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ABORIGINAL JUSTICE STRATEGY EVALUATION Final Report

November 2011

**Evaluation Division
Office of Strategic Planning and Performance Management**



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EXECUTIVE SUMMARY

1. Introduction

The Aboriginal Justice Strategy (AJS) is intended to provide timely and effective alternatives to the mainstream justice system in appropriate circumstances, in order to increase the involvement of Aboriginal communities in the local administration of justice and to decrease rates of crime, victimization and incarceration of Aboriginal persons in communities with AJS-funded programs. The AJS pursues four core objectives:

- to contribute to decreasing the rates of crime and victimization in Aboriginal communities operating AJS programs;
- to assist Aboriginal communities to take greater responsibility for justice administration;
- to provide better and more timely information about community justice programs funded by the AJS; and,
- to reflect and include relevant Aboriginal cultural values in Canadian justice administration.

The Aboriginal Justice Directorate (AJD) and the Aboriginal Law and Strategic Policy (ALSP) Group are both involved in the management of the AJS. AJD has responsibility for managing the funding allocation and contribution agreements signed under the AJS, and works with governmental and non-governmental organizations to ensure that funding agreements are fulfilled in accordance with program compliance requirements, that planned outcomes are achieved, and that those results are communicated to the policy community. The Director of the AJD co-chairs the AJS Federal-Provincial-Territorial Working Group. ALSP is responsible for the departmental policy function with respect to Aboriginal justice, including securing policy renewals of the AJS and promoting the program at the national level.

The evaluation of the AJS was conducted between 2010 and 2011. In accordance with the Treasury Board Policy on Evaluation, the evaluation addresses the core issues of the relevance and performance of the AJS.

2. Methodology

The evaluation methodology consisted of review of publicly available documentation on the AJS, case studies with 13 community-based justice programs in 2010-11, 25 interviews conducted by telephone in June and July 2011, a review of AJD administrative files, a recidivism study, and a cost analysis of the AJS. Triangulation was used to verify and validate the findings obtained through these methods and to arrive at the overall evaluation findings.

3. Findings and Conclusions

3.1. Relevance

The AJS was created by the federal government in response to the disproportionate number of Aboriginal persons involved in the criminal justice system, both as offenders and victims. As the continued over-representation of Aboriginal persons in the justice system underscores, there remains a need for culturally relevant alternatives to the mainstream justice system.

The AJS is clearly aligned with federal roles and responsibilities, as the policy mandate for which the Minister of Justice is responsible includes Aboriginal justice, while the day-to-day administration of justice is the responsibility of the provinces and territories. The AJS is delivered in a manner consistent with this constitutional division of powers, as the federal government funds the delivery of community-based justice programs in the area of Aboriginal justice.

The objectives of the AJS are consistent with the priorities of the Department of Justice and align with the Department's strategic outcome to "create a fair, relevant and accessible justice system that reflects Canadian values".

3.2. Effectiveness

Achievement of Initial Outcomes

The AJS was described by all key informants as essential to Aboriginal community-based justice programs; without the AJS, access to community-based justice programs would be limited. Access to and participation in community-based justice programs is enhanced by the community-driven nature of AJS-funded programs, which allows programs, sometimes in collaboration with other community organizations, to target outreach initiatives to those most in need in their communities.

Funds provided for gatherings through the Capacity Building Fund increased capacity of community-based justice programs to provide effective services, by offering opportunities for training, networking and support. The use of capacity building funds for the purchase of office equipment and other materials was seen as an efficient means of improving the capacity of community-based justice programs. Capacity building funds are provided to communities exploring the possibility of launching a community-based justice program in the future, fulfilling the intended outcome of the AJS to “increase capacity to implement community-based justice programs and other community-based justice services”. However, the fixed level of funding available within the AJS precludes launching new AJS-funded programs in these communities.

Achievement of Intermediate Outcomes

The AJS was found to be effective in achieving its intermediate outcome of involving Aboriginal communities in the local administration of justice, as the community-driven nature of AJS-funded programs promotes a sense of ownership and responsibility for the community-based justice program; program staff and volunteers are highly motivated and dedicated to assisting their communities. The inclusion of Elders and other local organization in programs further increases the local administration of justice and the investment of the communities in the programs.

Positive relationships between AJS-funded program staff and mainstream justice partners was cited as essential to ensuring access to and participation in community-based justice programs. It was determined that the AJS was effective in achieving its intermediate outcome of relevant Aboriginal cultural values being reflected in the Canadian justice administration at the local level when community-based justice program staff had established positive relationships with mainstream justice partners.

Achievement of Long-term Outcomes

Evidence that the long-term outcome of the AJS of “reduced crime and incarceration rates in communities with funded programs” is being achieved is evident through the results of the recidivism study, which found a significant difference between rates of re-offending of AJS-funded program participants and a comparison group.

To a certain extent, it was found that community-based justice programs contributed to achieving the long-term outcome of the AJS of “safer and healthier communities”. Community-based justice programs utilize holistic methods that reconnect offenders with themselves, their families,

and the community as a whole. As well, the perception of most key informants was that communities were safer as a result of AJS-funded programs. However, it was noted that some factors affecting crime were beyond the control of community-based justice programs, meaning their impact was limited.

3.3. Efficiency and Economy

Results of a cost analysis based on 2008-09 data demonstrated that the average cost per community-based justice program participant was lower than the average cost of sending an offender through the mainstream justice system. This was especially true when considering the future cost savings to the justice system represented by the reduced rates of recidivism following participation in a community-based justice program. These findings indicate that the AJS is a cost-efficient alternative to the mainstream justice system.

1. INTRODUCTION

The Aboriginal Justice Strategy (AJS) provides timely and effective alternatives to the mainstream justice system in appropriate circumstances, in order to increase the involvement of Aboriginal communities in the local administration of justice and to decrease rates of crime, victimization and incarceration of Aboriginal persons in communities with AJS-funded programs. The Department of Justice conducted an evaluation of the AJS, for the period 2007-08 to 2011-12¹. This report outlines the evaluation's findings and constitutes the program evaluation's final report.

1.1 Context of the Evaluation

To meet the federal government's commitment to Treasury Board as outlined in the AJS Results-based Management and Accountability Framework (RMAF), the Department of Justice conducted a summative evaluation of the AJS in fiscal year 2011-12.

Over the course of the period 2007-08 to 2011-12, numerous activities were undertaken to support the evaluation. These include a mid-term evaluation of the period 2007-08 to 2008-09, and sub-studies on the relevance and performance of the AJS through case studies, community crime trends analyses, a recidivism study, and a cost analysis. Findings from these evaluation activities are also included in this report. Additionally, the level of implementation of the recommendations from the mid-term evaluation was assessed.

1.2 Objectives of the Evaluation

The core objective of the evaluation is to assess the relevance and performance (i.e. effectiveness, efficiency and economy) of the AJS between 2007-08 and 2011-12 in order to meet departmental reporting requirements to the Treasury Board. The evaluation includes a synthesis of findings from the AJS Case Studies and Community Trends Report and the AJS

¹ As the evaluation activities were undertaken in summer 2011, only impacts of activities from the first four months of 2011-12 are captured in the evaluation findings.

Recidivism and Cost Analysis Report. Findings from a police/Crown survey conducted in September 2009 as part of the AJS mid-term evaluation are also included.

1.3 Structure of the Report

This report contains six sections, including this introduction. Section 2 provides a description of the AJS, Section 3 describes the methodology for the evaluation, while Section 4 summarizes the key findings with respect to relevance and performance. Section 5 summarizes conclusions from the report's findings, and Section 6 includes recommendations and management response.

2. DESCRIPTION OF THE ABORIGINAL JUSTICE STRATEGY

This section of the report describes the AJS. It discusses the policy context relating to the Strategy and describes its program logic, management structure and financial resources.

