803	17.85%	73,601	7.88%	128,893	13.79%	934,507
2003	164,291	17.55%	75,140	8.03%	130,331	13.92%	936,165
2004	161,368	17.22%	75,960	8.11%	131,833	14.07%	936,960
2005	158,050	16.87%	76,409	8.16%	132,848	14.18%	936,936
2006	154,391	16.48%	76,542	8.17%	134,361	14.34%	936,760
2007	150,745	16.10%	76,514	8.17%	136,077	14.53%	936,456
2008	147,003	15.70%	76,190	8.14%	138,346	14.78%	936,030
2009	142,771	15.26%	75,851	8.11%	140,680	15.04%	935,490
2010	139,309	14.90%	75,251	8.05%	143,074	15.30%	934,830
2011	136,410	14.60%	74,238	7.95%	146,138	15.65%	934,037
2012	133,842	14.34%	73,145	7.84%	151,084	16.19%	933,106
2013	131,604	14.12%	71,972	7.72%	155,777	16.71%	932,015
2014	129,788	13.94%	70,297	7.55%	159,999	17.19%	930,759
2015	127,970	13.77%	68,341	7.35%	164,027	17.65%	929,317
2016	126,675	13.66%	66,116	7.13%	168,111	18.12%	927,662
2017	125,784	13.59%	64,066	6.92%	171,957	18.57%	925,775
2018	125,090	13.54%	62,135	6.73%	175,906	19.05%	923,629
2019	124,362	13.50%	60,525	6.57%	180,202	19.56%	921,205
2020	124,182	13.52%	58,729	6.39%	184,637	20.10%	918,487
2021	124,162	13.56%	56,690	6.19%	188,890	20.63%	915,455
2022	124,064	13.60%	55,164	6.05%	193,229	21.19%	912,083
2023	124,058	13.66%	53,857	5.93%	197,561	21.75%	908,370
2024	123,418	13.65%	53,286	5.89%	201,645	22.30%	904,314
2025	122,676	13.63%	52,689	5.85%	205,704	22.86%	899,911
2026	121,804	13.61%	52,683	5.89%	209,965	23.46%	895,170

¹ Source: Canmac Economics Ltd., May 2006

TABLE 2
Immigrants residing in Halifax Census Metropolitan Area as a percentage
of Canada's and Nova Scotia's immigrant population, by period of
immigration.



Source: Recent Immigrants to Metropolitan Areas: Halifax, Metropolis Project, 2005

THE HALIFAX COMMUNITY JUSTICE SOCIETY (HCJS)

HCJS is a non-profit agency whose roots go back to the beginning of the alternative measures era. There are three principal components namely the board, the paid staff and the volunteers. Ironically the volunteer component seems to have exhibited the greatest stability as a core of veteran volunteers have been with the agency for years, several preceding the emergence of the agency as an RJ service provider. The board has changed significantly in recent years, and the staff, at both the director and case worker levels, has changed frequently and dramatically over the years. The current director, whose main priority has been to bring stability to the organization, has been in place for less than a year, and among case workers, someone with more than two years experience would be considered a real veteran. The HCJS staff numbers about fifteen with four persons in administration, eight case workers (when at full complement), one person responsible for community service orders (through a contract with Correctional Services) and two staff members on special projects. The HCJS budget is essentially provided by NSRJ as conduit for the provincial Department of Justice. NSRJ negotiates a service contract with the HCJS board. Supplementary funding, in modest amounts, is provided through special project funding for limited terms (e.g., the Law Foundation of Nova Scotia has funded a special project aimed at assisting HCJS work among immigrant groupings in metropolitan Halifax). The NSRJ-provided budget, including its special project funds, of approximately \$570,000 accounts for almost a quarter of the total NSRJ outlay to all the non-profits delivering RJ services in Nova Scotia. At the same time, on a cost per referral accepted basis, the HCJS at more than several hundred dollars less than any other agency, provides the most economical RJ service delivery – the economies of scale it could be presumed since, as shown below, HCJS accounts for well over 40% of all referrals in Nova Scotia and almost two-thirds of all post-charge referrals.

In considering the agency's workload, service delivery model and other features, a third context, referred to in the introduction, should be reiterated, namely trends in CJS with respect to processing young offenders. It can be seen in deliverables 8 and 9 that there has been a steady decline in new admissions to probation and in the number of youth sent to closed custody or incarceration beginning well before the initiation of the RJ program in Nova Scotia. This has been clearly in tune with but faster than the decline in proportion of population 17 years of age and under in the NS population. The introduction of the YCJA in April 2003 strongly reinforced these trends. The deliverables show that the new youth policy did have a short term effect on the total referrals sent to all RJ agencies and a more lasting effect for some agencies in reducing police-level referrals. In the case of metro Halifax and RJ referrals, it was more of a blip. The evidence is clear that while probation admissions continue to decline sharply and while incarceration has declined by almost 67% and while formal police cautions have dropped off very sharply in each fiscal year subsequent to the YCJA, referrals to RJ in metro Halifax have increased. Clearly, RJ has become a very major option for dealing with young offenders in the Halifax area; indeed some observers claim that there has been a profound downloading from the court system to HCJS. In deliverable 8 there is also a special data set analyzed, namely all closed cases processed in court for all of Nova Scotia for 2005. Looking just at the youth cases, one finds that violent offences were almost twice as common, percentage-wise, in metropolitan Halifax as they were outside it, again underlining the metropolitan difference with respect to serious offending.

As shown below in the section on “deliverables”, and also in the tables appended to this text, the HCJS workload is rather unique in Nova Scotia. Alone among the four pioneering RJ agencies, its ‘referrals accepted’ numbers have consistently increased over the years since 1999 and it has experienced a very sharp increase also in the number of post-police referrals (typically these involve more serious offending than police-level referrals). Deliverables 1 and 2 detail these patterns. They also show that HCJS has received hardly any post-sentence, corrections-level referrals and that judge-level referrals have been rather idiosyncratic (e.g., youth MVA violations such as speeding were suddenly referred to HCJS and then quickly terminated by a change in Justice policy); the dominant referral source has been the crown, partly because in metropolitan Halifax there is a designated crown for youth offenses, a designated court for all metro youth offenders, and a Youth Court Team comprised of all court roles as well as HCJS representatives. Deliverable 3’s discussion and tables indicate that, following the larger societal trend, among the referrals to RJ, violent offenses have increased over the years while property offenses have declined. Crown referrals – the bulk of which go to HCJS – reflect a particularly high level of violent offenses. It can also be seen that among the assaults referred to RJ, the more serious assaults have increased percentage-wise. These data modestly support the views of HCJS staff and volunteers that they are increasingly called upon to handle more serious offending. Deliverable 3 also indicates that person offenses have remained a majority of the referrals where a specific victim (person, business, other organization) can be identified. Surprisingly, though, whether for all agencies in total, or just for HCJS, there is no discernible trend for the percentage person-victims to have increased. It may be though that in the case of HCJS an increase has been offset by the judicial level referrals, for a short time, of MVA summary order tickets.

Deliverables 5 and 6 detail issues concerning recidivism. Deliverable 6 indicates that between the beginnings of the RJ program in Nova Scotia and the end of 2005, roughly 20% of the youths referred were referred for at least one more time. The data also show that RJ recidivists were more likely in metropolitan Halifax than outside it and more likely in the case of crown referrals than for police referrals. There was also some modest evidence indicating that there was a pattern of escalation in the seriousness of the offence when recidivism occurred. Deliverable 5 indicates that there also was significant movement between the RJ system and the court system processing charges. A sample of youth first convicted in court in 2002 was examined for metro-outside metro differences; the differences were minor though the metro youth’s convictions were more likely to have been for major offenses. The overall sample exhibited much recidivism as 54% were convicted anew within the two year time span of the data set. Youths in the sample who were from metro Halifax had about the same level of recidivism as youth elsewhere in Nova Scotia but they were more likely to recidivate sooner. Deliverable 5 also shows that first time RJ referrals in 2002 who had subsequent RJ referrals were also quite likely (roughly a 50% probability) to also have a subsequent court conviction. Overall, then, the repeater and major offence challenges were greater in metropolitan Halifax, the milieu for the HCJS.

Deliverables 10, 11 and 12 indicate the wide range of community resources that HCJS has been able to tap in implementing the terms of the agreements reached in RJ sessions, the common features of those agreements in comparison with the other provincial RJ agencies, and some issues of compliance with respect to the referrals. Deliverable 10 highlights the sanctions or ‘agreed undertakings’ for referred youth over the period 2002 to 2005. Of course probation

and incarceration were not possible sanctions. The most popular sanctions utilized in HCJS “agreed undertakings” were a written essay and ‘personal development’ projects. In the contracts reached by other RJ agencies in Nova Scotia there was more likelihood of “agreed undertakings” dealing with family and/or home situations. Perhaps not surprisingly given the large shopping malls, attendance at “stoplifting” sessions was essentially a HCJS sanction. Overall, in HCJS the pattern seemed to be for “agreed undertakings” that did not entail direct interaction with the victim or the family; perhaps that reflects the metropolitan life style though a few volunteer facilitators reported that they were expressly told not to have “agreed undertakings’ that were family / home related. Deliverable 11 indicates the wide range of local community organizations that cooperate with HCJS and agree to take on youth who have community service hours to complete as part of their session contract. Basically the HCJS leaves it up to these community partners to utilize the youth as they see fit, within implicit guidelines and for the designated number of hours. There is little contact between the HCJS and these community organizations but few problems have ever emerged.

Deliverable 12 examines the compliance of youth within the RJ process, determining the ratio of referrals accepted to non-completions and then the ratio of successful completions to non-completions; non-completion may occur pre-session (e.g., the youth does not participate for one reason or another), at the session where an agreement cannot be contracted, or post-session (i.e., the agreed undertakings are not completed). Generally as the RJ program has evolved – and the offending become less minor – both ratios have declined somewhat. The rank order of the stage where non-completion occurs has remained the same, namely pre-session, post-session and, far back, at the session. HCJS consistently has had the lowest level of compliance and its trend, like the overall trend, has been for compliance to decline over the years. Congruent with those patterns, crown referrals – most commonly in Halifax – typically have had lower compliance than police referrals. It is clear that RJ in a metropolitan context, where the referrals increasingly come from the crown and frequently involve serious offending, encounters significant challenge. Deliverable 13 details the roles of offender, victims, supporters and others in the RJ sessions, and their assessments of the experience over the period 2000 to 2004 but the metro Halifax grouping was not differentiated.

A central feature of HCJS and indeed something which contributes to its singularity, perhaps even more than workload and the other aspects just discussed, is its service delivery model (SDM). The SDM is characterized by full-time, staff case workers (some prefer the label “restorative justice worker”) who manage the file (i.e., do all the case preparation with offenders and victims) and monitor the contract emerging from the RJ sessions, including deciding whether to send a file back to the referral source if it is deemed incomplete. The actual facilitation of the RJ sessions is usually done by the volunteers (i.e., two to a session usually) though case workers /case managers may fill in when a volunteer cancellation occurs or for some special cases. Where did this SDM come from? Apparently, it was not a conscious, deliberate action but, as a senior HCJS administrator noted, “It was imposed on us because of the workload and related things”. The SDM is not specified by NSRJ guidelines or best practices one way or the other. The administrators of several other RJ agencies in Nova Scotia, like others in Canada, are rather skeptical of this service delivery model and do not use it themselves; at most, one of the two facilitators in their RJ sessions would be a volunteer and, in many of them, none (this pattern is consistent with this researcher’s observations).

While the HCJS's SDM may have emerged like "topsy" it is, nevertheless, very interesting, and a potentially very effective use of volunteers. It is argued by both staff and volunteers that doing facilitation is the most effective and efficient use of trained volunteers compared to their doing case management (this requires dispersed time commitment, and familiarity with HCJS guidelines, protocols and operating procedures) or follow-up monitoring of the agreed undertakings of the RJ contract (again requiring dispersed time commitment and perhaps more authority and influence than a volunteer could exert), Respondents also considered that such a use of volunteers captures perhaps a main theme of restorative justice as a democratic and community-based engagement of people. A long-time agency member, now a board member, argued this way, contending that the SDM captured the democratic thrusts of RJ in advancing the value and place of the volunteer. A senior HCJS official echoed this view, contending that the role of the expert is to analyze, describe and explain while the community acts and the issue is how to marry them well. Both these respondents outlined other value too of having volunteers doing the facilitation— one observed, for example, that the volunteers are where they should be, namely in facilitation, since, to paraphrase, "the facilitator can be disinterested, process informed but have little detailed or substantive knowledge of the matter at hand". Both respondents also acknowledged that there is a significant "two solitudes" situation engendered by the SDM. . The veteran agency member reported that the gap is greater than it used to be where there was some briefing and debriefing but, over time, perhaps because of workload pressures, that has changed. Both respondents also suggested that the "two solitudes" problems can and should be corrected by mandating meetings between case managers and facilitators and other innovations (e.g., providing discussion group opportunities, and perhaps modest honoraria for volunteers)

HCJS as an organization, and as a work milieu, has had growing pains along with the other challenges detailed above. Turnover has been very high and, perhaps not unrelatedly, there have been confusion about guidelines and operating procedures, major delays in processing referrals, and issues of feedback, all accompanied by a significant amount of skepticism in the criminal justice system and the wider society about RJ and its effectiveness. HCJS was woefully under-resourced until 2003 when major budgetary gains granted by NSRJ yielded better staff compensation and a larger staff complement. Several consultancies have been sharply critical of HCJS as a workplace and in its service performance. An assessment in 2001 focused on the role of volunteers and RJ training. The findings were that while the personnel were committed, there was excessive staff turnover, limited contact of the volunteers with the case workers, inconsistent and limited information provided to the volunteer facilitators, and a volunteer complement that was, on the one hand, delighted to be part of a more substantial challenging program than alternative measures and at having the prospect of doing victim-offender facilitation while, on the other hand, anxious and wary about becoming involved in more serious offences. A consultancy in 2004 focused on HCJS as a workplace and concluded that HCJS was the "worst managed workplace" – arbitrary, capricious management, ineffective, limited communication between management and staff and so on. A third consultancy completed in 2005 focused on casework practices. Its conclusions were that there was staff frustration associated with an apperception that "things are constantly changing" regarding their roles, limited case preparation was being done with respect to victims and the community, aborted sessions were too common

and increased the frustration levels and led to disregard of protocol in some instances, and that excessive delays in processing files discouraged everyone.

Many of the above criticisms remain applicable in the eyes of staff, volunteers and CJS partners and other stakeholders. The citing of excessive turnover is commonplace as is the criticism of delays in processing the referral files. There is much criticism as well with respect to allegedly inconsistent and somewhat arbitrary operating procedures (such as the appropriate information for case workers to provide in files for the facilitators), a widespread sense that relationships between staff and volunteers and among staff are not what they should be, and, among outsiders, a skepticism about the effectiveness of the RJ service being provided given the heavy dependence on volunteer facilitators. Perhaps most striking to this observer at least is the widespread sense among staff and volunteers of an alienating “things are constantly changing” social construction, much as described in the 2005 consultancy. For example, even a senior HCJS staffer professed that “it is odd that case workers are forbidden to facilitate their cases and that there is such limited information purposefully conveyed to volunteers”. She herself asked, “Where did these rules come from? That bears examination!”.