2.1 Program Rationale

The AJS is one component of the federal government's response to the well-documented fact that a disproportionate number of Aboriginal people are in conflict with the law. Over the years, the federal government has addressed this issue with a continuum of policies, programs and initiatives to address the disproportionate rates of crime, incarceration and victimization experienced by Aboriginal people.

Aboriginal persons account for 21% of adults in remand, 27% of adults in provincial and territorial sentenced custody, 18% of adults in federal custody, 18% of adults on probation, and 20% of conditional sentences, despite representing only 3% of the Canadian adult population according to the 2006 Census. The over-representation of Aboriginal persons in the corrections system is worsening over time, increasing by 2% between 2004-05 and 2008-09². The rate at which the over-representation of Aboriginal persons in the correctional system over time is partly accounted for by the growing Canadian Aboriginal population: the general Aboriginal population in Canada has increased by 20.1% between 2001 and 2006, while the federally incarcerated Aboriginal population rose by 19.7%. However, the population of federally incarcerated Aboriginal women increased by 131% over the same period of time³.

This over-representation extends to rates of criminal victimization as well: in 2009, 37% of Aboriginal persons self-reported being the victim of a crime, compared to 26% of non-Aboriginal persons⁴.

² Statistics Canada, *The Incarceration of Aboriginal People in Adult Correctional Services*, Juristat 29(3), July 2009.

³ Office of the Correctional Investigator, *Good Intentions, Disappointing Results: A Progress Report on Federal Aboriginal Corrections*, 2010.

⁴ Statistics Canada, *Violent victimization of Aboriginal people in the Canadian provinces*, 2009, March 11, 2011.

The Aboriginal Justice Initiative was created in 1991 by the Department of Justice as a pilot project to support community-based justice programs across Canada. The Initiative was renewed and expanded in 1996, at which point it was renamed the Aboriginal Justice Strategy. The development of the AJS was a collaborative effort that included Aboriginal Affairs and Northern Development Canada, the Privy Council Office, Public Safety Canada and the Royal Canadian Mounted Police (RCMP). The AJS was renewed in 2002 with additional funding as a cost-shared program with the provinces/territories to address service gaps in urban, off-reserve and Métis populations. By 2003, AJS-funded programs were operating in all provinces and territories. The AJS was most recently renewed for a five-year term in 2007, with enhanced funding.

2.2 Program Logic

The AJS supports a range of activities that are expected to contribute to the achievement of specific policy goals. This sub-section describes the AJS program logic and is based on the 2007 AJS RMAF.

2.2.1 Program Goals and Objectives

The main goal of the AJS is to increase community involvement in the local administration of justice, in order to reduce the rates of crime, incarceration and victimization among Aboriginal people in communities operating AJS programs. The AJS strengthens the justice system by providing timely and effective alternatives to mainstream justice processes in appropriate circumstances, thereby allowing the mainstream judicial system to focus its energies and resources on more serious offences. Examples of AJS-funded community-based justice programs include diversion measures, community sentencing, and family and civil mediation.

The AJS pursues four core objectives:

- to contribute to decreasing the rates of crime and victimization in Aboriginal communities operating AJS programs;
- to assist Aboriginal communities to take greater responsibility for justice administration;
- to provide better and more timely information about community justice programs funded by the AJS; and,
- to reflect and include relevant Aboriginal cultural values in Canadian justice administration.

2.2.2 Program Activities and Outputs

Community-based justice programs

Through contribution agreements, the AJS provides cost-shared funding to community-based justice programs in Aboriginal communities. The Aboriginal Justice Directorate (AJD) negotiates, signs and manages these contribution agreements, which can either be bilateral with the recipient organization or tripartite with the recipient organization and respective province or territory. As a result of this contribution, the federal government expects that community-based justice programs will be implemented to serve Aboriginal communities.

Funding from this component supports community-based justice programs that are developed and managed in partnership with Aboriginal communities. These programs are cost-shared with the provinces and territories and delivered in a culturally relevant and community-driven manner. Program models that commonly operate under the AJS focus primarily on diversion/alternative measures of those who have committed non-violent property or lesser offences, community sentencing, mediation, and court/community justice programs. Community-based justice programs can receive contribution funding up to a maximum of \$500,000 per fiscal year per program, subject to cost-sharing arrangements with the provincial or territorial funding partner.

As of 2011-12, AJS funded 214 programs; in 2006-07, approximately 100 community-based justice programs were in place across Canada.

Eligible applicants for support under this component are:

- Bands, First Nations, Tribal Councils, local, regional and national Aboriginal organizations;
- agencies and institutions of regional/municipal governments;
- non-profit community organizations, societies, and associations which have voluntarily associated themselves for a non-profit purpose; and,
- provincial and territorial governments, in the case of flow-through agreements in which funds are distributed to community programs.

Capacity building funds

The Capacity Building Fund is meant to support capacity building initiatives in Aboriginal communities, and funds are distributed with consideration of geographical representation and the following five objectives:

- to support training and developmental needs of Aboriginal communities that do not have community-based justice programs;
- to support ongoing training, evaluation, and data collection needs, as well as the sharing of best practices and useful models, for current community-based justice programs;
- to support activities aimed at improving data management and reporting for current community-based justice programs;
- to support the development of new community-based justice programs; and,
- to support one-time or annual events aimed at building partnerships between Aboriginal communities and the mainstream justice system.

Communities that do not have AJS-funded community justice programs can access capacity building funds to research traditional justice practices, assess the capacity to launch a program, determine the community's needs, or launch trials.

The AJS may cover up to 100 percent of the cost of the activities under this component. The AJD negotiates, signs and manages these contribution agreements. As a result of these agreements, the federal government expects that training and developmental activities will serve Aboriginal communities. Resources for the Capacity Building Fund are determined year-to-year, and generally after the commitment of funds to community-based justice programs. In 2010-11, 50 projects were funded through the Capacity Building Fund.

The call for proposals to access capacity building funds typically occurs in the late fall, following which the project proposals are assessed by a National Review Committee, whose funding recommendations are provided to the Minister/financial delegate. Once approved, applicants are notified of the results; funding agreements are drafted, and payments are released once activities are undertaken and claims provided.

Aboriginal Justice Strategy Federal-Provincial-Territorial Working Group

The AJS Federal-Provincial-Territorial Working Group (AJS FPT WG) serves as a policy forum for ongoing monitoring of inter-jurisdictional issues that concern the AJS. The AJS FPT WG is co-chaired by the Director of the AJD and a provincial or territorial representative, and all provinces and territories have a designated representative as a member of the Working Group, which mandate is as follows:

- to serve as a resource on issues related to AJS programs and on issues related to Aboriginal people in the justice system;
- to serve as a forum for exchanging information, sharing best practices and engaging members on various AJS issues;
- to provide advice on AJS programs cost-sharing issues including the negotiation, monitoring and implementation of contribution agreements;
- to advise on the potential impact of new policy changes on the AJS program and its clients;
- to develop possible approaches and undertake evaluation and research activities to support the provision of effective AJS program delivery;
- to establish, participate and maintain FPT working groups or other such bodies to handle specific portions of its mandate (e.g. evaluation activities, data collection); and,
- to ensure linkages with other FPT groups, such as the FPT Working Group on Aboriginal Justice⁵, the FPT WG on the Aboriginal Courtwork Program, and the FPT WG on Victims of Crime.

2.2.3 Expected Impacts

Activities listed in the preceding subsection are expected to contribute to the achievement of the following initial outcomes:

- *Increased capacity to implement community-based justice programs and other community-based justice services.* Not all Aboriginal communities are in a position to implement and manage community-based justice programs effectively. Through the training and development initiatives that the AJS funds, it is expected that a number of Aboriginal

⁵ The FPT Working Group on Aboriginal Justice is a working group separate from the AJS FPT WG. It is co-chaired by ALSP and its mandate is to look at broad Aboriginal justice policy issues.

communities will increase their capacity to offer such programs or to improve the delivery of the programs they already offer.