Still, much has been achieved. HCJS has handled a large amount of referrals of increasing complexity, special programs have been developed (e.g., “stoplifting”, drug awareness, programs specifically for black youths, anger management etc) and special projects have been launched (immigrants, black community projects). CJS and governmental officials acknowledged that the HCJS operates in a high demand milieu and that they (CJS officials) have been referring more repeat offenders to HCJS of late – as one major referral source said, “what do the courts do; besides it fits with the YCJA and if they [HCJS] think the referral is inappropriate they can reject it”. These officials generally held that the special projects initiated by HCJS, such as the out-reach to the Black communities, are valuable if struggling new directions. They believed that strategies have to be developed by HCJS and NSRJ to respond better to repeat offenders and appeared to embrace the suggestion for a special project undertaken by NSRJ and HCJS to focus on that challenge. The organizational shortfalls of HCJS were widely noted but the worst was seen to lie in the past (e.g., as one said, “it was a toxic workplace”) not in the future, and suggestions were advanced for positive change. Organizational changes have been made, including a new director, appointment of a case work supervisor, shoring up staff to assist in building a stronger, more effective volunteer component, and a liaison to the Youth Court Team. There is no doubt that the agency as a workplace, the HCJS service delivery model, and the RJ approach itself all face formidable challenge but the institutionalization of the RJ service provides opportunities to respond to the challenge and the increasing dependence in Nova Scotia justice on RJ requires that the challenges be met, if not resolved.

HCJS BOARD AND SENIOR ADMINISTRATORS

As noted earlier, for this assessment four board members and the two senior administrators were interviewed, several in-depth over multiple sessions. Their views are cited at

various points in this write-up but here three issues are the focus, namely the referral mandate, the service delivery model and the scope of the RJ program.

In regards to confronting problems related to the evolving HCJS mandate and its response, two central concerns emerged. A central issue raised by board members and senior HCJS staff was how the agency should respond to multiple repeat referral. One respondent commented, “what we need is a voice in whether or not to accept a referral. We need to be able to reject referrals such as persons repeatedly referred or people who have refused to participate, get sent back [to the referral source] then end up referred back to us; shit flows downhill and since police and crown have trouble figuring out what to do with repeaters they send them down to RJ”. Another board member also referred to “dumping” adding, “the CJS sees more violent offenders, hate crimes, arson, and kids are being sent there [HCJS] two or three times when they still haven’t completed their first contract”. A senior HCJS official, waiving a file where the youth was on his tenth referral to RJ, reiterated that view, adding that “these cases destroy the morale of the staff and frustrate everyone including the volunteers”. It can be noted the CJS officials when queried about referring youth for the nth time have indicated that the agency is free to reject the referral if they do not think it is appropriate but clearly the board and senior administrators feel considerable constraint and, in addition to being “the new kid on the block” and having a much less exalted and secure status, believe that the service contract with NSRJ may inhibit such a response, save of course with respect to moratorium offences; for example, one board member, supporting the concept of rejecting more referrals, wondered aloud, “can they [the agency] do it”? At present, as noted in deliverable 12, virtually all referrals save those suggesting sexual assault or spousal/partner violence (boyfriend-girlfriend actions included) are accepted by the agencies; the rate of acceptance of referrals received is over 99%.

Another key issue for the board and senior staff is how to respond to the changing, heavy workload and determining how far HCJS can and should go. As well as the challenge of dealing with repeat referrals and repeatedly “unsuccessful” referrals, there are issues concerning the possible limits on the serious offending that the agency can cope with under current conditions, given both resources and RJ strategies. A senior staff member articulated a common viewpoint on the serious offending – problem cases – “we should perhaps stay at our level, do what we’re doing, that range of offenses and offenders; to become psychologists etc would require another whole layer of expertise”. This wariness seems wise and is one of the reasons the researcher is recommending a second tier pilot project, independent from but in collaboration with the agency, to explore that issue practically. Board and senior staff respondents did, however, believe that HCJS could extend the RJ reach to include minor offenses currently handled by adult diversion, particularly being able to contribute, in such cases, where victim-offender meetings were feasible. One board member commented, “age 18 is still young. Such youth need to grow up and be adults. They need to learn. If RJ can help, it should”.

The board members and senior administrators interviewed were all aware of the HCJS’s SDM and generally acknowledged the “two solitudes problem”. One such respondent commented, “at one session I attended the facilitator didn’t even have a copy of the victim’s statement”. They believed that the situation could be improved by upgrading the training for volunteers but were not sure as to what might be done regarding the information flow. They all appreciated that turnover has been excessive among agency staff and that the work environment

had to be stabilized and improved in order for the SDM to be improved. The possibility of modest honoraria was advanced by most respondents. In general, these board and senior staff respondents espoused a vision of RJ that highlighted the importance of meaningfully involving volunteers and, accordingly, they considered the SDM at HCJS to be a progressive RJ strategy as well as a practical imperative given the workload. Other concerns expressed were for the development of a strategy for handling multiple repeat offenders beyond negotiating rejection authority, and for continuance of the projects directed at special groupings. A major underlying concern for the respondents was the need for more resources for the agency to deal with all the challenges it faced in providing a quality, effective RJ program.

STAFF VIEWPOINTS

Apart from the two senior staff, the researcher interviewed ten staff members (one of whom had recently left the agency), several on two or more occasions, always one on one, mostly at the HCJS site but sometimes at the university. In addition there were two group meetings. With one exception all were case workers or case managers – the formal title according to some respondents is “restorative justice worker”. The turnover among the staff members is evidenced by the fact that only two of the respondents had more than three years experience and none of the case workers had been at HCJS since the RJ program began six years ago. In the year prior to the interview nine case workers had left the employ of HCJS. While the staff morale was poor overall, most respondents indicated that the staff got along well, cooperated and did their jobs well. There was a strong consensus among the ten respondents on virtually all the themes discussed below, namely the confusion generated by turnover and allegedly inconsistent and changing operating procedures, the two solitudes of the SDM, the low extrinsic and intrinsic job satisfaction, the lack of a strategy for handling repeat referrals and so forth. Certainly, the patterns were quite consistent with the assessment of the Beaver consultancy (2005) which identified two major complaints of the HCJS staffers, namely (a) having to deal with referrals sent back to them by referral sources (usually the crown) after the case worker had decided to close the file as “non-completion” and return it to the referral source (e.g., the issue of control over the work process discussed below); and (b) last minute cancellations by the volunteer facilitators which posed many problems and required the case worker, if the duty case worker, to seek a last minute substitute, cancel the session or facilitate the session. In the staff group sessions with this researcher the main issues raised were (a) the sense that operational procedures were inconsistent and ever-changing (e.g., the specifics of the case worker – volunteer facilitator interaction) and (b) the conundrum of what to do about “repeat users who are abusing the system”. The former complaint was virtually always reiterated in individual interviews and is perhaps best summed up in the words of one respondent, a veteran, dedicated case worker, “everything changes so much regarding rules and procedures and personnel changes have been so drastic that it’s confusing and troublesome”.

One of the major criticisms that CJS officials and other external stakeholders directed against the HCJS was the delay in processing files at HCJS. This, too, was an issue for the case workers who identified the processing of files as cumbersome; one respondent, noting “too many hands on in the system they have”, cited, as commonplace, instances where a file was not ready for processing by case workers two or three months after it had entered the system. Another respondent reported that this cumbersome processing leads to backlogs that create

problems all the way down the line, from contacting the parties involved to dealing with the referral sources; he commented that “the crown pressure can be great because of an impending adjournment date but now they routinely ask for an adjournment date of six months since the office system of assigning a case and scheduling a meeting is so complex”. These backlogs were seen to interact with staff turnover among competent veteran case workers to produce major problems for adequate case preparation.

The case workers were also in agreement that the types of offending and offenders that are increasingly reflected in the referred cases have become more and more challenging, augmenting the above difficulties for case preparation. One respondent observed, “I was blown away by the cases we recently got”. Another respondent commented, “we are getting horrendous cases such as assault with a weapon, along with being the dumping grounds for very minor cases and sometimes we get a bunch of files and the serious and the trite are there but few in-between”. One case worker compared the cases going to HCJS with those he considered typical among other RJ agencies in Nova Scotia, essentially contending that whereas HCJS gets robberies and serious assaults, others usually get “just low end stuff, basically police referrals”. Clearly, there was a strong sense that the resources available to the case workers were inadequate and that the case workers’ confidence in being able to deal with some referrals, with the care and depth they believed was required, was becoming problematic. The resources issue included matters of case load, the local supporting services that can be accessed, and the types of agreements that can be forged in the RJ sessions. One respondent noted that “police and others may think a case referred to RJ will get all kinds of help but this is not the case for RJ just as it is not the case for court cases”. Most respondents responded positively to the possibility of a special project for ‘high end offending’ which could both reduce the heavier demand on HCJS and explore best practices in handling these kinds of referrals, presuming of course that such an initiative would not be to the disadvantage of current staff. There was, otherwise, much support for the agency rejecting some referrals and adopting something like a “three strikes and you’re out” policy with respect to repeat RJ referrals.

The case workers certainly reaffirmed the SDM as described earlier. One veteran case worker commented, “like others, I have been told essentially to stay away from facilitation”. Another veteran reported, “I have done some facilitation but not as many as I could because of the policy, basically now [I facilitate] only when a volunteer cancels out”. That position was reiterated by all the case workers, namely that their facilitations are mostly of an emergency type (apparently by HCJS policy, case workers rotate as duty counsel each week making themselves available for emergency evening calls about the RJ sessions; for that duty they get a half day off and if they have to fill in as facilitator one evening then they get the whole day off). Given the HCJS’s SDM and the pivotal role in it of the volunteer facilitators, there was much discussion with the case workers concerning their relationship with and assessment of the volunteers. It was widely agreed that their contact with the volunteers has become rather minimal. One respondent echoed a common view when she commented, “we do not know the volunteers and you cannot [by HCJS policy she claimed] recommend the facilitator; there is almost no debriefing” - in a year she said she had received but two calls though she has contacted more than that.

It was generally held by respondents that not only is the direct contact minimal but that, by HCJS policy, there are constraints on what can be communicated to the volunteer facilitators

through the files they pick up to return after the session with the signed agreement. One case worker observed, “there is little briefing or debriefing and the volunteers are in the dark regarding the case background”; he added “we are not allowed to indicate whether the person [the young offender] is a repeater”. Another claimed, “I am not supposed to send notes [with the file], just the checklist”. It is a limited information transfer he admitted, adding “if a person [volunteer] calls, I will talk more about the case but that is uncommon”. While there was consensus that there was little familiarity between case workers and volunteers, it was noted that a few volunteers do regularly phone in to discuss a case and that case workers may give a ‘heads up’, by telephone or a note inserted in the file, for some potentially problematic cases. Other respondents reported that they could insert “red flags” in the file given to volunteers but most never do it for a variety of reasons (e.g., heavy workload, people do not like to put things on paper etc). The bottom line then is that from the case workers perspective – corroborated by the volunteers as will be discussed below – the SDM reflects a “two solitudes”. There was some suggestion from a few case workers that the “two solitudes” is a more recent phenomenon for HCJS but most case workers, being fairly new on the job, could not recall a different, earlier relationship.

Certainly this “two solitudes” has costs. Apart from the effectiveness of the RJ intervention, very complicated to assess, the major costs on the case worker side is that an unintended negative view of volunteers may set in since they [the case workers] have to take responsibility for ensuring that whatever specific agreements are reached in the RJ sessions are followed through upon, and since they have to make adjustments if there are last minute cancellations by the volunteer facilitator. According to the case workers, “not do-able” agreements and last minute cancellations are not uncommon. One respondent went further commenting, “you can always tell when a staff person has been there [at the session] by looking at the agreement since with the volunteers, sometimes, the terms are such that one is asking, where does this come from, what have they listened to from the youth; the case workers would have more information and experience and be able to see past the youth’s b.s.” A senior case worker acknowledged the increased negativity and believed it has emerged because of the “two solitudes”. There was much consensus that to deal with that problem and to effect better RJ interventions and outcomes there needed to be more contact, more mandated meetings between staff and volunteers (at the least a short meeting of case worker and designated volunteer, for certain cases, before the RJ session) and more discussion with respect to desirable policy on information flows. It was argued that to achieve that end more time has to become available to both parties. Many case workers suggested that the volunteers should receive a modest honorarium (especially when called out for emergency fill-in) and that the HCJS should facilitate regular meetings among the volunteers where they can discuss their experiences and learn from one another, Case workers generally believed that the volunteers should get more respect, more upgrading and more real support. The case workers in general believed that the HCJS’s SDM could be improved and that it represented a very appropriate use of volunteers. It was suggested further that volunteers also could be effectively utilized in delivering special programs such as ‘drug awareness’ and “stoplifting”, leaving case workers to do more in-depth case management.

Interviews with board members and senior HCJS administrators indicated that they were quite aware of both the extrinsic and intrinsic factors that have impinged negatively on staff satisfaction. External factors included modest compensation levels, poor promotion opportunities

and significant environmental pressures (e.g., being low status in the justice system and having to go along with decisions made by higher levels). Intrinsic factors have included issues of job clarity, control over their work process, having the resources to do their work up to their standards, and communications with co-workers and management. Case workers highlighted these concerns in their interviews. With respect to extrinsic factors, the staff members were well aware of the implications for compensation and the lack of internal job ladders associated with being employed in a small, non-profit, community organization; one case worker commented, “getting it [the program] governmentalized is my goal”; several others compared themselves to probation officers but without the status or the compensation. Recently, the staff at HCJS has unionized under CUPE but it is unclear at this point what the implications will be (the employer of record is the board of HCJS). The environmental uncertainty was also cited by a number of case workers; for example, it was observed that suddenly the agency received a flood of MVA statutory violations (e.g., not wearing a seat belt) and then just as suddenly they disappeared, all presumably without any consultation with HCJS.

Ambiguous HCJS guidelines and limited control over the work process had negative implications for intrinsic job satisfaction. These were manifested in a variety of ways. For example, several respondents cited the frustration in interacting with youth and determining limits. One case worker commented, “[monitoring an RJ agreement] I give the youth the following process, phone if your not there and reschedule. Phone within the next 2-3 days and if there’s no response I send a letter. If I have to send another letter it outlines a breach. If you miss this meeting, you will see me in court [sic]. The problem is, how many chances do you give someone? The line must be drawn because one does have to be accountable for their actions. Maybe consider implementing a “three-strikes and you’re out” program”. Another common example is seen in the following comment, “there are too many repeat users going through RJ but it’s not RJ’s fault. You need to look at who is referring them (e.g., police, crown). Why aren’t they taking some of these cases themselves? It’s cheaper to send someone through RJ than through the courts, to jail. Youth know about RJ. They offend then ask the judge to be referred. It’s an option they request because it is the easy way out. There needs to be a limit to how often this happens – it’s like revolving door sometimes for some youth”. The lack of meaningful control over the work process was frequently expressed in terms of the case worker’s decisions being overridden. For example, one case worker noted, “if a youth does not follow through there are no major consequences; and often times if a youth is referred back to the crown or police they are referred right back to RJ again. The justice system is just too loose”. Another respondent spoke of the will of case workers being sapped when “they try like heck to get a referred youth to come in or to complete an agreement then reluctantly send it back after receiving no cooperation from the youth only to get it anew as a crown referral or even a re-referral from the crown”. Cases were cited of youth who blatantly refused to complete an agreement - “you’re virtually begging the kid to pen a statement of apology as required but are told, if you are so keen about it, you do the f... thing; and then when you send it back to the police or crown and it comes back as a re-referral”. In response to the suggestion that the police and crown may be under a lot of pressure to refer cases and have no other strategy available to them but just to re-refer it, the respondent commented, “well then at least we should be aware of how the system operates since maybe then it would be more tolerable”.

Resources to do the job well constitute another major factor in intrinsic job satisfaction. Their caseload, considering both quantity and type of cases, was seen as very heavy by most case workers and as impacting negatively on their own sense of job performance. One respondent noted “there is not enough time to work on healing for the victims”, while another, discussing referrals involving Group Home youths, commented, “they need more than we can offer them with our service delivery model but if we had resources including being able to call in social psychologists it could make a difference”. Still another case worker commented, “there needs to be more done with clients during the RJ process but case workers do not have the time”. It did appear that case workers’ concern about being able to respond to more serious offending - “some cases are too serious for RJ” - was in part because these cases were correctly seen as requiring more resources in case preparation and agreement monitoring. The resource issue also appeared to underlay a reluctance on the part of many respondents to see the agency become involved with adult offending.

HCJS case workers reported a number of problems and shortfalls. At the same time, as noted, they advanced suggestions for improvement. Good communications and positive reinforcement were seen as crucial as well. At times some case workers expressed concern that they had only belatedly found out about a new policy (e.g., a veteran claimed that with respect to the “new guideline” allowing engagement of only one facilitator at an RJ session if a community representative was also present); at other times, some case workers appeared to want a more open discussion of a policy they thought inappropriate (e.g., the “rule” that a facilitator cannot recommend a specific facilitator for a particular RJ session). Perhaps the bottom line assessment of the case workers – certainly the most positive bottom line – was expressed by one of the long-termed employee, namely “we all need to be on the same page ... it is getting better but definitely we are not where we should be”.

The case workers were quite supportive of the special projects launched by the agency, especially the project that entailed out-reach in the two black communities (one urban and the other rural / suburban) , with a field office, training facilitators and community representatives and so on. They did question the clarity of the objectives there and the extent to which those engaged in these projects had the time and other resources to effectively achieve the developmental goals involving proactive work. It was widely held that the alleged requirement to be responsible for a significant case load, in addition to the central task, in effect seriously limited the progress.

THE VIEWS OF THE VOLUNTEERS

All told, twelve veteran volunteers were interviewed one-on-one; in addition, there was a focus group meeting attended by five of these volunteers. The volunteers were specifically selected because they were veterans, had completed, in total, hundreds of RJ sessions and a very disproportionate share of the more complicated cases where a victim was present. They had both experience and longevity so could comment on trends whether in the referrals or in staff-volunteer relationships. They were all dedicated to restorative justice and continued to serve

HCJS. They liked doing RJ facilitation and none complained about not being used or being over-used, though some said that they were at their limit regarding available volunteer time. In addition, all were highly educated, well-versed in RJ and related “alternative dispute resolution” techniques, and had on their own engaged in related activities. Certainly it speaks very well of the HCJS that it has been able, despite problems, to retain the commitment of persons such as these respondents.

The respondents generally confirmed the SDM highlighted in this report and the associated “two solitudes” character that has developed. Several of these veterans had never co-facilitated with a staff member and, among those who had, the number of such co-facilitations was small. These volunteers generally exhibited an active approach in relating to the RJ program and most indicated that they were reasonably well prepared for their sessions because they took the initiative. For example, one veteran, who has facilitated over fifty VOM sessions, commented on her preparation as follows, “[it’s] very good mostly because I search them [the case workers] out. I get the package before the session and if there are questions I will follow them up”. She indicated that she works mostly out of the HCJS office so she goes in an hour beforehand, and she usually tries to “touch base” afterwards with the case worker managing the file if they are still there. Another volunteer contended that “it is not part of the protocol for the case worker to call; I’d say I am well prepared because I do talk to the case workers. I ask, is there anything else I should know”? Still, another volunteer commented that he had phoned the case worker on a file, adding “I do that frequently. They are willing to oblige. One time there was a new person who was not willing”. Apparently, many volunteers do not call; as one volunteer commented, “I called the case manager about a loose end in the file and was told, you are the first one that ever called me”. A few volunteers did report that they had been called – very infrequently - by case workers who wanted to know how things went and especially about the agreement’s community service hours. An equally few indicated that the preparation they received was simply inconsistent and inadequate. The overall picture provided by the volunteers was that they have been more the initiators of any interaction, that, otherwise, limited information has been provided them, and that the excessive turnover among the HCJS staff has created some problems for communication and clarity of HCJS’s policies. It is interesting that when asked to discuss their worst experience or case, almost all the volunteers referred to “family blowups” generally between a parent and his/her youth, family dynamics that, in their words, completely blindsided them. While a recent “straw poll” among case workers indicated that referrals where offenses could be specifically characterized as “youth versus parent” abuse accounted for only two or three percent of the total referrals, many more reflected this kind of underlying disputatious family dynamics.

The veteran volunteers virtually all agreed that, apart from their own activism, there was very limited contact with case workers and very limited information was provided to them. All agreed that there was virtually no briefing or debriefing on a case. Rarely were they informed, for example, whether the youth was a repeat offender or whether there were any family issues to be wary about. One volunteer (one of the busiest for the agency over the past several years) responded to a question about briefing or debriefing as follows, “there’s almost zero; just pick up the file at the door and leave it there after. I have never been contacted by a case worker”. Another veteran volunteer, serving HCJS for many years, reported, “there is no significant briefing or debriefing; you get the file, do the mediation [sic] for an hour or so (some take longer

and once in a blue moon you may need two sessions) and return the information the next day. There is no discussion but at least the dossier is okay: Sometimes there has been a five minute conversation. Yes, it's limiting factor". The group generally reported that there had been more contact between staff and volunteers in the earlier years of the RJ initiative but at least one said that communication is much better now. It should be underlined that not all veteran volunteers considered the information flow, whatever it was, to be inadequate; as one said, "'case workers are more thorough now and the briefs in file are a lot better now". The majority view though was more inclined to see the information flow as too limited; one respondent commented on a recent case as follows, "the case involved ... kicking another [youth] but it turned out that the girl had a drug problem. During the session the mother was under the impression that they were there to discuss the drug problems that we [the facilitators] knew nothing about. To her [the youth] and the mother, it was the only reason they were there ... that is why I have a problem with the system".

The volunteers shared many of the concerns that staff members had articulated. They, too, reported significant cancellations, but not only by other volunteers; not uncommon was the comment of one veteran volunteer that, over the years, in 50% of his sessions (many of which he attended in the evening at sites far removed from his home or the HCJS office) there had been cancellations from either victims or co-facilitating volunteers. The volunteers, too, expressed concern about engaging more victims in the process. All noted that many of their scheduled VOM sessions had become 'accountability sessions' and this, too, had an impact on the effectiveness of the session: one volunteer commented, "absent a victim or community representative (very, very rarely would the latter be present) the role of the facilitator is nebulous ... when the victim does not show up, the youth is not overly cooperative; you can tell they are not getting it. If you follow the book in these situations you should probably shut it down but you go ahead hoping to hook them up with something that would help them"; another volunteer reported that "even victim impact statements are rare". The volunteers typically attributed the difficulty of engaging victims to the heavy demands of case workers' workload. The delays in case processing, in their view, also impacted on the effectiveness of their facilitation; a rather extreme example was given by one volunteer, "I don't think I have ever facilitated a case that was less than 9 or 10 months old. One of guiding principles of RJ was to reduce this time lapse from the traditional court system. This has not occurred". Like the case managers, some volunteers reported some confusion or at least lack of systematic clear communication at HCJS. Some also complained about facilities, either being insufficiently isolated from other activity centers at the facility or not having the capacity for 'break out or caucusing "options. Overall, while these committed volunteers were still on the job, they did think that morale among the volunteers in general was a problem and that the volunteers who had quit would be difficult to re-engage.

In assessing the SDM, respondents raised issues that could be categorized as "need to know" and "right to know". Respondents appeared uncertain about whether or not there was a need, as opposed to an advantage, for them to know whether a youth had a record or was a repeater user of RJ. Several volunteers consulted with the agency on whether they should or should not bring up the matter of other offenses at the session (they were, reportedly, told not to do so). Typically, according to respondents, they were not informed about whether they were dealing with a repeat offender. Several did report being informed when the case worker

suspected some risk to the victim should the latter attend as scheduled, though, as noted, the volunteers were typically not informed about potential family dynamics. One volunteer who has had much experience with youth and crime and itched to use more of her skills, commented, “The big rule is we are not counselors. We are only allowed to ask certain questions. Can’t dig into the personal life such as parents and relationships. Not permitted to ask about anything in the past. “We can’t try to figure out a pattern.” “We can only talk about the offence.” Therefore, “we can’t get to the issues. This is limiting.” Even among these veteran volunteers there was some uncertainty concerning some HCJS policies such as whether the terms of the session agreement could include family / home “agreed undertakings”. The respondents reported virtually no meetings or discussions held with HCJS staff or even among themselves; indeed several reported that the only such meeting they ever attended occurred just weeks ago when about ten volunteers met for an exchange of views with senior HCJS staff. In their view, such meetings would have great value, especially given that there is no feedback otherwise concerning the volunteer role and the their own performance in that role, and little opportunity provided them for upgrading their skills and knowledge apart from the original basic orientation.

The veteran volunteers considered that the SDM of the HCJS had both advantages and disadvantages. The primary advantage in the eyes of the volunteers was that the SDM provided a context of less bias and greater neutrality. It was commonly held that case workers, being more involved in all the details of the file might well be too compromised to take on the more neutral facilitation role. One respondent, for example, commented, “the case managers put in a lot of time in case preparation and are more tied to the case whereas the volunteers have not invested the time into the parties so they can more easily walk away in the end. They have not become emotionally involved”. Other respondents held that having volunteers do the facilitation shows the youth and victim that there is some caring in the community and that the RJ exercise is not just a bureaucratic exercise. The disadvantages, at least under the current system, were deemed to be foremost that limited information (“sometimes it becomes misinformation”) is available to the volunteer such that he / she is “operating in a void, doesn’t know about the past and is responding to one disconnected incident”. Several volunteers referred to being “blindsided” at the RJ session and several also observed, as one reported, “When youths learn that facilitators are only volunteers, they are not taken seriously”. Along the same lines, another respondent commented, “with just volunteers at the session, the youth thinks they can get away with more; when this happens I shut it down”. It may be noted here that a number of these veteran volunteers did not seem intimidated at the prospect of “shutting down the session” if the youth was not taking it seriously and apparently some volunteers have walked out on occasion – usually the threat of doing so, has some positive impact on youth and/ or the youth’s supporter.

The veteran volunteers were strongly in support of the SDM with the pivotal role of facilitator being theirs. This appears to run counter to much thinking at the field level – not at the philosophical level – of the RJ approach elsewhere where volunteers more likely are involved as community representatives and/or assist in the case processing (e.g., help monitor the RJ contract). The volunteers considered that the HCJS’s SDM not only had the advantages just described but also represented the most time efficient way to utilize the active, usually full-time employed, people who volunteer. They were quite open to becoming engaged in delivering several programs such as monthly “drug awareness” sessions and the like, but clearly they appreciated that time constraints and perhaps lack of authority would be hurdles for becoming

involved in case processing. It may also be noted that at present there is little development of a community representative model at HCJS and indeed, none of these veteran volunteers reported having community representatives (aside from the rare police officer whom they did not consider a community representative) at any of the hundreds of sessions they facilitated. As will be discussed below, the volunteers did have major concerns about the SDM if the discernible trends towards HCJS receiving referrals involving multiple repeat offenders and incidents of serious harm were to continue.

Generally, the veteran volunteers considered that there was a need for HCJS to consider strategies for dealing with the serious offending that seems to be an evolving feature of their referrals. A number of the volunteers believed that the program would have to be bumped up a notch were these trends to continue. As for dealing with multiple repeat referrals, there was much wariness expressed. Many facilitators simply did not know whether the cases they were responding to involved multiple recidivists but some did and they found problems. It was not uncommon for these volunteers to contend that they “were being played” by the youth; one volunteer noted, “yes, I have done a couple. These guys need something else. The program did not do anything for them. They do not regret what they have done”. Most volunteers echoed the view that those going through RJ three, four or five times are not learning anything. As one said, “When it is a one time thing it is more beneficial to the youth. They should not go through more than twice. So many different youth know how to play the system.” A number of the veterans expressly advanced the idea of a limit such as “I would like to see RJ only as an option for someone with a third offence or less”. A common view was that “a youth going through the system for his / her fourth time, well, they are not going to learn anything ... excluding some people from the program would help ease the workload and resource challenge”. It was noted too that recidivism was not just an issue of responsibility on the part of the youth but that it often involved parents trying to deflect responsibility onto the police.

In considering RJ and more serious offending, the concerns were quite manifest. Respondents may have varied in the expressions used and the factors highlighted but basically they articulated the same message as is evidenced in the following comments; “No, absolutely not, the program itself is not stable enough to handle that”; “No, not without more resources because serious cases require more preparation, a higher skill set, and maybe paid facilitators”; “No, if it is too serious, society is not equipped to deal with it. There are safety risks. It would have a negative impact on the community and the justice system. If people see youth going through RJ and it involves serious offences there would be a backlash, The first thing out of the public’s mouth would be – too damn easy on youths”; “Well, as someone working with young people we have a “different spin.” But we still appreciate the seriousness of the offence. Facilitators would require more training. There are safety issues. Security would be required. It would be difficult to get volunteers. I barely was trained and was thrown into my first session”; “No, these are short [RJ] sessions. Can’t really get to behavior. There is not enough time or effort to try to help with behavior. Besides, we are not counselors and are not permitted to go there. It is a liability thing as well.”; “With volunteer facilitators and the staff there now, it would be difficult to do an effective job with more serious offenders ...it should be done by professionals”; “More time needs to be dedicated – two or three meetings. Especially if the goal is healing and restorative, then you need have victims present and to “educate the offender”; “In these cases, the mediator [sic] should be involved from the beginning. They should be acquainted

with the case for safety reasons”; “Trial and error can cause too much harm”; “As it presently functions, absolutely not. It [the RJ program] lacks in expertise and a sense of clear direction ... resources not there, just downloading”.

Clearly a number of concerns were identified and most volunteers would have agreed with all of the recommendations advanced, namely more training, dealing with liability and safety risks, more resources expended per case, closer collaboration between case managers and volunteers, perhaps paid volunteers, greater stability at HCJS, and greater victim involvement (e.g., “it is not helpful to the offender if the victim is not present”). In the comprehensive expression of one volunteer, “The case workers would have to continue what they are doing, but at a higher level.” They would have to provide more details to the volunteer about social problems that are long lasting. This would be more time consuming, so case loads would have to be reduced. Facilitators would have to be better prepared. Greater knowledge of the YCJA would be required. Youth will likely have legal counsel with more serious cases. It should be done by starting a pilot project”. The volunteers did respond positively to the possibility of a special project targeting serious offending and taking some demand pressures off HCJS to facilitate its smoother functioning. They believed such a project could attract a core of committed volunteers. Indeed, some volunteers considered that “If the program is going to survive they need to take that step”.

Aside from the issues of serious offending (i.e., multiple repeat offenders and serious harm), the volunteers were quite positive about the RJ achievements (e.g., none had difficulty generating examples of ‘best cases’) and were somewhat open to the HCJS taking on adult referrals, though noting that there might well have to be some new upgraded training and some protocols developed about safety issues. With such modest changes, the majority considered that doing minor adult offences would be no great problem as, reportedly, “adults open up easier”. Indeed, a number of volunteers believed that “defining adult is difficult as some adults are more like youth. Some adults are more like youths. They should be going through the RJ process. Some youths in high school are over the age of eighteen. Not a big difference these days. Getting caught with a joint at age thirty-two can have significant impact. The record sticks with a person. Minor offences would be appropriate. Nothing with a weapon. Bar fights absent of any injury and no use of a weapon. Drunk tank incidents”. Another veteran commented, “I think it should go to adults. If things are serious, they should be more victim-driven. This is the same with adult and youth cases – [need to be] victim- driven. The victim’s participation is necessary for this to happen”. In sum, the volunteers’ concerns about taking the RJ initiative to adult referrals were modest, especially if it involved cases currently being dealt with via adult diversion and if VOM sessions were deemed feasible.

Typically the volunteers were quite positive concerning HCJS policy and programs with respect to the Afro-Canadian youths and communities (i.e., having a black facilitator where there was a black offender plus special community-level projects) and believe them necessary and deserving of continued support. They were keen on the value of developing a mentoring system (though several volunteers noted that mentoring is labour-intensive) and involving in RJ sessions people such as athletic coaches and school counselors, none of whom they had seen in their sessions so far. They also considered that the agency’s employment of a full-time staff person to collect information / research and liaise with immigrant groupings was an excellent step. There was more ambivalence concerning how HCJS and RJ responds and should be responding to youth from the Group Homes. They identified much recidivism among this grouping and

expressed some concern as to the effectiveness of RJ in many of these referrals. The ambiguity of the referrals ostensibly involving a minor offence yet perhaps being indicative of more far-reaching social and personal problems was readily grasped by most volunteers. While uncertain of the appropriate RJ response, those who addressed the issue held that the sessions would be more effective if the Group Home staff more regularly attended them.