- *Access to and participation in community-based justice programs and other community justice services tailored to Aboriginal needs.* It is expected that the federal contribution that is provided through the AJS, combined with other financial contributions (particularly those of the provinces and territories), will translate into actual access to and participation in community-based justice programs for Aboriginal communities.

The AJS activities are also expected to contribute to the achievement of these intermediate outcomes:

- *Aboriginal communities are more involved in local justice administration.* It is expected that funding provided through the AJS will increase community involvement in the local administration of justice by offering community-based justice programs that are complementary to the mainstream justice system.
- *Relevant Aboriginal cultural values are reflected in the Canadian justice administration.* Community-based justice programs will be recognized as an effective response to less serious offences, and will encourage Aboriginal cultural values to be reflected in the Canadian justice administration.

Finally, the AJS activities are expected to contribute to the achievement of the following long-term outcomes:

- *Reduced crime and incarceration rates in communities with funded programs.*
- *Safer and healthier communities.*

Figure 1 below presents these intended outcomes graphically in the AJS logic model.

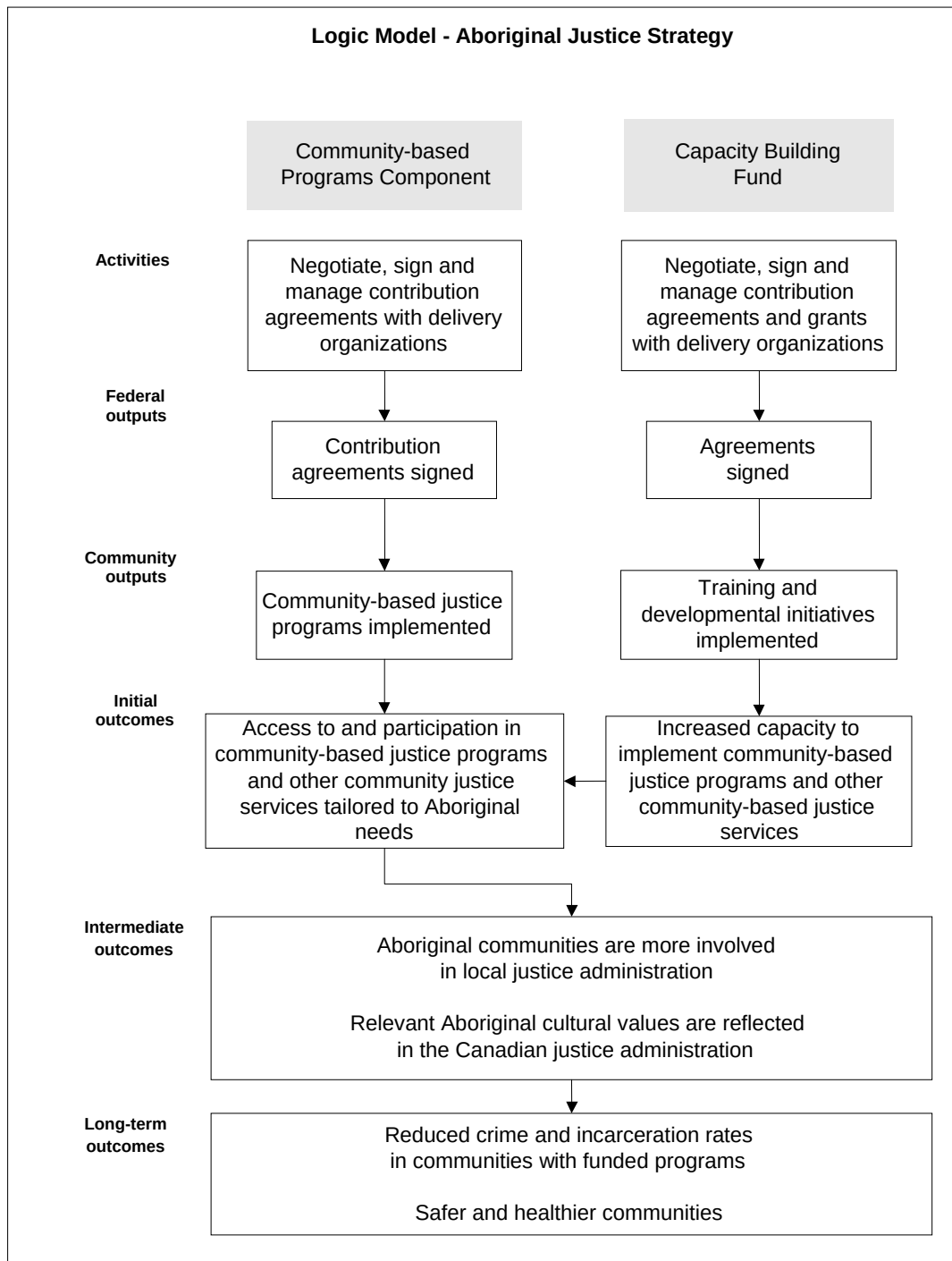


Figure 1

2.3 Organizational Structure

The AJD and the Aboriginal Law and Strategic Policy (ALSP) Group are both involved in the management of the AJS. Within the Department of Justice, the AJD falls under the Programs Branch, within the Policy Sector, while ALSP is located within the Aboriginal Affairs Portfolio (see Figure 2).

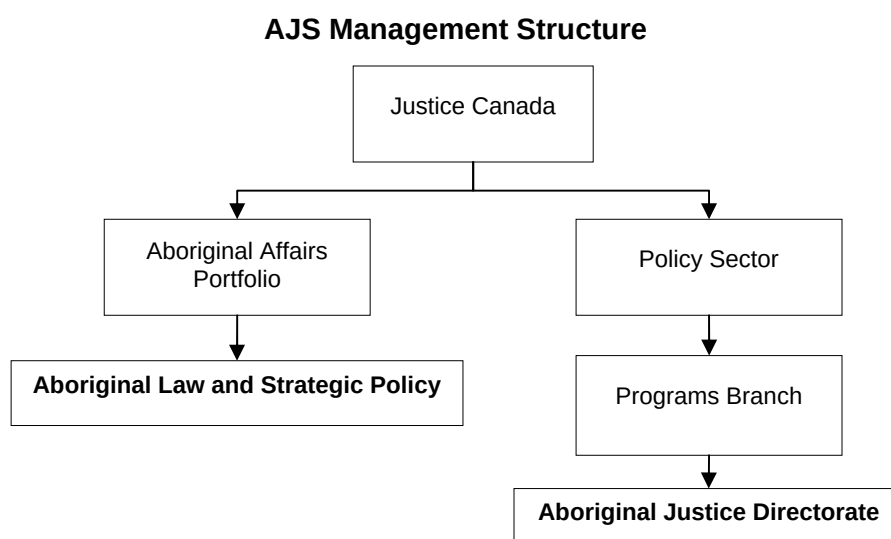


Figure 2

The AJD and ALSP have distinct roles to play with respect to the management of the AJS. The AJD has responsibility for managing the funding allocation and contribution agreements signed under the AJS, and works with governmental and non-governmental organizations to ensure that funding agreements are fulfilled in accordance with program compliance requirements, that planned outcomes are achieved, and that those results are communicated to the policy community. The AJD also has responsibility for communicating with Justice stakeholders and other departments about programs funded through the AJS and for keeping abreast of issues that may affect the AJS program delivery. The Director of the AJD co-chairs the AJS FPT WG.