Overall, then, in terms of recommendations the veteran volunteers considered that the SDM model had to be shored up in a variety of ways, especially through more contact and exchange between staff members and volunteers (“on-going discussions for case review and exchange [should be held] every couple of months”) and among the volunteers themselves. Upgraded training needs to be more available to the volunteers and modest honoraria may be beneficial in reducing cancellations and improving morale. Other specific recommendations included greater incorporation of youth as community representatives and of course continued encouragement of victim participation. The volunteers believed that doing facilitation remains an appropriate and effective use of skilled volunteers. At the same time, the evolving profile of the referrals has created considerable anxiety among the volunteers as to the effectiveness of RJ without fairly profound changes in the stability of HCJS itself, RJ strategy, and, most of all, in available resources now that RJ is apparently assuming such significant responsibility vis-à-vis the criminal justice system.

STAKEHOLDER PERSPECTIVES

There were three stakeholder groupings where interviews were conducted, namely local Afro-Canadian leaders knowledgeable about the CJS and the HCJS, staff persons in residential services for youth under the responsibility of Community Services, (i.e., Group Homes), and activists serving immigrants in metropolitan Halifax. Overall, these stakeholders were very positive about the RJ approach and while some had serious reservations about its effectiveness under current circumstance, they virtually all believed that the program and HCJS should continue and be strengthened; indeed, all advanced suggestions to do just that. In this report their views can only be briefly summarized but subsequent research will elaborate on the issues, findings and recommendations.

AFRO-CANADIAN PERSPECTIVES

All the twenty-plus metropolitan Halifax Black leaders interviewed, save two, were very familiar with RJ and the criminal justice system. Five were trained in RJ and held various positions with HCJS either currently or in the recent past. The other respondents included police officers, lawyers, politicians, clergy, and persons working directly with youth, especially youth at risk. Overall, these local leaders were positive about RJ and “placed” it in the context of a more holistic response to social problems in certain parts of the Black community, problems whose roots, at least in part, have been shaped by the historical experiences of Blacks in Nova

Scotia. . It was noted above that Black youths have been disproportionately represented in youth court, probation, closed custody and RJ referrals. In an assessment of the level of over-representativeness, using reasonable demographic assumptions and drawing on data from probation, custody and RJ sources (Clairmont, 2006), it has been estimated that in 2005 possibly as many as 10% of the Afro-Canadian males between twelve and seventeen years of age inclusively were involved as offenders in the criminal justice system. The interviewed Black stakeholders, with one exception, indicated that they were not surprised by this arguably high level of CJS entanglement. One respondent commented, “I’m not at all surprised; I work the front-lines”. A black defence lawyer reported, “not at all surprised because that is where the poverty and underlying issues such as racism are”. There was much consensus among the respondents that such youth offending has become more serious as well as plentiful. This view was reflected in such comments as “more weapons and violence than before”, “I notice it more”, and “in my fourteen years on the police force, the youth crime is definitely more serious than it was before, 70% to 80% more serious”. A few respondents simply commented that they were not surprised because the justice system is two-tiered and “it’s always been that way”.

Virtually all the Black leaders held that for minor or first offence it should be normal for youths to be directed to the RJ option. Beyond that, respondents’ views about the effectiveness of the RJ approach, while still positive, were also nuanced. A common position was that “it is only a band-aid solution and does not look at the underbelly of the societal problems and structures that affect Black people, in particular, Black men”. Another common position was what might be called the “tough love” assessment, namely that in its current mode RJ is not terribly effective because it does not entail sufficient consequences for wrongdoing (i.e., there is an accountability shortfall). Associated with this latter position was a fairly common sense that RJ may be “too easy” with the result that the likelihood of valuable lessons being learned would be low, especially by black youth in high crime milieus. A deacon noted that “essays and letters may be too easy; they get others to do them; they aren’t being monitored”, while a police officer complained that youth are not held accountable if they do not complete their “agreed undertakings” contracted at the RJ sessions, and an HCJS employee considered that “there are too many repeat offenders going through RJ”.

The respondents suggested that both more RJ programming and “tough love” were required because the young black offenders are generally drawn from problematic families and high crime milieus; one informed justice- system professional expressed a common concern about getting to the roots of offending behaviour, commenting, “if offenders come from a middle class family / neighbourhood they don’t usually re-offend. RJ works for them. Some others will continue to re-offend because underlying problem are still there (e.g., violence, peer pressure etc) and the consequences of RJ do not address a lot of these issues. It is necessary for some youth to go through the RJ process a couple of times before it is effective”. A Black politician who has worked extensively with youth in business programming observed, “RJ is a good program but what is missing is RJ’s ability to help youth see that there’s a light at the end of the tunnel, something other than crime”. In the same vein, a woman working in the community development field observed that “RJ is too reactive and needs to be more transformative justice”. Another community activist, very much engaged in RJ activities in her community observed, “RJ is a wonderful process and kids can avoid a record but it needs limits. Going through six or seven times is ridiculous and by this point kids are just working the system

and RJ is a waste of time. Some kids see RJ as an easy way out but if there are limits, say three strikes, they can be held more accountable. Essays are great if they present it to their peers and others in the community to let them know that RJ is not an easy way out”.

As was the case among both HCJS case workers and veteran volunteers, the Black leaders had serious reservations about RJ’s appropriateness for multiple repeat offenders and for incidents of serious harm. One male with connections to HCJS opined that “there needs to be more done with clients during the RJ process but case workers do not have time; some cases are too serious for RJ”. A female lawyer commented, “A line has to be drawn. It’s okay to send repeaters to RJ but if they continue to re-offend, what is the good of this? Does RJ try to reform them? Are they making it fun? What is being offered? Maybe it is not right for that person, they haven’t learned anything”. A clergyman and a police officer both echoed the view expressed above concerning three strikes. The clergyman noted, “There has to be a limit on the amount of time they can go through RJ. It should be three strikes, regardless of offence”, while the police officer observed, “most time if the youth does not follow through they still don’t get charged so they learn that they can re-offend without being fully accountable; three strikes rule is necessary – “mistakes happen and kids initially need a break but only for so long”. The Black interviewer of many of these Halifax area Black leaders summed up her conclusion as follows: there is solid support for RJ but also for more accountability and tough love. Most people interviewed expressed the need to limit the number of times an offender can be referred to RJ. People want the system to respond or follow through when offenders do not follow through with their RJ agreement. It seems that some referral sources do not respond promptly enough or not at all when offenders do not live up to their agreement.

The Black leaders expressed much concern that the RJ program be adequately resourced and that the program be there for the long haul so that it can improve and meet the challenges they identified. One leader opined, “It’s awesome but there is a need for more resources to make RJ more successful; continue to work on improving the program but get more resources”. Another leader observed, “We need patience since good programs take several years or more to see success, so long-term funding needs to be there”. Out-reach programming was emphasized, not surprisingly in view of the tendency for these leaders to place offending patterns in a larger socio-economic and historical context. Respondents associated with current out-reach programming commented, “outreach programs are a fine idea but only if implemented according to objectives and if resources are there” and “[X] has minimal funding and direction from HCJS and having someone involved with a huge caseload leaves little room for the caseworker to do any real work with the youth or the community.

This emphasis on the adequacy of resources was closely tied to the assessment of the causes of youth offending. A number of respondents identified historical and current racism as a major factor in the causation and the acceptance or tolerance of high levels of crime among Black young males. As one female observed, “more people need to be upset and spurred to action so why aren’t they”? Others pointed to the need for Africentric perspectives / values which can provide youth with a sufficiently positive sense of themselves to counteract prevailing negative social constructions of being Black. A clergyman observed that these latter influences have left many youth with a feeling that they cannot excel so why bother in school and so forth. It was common for the Black leaders to focus on specific background factors (e.g., living in

certain Black communities rather than others, certain family arrangements) that put specific segments of Black youth at risk unless countered by strong family support or positive role models. One youth worker commented, “It’s really about income and economics but it’s called a black thing; the rest of society wants to believe it so they don’t have to do anything about it. Of all the youths I encountered in [a specific milieu] there was not one who had a live-in father in the home. The lack of male role models makes then a distorted vision of the world with hip/hop rap”. Few Black leaders identified the justice system per se as a major factor, whether root or proximate, in Black youth offending; indeed, a good number expressly indicated that the proximate fault was not there but elsewhere, most prominently in the family. One respondent decried, “We have babies making babies” while others referred to “young families and changed child-rearing practices”, “lack of family supports and fear of parenting”, and, more generally, poor parenting for one reason or another. The nuanced model of disproportionate Black youth offending typically advanced both proximate and basic / root causal factors that put Black youth at risk in certain high crime areas as well as in the school milieu (where benign tolerance substitutes for empathy) and left them vulnerable to negative peer pressure.

Community engagement and mentoring were highlighted by many respondents as features of an RJ program that need to be developed. In the case of mentoring, the respondents called in particular for more Black role models (“it is probably better if the person is Black, since it feels better to see our own helping us out and setting an example”), perhaps sometimes ex-offenders who could provide examples of what not to do and the consequences of avoiding such actions. Others suggested that youth mentors could be effective and especially perhaps youth who could be seen as “RJ successes”. A deacon observed that “the reality is that Black youth in core Halifax do have role models but they are negative - seeing drug deals go down on a regular basis, and violence is also negatively influencing kids”. Some respondents wondered why mentors through organizations / programs such as “Community Y” and “Leadership and Development” or Black athletic / academic coaches or achievers had not been mobilized already by HCJS. One leader, an expert in mentoring, observed that while a mentoring program could be very successful, it has to be a careful, well-thought-out and implemented program, and that requires resources. The same caution was expressed by many respondents with respect to community engagement, a popular suggestion. Several respondents worried about simply downloading responsibility for youth offending to the communities and emphasized that education and development there would be important to overcome mistrust, encourage victim participation and, more generally, to point out to community members (beyond the usual players such as police and clergy) the negative effects of not being involved and how it is in their interests to be engaged in RJ programming.

The Black leaders held diverse views concerning whether the RJ approach should be available for adult offenders though there was wide consensus that youth should be the priority of the program. . A few respondents were rather adamant in their rejection of a possible extension to adults. For example, one woman, herself engaged in the delivery of RJ, commented “adults are supposed to be responsible for their actions. It might make a joke of the program if adults can go through RJ (later she allowed that maybe first time shoplifters would be acceptable)”. Others, the plurality, were quite positive about the prospect. For example, one respondent commented, “No reservations on agreeing that RJ should be available to adults. We need to not prejudice and we all need to work around changing the circumstances and the

environments and this too could help in stemming the problems”; in the same vein, a court official observed, “yes, age 18 is still young and already there is a lack of resources out there for young adults”. A politician commented, “Yes extend it as many of the young adults I have worked with have changed after going through my program”. Still other respondents gave conditional responses or were unsure. Such respondents articulated these conditions along the following lines, “sure if it’s first offence and if the person is remorseful but the nature of the offence would also be a factor”; “yes, but just a one shot deal”; “yes but on a case by case basis”.

There was a similar lack of consensus concerning the issue of extending RJ to the moratorium offenses of sexual assault and spousal / partner (girlfriend / boyfriend) violence. An RJ activist expressed one perspective quite simply, “some things should be a no go”. Those who preferred maintaining the moratorium often appeared to have in mind more high end offences. For example, one community activist noted, “crimes that are sexual, where children are abused, should not be considered for RJ”, while a police officer commented, “stick with it; it must be maintained ... you have to draw the line ... you’re skating on thin ice when you start allowing these kinds of serious offences to go through RJ”. On the other hand, those who were opposed to the moratorium appeared to be focused on boundary issues in sexual contact. For example, one Black lawyer opined, “case by case but RJ can teach what appropriate behavioural activity in this area is. Youths don’t know their rights nor how far they can go before something is considered criminal so RJ can be beneficial because it can allow informed change to occur”. Another respondent observed, “Well, they should look at the group they are dealing with as many youth do not have the cognitive skills to even realize it is a sexual offense and what is considered a sexual offense is so broad. Common sense must be used. A youth could learn something from RJ”. Other respondents emphasized the importance of intent while another police officer, who opposed the moratorium, noted, “especially for youth because they make a lot of poor choices”.

On the whole then, informed local Black leaders were quite positive about RJ. They believed that it was necessary to strengthen it through accountability, effective community engagement, better mentoring, especially youth on youth and black, and tough love with consequences and limits. But other side of tough love is love and the respondents also stressed that the context and causes of offending have to be addressed since otherwise RJ was just a band-aid; accordingly, the respondents pointed to the need for RJ to be more proactive, to liaise with the schools in particular, and through having a more Africentric philosophy give Black youth a sense of the possibilities. Extension of RJ beyond youth and the moratorium generated more divided views. While acknowledging the need for more resources being available to HCJS to accomplish these broad objectives they also suggested that it could be possible to draw more from community, especially other youth, professionals, other programs and the like, but ordinary residents too if they can perhaps appreciate more their stake in the RJ option. While most respondents were not asked about sentencing circles, the few who were considered that that RJ tactic might be valuable in effecting community engagement.

GROUP HOME STAFF PERSONS

As was noted above, virtually all CJS and HCJS role players have indicated that a significant number of the criminal incidents and RJ referrals they deal with come to them from the Group Homes in metropolitan Halifax. It is also generally their view that the vast majority of these incidents and referrals involve quite minor matters (i.e., minor property damage, minor assaults). Indeed, the consensus view appears to be that most of these matters should be handled internally at the Group Homes; as one person commented, “They are Group Institutions not Group Homes because if they were homes they would deal with these issues themselves”. It is interesting to compare that standpoint with that of the Group Home staff members since the difference appears to be pivotal in appreciating how these staff members assess RJ and the HCJS service. There are fifteen Group Homes in the metropolitan area providing residential care under a service contract with Nova Scotia Community Services for youth defined as wards of the latter agency. Here seven interviews were carried out with staff members from three of those centers, additionally, there was a group discussion at one site. There were also two interviews with knowledgeable others, one a police officer charged with liaison and the other an official with an agency providing residential care plus other services for youth aged 16 to 24 years of age.

The Group Home staff members, on the whole, expressed quite different views from CJS and HCJS respondents, contending that while there may be some reported incidents to police that are trivial and occasioned by the right of the youths to directly call for police response, the bulk of the incidents represent the tip of the iceberg or the culmination of a long-term process of disruptive behaviour. The possibilities for diverse characterization of incidents were evidenced in a recent call to police and subsequent RJ referral. The incident involved an ‘assault’ on a youth care worker that took place after a youth became enraged over the youth care worker enforcing a certain prohibition. The youth responded by throwing things (mostly wet paper towels) at the worker and also hitting her in the face (presumably by accident). The youth worker subsequently called the police. Is such behaviour by the youth and is the response by the youth care worker within the range of tolerable family / home dynamics? Evidence from an earlier police study of Group Home incidents resulting in a police response indicated that a minority of the resident youth accounted for a large majority of the incidents. Most Group Home respondents reported that disruptive behaviour, thievery, and wanton damage have increased noticeably in recent years at the Group Homes, presumably because the youths in residential care seem to have arrived there more damaged and with more disorders (among the disorders referred to, attachment disorders were most frequently mentioned). While one site or Group Home has for some time been designated as “the stabilization unit”, receiving, on a temporary basis, youths from the other sites who are difficult to manage and require more custody-like residential care, supervisors at other Group Homes in the area also have been having many difficulties with their youth and having to pay greater attention to safety and security issues. In other words, problem youth appear to have become more plentiful and less manageable in metropolitan Halifax (as a senior staff member for a set of Group Homes decried, “the situation is worsening”) and Group Home staff members have serious concerns about the limitations of the CJS and HCJS responses to this situation and the appreciation of their predicament.

The Group Home interviewees were mostly college educated and established veterans in the field; all were females while their charges were mostly male. Apart from youth care workers and supervisors, the staff psychologist was interviewed as was the Halifax police officer who liaises with the Group Homes in the Dartmouth area. The Group Home respondents generally held that the situation at the facilities was worsening and that there was less and less compliance with the house rules or attendance at the presumably mandatory programs that have been put in place to deal with some issues, programs such as Mapstars (anti-bullying), anger management and the like. Each youth in residential care also has a designated social worker. The respondents reported that many of the youth faced difficult challenges since attachment disorders were common as well as FASD and ADHD. Typically, reportedly, the youth have had a history of numerous unsuccessful placements. For most respondents – the reader is reminded that this research has been modest in scope and cannot claim that a representative sample of Group Home staff have been interviewed – there has been a serious diminution of “a tough love” approach. Use of incarceration has fallen from favour in government policy but resources have remained modest. In addition to specific programs such as Mapstars, there has been some development of alternative dispute resolution strategies within the Group Homes and the police officer liaison and staff psychologist roles have been put in place but the problems remain formidable. On the basis of the interviews, it can be estimated that the Group Homes generate as many as fifteen calls a week for police response (there has been reportedly some decline in response in Dartmouth as Group Homes there have been channeling incidents via the liaison police officer). To put that in some context, HCJS averaged about fifteen referrals per week from all referral sources in 2005.

The Group Home respondents, and the related others interviewed, reported that they were quite familiar with RJ and had had significant interaction with HCJS staff and volunteers. In a few instances, they believed, RJ has worked well but mostly it has presumably been an ineffective slap on the wrist, especially as agreement conditions allegedly have been easily cheated upon, and as consequences of not completing the “agreed undertakings” of the RJ contract have been minimal. Youth allegedly get accepted into RJ again even when they have not completed other RJ contracts. As one Group Home staff person commented, “we are ground zero and at ground zero, the youth do the least to satisfy the increasingly lower expectations of the RJ program”. In particular the respondent criticized the lack of timeliness in the RJ response, and the lack of depth, especially with respect to repeaters. Like some other stakeholders, a number of the Group Home respondents advanced the view that RJ may be more effective with middle class, mainstream youth but problematic for others. For example, one senior employee linked the increased use of RJ with the promulgation of the YCJA and then commented, “The YCJA probably works with some populations but for kids who have low impulsivity and are looking for acceptance it’s ineffective. As a philosophy, it’s wonderful...it works for a select few, those one time offenders....but for these kids...they need to be held accountable”.

The respondents identified a number of factors that they believed explained the inadequate response of RJ for Group Home young offenders. The two factors prominent in their consciousness were first the high staff turnover at HCJS which they claimed has created instability, and poor communications, and has translated into less and less accountability for the young offenders. Secondly, the service delivery model used by HCJS was also faulted. In their common view, “part of the philosophy of restorative justice is a commitment to discover what

the offending youth needs to ‘get back on track.’ Currently this is not being done. The Community Justice Society does its best but it is a not-for-profit organization which provides modest wages to its staff so the level of professionalism is compromised. Well-intentioned caseworkers are just not equipped to know all the nuances of these youth who can be very manipulative”. As one supervisor succinctly put it, “they [the offending youth] are not understood and they don’t understand.” Several respondents advanced the following explicit model of the RJ process: The youth enter RJ with so many issues that without in-depth exploration, the staff cannot fully comprehend their personal challenges and needs. In addition, the HCJS staff members are required to produce successful cases so this often compromises the level of accountability because the youth are able to produce less and less just so the case gets to session and a contract gets signed. Even when the contract is agreed upon the youth are not completing their obligations or doing so halfheartedly and there are no repercussions. The HCJS’s dependence on volunteer facilitators was seen as largely reinforcing these shortfalls.

A few respondents did state that there have been some improvements with the RJ response in recent months; one supervisor commented, “We had a case that went through where we were the victims and I was in a session that was very different than a session I was present in two years ago, a far better session. I experienced things on a quicker time line and there was better communication with our employees and the RJ folks over at HCJS”. The respondents typically held that if RJ were to become more effective, more resources would have to be allocated to it (including higher compensation levels for staff). A few respondents claimed that, under present conditions, the current downloading of increasingly serious cases to RJ is destroying RJ and creating a legacy of failure. Indeed, one senior supervisor commented, “they need to create stats [so they plead with the youths] .. If it takes six months to a year to complete, they’re just going through the motions”. They also acknowledged that ideally RJ sessions might well involve, apart from the facilitators, the youth case worker, the youth’s social worker and the victim or victims (other residents) but that the Group Homes get no government funding for extra-hour involvement in RJ sessions so that attendance ideal (“it would be incredibly valuable” one respondent observed) only can be realized during business hours and even then staff availability is limited.

There were a number of central suggestions that emerged from the Group Home interviews. First, there was the imperative for RJ to effectively reach beyond the mainstream youth. Secondly, there was a request for more consultation between Group Home staff and HCJS staff in all phases of the RJ case processing, from case preparation to the terms of the RJ agreements to follow-up and monitoring. Third, the respondents emphasized the need for more timeliness in the RJ response, some advancing the concept of a crisis intervention response capacity. Fourth, there was a suggestion that the HCJS, if resourced, might work with the Group Homes and similar organizations such as Phoenix House for those 16 to 24 years of age, to enhance dispute resolution expertise and implement RJ processes before the criminal justice system becomes involved. Fifth, the Group Home respondents considered that stability at the HCJS and a more effective SDM would be very valuable. There was much support as well for a special project that would target serious offending and explore a more in-depth RJ intervention, including taking into account the particular needs of the youth (e.g., if a youth has an attachment disorder, how might a mentoring recommendation improve prospects for re-directing the youth).

PERSPECTIVES OF ACTIVISTS ON THE IMMIGRATION SCENE

As detailed earlier, immigration to Nova Scotia has increasingly meant immigration to metropolitan Halifax. The relatively small foreign-born population has been diverse as well with Asian groupings (especially Chinese) being the largest. No substantial data are available concerning the foreign-born as either victims or offenders, Neither the JEIN nor RJIS data refer to race/ ethnicity, apart from Caucasian, Afro-Canadian, Aboriginal, and two grab-bag categories, namely “Other” and “Unknown”. In addition to being limited in categorization, information on race / ethnicity is frequently not entered in these data systems. In the RJIS system, most of the “Other” have resided in metropolitan Halifax (e.g., in 2005 there were 20 such cases listed under the HCJS whereas the next largest recording was 3 for the Kentville-based agency), and 84% of the 63 “Unknown” were for the HCJS. For fiscal 2005-2006, the immigrant-liaison case worker at HCJS reported there were ten cases involving immigrant young offenders, all male and mostly from Arabic-speaking societies.

Both the youth-designated crown prosecutors, and the police officer through whom metropolitan youth police incidents are funneled, have reported no significant level of immigrant youth offending, though they and the HCJS liaison case worker indicate that the small number of cases they do get have mostly involved “middle eastern” youths. In the court and RJ cases involving foreign-born young offenders, officials / facilitators have observed cultural variation in responding to offending and also significant generational differences among the immigrant families. Of course, there are also issues of different conceptions of “justice” and expectations about appropriate response where the victim is foreign-born. Several respondents reiterated the oft-expressed theme that different immigrants may well have had different and negative experiences with police and courts in their homelands so cultural sensitivity is important. One respondent also pointed out that it is difficult to get victims involved in the RJ process even in property offenses. A HCJS facilitator cited as his “best case” a session where after initial discord and miscommunication he was able to facilitate some cross-cultural appreciation that led to a satisfactory RJ agreement. The HCJS has an on-going project which involves a full-time foreign-born case worker engaged partly in out-reach activities on the immigration scene and partly in case management work when immigrants make up one or more of the parties in a referral.

In addition to scouring the JEIN and RSIJ data sets, interviewing CJS and HCJS officials and drawing on special census runs made available through the Metropolitan Study Group on Immigration Patterns in Nova Scotia, seven persons active in immigrant programming were interviewed. Four of the seven had been involved in a support role at an RJ session and two others had experience with youth doing their RJ community service “agreed undertakings” with their organization. All but one of the seven considered that their knowledge of RJ was at least adequate. While inclined to see youth crime among immigrants as “not really a major problem”, the group as a whole was quite uncertain as to the level of offending or victimization among the foreign-born in the Halifax area, essentially observing that “we hoped that you could tell us”.

Overall, their standpoint on the HCJS's RJ program was very positive. There was much appreciation for the idea that RJ could provide a more nuanced response to offending that would take into account contextual factors as well as avoid some of the fears that some immigrants may have with respect to the formal court process. One respondent commented, "It [RJ] is phenomenal, allows reflection on what has happened and why, opportunity for restitution and personal ownership of the event, compassion and learning. Immigration is a two-way street. They have to know their rights and responsibilities. At the same time, they have to work with Canadian citizens and create an open and inclusive environment".

While positive about RJ, at the same time, the respondents stressed very much the diversity of the immigrant communities, suggesting that some immigrants could well feel more comfortable in the formal court process than in "semi-public discussions" of family members' troubles and possible airing of discordant family dynamics. One long-time immigrant service provider emphasized the variation as follows: "In some cultures any crime needs to be punished. For them RJ may be seen as getting away with the offence. Immigrants from some cultures feel the system should be dealing with the criminals and they don't need to be involved. Members of other cultures say that the RJ way of dealing with lesser crimes is wholly appropriate and the way it would have been done in their community. RJ may be a good way for them since these people do not have the same level of community available here. We need to educate communities more about what RJ is about". A leader in the metropolitan immigrant "community" said he was in favour of RJ and noted that "the principle is the same as in many other cultures – community involvement, communication between the victim and the offender, and consequences for the offender".

There was some concern among this small, and undoubtedly unrepresentative, sample of immigrant activists, about the adequacy of the consequences for offending in the RJ system. One leading immigrant spokesperson was critical of the RJ session attended on the grounds that she did not think that the youth and others present took the incident seriously enough, and that the facilitators treated the offender almost as the victim; she added though that the youth's parent seemed to be pleased with the process and outcomes (a second chance for her son). Other immigrant respondents emphasized the need to instill values and responsibilities; as one said, "Youth should maybe not have so many rights". Along that vein, a police officer indicated that in the few cases he dealt with involving immigrants, the parents wanted the youth to be forced to adhere to some customs (e.g., attend the temple services) and considered that the Canadian style was too lenient. Most of this small group of respondents considered that RJ was particularly suited for youths and adults in minor cases such as small theft and first time offences. The respondents on the whole wondered whether the RJ program was sufficiently resourced to provide more than surface-level services. Two respondents considered that "the RJ group does not have the resources to be able to probe these areas [of discussing and acting upon underlying issues. [Youth] need counseling to deal with these issues". Another respondent made the perceptive comment about the status of RJ: "We need from the Crown, the police and the community a general consensus on the value of the RJ system. If the young offender sees RJ as a weak system they will not care. There has to be a strong position from the whole justice system of the importance and the authority of RJ. This will increase the respectability and status of the RJ system and encourage active participation by young offenders".

There was support and indeed enthusiasm for extending the RJ option to adults. One respondent elaborated on her support for this option as follows: “There are people up to age 24 who are still needing support. It may depend on whether they participated in the choice to come to Canada. There can be a lot of frustration. Youth may come as refugees from other countries where they were well off there and they come here and are poor; also, a lot of youth [young adults] come as entrepreneurs and are trying to find their own status here, they face a lot of barriers and are not sure who to trust. RJ could be an asset to adults. Still, build success with youth and then it might be able to be transferred to adults”. Another respondent stated that “yes adults involved in a minor crime, more like a mistake”, should be eligible for RJ but if so, “it should be the first step before even going to the police; once you go to the police it puts you through the system and there is incredible stress; I have seen the impact on immigrants”. Another respondent opined, “Overall I think RJ is more effective and more useful than the justice system. It is one on one interaction that people have that can really change attitudes and it is possible that RJ would be better for adults than the justice system. There should be a pilot project”.

With two exceptions, these respondents did not believe – and they usually stated this in unequivocal language - that the moratorium on sexual assault and spousal / partner violence should be lifted. The senior immigration service provider (herself an immigrant) stated, “Absolutely, very dangerous if it is not [maintained]. These offences have a long term or permanent impact on the victims. Having to face the perpetrator is absolutely out of the question”. Echoing that perspective, two other respondents noted, “elements of self-awareness and counseling, and rehabilitation might be useful [in responding to these offences] but not necessarily the formal RJ format. In no way should the victim be made to face the offender”. One activist was more wary than opposed to moratorium change; she noted “it depends on the approach. These events are life altering but they are crimes and we should help people get through crime but it is very risky. There is not always a willingness to change or an understanding that it is wrong”. Probably all these respondents would have agreed with the comments of one immigration worker: “Yes, it is a crime that does not lend itself to RJ. Until we have other resources to protect women and children from family violence ... we need to promote this idea that family violence is a crime”. One of the ‘exceptions’ disagreeing with the moratorium reported that, while she appreciated the arguments for the moratorium, going to RJ may still be an improvement on the present where “immigrant women won’t use the law and are afraid of the court and the whole justice system”.

The respondents were enthused about the development of a mentoring system where the mentor may be a fellow member of the immigrant community or someone from the mainstream society. They also suggested that, given cultural factors and the anxieties associated with recent immigration, the HCJS agency needs to reach out to the different communities and involve them in the RJ sessions, giving them a sense of ownership. One respondent suggested, “Go to where the immigrants are, namely MISA, YMCA, LINC schools. Work with the agencies serving the immigrants. They have the trust of the clients and they have meeting places for clients to get information”. Another respondent suggested “mapping” the immigrant groups and their leaders and elders before approaching the communities. One respondent contended that RJ should not be institutionalized at all but rather operate in the communities and be more community-driven. Certainly all agreed that “what we need is more promotion of the RJ process .. to ensure accessibility for immigrant communities in terms of logistical issues (best schedules, best

location for the sessions)”. It may be noted that the HCJS liaison case worker has reported some interest on the part of immigrants attending workshops in becoming involved as community representatives if not facilitators in the RJ process. With immigrants groupings as with Group Home cases, one can see the value of the case worker as quarterback or coordinator, liaising with the groups, doing proactive work, and case managing referrals, but not engaged in the actual facilitation; indeed, at present, that is the general model used for the liaison staff person in that she rarely facilitates the cases involving immigrants; however, she does currently have a caseload of non-immigrant referrals to manage as well.

FUTURE DIRECTIONS

Restorative justice in metropolitan Halifax, HCJS, is clearly the flagship for the province's unique status in Canada's RJ activity. It is the largest by far of the non-profit RJ agencies, delivering an RJ program which is comprehensive and coordinated (and almost 100% funded) by the Nova Scotia government's NSRJ office. An examination of its heavy and demanding caseload and the trends in its profiles of offences (increasingly serious offending as defined by type of offence and the proportion of repeat offenders) and referral sources (the increasing percentage of post-charge referrals by the crown prosecutors) indicate that the agency is at the leading edge of the central issue for RJ today, namely how far can this approach go in dealing effectively with serious offending from the offender, victim and community standpoints. The HCJS is also at the centre of the second major RJ issue, namely can an efficient, effective and equitable RJ service be provided where there is extensive use of volunteers playing a pivotal role in the service delivery. The service delivery model utilized by HCJS is quite unusual, better unique, even among the non-profit RJ agencies in Nova Scotia, nevermind elsewhere in Canada where RJ has been directed at incidents of serious harmful offending. It features a unique blending of staff persons as case workers / managers and trained, competent volunteers as the facilitators in the RJ sessions. A strong case can be made for this model – which admittedly evolved like “topsy” in response to workload and environmental pressures rather than by design - and certainly strong support for it was found among staff and volunteers as the best way to incorporate a significant volunteer component in the program.