ALSP is responsible for the departmental policy function with respect to Aboriginal justice, including securing policy renewals of the AJS and promoting the program at the national level. The mandate of ALSP includes leading federal initiatives to advance the commitments made by

the Minister of Justice in the 2007 renewal of the AJS as well as recommendations made by the Auditor General and the Treasury Board. ALSP chairs the Federal Committee on Aboriginal Safety and Justice (formerly the Federal Committee to Improve Justice and Safety in Aboriginal Communities), a federal committee for the purpose of exploring opportunities to create a more integrated, horizontal and accountable delivery framework across the Aboriginal justice spectrum. ALSP also provides ongoing policy advice to the Minister of Justice in relation to existing and emerging Aboriginal justice issues, and co-chairs the officials-level FPT Working Group on Aboriginal Justice.

2.4 Resources

When the federal government first launched the AJS in 1996, it allocated \$4.5 million annually to the program, a figure that increased to \$8.6 million annually by the end of the first funding allocation in 2000-01. While it initially allocated \$11.5 million annually to AJS from 2002-03 to 2006-07, budget-reallocation and adjustments to the AJS by the federal government meant that the program's actual allocation has been varying between \$9.4 million and \$10.3 million annually.

The AJS was most recently renewed in 2007, with enhanced funding. In August 2008, the Minister of Justice confirmed that the AJS had been renewed for the period 2007-08 to 2011-12, and that the total enhanced funding would represent a \$40 million investment over this five-year period (\$6 million in 2007-08, and \$8.5 million each year from 2008-09 to 2011-12).

Enhanced funding allowed the AJS to expand its reach into areas of high need, such as urban, northern, and off-reserve Aboriginal communities, in addition to focusing on Aboriginal youth. Overall, it brought the total federal investment in the AJS to \$85 million over the five-year period from 2007 to 2012.

Table 1 below outlines the funding allocated for the AJS for the period covered by the evaluation.

Table 1: AJS Funding Allocation (\$M)

Initial allocation	2007-08	2008-09	2009-10	2010-11	2011-12	Total
AJS (base)	9.0	9.0	9.0	9.0	9.0	45.0
AJS (expansion)	4.0	10.5	8.5	8.5	8.5	40.0
Total	13.0	19.5	17.5	17.5	17.5	85.0

Source: AJS RMAF 2007

3. METHODOLOGY

Several lines of evidence have been used to address the evaluation issues and questions, as follows.

3.1 Document Review

A review of publicly available documentation on the AJS was conducted in spring 2011. These documents included reports from Statistics Canada (the Canadian Centre for Justice Statistics, Juristat) and the Department of Justice. Data of significance to the background, rationale and relevance of the AJS were included in the report.

The potential limitations of this information are its completeness and timeliness. Statistical information relies on accurate data input, and some studies cited only included data from a sample of provinces and territories. As there is a delay in the production of statistical reports, most data was not available beyond 2009-10.

A complete list of documents reviewed is included in Appendix E.

3.2 Case Studies

The case studies provided descriptive information as to the relevance, impacts, lessons learned and inspiring practices of the AJS through inquiry with triangulated sources: offenders, victims, AJS program staff, justice-related personnel and community members (such as Elders), in addition to a statistical analysis of reported crime data.

Case studies of AJS-funded programs were conducted as a means of gathering in-depth data on community-based justice programs, including their operations, the challenges they face, and the impact they have on the communities they serve. Many of the impacts of the AJS are not measurable through quantitative data; the case studies provided the opportunity to assess program impact and learn of best practices or lessons learned directly from those involved.

In total, 13 community-based justice programs participated in the case studies in 2010-11, and crime data was obtained for 11 of the corresponding communities. The case studies included a

diverse mixture of programs, such as diversion measures, community sentencing, and family and civil mediation. Data collection for the case studies comprised a document review; interviews with key informants, including program managers and staff, program participants, program partners and related organizations, such as justice coordinators, police officers, victim workers, court staff, Justice Committee members, city officials, Elders, prosecutors, legal aid officers and probation officers; and group sessions with program participants, Elders and program staff.

The group sessions used culturally based methods. The *Waawiyeyaa Evaluation Tool*, developed by Johnston Research Inc., is a self-evaluation method grounded in traditional knowledge and ways of being. The Ojibway word *Waawiyeyaa* refers to a circular process that can lead to rebirth and transformation. The second method involved the use of culturally relevant iconic images to generate answers to evaluation questions.

The major limitation of the case study methodology is that results from one case study represent unique findings that are not generalizable to all community-based justice programs. This limitation was mitigated by conducting 13 case studies at sites selected to be representative of the diversity of community-based justice programs across all provinces and territories. As well, effectiveness data collected through the analysis of rates of re-offending, key informant interviews and document review all provide means of triangulating case study findings.

3.3 Key Informant Interviews

A total of 25 interviews were conducted by telephone in June and July 2011 as part of the evaluation of the AJS. These interviews were semi-structured and addressed issues of relevance, performance and implementation of recommendations from the 2010 mid-term evaluation of the AJS.

Semi-structured interviews were selected as a methodology for this evaluation to provide support to the findings raised by the case studies and an opportunity for AJS stakeholders to present their perspective on the relevance and performance of the AJS.

To ensure consistency in reporting findings, all interview results were coded and those results that appeared consistently across interviews are reported as noteworthy findings. When possible, responses were triangulated with data from the document review, case studies, and analysis on rates of re-offending.

To mitigate potential methodological weaknesses inherent to semi-structured interviews, all interviews were conducted by a single evaluator familiar with the AJS, who was able to probe for detailed answers. The questions asked during the interviews (see Appendix B) were reviewed

to ensure they were not leading, and rather than infer findings from a small sample of interviews, all AJS FPT WG members were invited to participate, as were several key staff from the Department of Justice. Table 2 presents a breakdown of the key informants interviewed as part of this evaluation.

Table 2: Key Informants Interviewed as part of the AJS Evaluation

Category of Key Informant		Number
Department of Justice	Director General, Programs Branch	1
	Aboriginal Justice Directorate Staff: Headquarters	3
	Aboriginal Justice Directorate Staff: Regional Office	1
	Aboriginal Justice Directorate Staff: Regional Coordinators	6
	Aboriginal Law and Strategic Policy Staff	1
Provincial and Territorial Partners	Members of the AJS FPT WG	13
Total		25

3.4 Review of Administrative Files and Program Data

A review of AJD administrative files, as well as of files sent from some community programs to supplement the case studies, was performed to support data collected through the evaluation.

3.5 Recidivism Study

The approach taken for the recidivism study was to compare recidivism rates of individuals who participated in an AJS-funded program with those who were referred but did not participate in any aspect of the program. A total of 5,141 cases were referred from the 25 AJS programs that provided participant data formed the sample for this study. The data was collected for the period 1998 to 2007, which allowed for a comparison of recidivism rates over time.

For the analysis, the time elapsed after completing the program until receiving a criminal conviction was statistically modeled as a function of age, sex, number of pre-program convictions (the intervening variables), and participation or not in an AJS program. Survival analysis, specifically the Cox Proportional Hazards Model, was the statistical approach used to model the likelihood of re-offending. This is the same method that was used in the 2006 and 2000 recidivism studies, allowing for comparison over time.

The major limitation of the analysis of rates of re-offending was the lack of true experimental design, as practical and ethical constraints precluded the random assignment of persons to participant and control groups. Thus, pre-existing differences between the participant and comparison groups could lead to differential outcomes with respect to re-offending. To mitigate

this strategy, a statistical approach that could control underlying differences between the participant and comparison groups was utilized.

Another limitation is the non-random nature of the data provided for the study. Both provincial and program agreements were reached in order to access program data, which precluded a study of all AJS-funded program participants or of a random sample. To mitigate this limitation, a large sample size was used, and records analyzed as part of this study were randomly selected from the sample provided by programs (using a random number generator), while ensuring representation of all programs that had submitted data.