The evidence presented above indicates clearly that the HCJS continues to struggle with all the demands and challenges, a struggle which has been augmented by organizational weaknesses and the almost inevitable instability associated with non-profit enterprises in a complex metropolitan milieu. A central dimension of the latter feature – the diversity of subcultures and lifestyles in the metropolitan area it must respond to – combines with the agency's mandate to accept virtually all referrals downloaded to it by criminal justice system, to make the survival of the RJ service, in its current, evolving guise, problematic. The following “future directions” possibilities are advanced as an overall strategy to reduce the problematic and position the HCJS and the NSRJ program better to meet the challenges and thereby stake firmer claim to being the most exciting, progressive RJ implementation in Canada. The main thrust of RJ and the HCJS is the focus here; additional specific recommendations (e.g., having occasional sentencing circles in the Black communities) are noted in specific sections above.

Recent consultant assessments, as well as this research, have highlighted the organizational problems of HCJS and the problem of excessive staff turnover and low morale which has been both cause and effect with respect to confusion and uncertainty of guidelines and standard operational procedures. The backlog in responding to referred cases has been and remains completely unacceptable to CJS referral sources, other service agencies (e.g., the Group Homes) and, perhaps most importantly, to the still strongly committed HCJS staff and volunteers themselves. The service delivery model, while retaining much value, has become something of ‘two solitudes’ rather than the deep collaborative effort between staff and volunteers it must be to meet the challenges of the caseload as described above. There have been some positive developments of late, For example, a new executive director has been in place for roughly ten months, agency representatives have become regular “members” of the Youth Court Team that

includes crown prosecutor, defence counsel and police officer, the vacant case worker supervisor position was filled a few months back, and within the past several weeks the HCJS staff has been augmented for volunteer recruitment and support. Also, three assessments (including this one) which have included recommendations have been completed over the past year or so. Further, as noted, HCJS has initiated over the past year special strategies to engage better the Black communities and also to determine how it might respond effectively to immigrant groupings in metropolitan Halifax. It is important to provide the agency with the needed resources, breathing space and short-term consultancy focused on problem-solving and implementation. To that end the following recommendations are suggested:

1. External consultancy pitched at the operational level should be available to the HCJS to assist it in overcoming confusion in standard operating procedures, to speed up the processing of referrals accepted, to explore ways to improve the intrinsic job satisfaction factors for staff, and to assist in overcoming the “two solitudes” character of the service delivery model. There should be specific objectives along these lines not, as in the past, a general mandate.
2. There should be a greater effort to deal with planned accountability sessions by using either special programs (i.e., variants of “stoplifting”) or family group conferencing as warranted.
3. The initiatives directed at engaging field-level collaboration with the Black communities (i.e., field office, training for potential facilitators and mentors, mobilizing community representation in all phases of the RJ process) and the immigrant communities should be continued. These positions may need to be reconsidered from the perspective of duties since more out-reach appears to be required and there has been much complaint (and turnover) from designated staff that other HCJS duties (responding as a case worker to other cases) has limited their effectiveness.
4. Just as it has been developing networks and linkages with the Black and Immigrant communities, given the challenge of high referral numbers and repeat usage associated with the Group Homes, the HCJS should consider establishing a formal liaison role with the Group Homes (i.e., attending regular meetings with Group Home staff to familiarize each other with the policies and practices of the other and discuss issues and possibilities).
5. As noted earlier, the issue of staff’s excessive turnover is complex as it involves both extrinsic and intrinsic job satisfaction considerations. The former respond to matters of compensation, internal job ladders (i.e., opportunities for advancement in the organization) and environmental pressures (e.g., uncertainties, status considerations). Intrinsic job satisfaction responds to factors such as clear job guidelines, significant control over the work process itself (e.g., being able to decide when one’s task is complete on a referral), adequate resources to complete the job (e.g., workload demands, being able to count on the volunteers), good communications and

acknowledgement of one's efforts by fellow employees. Responding to the extrinsic satisfaction determinants appears very problematic but at least wage levels should be closely examined. As suggested in the text above, more could perhaps be readily accomplished in changing the workplace conditions to enhance intrinsic satisfaction and provide the case workers with a quasi-professional autonomy. Still, while the improvements in intrinsic job satisfaction will make for higher staff morale and impact positively on turnover, it seems inevitable, under present, broad socio-economic conditions, that turnover will continue to be significant among HCJS as long as they continue to depend on young recruits, which in itself, seems to be a desirable social policy for responding to youth offending.

6. Given the high staff turnover, the HCJS must develop, perhaps with assistance from the consultancy referred to above, a strategy for a sped-up process of recruiting, training and placing new staff members.
7. To relieve caseload pressures and to facilitate a more "quarterbacking role" among case workers, responsibility for conducting specific programs such as "stoplift", drug awareness education, and motor vehicle programs should be consigned to trained volunteers. Such a strategy would appear to be welcomed by both staff persons and the volunteers and could free staff for the networking and outreach activities recommended by stakeholders (e.g., liaising with school programs).
8. There should be more effort to strengthen the service delivery model by mandating briefing and de-briefing contacts between case manager and volunteer facilitators for all cases, apart from those ear-marked for special programming and for accountability sessions which cannot be dealt with by a family group conference.
9. Attention should be given to having periodic discussion groups among the volunteer facilitators where experiences and strategies could be communicated and reflected upon. It was unclear to this researcher whether or not volunteer numbers are down but it was clear that volunteers need to be engaged better by HCJS.
10. There should be some consideration for providing honoraria for volunteers to cover their costs for travel, homecare and the like. Both staff members and volunteers alike have reported significant cancellations at the last minute by volunteers scheduled for sessions and it was widely held by respondents that some modest honorarium would reduce the cancellations. The volunteer cancellations appear partly to reflect some diminishing of their enthusiasm, abetted no doubt by the not uncommon last minute cancellations of the sessions by HCJS officials themselves and by the significant level of "no shows" on the part of offenders and victims. In the big picture there needs to be more attention paid to and rewards (both material and non-materials) provided for the volunteers since they are pivotal to the agency's service delivery model.
11. There was not a great consensus for HCJS expanding its restorative justice processing into the adult realm. Some stakeholders and a few staff and volunteers opposed such an extension on principle but those who objected usually did so for more practical

concerns such as the need for more training of volunteer facilitators if adult offenders were involved, the need for some safety guidelines, and the current state of agency functioning. Most respondents however noted that the line between eligible youth and the eighteen to twenty-five year olds in particular was not especially meaningful in a behavioural sense. And most respondents shared the view of this researcher, namely that taking on referrals from Adult Diversion (i.e., minor offences, first-time offenders) where victim-offender sessions are feasible (a handful each year are currently being handled in a restorative justice, VOM, fashion by correctional officials) would be in keeping with the larger RJ vision of NSRJ and in the best long-run interest of the RJ agencies given socio-demographic and other factors.

The heavy demand pressures of the agency's caseload and the organizational problems, including those associated with the service delivery model, make it very problematic for HCJS to respond as effectively as staff and volunteers would wish, and as is needed, to referrals involving serious offending (offences of significant harm and multiple repeat offenders). Yet the caseload has clearly continued to evolve in that direction. Should RJ continue to be expected to deal with serious offending? Can it do so effectively and efficiently? Should there be a limit on repeat RJ usage as many staff / volunteers and stakeholders would recommend? Consistent with the RJ literature cited earlier (i.e., the correlation between high risk and a more lengthy RJ process), staff and volunteers have cited the need for developing more salient strategies for RJ intervention in such matters, among which would be more case management at the front-end (including examination of possible shortfalls in dealing with previous RJ sessions involving the youth) , involving more deeply victims, victim surrogates or supporters and community representatives, multiple RJ sessions (these have occasionally occurred in the present RJ service but are quite rare) and so forth. Dealing with serious offending, in short, requires a much more extensive and intensive RJ effort and deflects the HCJS from coping better with its other challenges. It is not feasible to expect the HCJS to deal with all the matters and recommendations cited above and at the same time pioneer RJ and its unique service delivery model in this frontier of RJ activity. The stakes are high as, if RJ in the HCJS's service delivery mode, could be effective and efficient here, this would be a major accomplishment both for the democratic, non-bureaucratic, community-oriented thrusts of the RJ philosophy and also for the governmental budget given the great costs of incarceration and similar options.

It is recommended then that NSRJ create a special three year pilot project to specifically respond to serious offending. The project should be carried out independent from but in collaboration with HCJS. A protocol would be developed between NSRJ and HCJS wherein referrals to the HCJS agency would be screened and those fitting protocol guidelines would be directed to the special service. There are measures of youth risk level developed in other RJ projects that could be employed as part of the screening process to facilitate such redirection of cases but serious harm and wrongdoing and all referrals involving a person who already has been to RJ on three occasions would be important criteria. The expenses for the special project would entail half-time administrative assistance, one and a half case workers seconded from HCJS and a small set of veteran HCJS volunteer facilitators, roughly an estimated \$125, 000. There could be a limit of at most fifty cases handled over a year and a caseload never to exceed a fifteen or so cases. The service delivery model would be similar to that of HCJS and, as there, volunteers

would be the facilitators. There would be no intention to make the service one of counseling or special treatment but rather the case worker role would be to do case management and network with other service providers. The carrier for the special service would be determined by NSRJ but the crucial consideration here would be that the project would be limited term, and fold back into the HCJS with lessons learned and best practices at the conclusion of that period. The project would be a major strategy or tactic used to determine how HCJS with its special service delivery model could effectively respond to serious offending, if indeed it should respond. It can be noted that this particular recommendation, when proffered in interviews, received enthusiastic support from CJS role players, most stakeholders and also from HCJS staff and volunteers.

The costs associated with these recommendations would essentially be for some consultancy for HCJS, for the special three year project, and perhaps for honoraria / staff salary increment. While not an inconsiderable addition to the roughly \$570,000 NSRJ budgets for current HCJS activities, resources have to be provided for RJ if, as is happening, it is becoming a major player in dealing with youth offending - as was evidenced in the text where the sharp declines were described in use of police cautions, new admissions to probation and in levels of incarceration. There are other issues that HCJS leaders (i.e., board and senior staff) need to discuss with partners in NSRJ and the CJS. These include (a) how the agency might collaborate with other service providers in responding to offending on the part of children under twelve years of age (e.g., providing family group conferencing expertise?); (b) whether and how, as many stakeholders have suggested, the agency might become more engaged in delivering restorative justice initiatives in the school system; (c) how to proceed on activating a protocol between NSRJ and Corrections for certain adult diversion cases to be referred to HCJS for VOM sessions; (d) the feasibility of fast reaction response to certain referrals; (d) how the agency can and should respond to the increased downloading of youth cases by the CJS. The service contract with NSRJ may need to be revised to allow the non-profit agencies like HCJS to comfortably reject referrals on grounds other than those stated in the moratorium on sexual assaults and spousal / partner violence. Perhaps, though, the combination of recommendations advanced above could diminish the importance of this issue.

THE THIRTEEN KEY QUESTIONS

As noted above, the task of this assessment of RJ in Halifax called for a referent on each of thirteen questions. The tables and other data for these thirteen ‘deliverables’ are attached to this draft final report. Here a brief discussion is provided for each question or theme.

1. The referral sources and their associated volume of referrals:

Tables 1.1 to 1.3 provide the data for referral source and volume. It can be seen (table 1.3) that over the past three years the total referrals accepted by all the RJ agencies in Nova Scotia went from 1536 to 1423 to 1561. The dip in 2004 appears to have been largely the result of the implementation of YCJA in April 2003 and the subsequent decline in pre-charge referrals. In 2005 the total volume was back to the 2003 level. The 2005 figure indeed appears even higher but that is basically an artifact of the Mi’kmaq Customary Law Program’s volume only being included with the other nine agencies in 2005. It can also be seen in table 1.3 that, for the province as a whole, there has been a modest but steady decrease in proportion of referrals that were pre-charge or referred by the police, from 62% in 2003 to 57% in 2005; increased crown referrals largely accounted for the difference.

In the first two years of the NSRJ initiative, apart from the Mi’kmaq program, only four non-profit societies and, correspondingly, only four regions of the province had full-blown RJ authorization. The patterns with respect to these four are indicated for the five years 2001 to 2005 in table 1.1 and 1.2. It can be seen that the overall total of referrals for these four RJ agencies never changed by more than 10% from the base figure of 1008 in 2001 and ranged from 1008 then to 1098 in 2005. That stability in overall volume does however mask considerable change among the agencies. The Amherst agency in Cumberland County remained remarkably stable in volume while exhibiting a modest decline in the proportion of pre-charge referrals. The Kentville agency in the Annapolis valley experienced a decline in volume while retaining essentially the same proportion of pre-charge and post-charge referrals. The Sydney agency in Cape Breton shared the Kentville pattern though with a more striking decline in pre-charge referrals in fiscal 2003-2004. **The pattern in referrals and volume was quite unique for the Halifax agency.** The HCJS experienced a consistent significant growth in volume (aside from a brief blip in fiscal 2003-2004 associated with the implementation of the YCJA) from 471 in 2001 to 688 in 2005 and also a consistent, significant decline in the proportion of referrals that were pre-charge. In 2001 police or pre-charge referrals accounted for 67% of the HCJS workload but by 2005 this proportion was halved to just 34%. These data underline the comparatively high volume of the Halifax agency and the shift of its referrals towards a more serious offending pattern, reflected, as argued earlier, in the growing proportion of post-charge referrals.

2. The stage at which referrals are made and the processes involved.

Tables 2.1 to 2.4 provide the data salient to this question or theme. Table 2.2 describes the referral process at each level of criminal justice system – police, crown, court and corrections - detailing the required actions of both the referral source and the recipient RJ agency. It may be noted that defence counsel cannot directly make an RJ referral; however, it is not uncommon for defence counsel to recommend that option to the crown prosecutors and for the latter to follow through on the recommendation. Victim Services may initiate post-sentence RJ referrals but to date that option apparently has not been exercised.

Table 2.3 provides the checklist that police officers have been required to complete for all level one and level two offenses (see table 2.4) whether they are laying charges or referring the person to the RJ process. Aside from specific information concerning the young accused, the victim and the offence involved, the checklist details the requirements for an RJ referral and requests reasons in the event that the officer decides not to make such an RJ recommendation. The same checklist format is utilized by the crown prosecutors. It should be noted that despite official policy the use of the checklist by police officers or crown prosecutors has been very spotty where RJ is not being recommended, so much so that in the past few years the restorative justice information system no longer incorporates data on charges. Table 2.4 describes the different types of offenses categorized in the NSRJ program according to the stage in the court process at which they can be referred. As noted in the table, since 2000, just a few months after the NSRJ was launched, a moratorium was put in place for any sexual assault matter and any incident of spousal / partner violence. These offenses cannot be referred to RJ at any stage of the court process; the moratorium remains in effect.

Table 2.1 identifies the sources of the referrals accepted by the Halifax-based HCJS for 2005. As in previous years the agency received virtually no referrals from the corrections, post-sentence level. Apart from one year, 2003, when a major effort was made to secure referrals from Corrections, that rarity of post-sentencing referrals was common throughout the province. Since the initiation of the NSRJ program the HCJS has been the recipient of the majority of the few court-level referrals. In 2005 the Halifax area court began sending MVA provincial statute infractions to the HCJS so the court referrals spiked to well over one hundred. The provincial government has since eliminated that option in such MVA infractions for youths aged 16 and 17 so it can be expected that the volume of court referrals will decline in 2006 to pre-2005 levels. Crown referrals to HCJS as noted above have increased yearly between 2000 and 2005, a change much facilitated by the development of a “Youth Court Team” that brings together crown, legal aid, police, and HCJS agency representatives (and others) to consider all Halifax metropolitan-area youth charged with an offence. Since fiscal 2003-2004 crown referrals have been the most common referral type in metropolitan Halifax, and, as shown in table 2.1, they were more common than pre-charge police referrals in 2005 by over one hundred cases. In metropolitan Halifax, the HRPS and the RCMP share policing jurisdiction, with HRPS responsible in the more populous core of Halifax, Dartmouth and

Bedford while the RCMP exercises jurisdiction in other parts of the metropolitan area, ranging from the increasingly densely populated areas of Sackville and Cole Harbour to the rural areas. The HRPS has been the main source of pre-charge referrals.

3. The types of cases referred to RJ with respect to offence and victimization.

Tables 3.1 to 3.12 describe the offence and victim types involved in the RJ referrals. The data highlight the four selected agencies where the non-profit agencies have had full RJ authorization since the NSRJ program was launched in November 1999. The level of violent offenses is of special interest since these types of referrals are particularly apt for restorative justice (e.g., involve a person victim). It can be seen from tables 3.1 to 3.3 that in the last three years, 2003, 2004 and 2005, the absolute number and the proportion of violent offenses in the selected agencies' workload were quite stable, with the number hovering about 275 and the proportion between 18% and 20%. However, if one looks back to the earlier years of 2000 and 2001 (see table 3-9) the growth in referrals involving violent offences is very noticeable; for example, absolute numbers went from 136 in 2000 to 282 in 2005. It can also be seen conversely that property offences – here 'theft under' has been by far the most common offence – have decline, in proportional contribution, from 52% in 2003 to 41% in 2005. The tables 3.1 to 3.3 also show that crown referrals (now the most common type of referral in HRM) have been especially likely to involve violent offenses, accounting for roughly 25% of all crown RJ referrals. Tables 3.7 and 3.8 show that, in the broad category of violent offences, there has been a decline in common assaults and a modest increase in "other assaults" which can be presumed to be more serious assaults.

HCJS staff and volunteers as well as Justice and court officials have usually contended that the profile of offences being referred to RJ have become more serious, involving more serious violent offences and/or repeat offenders. The above data modestly support that position. Tables 3.4 to 3.6 reproduce the above cited patterns for the HRM area but no trend is evidenced there for the years 2003 to 2005 and unfortunately specific data for earlier years are not presently available, though previous work by this writer indicates that it is very likely that HCJS dealt with much fewer violent offenses in its first three years. Table 3.7 and 3.8 do indicate that, as for the selected agencies as a whole, more serious assault offences have increased while common assaults have decreased as a proportion of HCJS's workload over the years 2004 and 2005.

Tables 3.10 to 3.12 provide data on victim type in the RJ referrals for the fiscal years 2003-2004, 2004-2005 and 2005-2006. In these years 'person' victims were always the majority where a victim was identified. Somewhat surprisingly, there is no discernible support in the data for all Nova Scotian RJ agencies, for the expectation that "person" victims would increase vis-à-vis other types of victims; indeed in each year 'person' victims accounted for roughly 66% of all known victims. Among the selected agencies the pattern is quite similar. In the case of police referrals to HCJS, there apparently has been a consistent decline in both the absolute number and proportion of the "person" victim type over the last three fiscal years; for example, the number and proportion in 2003-2004 were 128 and 55% while in 2005-2006 they were 103 and 48% respectively.

There was also a consistent modest decline in the number of “person” victims among crown referrals to HCJS over the same three years but the proportion of ‘person’ victims in each year, among the crown referrals, remained at roughly the 70% level. Since crown referrals are the chief contributor to the HCJS’s workload, the agency will continue to have ‘person’ victim as its chief type of victim.

4. Procedures and guidelines concerning the rights of youths and practice guidelines

The basic protection of youth rights in RJ referrals starts with the checklist that accompanies the referral by police officers or crown prosecutors. The referral source has to check off that the youth has been informed of the right to counsel and so forth. Other RJ protocols and guidelines referred to in this deliverable, and in the NSRJ’s Best Practice Standards (2005), are directed at ensuring that parents and guardians are made aware of the youths’ rights, that prompt notice is provided to both youth and parent / guardian of the referral to RJ, and that communication with the youth concerning the RJ process and potential implications must be made if at all possible in the presence of the parent / guardian.

5. The number of young persons referred to extrajudicial sanctions who had previous findings of guilt

As can be seen in deliverable #2, the checklist information, that police and crown were to complete when referring youths to RJ, specifically asks whether the youth had previously received a formal police caution or an RJ referral or had had a court conviction. It would seem simple then to analyse the criminal record, if any, of all youths referred to restorative justice. Unfortunately, the checklist information was too often incomplete and sometimes inaccurate, with the result that the writer has had to manually trace linkages between the RJIS data system and the JOIS-JEIN court data system. It was not feasible to trace all cases so a strategy was developed to focus just on those who received either a court conviction or an RJ referral for the first time in 2002 and trace linkages for these two groupings. Fortunately this strategy could be supplemented by examining data from HRPS for the period November 1999 to the end of 2003. The Halifax police service did provide quite usable data on formal cautions, RJ referrals and charges.

There were approximately 432 Nova Scotian youth convicted for the first time in 2002 and of these, 269 were located in the jurisdiction of the four selected RJ agencies and 120 of these, in turn, were convicted in HRM. Table 5.1 describes the features of these youth by education level, gender, ethnicity, age and whether or not they had committed a major offence. HRM had the highest proportion of youths convicted for major offences (41%) and the highest proportion of convicted Afro-Canadian youths (15%). The tables also indicate that 54% of the 432 youths subsequently recidivated within the two year span of the data set. In the case of HRM, the percentage for recidivism was 50%, 85% of whom received another conviction within one year of their first 2002 offence. Table 5-3 compares the recidivists and non-recidivists in terms of their RJ experience. It may be noted that the variation was modest. The court recidivists had slightly more RJ experience, whether in the way of having had an RJ experience prior to their first court

conviction in 2002 or having had one subsequently; the comparative percentages were 37% to 34% for an earlier RJ experience and 23% to 17% for a subsequent RJ experience. Overall, then, the court data point to significant recidivism among convicted youth and to greater likelihood of an RJ experience before rather than after a court conviction, a finding quite congruent with the perspectives of Justice officials obtained in personal interviews.

Table 5.2 turns the focus around and describes the pattern of court convictions for those 854 youths received an RJ referral for the first time in 2002. Among both RJ recidivists (youths receiving another RJ referral) and RJ non-recidivists (youths having no further RJ experience), there was, not surprisingly, a similarly low percentage having pre-2002 convictions, basically 4% to 5%. However, the two groupings differed quite significantly in terms of subsequent court conviction, the RJ recidivist grouping having more than double the number of persons convicted than the RJ non-recidivist grouping (i.e., 49% to 23%). These data suggest that youths who recidivate within the RJ system are quite likely to become involved in the conventional court process too. Indeed, the fact that even among those youths who did not return to the RJ process, almost one quarter subsequently had a criminal conviction may be troubling.

Tables 5.4 and 5.5 describe data for HRM provided by the HRPS. Table 5.4 describes basic features by offence (potential charge), incident (case) and repeat offenders; for example, 646 youths were repeat offenders, each accounting for two or more incidents (cases). It may be noted that, for their last recorded case, 73% of these youth were charged and only 15% received a police RJ referral. Males and Afro-Canadian youths were disproportionately represented among the repeat offenders. Somewhat surprisingly, in the last incidents allegedly caused by these repeat offenders, only 12% entailed the more serious criminal code offences or drug trafficking. Table 5.5 examines for the link between recidivism and other variables more closely for Metro Halifax. Formal cautions and police/ crown referrals clearly declined sharply if a youth apparently recidivated and became 'exceptional circumstances' or, perhaps, associated with more minor offences (e.g., provincial / municipal statutes). Table 5.5 also reinforces the finding of table 5.4, namely that the offence entailed in the last incident for repeat offenders may be quite minor - there is modest variation at best in the distribution of recidivism scores by offence category. These data indicate that at least up to the end of 2003 – cautions and charges were no longer routinely recorded in the RJIS data system after 2003 – reported, repeat young offenders were unlikely to receive an RJ referral whether arrested for a major or a minor offence. Interview data gathered in this project from both HCJS staff, and the Justice officials who refer cases to RJ, indicate that repeat RJ referrals have become much more common in the past two years.

6. The number of young persons referred to extrajudicial sanctions who had previous RJ referrals

The RJIS data management system does record, in substantial detail, information on each RJ referral received by the RJ agencies so a more precise account can be advanced concerning the RJ experience of youth in Nova Scotia. Table 6.3 reports basic patterns

with respect to RJ referrals, from conception of the NSRJ program to the end of 2004, for the four founding agencies. Police accounted for the bulk of the referrals (68%) and the HCJS received 57% of all the “selected agencies” referrals. As indicated in table 6.4, during that 1999 to 2004 time period, 753 or 19% of the youths were referred to the RJ agencies on two or more occasions. These recidivists were more likely than their non-recidivist counterparts to have been referred by crown prosecutors (42% to 25%), to be male (72% to 65%), Afro-Nova Scotian (14% to 8%) and to be in the metropolitan Halifax area (57% to 52%). Table 6.5 examines the offences committed by the two groupings with the data updated to include 2005. The differences were modest indeed with perhaps the only striking difference being the greater frequency of “theft under” among the non-recidivists (41% to 32%). Unexpectedly, the proportion of major assault offences did not vary among the two groups but the minor assaults did, though in a direction opposite to expectations, namely being more common among recidivists (17% to 13%). It was anticipated that the offence profiles among the recidivists’ first and then last offences might show an escalation of seriousness in the offending. Such was not unambiguously the case. The last offences were slightly less likely than the recidivists’ first offence incident to involve “theft under” (31% to 33%) and mischief (12% to 14%) but no more likely to involve major assault, robbery or burglary. Perhaps the offence categories were too gross to catch any subtle escalation in offending.

Interview data for the period 2001 to 2004 (Clairmont, 2005) has indicated that the likelihood of recidivism (at least self-reported recidivism) is associated with more serious offences, males, and post-charge rather than pre-charge RJ referrals (see table 6.2). Looking at the issue using the same tables referred to in deliverable # 5 can shed further light on the correlates of repeating RJ. Table 6.1 compares features by RJ incident and by RJ recidivism for the grouping of youth who were first time referrals to RJ in 2002. The most striking difference is in the proportion that were crown (post-charge) referrals; repeaters in RJ were significantly more likely to have been crown referrals (45% to 28%). Other differences between these categories were modest though in keeping with expectations, namely repeat RJ referrals being more from Halifax (54% to 51%), more male (69% to 62%) and more Afro- Canadian (13% to 10%). Tables 6.6 and 6.7, repeated for convenience from deliverable #5, show the RJ recidivism and court experience for all those referred to RJ for the first time in 2002. As shown in table 6.6, roughly 20% of the RJ first-timers in 2002 had another RJ referral within two years, a reasonably high proportion when one takes into account that anyone becoming 18 years of age during that period would no longer be eligible for RJ referral. Also, roughly half of those who were recidivists in the RJ system also had post-2002 court convictions and even roughly one quarter of those never getting another RJ referral, received a conviction after their initial RJ referral... The significant movement between RJ and the court system is also reflected in table 6.6 which was discussed in deliverable # 5. Finally, tables 6.8 and 6.9, for Metropolitan Halifax, also repeated from the previous section, indicate that roughly 25% of the repeat youth offenders, in their last disposition, received a formal caution or RJ referral.

7. How sufficiency of evidence to proceed to RJ is determined and by whom.

Table 7.1 conveys the safeguards and relevant information. The NSRJ protocols establish that any incident referred to RJ must meet certain criteria to avoid blatant ‘net-widening’ and therefore there must be sufficient evidence to have proceeded with the prosecution of the youth’s case in regular court, and that the prosecution would not otherwise be ineligible for any reason. The latter requirement has special implication for police referrals since there is a six months window that police have for laying charges in summary offences. It has occasionally been a complaint of police services that they have received an unsuccessful RJ referral back from the RJ agency too late for them to retain jurisdiction in the matter. In Nova Scotia, especially since the Marshall Inquiry in the late 1980s, it has been the policy that police lay charges and crowns proceed from there.

8. The relative frequency of RJ referrals compared with court-processed youth cases.

Tables in both deliverable referent # 8 and #9 address this issue. Here the focus is on patterns and trends in the conventional court processing of young offenders. Tables 8.1 to 8.5 describe patterns of charges, probation and incarceration for youth in Nova Scotia. Table 8.1 indicates that youth charges have diminished considerably over the period 1999 to 2004, the absolute numbers declining from 3744 total criminal code charges to 2551 over that time span (i.e., a decline of roughly one-third). The decline occurred especially for property crime. Violent crime, as reflected in charges, actually increased from 581 to 643. It increased in three of the Nova Scotian regions, including HRM which in 2004 accounted for 47% of all such violent youth charges.

Table 8.2 and 8.3 provide data on youth probation and sentencing patterns for the fiscal years 2000-2001 through 2004-2005. It can be seen that incarceration sentences have radically diminished and youths in sentenced custody declined from 369 in 2000-2001 to 132 in 2004-2005. The decline has been consistent over this five year period but was especially sharp in fiscal 2003-2004 when the YCJA was implemented. Associated with the YCJA, the province had entered into a results-based funding agreement with the federal government to reduce the number of youths in custody and it was clearly delivering on the contract. The number of Afro-Nova Scotian youths in sentenced custody steadily declined as well but not as sharply as for Caucasians, with the result that the % youths in custody who were Black actually increased over the years to 24%. Indeed, at the time of this writing, 29% of all youths in the youth facility at Waterville are Black, well above the proportion of such youths in the general Nova Scotian youth population (i.e., about 3% at most); the large majority of the Black youth in custody at Waterville are from the HRM area (minimally 70% according to Justice officials). The data on probation or community corrections reveal a similar consistent decline over the years 2000 to 2004 though here the decline has been less dramatic, basically continuing a downward trend extending back over a decade as shown in the tables in deliverable # 9. Not surprisingly, the patterns for Afro-Canadian youths in probation mirrors, though less sharply, the patterns in sentenced custody, namely the absolute numbers have declined but the % share has increased from 8% in 2000-2001 to 12% in 2003-2004.

Table 8.4 utilizes a unique data set to shed further light on the pattern of youth charges in the metropolitan area. It describes the charges entailed in all youth and adult cases closed

in Nova Scotia's criminal court between November 1, 2004 and December 31, 2005. It can be seen that HRM youths accounted for more violent charges than youths outside the metropolitan area (i.e., 697 to 622) and that violent offences were more prominent among the HRM youths than among their counterparts elsewhere (i.e., 24% to 14%). Those two patterns did not extend to the adults cases closed, **highlighting then that youths in HRM pose somewhat distinctive issues for justice policies**. Table 8.5 merely reproduces these findings for cases rather than charges in this special data set, reinforcing the patterns identified where multiple charges were laid and only the most serious were identified in each case. In both tables, 8.4 and 8.5, provincial and municipal offences were excluded at source.

The above tables clearly indicate that significant changes have occurred in the conventional court approach to youths in conflict with the law over the past five or six years, concurrent with the development of the NRJ program. Many fewer youths are formally charged and many fewer are being admitted either into probation or sentenced custody.

9. The impact of the YCJA on referrals and charges.

Seven tables address this deliverable theme. Table 9.1 compares the number of youths, identified with an offence, charged and not-charged over the period 1993 to 2003 inclusive. The former number has consistently declined, with the 2003 figure being roughly 50% of the approximately 600 youths charged in 1993-1994. On the other hand, the number of youths not charged has increased sharply, beginning in 1999 when the NSRJ program was launched, and accelerated further in 2002 when it was expanded throughout the province. By 2001 the number of youths not formally charged had begun to surpass the numbers charged and that gap has been widening since. Table 9.2 illustrates, through the use of the CCJS measure of "accused rate" (a measure which combines formal charges and diversion cases), how, prior to the launching of the NSRJ, the accused rate was in modest decline but has accelerated since that time, largely of course because of the use of diversion policies. Such a pattern can raise concerns about net-widening that were discussed above with respect to deliverable # 7.