3.6 Cost Analysis

A cost analysis was undertaken to explore the cost implications of the AJS. To this end, 17 AJS programs located across Canada were asked to provide data on federal and provincial program funding, as well as number of clients served, for the fiscal year 2008-09⁶.

This analysis was conducted as a means of estimating the cost efficiency of AJS-funded programs. The mainstream justice system was used for comparison as it is the only alternative for the majority of AJS-funded program participants. The cost analysis was designed to measure both immediate and longer-term (through impacts on recidivism) cost efficiency of the AJS.

Selection bias is a potential limitation to this analysis, as offenders who participate in AJS-funded community-based justice programs are generally referred for relatively minor offences. These types of charges might have led to low mainstream court costs compared to the average, as they are not complex. Although it was not possible to control case complexity in the cost analysis, this bias is countered by other factors not taken into consideration. Especially, the relatively high costs to the mainstream justice system compared to community-based justice programs of serving remote communities could not be measured.

Another methodological limitation is the inability to pinpoint which mainstream justice costs are not incurred as a result of participation in AJS-funded programs. For example, in some cases referrals are made to AJS programs prior to police involvement, which would further reduce costs when compared to the mainstream justice system, while in other cases policing costs would be comparable. Since it is impossible to determine the true value of cost savings in this area, it was excluded from study as a means of mitigating this limitation.

⁶ One program provided data from 2007-08 as 2008-09 data was not available at the time of evaluation.

A final limitation is that the program data might not be representative of all AJS-funded community-based justice programs. To mitigate this potential limitation, programs were selected to share data based on their representativeness of the variety of AJS-funded programs. The selected programs are located across Canada, in urban, rural and remote locations, and provide a variety of services to their communities.

3.7 Survey of Police and Crown Representatives

A web-based survey was sent to all RCMP members nationwide, via a link provided in a RCMP electronic bulletin in September 2009, as part of the 2010 mid-term evaluation of the AJS. Crown counsel that work with the communities delivering a community-based justice program were identified by the provincial/territorial partners and were also invited to participate.

At the outset of the survey, respondents were screened for participation based on whether they worked or had worked since 2007 in or near a community delivering a community-based justice program. Those who did not satisfy these criteria were excluded from survey participation.

The aim of this survey was to gauge the level of awareness of mainstream justice partners in AJS-funded programs. As it was not possible to know which RCMP officers had worked in or near which communities and target invitations, the exact number of eligible participants is not known. Therefore, response rates and sampling error cannot be calculated. In spite of this limitation, the methodology of sending an invitation to all RCMP officers was seen as the most effective and efficient means of reaching the full cohort.⁷ The survey is presented in Appendix D.

Table 3 summarizes the number of respondents to the police and Crown surveys respectively.

Table 3: Number of Police and Crown Survey Respondents

Key Informant Group	Number of Individuals Consulted
RCMP/Police	35
Crown	10
Unknown	1
Total	46

⁷ Response rates and sampling error cannot be determined as the size of the sample frame and population are not known.

4. KEY FINDINGS

This section of the report presents evaluation findings as they relate to the relevance and performance of the AJS, combining all lines of evidence.

4.1 Relevance

The key findings regarding the relevance of the AJS focus on its continued need as well as its alignment with the priorities and the roles and responsibilities of the federal government.

4.1.1 Alignment with federal and departmental priorities

The objectives of the AJS are consistent with federal government priorities and the strategic outcomes of the Department of Justice.

All Department of Justice staff and most provincial and territorial representatives interviewed as part of the last mid-term evaluation of the AJS (October 2010) agreed that the objectives of the Strategy align with the strategic outcome of the Department of Justice to "create a fair, relevant and accessible justice system that reflects Canadian values"⁸. All key informants interviewed as part of the evaluation agreed that the AJS contributed to ensuring access to justice programs and services. The AJS provides an alternative to the mainstream justice system which recognizes the cultural values and unique context of Aboriginal communities.

Evidence of the alignment of the AJS with departmental priorities is also present in the 2011-12 Department of Justice Canada *Report on Plans and Priorities* (RPP). The Department's 2011-12 RPP indicates that Aboriginal justice is one of the five core domains on which the Department will focus in its pursuit of the strategic outcome of *a fair, relevant and accessible justice system that reflects Canadian values*. Accordingly, the Department of Justice will continue its work with provincial and territorial government counterparts on programs and initiatives intended to address victimization and violence experienced by Aboriginal people as well as their over-representation in the criminal justice system. Additionally, in collaboration with federal,

⁸ <http://www.justice.gc.ca/eng/pi/eval/rep-rap/10/ajs-sja/p4.html> - 18

provincial, territorial, Aboriginal and community justice partners, the Department will design AJS renewal beyond 2012.

The objectives of the AJS are also well aligned with federal government priorities. As part of his announcement regarding additional funding to help support traditional Aboriginal justice on August 18, 2008, the Minister of Justice and Attorney General of Canada stated that “the Aboriginal Justice Strategy builds on this Government’s commitment to reduce and prevent crime, strengthen the justice system and promote safer communities. It is a successful program that helps steer Aboriginal people away from a lifestyle of crime, provides hope and opportunity for Aboriginal youth and helps end cycles of violence.” Furthermore, in the Proceedings of the Standing Senate Committee on Legal and Constitutional Affairs⁹, the Minister of Justice and Attorney General of Canada stated that “the Government of Canada remains committed to supporting successful justice programs, such as the Aboriginal Justice Strategy, which committed \$85 million towards Aboriginal Community Justice Programs and achieves results in reducing and preventing crime in Aboriginal communities.”

The Canadian government is focused on five key priorities of importance to Canadians. The AJS directly aligns with one of these priorities, “protecting Canadian families and communities by strengthening the justice system”, by supporting programs that target crime, incarceration, and victimization in Aboriginal communities. As will be detailed in Section 4.2, the AJS contributes to reduced rates of re-offending in program participants and to increased feelings of safety in many communities with AJS-funded programs.

The AJS is aligned with federal roles and responsibilities

The responsibility for a *fair, relevant and accessible justice system that reflects Canadian values* does not lie with the Department of Justice alone. Under the *Constitution Act 1987*, the criminal justice system is an area of shared jurisdiction among provincial, territorial and federal jurisdictions. The policy mandate of the Minister of Justice includes responsibility for 49 statutes and areas of federal law, including Aboriginal justice. The Department fulfills its constitutional responsibility to ensure a bilingual and bijural national legal framework for the administration of justice by developing policies, laws and programs in order to strengthen the national framework. In the case of the AJS, these are aimed at addressing the disproportionate rates of crime, incarceration and victimization experienced by Aboriginal people. The provinces and territories, in turn, are responsible for the day-to-day administration of justice.

⁹ Proceedings of the Standing Committee on Legal and Constitutional Affairs, Issue 13 – Evidence for October 20, 2010.

The Department does not deliver Aboriginal justice services and programs directly to the public. Rather, it provides funding for community-based justice programs that deliver programs that directly support federal policy objectives. These include Aboriginal justice services such as diversion/alternative measures, community sentencing and mediation.

This aspect of shared jurisdiction emphasizes the importance of provincial/territorial engagement and support when negotiating meaningful justice agreements in Aboriginal communities. The provinces and territories as well as Aboriginal communities have an important role to play under the AJS. As such, community-based justice programs are cost-shared with provincial or territorial funding partners and delivered in a way that reflects the culture and values of the communities in which they are situated.

4.1.2 Continued Need for Program

Statistical data underscores the continued need for the AJS

The AJS was created by the federal government in response to the disproportionate number of Aboriginal persons involved in the criminal justice system, both as victims and offenders. Of the police and Crown surveyed, 83% felt that there is a continued need for community-based Aboriginal justice programs in their jurisdictions.