In assessing the impact of the YCJA, especially on RJ referrals, the tables 9.3 to 9.7 are salient. Table 9.3 presents the immediate impact on charges and cases (see the definition in the table) and clearly the change was dramatic, roughly a 20 to 25% decline between 2002-2003 and 2003-2004; the YCJA became operational in April 2003. Table 9.4 presents data for these two fiscal years that indicate what types of criminal code offences were most immediately impacted by the YCJA. 'Theft under' and drug possession (cannabis) charges and cases declined sharply while, on the other hand, the impact for more major offences such as robbery and major assault was very modest. Such impacts appear to be congruent with underlying YCJA policy.

Tables 9.5 to 9.7 show the impact for RJ referrals and formal police cautions. It is clear from table 9.5 that the YCJA had an immediate impact on both. Police referrals to all the RJ agencies declined by 33% and formal police cautions dropped by 23%. There was an increase actually in crown level referrals but it did not offset the decline. The HCJS agency was only modestly impacted by the change, experiencing but a slight decrease of 5%. There was much speculation as to whether the YCJA impact would be a 'blip' or a long-term change. Tables 9.6 and 9.7 show that the impact has varied by agency. Overall, there was a modest rebound in the number of police referrals in the next two fiscal years and especially in 2005-2006, but most agencies have not recovered their pre-YCJA levels of referrals. HCJS's received referrals rebounded significantly, reaching 672 in fiscal 2005-2006. Still, it was the only one of the four founding agencies ('selected agencies') to subsequently surpass its pre-YCJA levels; the other three agencies (and the other provincial RJ agencies combined) have experienced a significant decline in RJ referrals; in the case of the other four 'selected agencies' the decline from 2002-2003 to 2005-2006 has been in the order of 30% to 50%.

The tables 9.5 to 9.7 also show that subsequent to the YCJA police officers have resorted much less to formal cautions. A comparison of fiscal years indicates that, in every instance, the number of formal cautions has declined and by 2005-2006 such cautions were at roughly 60% of their pre-YCJA levels. There is much interview-based evidence that, at least in part, this decline has been offset by informal police warnings. Nevertheless, it is interesting to note that charges, probation admissions, sentenced custody cases, RJ referrals and even formal police cautions have declined quite dramatically over the past three years and the conventional court sanctions, as noted in deliverable # 8, over a longer period. **HCJS, however, stands out for its continuing high RJ workload.**

10. The characteristics of the sanctions being applied in the RJ system.

Associated with a successful RJ session is an agreement whereby the young offender and the other session participants agree to a set of actions that will be undertaken by the youth. There may of course be other actions agreed to be undertaken by other participants as well. None of the sanctions could entail probation or a jail terms and there were broad guidelines for the amount of community service work that could be required. Tables 10.1 to 10.4 describe the sanctions (i.e., agreed undertakings) with respect to the youth in the years 2002 through to 2005 for each of the four 'selected agencies'. In all years, in Halifax, the top three sanctions were written apology, an essay and personal development (i.e., doing something that would advance the personal development of the youth). The written apology was the most frequent 'imposed condition' in all the agencies for all the years (with one exception, namely the Sydney agency in 2002). The essay sanction was especially popular in the Halifax agency in all years but personal development was also consistently much utilized as a sanction there. Sanctions (required activities for the youth) related to the family or home were more frequent outside metropolitan Halifax and especially in the Sydney agency. Personal service to the victim and restitution as sanctions varied by agency and by year so no clear consistent difference emerged

between Halifax and the other areas over the four years. The same situation was found with respect to community service. Agencies had their own idiosyncrasies. Sydney for example frequently had in the RJ agreement that the youth would send a ‘thank you’ note to the police whereas that condition was rare in other areas. In Halifax, attendance at the agency’s “stoplifting program” was common for shoplifters in lieu of attending a regular RJ session. There were no strong trends apparent in the tables nor did the HCJS’s sanctions concerning the amount of restitution and then mean average of community service hours sanction consistently set it apart from other agencies. **Overall, in the HCJS agency, the pattern has been for sanctions that do not entail direct interaction with the victim or family; perhaps that speaks to the urban milieu features of the Halifax offending as much as to any explicit agency policy.**

11. The non-profit agencies delivering restorative justice programming and the community agencies utilized in the sanctions.

Tables 11.1 and 11.2 provide basic information listing the non-profit agencies that are responsible for delivering restorative justice services in Nova Scotia and the community agencies and organizations to which community service work is directed. There are nine RJ agencies plus the Mi’kmaq Customary Law Program (MCLP). The agencies operate with a signed service delivery contract with the NSRJ Coordinator Office located in Court Services in the provincial Department of Justice. Their budgets are basically provided by the provincial government under the terms of that contract but most agencies have secured over the years other modest short-term funding from special federal programs, foundations and other sources. The agencies range in size from one paid staff to a complement of fourteen in HCJS (the actual staff numbers here have fluctuated because of special programs and turnover). The agencies, including the MCLP, also manage community service hours under contract from Correctional Services Nova Scotia. The MCLP provides province-wide RJ programming for aboriginal youth and additionally sometimes organizes sentencing circles and sometimes holds RJ sessions (healing circles) for adult offenders; it collaborates with NSRJ under an agreement which commits the agency to NSRJ protocols for dealing with youths (e.g., it follows the moratorium on sexual assaults and spousal / partner violence).

Table 11.1 lists the large number of community agencies and organizations which the HCJS collaborates in arranging community service work arising out its RJ session agreements or its contract with Corrections. For convenience of the offender and for community engagement, community service work is usually provided in the area where the youth resides but there are many exceptions to that pattern mainly because of youth preferences. Once the youth is assigned to a particular community organization to do his or her community service work, the actual work done is basically left up to the local community organizations (within broad implicit guidelines and for the hours specified). There has been limited contact between the HCJS staff person who handles this outsourcing of community service work and the community organizations but, based on limited interview data, that does not appear to be a problem in any but a few instances.

Some organizations, such as the centennial Arena, are major users of the community service work while others are seasonal users and others infrequent recipients at any time.

12. Compliance rates and outcomes for youths who have not complied.

The RJ agencies receive referrals from police, crown prosecutors, judges or correctional officials. The data show that they have accepted 99.6% of all referrals received. The most frequent reason for not accepting a referral has been ineligibility under the RJ protocols (e.g., any indication of a sexual assault or spousal / partner (girl friend / boyfriend) violence). As the NSRJ has aged, the issue of recidivism has become more significant as has the issue of the agencies (at least in metropolitan Halifax) receiving anew as a referral a case they had initially sent back to the referral source on the grounds that the youth had refused to cooperate. While the agencies operate under a service contract with the Department of Justice that obliges them to accept eligible referrals, presumably they can, in theory, refuse to accept referrals for operational reasons as well. Needless to say, given the recency of RJ and status issues within Justice, it would be difficult for the agencies in practice to reject eligible referrals. This matter has become an issue since increasingly the RJ program is apparently receiving 'tough cases' that would formerly have been processed through the court system. "No shows" and non-compliance with agreements reached at the RJ sessions appear to be on the rise and may undermine the credibility of the RJ program.

What happens when the RJ agency sends back a referred case as unsuccessful and it is not returned to them by either the initial referral source or the next level referral source (i.e., the crown in the case of a matter initially referred to RJ by police)? Presumably the youth would be prosecuted and experience the court processes. There is no existing information on such cases but such data could, painstakingly, be acquired by manually tracing the youth's case across the different data systems. Under the present circumstances it is impossible to identify how frequently such 'return to sender' cases occur and what the outcomes of the prosecution are. It is clear though that such cases are the bane of all Justice officials including the RJ case managers. The referral sources do not want to see the cases again for good operational reasons and the agencies have to list the cases as unsuccessful efforts on their part.

Tables 12.1 and 12.2 describe compliance issues, for each of the five years, 2001 through 2005, first by examining the ratio between accepted referrals and non-completions, and then, the ratio between successful completions and non-completions. A non-completion may occur at pre-session level (the youth does not show up or refuses to go through the RJ process or reject responsibility), the session level (no agreement is reached at the RJ session) or at the post-session level (the youth does not comply with the agreement). Table 12.1 indicates that, in the case of all RJ agencies, there has been a decline in the overall ratio of accepted referrals to non-completions, from roughly 6.5 to 1 in the early years to roughly 5.0 to 1 in the last two years. This pattern of decline holds for both police and crown referrals. In large measure it is a predictable pattern since one would expect that as RJ became more institutionalized, more accepted by other Justice role players, and as the agencies became more experienced with RJ programming, they would

be given and would take on more serious offending and by definition greater challenges. Consistent with this viewpoint, the yearly ratios for crown level referrals, where more serious offending could be expected to be entailed, have been consistently lower than for the police referrals. The current ratios may well be judged quite an accomplishment under the circumstances. In all five years non-completions have been most likely to occur at the pre-session level, then the post-session, and, usually well back, lastly at the session level. In the case of the HCJS, the ratio of accepted referrals to non-completions has, not surprisingly, always been lower than for RJ agencies as a whole. That pattern is evident in table 12.1 where the overall ratio for HCJS has ranged from 5.2 in 2001 to 4.0 in 2005; both police and crown referral sources in almost all years have had lower ratios for their referrals than have their counterparts (with an occasional blip or exception) elsewhere in Nova Scotia.

Table 12.2 presents the ratios for successful completions to non-completions for the same years and the same agencies, namely all RJ agencies, then each of the four founding agencies. Essentially the same patterns are found though the ratios are all substantially lower. For all RJ agencies, the overall ratio declined from 4.3 successful completions to one non-completion in 2001 to 3.6 to one in 2005. And, as above, the patterns of declining ratio values hold for both police and crown referrals. In every year, too, the crown referrals were associated with lower ratios; for example the ratio of successful completions to non-completions in 2005 was 4.2 for police referrals and 3.0 for crown referrals. Once again, these same patterns were consistently found for the Halifax agency and at a lower ratio value, namely, in 2005, 3.1 for police referrals, 2.4 for crown referrals and 2.6 for overall referrals.

These tables clearly suggest that the cases that make up the workloads have been getting more challenging for the RJ agencies. In lieu of any specific standard it is difficult to judge whether the ratios of acceptances and successful completions to non-completions should be celebrated or decried but most definitely the RJ program has moved well away from its alternative measures predecessor. **Clearly, too, the Halifax agency has been facing the most serious challenges, especially given that crown referrals (where the ratios have been generally lowest) have been the dominant referral type for the agency since 2003. Coupled with the consistently growing workload and the diverse youth problems it must contend with, the uniqueness of the agency is increasingly evident.**

In the brief above analyses no mention was made of court and corrections referrals. The former have been few and so varied in nature and duration that meaningful yearly comparisons are not heuristic. For example, in 2005, for the first time, there were many provincial MVA statute infractions referred to the HCJS but then the practice was shut down by the Justice department. Corrections referrals increased sharply in 2002 and 2003 for some non-metropolitan agencies as a result of a protocol developed between NSRJ and Corrections but the initiative proved unsuccessful and Corrections referrals reverted back to their previous low number.

13. The role of the victim, parent and community.

Reference has already been made in deliverables # 4 and # 7 concerning how RJ protocols impact on the parents / guardians. The NSRJ program also has from its beginnings underlined the centrality of the victim and the community and by so doing sharply differentiated RJ from its alternative justice predecessor which was largely focused on the offender and parent / guardian. In deliverable # 4 reference is made to protocols and guidelines concerning the involvement of victims, parents and community representatives. The Best Practice Standards released in 2005 by the NSRJ Coordinator's Office emphasizes the importance of these roles in RJ and lays out standards for their realization. All RJ agencies have made considerable efforts to involve the victim in the RJ sessions and at least to communicate with the victims, appreciate their concerns and convey their views and proposals in RJ sessions when the victims chose not to participate in face-to-face meetings with the youth and youths' parents/guardians. Some agencies have also developed interesting strategies to involve 'community representatives' in the RJ process, whether at the RJ sessions or otherwise. Tables 13.1 to 13.11 draw upon the author's 2005 RJ report (Clairmont, 2005) to convey a sense of how the victim and community have responded when they have been involved in actual RJ sessions.

Table 13.1, based on the 3899 exit sheets filled out in the years 2002 to 2004 by participants in a large, representative sample of RJ sessions, indicates that victims and victims' supporters accounted for about 17% of the session participants; community representatives accounted for an additional roughly 5%. While a small minority of participants, the victims, victim supporters and community representatives (labeled 'others' or 'neutral' in some tables) generally shared the positive exit evaluations of the RJ process and session that the offenders and their supporters (usually parents) espoused (see Table 13.2). In all groupings there was much praise for the RJ process and widespread recommendation for using the RJ option. The only significant differences in assessments were that victims, victim supporters and community representatives were less likely to think that the RJ experience would deter future crime by the youth and were less likely to report that "I see the crime differently now". Table 13.3 explores the factors that may have impacted on the views of RJ held by the different categories of respondents. Gender and seriousness of the offence in question were the two major factors influencing victims' and victims' supporters' views – females and minor crimes were associated with more positive assessments of the RJ experience. The same two variables impacted in the same fashion for offenders while offenders' supporters / parents were most positive about the RJ alternative if the offence was minor and/or if they lived in an urban milieu. Clearly, in all groupings, respondents were more likely to be convinced of the value of RJ where minor offences were involved.

In addition to completing exit questionnaires, participants at RJ sessions were asked if they would be willing to have a telephone interview on their RJ experience in three to six months time. Most were willing and the follow-up interviews were able to explore their assessments of RJ in greater depth. Tables 13.4 to 13.6 describe the characteristics and views (in summary fashion) of victims, victim supporters and others (a grouping that included police officers as well as community representatives). It can be noted in table

13.4 that even months after the session, the victims' views remained quite positive especially about the RJ process (consultation, fairness etc) but also they remained satisfied with the agreement and considered that they had had their say and had achieved satisfactory closure. At the same time, the large majority of victims did not think that RJ should be used for more serious offending. Victims' supporters, often the parents, expressed similar views in their follow-up interviews. Additionally, they held (80%) that the victim had benefited from the RJ intervention and 80% of the victim supporters who reported positive changes for the victim since the session, attributed that change to the RJ experience. As indicated in table 13.6 the others (generally police and community representatives) were more positive about the RJ session and the benefits accruing to both 'sides' as a result of it. In addition, as a group they were most inclined to think that such RJ intervention should be used in more serious cases of youth offending.

Tables 13-7 through 13.10 examine the factors that may have influenced the positive specific assessments of the RJ experience by victims, victims' supporters, offenders and offenders' supporters (usually parents). Among victims, surprisingly, males were generally more positive than females, and victims where the offence was minor were more positive than victims where the offence was more serious; urban victims also tended to more positive than rural victims. Victims' supporters exhibited the same patterns as victims. Among the young offenders the main factors influencing their positive assessments were less clear but those attending accountability sessions where no victim or victim supporter was present tended to more positive than offenders attending sessions that included victims. Among offenders' supporters the variables influencing most a positive assessment were if the parent/guardian / supporter lived in an urban area and if the offence in question was of a minor nature.

Finally, table 13.11 provides a summary description of the overall views of all the participant role players. There were significant differences. While offenders and their parents/supporters liked best about the RJ option the fact that court was avoided and the youth managed to avoid a record, victims, their supporters and 'neutrals' (community representatives included) liked best the opportunity to have their say and the direct talking between 'sides' that occurred. The majority in all groupings did not identify any 'worse thing' about the RJ experience and in large number rejected the view that taking the matter to court would have been preferable. While the large majority in all groupings believed that the RJ option should be utilized for similar offences, only a minority in any grouping gave even a qualified 'yes' to the idea of using RJ for more serious offences; here victims and victims' supporters were most adamant in rejecting that option.