The ongoing need for the AJS is underscored by the continuing over-representation of Aboriginal persons who are victims, offenders and incarcerated across Canada as evidenced by the following statistics:

- In 2009, almost 322,000 Aboriginal people aged 15 years or older, or more than one-third (37%) of the Aboriginal population living in the provinces, reported having been a victim of at least one of the eight offences (i.e. sexual assault, robbery, assault, break and enter, theft of motor vehicles or parts, theft of household property, vandalism and theft of personal property) covered by the General Social Survey in the preceding 12 months. This compares to about one-quarter (26%) of non-Aboriginal people who reported having been victimized over the same period¹⁰.
- In 2009, 12% of Aboriginal people reported being the victim of at least one non-spousal violent crime, more than double the proportion of non-Aboriginal people (5%)¹¹.

¹⁰ Statistics Canada, *Violent victimization of Aboriginal people in the Canadian provinces*, 2009, March 11, 2011.

¹¹ Statistics Canada, *Violent victimization of Aboriginal people in the Canadian provinces*, 2009, March 11, 2011.

- In 2008-09, Aboriginal adults accounted for a notable share of admissions to correctional programs, including remand (21%), provincial and territorial sentenced custody (27%), federal custody (18%), probation (18%) and conditional sentences (20%). In contrast, Aboriginal people represented 3% of the Canadian adult population according to the 2006 Census¹².
- In all provinces and territories, the representation of Aboriginal adults in correctional services exceeds their representation in the general population, with gaps being wider in some jurisdictions than others. For instance, in Saskatchewan, the representation of Aboriginal adults in provincial sentenced custody is seven times greater than their representation in the province's general population (see Table 4 below).

Table 4 - Aboriginal People as a Proportion of Admissions to Remand, Provincial and Territorial Sentenced Custody, Probation and Conditional Sentence, by Jurisdiction, 2007-08

Province and Territory	Remand	Provincial and Territorial Sentenced Custody ¹	Probation	Conditional Sentence	Adult General Population (18 years and older) ²
	Percent Aboriginal				
Newfoundland and Labrador	23	21	..	23	4
Prince Edward Island	6	1	..	..	1
Nova Scotia	9	7	5	7	2
New Brunswick	9	8	8	11	2
Quebec	4	2	6	5	1
Ontario	9	9	9	12	2
Manitoba	66	69	56	45	12
Saskatchewan	80	81	70	75	11
Alberta	36	35	24	16	5
British Columbia	20	21	19	17	4
Yukon	78	76	66	62	22
Northwest Territories	85	86	..	..	45
Nunavut	..	..	97	97	78

1. Includes intermittent sentences.

2. Proportion is based on data from the 2006 Census.

¹² Statistics Canada, *Adult Correctional Services in Canada, 2008-09*, Juristat, Fall 2010.

Source: Statistics Canada, Canadian Centre for Justice Statistics, Adult Correctional Services Survey, Integrated Correctional Services Survey and 2006 Census of Population.

4.2 Effectiveness

The key findings regarding the performance of the AJS focus on its effectiveness in achieving intended outcomes as well as the efficiency and economy of program delivery.

The effectiveness of the AJS refers to the achievement of its intended outcomes, specifically to contribute to: increased capacity to implement community-based justice programs and other community-based justice services; access to and participation in community-based justice programs and other community justice services tailored to Aboriginal needs; Aboriginal communities' increased involvement in local justice administration; relevant Aboriginal cultural values reflected in the Canadian justice administration; reduced crime and incarceration rates in communities with funded programs; and safer and healthier communities.

4.2.1 Capacity Building Fund

Capacity building funds increase communities' capacity to implement community-based justice programs, but the funds to implement programs in these communities are lacking

Interviewees indicated that capacity building funds are provided to communities exploring the possibility of launching a community-based justice program in the future. Funds are used to research traditional practices surrounding justice and to assess and enhance community capacity for, and interest in, a community-based justice program. These funds are widely seen as building capacity in communities and, more generally, in sparking interest in traditional cultural practices.

The Capacity Building Fund does achieve the initial AJS outcome to increase capacity in communities not previously in a position to launch community-based justice programs, but the fixed level of funding precludes launching new AJS-funded programs in these communities. When the AJS received enhanced funding in 2007-08, new programs were able to launch across Canada in areas where a high need for community-based justice programs had been identified.

However, the capacity to expand the Strategy's reach into additional communities is currently limited. Interviewees indicated there is a waiting list of communities interested in launching community-based justice programs, and numerous interviewees indicated that large geographical gaps in access to community-based justice programs remain.

Capacity building funds contribute to learning and support opportunities for community-based justice program staff, which enhance their capacity to provide justice programs

One of the most frequently cited successes of the Capacity Building Fund is its provision of funding for events and gatherings that promote networking and relationship building. Interviewees indicated that part of the Fund's success was building connections between staff of different programs, allowing for the sharing of information and best practices.

The AJD hosted a series of dialogue sessions with AJS stakeholders including funding recipients, provincial and territorial partners, Elders, Crown, and other mainstream justice partners, between February and July 2011. The sessions were led by Aboriginal facilitators identified in partnership with provinces and territories. The cross-country dialogue sessions held in 2011 between community-based justice programs, the AJD and provincial/territorial partners are an example of the types of gatherings funded and the benefits derived.

The purpose of the dialogues was to disseminate information on the upcoming renewal work of the AJS and on evaluation work underway, and to identify community trends and successful community-level practices. Most key informants indicated that the sessions had benefits beyond information-sharing, allowing funding recipients to connect with one another and with AJD staff, and allowing AJD staff to understand better the challenges faced by communities and the operational reality of community-based justice programs; there were also opportunities for greater partnership with the AJD's provincial and territorial partners.

With a focus on keeping cost low, the dialogue sessions were built around existing opportunities such as site visits or regional gatherings. In many cases, this also allowed for greater participation of stakeholders, especially in rural and remote communities, as they were already meeting for regional training events

Capacity building funds are also provided to community-based justice programs for staff members' training, both to learn methods useful to the provision of justice programs and for self-care/vicarious trauma training. The latter is meant to relieve program staff who, it was indicated, are prone to overwork, stress and burn-out. By increasing program staff knowledge and relieving stresses, capacity building funds enhance the ability of these staff to be involved in the local administration of justice.

Ongoing, rather than one-time, training and development for community-based justice program staff are a necessity to maintain the capacity of AJS-funded programs

Many respondents indicated that staff training was not a one-time need, as program staff turnover and emerging issues in communities (with respect to the nature of offences committed, or the underlying factors affecting offenders) necessitated ongoing learning opportunities for program staff. However, the Capacity Building Fund is designed to provide funds for short-term, one-time projects.

The program policy team within the AJD has recognized this gap in community-based program staff training, and as of July 2011 are developing training materials that will be shared with all community justice program staff as a hard copy reference document.

Capacity building funds are an effective means for community-based justice programs to access funds for equipment and materials required to improve program capacity

All key informants with knowledge of capacity building funds used for program equipment and material purchases (such as computers, office equipment) indicated that these purchases represented an efficient use of funds, as they often represented significant improvements to community-based justice program facilities, were relatively inexpensive, and were managed through grants that were simple to administer, both for the AJD and the programs receiving funds.

Changes to the assessment and selection criteria of the Fund, as well as the timing of the call for proposals, have improved access to the Capacity Building Fund

Improvement of the selection and assessment criteria of the Capacity Building Fund was a recommendation of the AJS 2010 mid-term evaluation, as these elements had been identified by key informants as being unclear and informal. The AJD modified and piloted newly improved Capacity Building Fund tools, including a new application form, a guide for applicants, and rating guides. In spring 2011, the AJD established a working group whose mandate is to: review the piloted tool; improve the clarity of the tools based on feedback received; and formalize the call for proposals, funding application and assessment processes. The new tools are expected to be used in 2011-12.

Most respondents had noticed an improvement in the administration of the Fund, though some indicated it was not sufficiently advertised to allow communities to apply for funds.

The lack of dedicated capacity building funds and the level of funding limit communities' ability to access funds that enhance programs

The Capacity Building Fund does not have a dedicated allotment of funding; rather, the amount of funding allocated to it is determined after the commitment of funds to the community-based justice programs. As the AJD must first determine the level of unused funds, the call for proposals for capacity building funds occurs relatively late in the fiscal year. Thus, the level of capacity building funds is not consistent year over year. Though nearly all key informants identified this lack of dedicated funding as a major weakness of the Fund, one benefit was noted: the provision of unused community-based justice program fund resources for capacity building maximizes the utility of AJS funds, and prevents funding from being lapsed.

The limitations of the Capacity Building Fund identified by key informants include the lateness of the call for proposals (which has historically occurred in late fall), and the short time period for project completion (once approved, projects must be completed by the end of the fiscal year, which usually gives communities two to three months to complete the project). The time pressures associated with the Capacity Building Fund limit the proposals that can be approved, and several key informants noted that the end of the fiscal year is the busiest time for community-based justice programs, which often do not have the resources to implement a project in addition to end-of-year reporting. It was noted that the work completed by the AJD to improve the administration of the Capacity Building Fund, referenced above, also focused on launching the call for proposals earlier in order to mitigate these challenges. Work was underway to launch the call for proposals earlier in 2011.

The lack of dedicated funding precludes advertisement of the Fund, which provincial and territorial representatives cited as the primary reason communities and community-based justice programs are not able to plan for funds in advance. An unintended outcome of this late call and inconsistent level of funds, as indicated by multiple key respondent groups, is that the Capacity Building Fund proposal process can favour communities with higher capacity, as they are the ones able to complete proposals and projects in such a short timeframe. Due to the short window between the call for proposals and the deadline for applications, some interviewees indicated that those programs most in need of funds do not have the resources to complete an application.

Respondents were unanimous in reporting that the level of AJS funds provided for capacity building was not sufficient to achieve the intended outcomes of the AJS. Each year, numerous applications for capacity building projects are not approved due to lack of funds, and the Fund is not sufficiently advertised to ensure all communities can access it.

4.2.2 Community-based Justice Programs

Access to and participation in community-based justice programs continue to improve

As of 2011-12, 214 AJS-funded community-based justice programs serve 634 communities by providing access to alternative, culturally relevant justice programming. Funding for these programs was identified by many interview respondents as the cornerstone of the AJS who indicated that, without the Community-based Justice Program Fund, programs either would not exist or their capacity would be reduced, in either case reducing access.

Improvement in access to community-based justice programs since the previous mandate of the AJS was made through program enhancement and expansion of the AJD regional office in the North, as well as new community-based justice programs launched across Canada. Key informants with knowledge of these enhancements to the AJS coverage indicated that they had improved access to and participation in AJS-funded justice programs. However, many noted that since this enhancement, there have not been sufficient funds to launch additional programs while maintaining the effectiveness of existing programs.

Several key informants in the provinces and territories noted that the community-driven nature of AJS-funded programs leads to improved access to programs, as communities often target outreach initiatives in areas they have identified as having lower rates of participation in the programs. They also work with other community organizations to promote the program, raising the awareness of potential clients.

The increased buy-in of mainstream justice partners over the lifetime of programs leads to increased referrals, thus improving access to community-based justice programs. The 13 AJS-funded programs that participated in the case studies indicated that the relationships with mainstream justice partners are essential to ensuring access to programs, as it is the police, Crown, judges and probation officers who in many cases refer clients to programs. Key informants indicated this increased buy-in occurred as community-based justice programs became more established and demonstrated effectiveness in their holistic approach to rehabilitating offenders, and through program outreach to mainstream justice partners.

One unintended impact of this increased mainstream system respect for community-based justice programs is that in some cases it has increased demand for services beyond the capacity of the program. In these cases, the programs will turn away potential clients, and this hinders access to and participation in community-based justice programs.

Additionally, some key respondents noted that recent federal policy and legislative changes aimed at “tackling crime” have created additional pressures on community-based justice programs, as higher numbers of charges for administrative offences and the increased possibility of more severe consequences in the mainstream justice system have led to an increased number of referrals. It was noted that these pressures, which were perceived as increasing demand for the services of community-based justice programs, are not mitigated with additional resources to the AJS.

Community-based justice program staff members are essential to ensuring the capacity of and participation in programs, but face challenges that could limit their effectiveness

According to findings from the case studies, the programs that were most successful attributed their success to dedicated and competent staff committed to long-term change. Offenders, victims and their families respond well to staff that are also ‘approachable and trustworthy’.

A challenge to community-based justice program effectiveness noted by nearly all key informants, and supported by case study findings, is the high level of program staff turnover and burnout. Key informants noted that this challenge was a result of both insufficient funds to retain qualified program staff and the stress of program coordinators’ participation in the healing process of so many program participants. This was cited as a significant challenge as most programs have only one paid staff member, who is essential to the success of the program; interviewees cited differences in programs’ effectiveness depending on the longevity of their staff members, as well as the time it takes for new coordinators to be trained following turnover.

A factor contributing to rates of turnover and burnout was the fixed nature of funding to programs, which precludes salary raises linked to the cost of living. Key informants stated that this lack of salary increase led to many negative consequences for justice program coordinators, including: staff taking on full-time work with the program, while being paid for part-time work; effective coordinators accepting higher-paying positions elsewhere; and in one case, accepting social assistance. It is important to note that this was not the case in all jurisdictions; one key informant noted that justice program coordinators’ salaries were competitive in that region.

Community involvement in the local administration of justice has increased through community-based justice programs

Many respondents indicated that the community-based and community-driven nature of AJS-funded justice program development was essential to the success of the programs. The nature of the AJS allows Aboriginal communities to tailor their programs to meet the particular needs of

their communities, resulting in unique programs. Results from the case studies indicated that many programs adapt to the cultural diversity among community members by providing a blend of both traditional and contemporary practices.

Interviewees indicated that the community-driven nature of AJS-funded programs promotes a sense of ownership and responsibility for the program in the community. Case study interviews revealed that justice program committee members, who are usually volunteers from the Aboriginal community, are highly motivated by the need to restore balance.

Community-based justice programs increase involvement in the local administration of justice in many other ways: case study and interviewee informants overwhelmingly reported that the inclusion of Elders and other community organizations in justice programming increased the involvement/investment of the community in the program, and more generally that justice programs' utilization of traditional cultural practices led to a revitalization of tradition in communities. Several interviewees noted that community-based justice programs increased community interest in taking responsibility for additional social services in the community - an impact that goes beyond the intended scope of the AJS.

The quality of relationships between mainstream justice partners and community-based justice programs influences the level of access to and participation in the latter

Acceptance of community-based justice program effectiveness by the mainstream justice system is essential to ensure access to and participation in programs; as mentioned above, referrals need to be made from the mainstream system to ensure participation in justice programs.

A survey of police and Crown prosecutors working in the vicinity of an AJS-funded program, conducted in 2009, showed that all Crown respondents were aware of one or more community-based justice programs operating in their region. In the same survey, 25.7% of police respondents working in regions where such programs are offered were not aware of the program's existence. Some 34.8% of the police and Crown respondents indicated that they have participated in the Aboriginal justice programs offered in their communities. These results indicate that involvement of mainstream justice partners in the community-based justice programs could be strengthened, although it is not known whether this participation rate has changed since 2009 or whether the sample of respondents was representative.

Each program participating in the case study had undertaken a variety of measures to educate mainstream justice personnel about their restorative justice program, with varying outcomes. The education measures included: newsletters, presentations, workshops, luncheons, judges'

conferences and brochures. One site was described as supplying a ‘tremendous amount’ of these awareness activities. Others were similarly described. The outcomes of such efforts were described as leading to ‘trusting relationships’, ‘respect for the Justice Committee’, ‘increases in referrals’, and ‘increasingly happy to turnover cases’. There was a feeling that some justice personnel understand the program process and impact but not the cultural underpinnings that make it effective.

Key informants cited other ways in which community-based justice program staff built relationships with the mainstream system, including training provided to mainstream system partners by programs, program coordinators’ presence in court, and program participation in selecting referrals.

A positive relationship between community-based justice programs and mainstream partners is key to improving access to and participation in community-based justice programs, especially when mainstream partners are willing to make concessions to ensure participation. An example mentioned by some key informants was “on the land” programs in which clients travel to remote locations and survive alone on the land, giving them time to reflect and teaching them survival skills. To work, such programs must work with clients’ probation officers to adjust reporting and other conditions for “on the land” program participants. For instance, clients are not required to contact their probation officers during their time on the land, and they are given permission to carry weapons required to hunt their own food.

Many respondents noted that the rate of referrals to community-based justice programs was increasing, an indication that mainstream partners trust the effectiveness of the programs. In some areas, mainstream partners have requested that programs enhance and expand service delivery in order to serve a greater number of clients.

The extent to which community-based justice program activities encourage Aboriginal cultural values to be reflected in the Canadian justice administration differs across communities

As mentioned above, in many communities, justice programs have the support of their mainstream partners, which allows for referrals to be made and for programs to provide a culturally relevant alternative to the mainstream justice system for Aboriginal persons. However, the extent to which key informants noted an inclusion of Aboriginal cultural values within the mainstream system itself was less clear.

Many interview respondents indicated that Aboriginal values were increasingly reflected in the Canadian justice system at the local level when communities built effective relationships, but those effects did not extend to the Canadian justice system at the macro level. However, some key informants noted that other factors have increased the mainstream justice system's acknowledgement of Aboriginal cultural values, such as the increased use of restorative justice, the implementation of courts centered on Aboriginal culture, and higher rates of Aboriginal persons working in the mainstream system than in the past.

In some communities with AJS-funded programs, program staff are invited to participate in justice-related meetings and working groups; they sometimes have a voice at the provincial policy table and can influence policy. For instance, one key informant noted that Aboriginal community-based justice programming was entrenched in the province's alternative measures policy as a means of reflecting the continued need for these programs.

Community-based justice programs have a positive impact on the individuals and communities they serve

The Justice Committee members interviewed as part of the case studies overwhelmingly agreed that their community-based justice programs are addressing the needs of individuals, families and, to some extent, communities. This opinion was reflected by all key informants interviewed in 2011. The sub-sections below provide more detail on the reported impacts of community-based justice programs on particular groups.

Offenders: The focus of community-based justice programs is on healing and addressing the root causes underlying an offence, and not simply the offence itself. In alignment with Aboriginal cultural values, programs generally use a holistic approach and seek to restore balance in the offender's life. For many offenders, the experience involves a profound transformation of self-understanding and feelings of self-worth. Within the concept of Aboriginal community justice, individuals are held accountable for their actions, and this is the starting point for many on their journey toward healing and reconnection with self, their identity, other organizations and the entire community. Case study interviewees indicated that when the offenders heal, harmony between the offender, victim and community is made possible.

Case study interviews with offenders who had participated in community-based justice programming noted that, for offenders, successful participation in culturally relevant and community-based programming requires reflecting on and acknowledging their personal responsibility for the offence, which does not necessarily occur in the mainstream system.

Community-based justice programs require as conditions of participation that offenders take responsibility and make reparations.

Many community-based justice program participants have underlying issues such as mental illness, substance abuse, poverty, any of which can complicate healing and the restoration of balance. An interview respondent also mentioned the rise in the number of participants with Foetal Alcohol Spectrum Disorder. Community-based justice programs, being holistic in nature, focus on addressing these issues to get to the root of behaviours and to assist participants in making long-term changes.

Youth: Youth programs were identified by key informants as being particularly effective, especially for first-time offenders. As this was a focus of enhancement funding in 2007, it is important to assess the impact of community-based justice programs on young offenders.

Aboriginal youth, much like all Aboriginal persons, are over-represented in the criminal justice system. Although Aboriginal youth accounted for 6% of all youth in the general population (according to the 2006 Census), they represented 27% of youth remanded, 36% of youth admitted to sentenced custody and 24% of youth admitted to probation in 2008-09. Aboriginal youth are not only over-represented in the criminal justice system, they also face more negative outcomes: Aboriginal youth spent an average of nine days in remand, while for non-Aboriginal youth the average was six days. This finding held regardless of violation type¹³.

The AJD created a “success stories” document, which highlights examples of how community-based justice programs provide an alternative to the penal system. These programs offer first-time young offenders the opportunity to change/heal without the long-term consequences of a criminal record, which would hinder their future chances for success. These stories include those of offenders who have participated in on-the-land and other programs, accepted responsibility for their behaviours, made restitutions, and gone on to play productive roles in their families, communities and careers.

RCMP officers interviewed as part of the case studies indicated that program principles have guided them with respect to the appropriate actions to take with youth. However, one key informant noted that pre-charge youth referrals are a challenge to obtain in some areas, as invoking alternative measures post-charge allows for charges to proceed in court if the youth does not comply, which is not the case with pre-charge referrals. Research indicates this perception might be supported in some jurisdictions. Since the coming into force of first the *Young Offenders Act*, then the *Youth Criminal Justice Act*, the proportion of apprehended youth

¹³ Statistics Canada, *Youth Custody and Community Services in Canada, 2008-09*, Juristat 30(1), Spring 2010.

charged in some provinces increased, as post-charge alternative measures were invoked. However, research also indicated that nearly half of a sample of police officers favoured informal, pre-charge referral to a program¹⁴.

Through the case studies, many key informants noted that community-based justice programs were effective at reducing rates of recidivism among youth. This finding was supported by an analysis of rates of re-offending, which demonstrated that youth¹⁵ who participated in a community-based justice program were significantly less likely to re-offend than youth who were referred to, but did not participate in, a program, as will be seen later in this section.

Victims: Some AJS-funded programs are intended to address the needs of the victims, but there were conflicting reports among case study respondents as to whether this is indeed happening. A number of community-based justice programs do not have mechanisms or capacity for addressing the needs of victims and rely on other community programs to do so.

Most victim case study respondents were satisfied with the restorative justice process and felt they could live harmoniously with the offender in the community. However, respondents indicated that the majority of non-Aboriginal victims were not satisfied with the outcomes of the restorative justice programs, specifically when restitution for vandalism and other property crimes was not paid directly to the victim.

Some key informants indicated an interest in expanding the mandate of AJS-funded programs to address victims' needs as well as offenders, in order to align the program with the holistic approach to healing. Some community-based justice programs have begun to address these needs.

Community-based justice programs appear to contribute to a reduction in recidivism among program participants

The qualitative evidence that community-based justice programs reduce recidivism rates in participants is supported by quantitative analysis of criminal records of program participants and non-participants. The lower rates of re-offending, as indicated by this analysis, contribute to achieving the long-term outcomes of the AJS of reducing crime and incarceration rates in communities with access to funded programs.

¹⁴ Department of Justice Canada, *Police Discretion with Young Offenders*, 2003.

¹⁵ In order to ensure a sufficient sample size for analysis, "youth" in the context of the recidivism study is defined as under 20 years of age. The sample size for this analysis was 1,546.

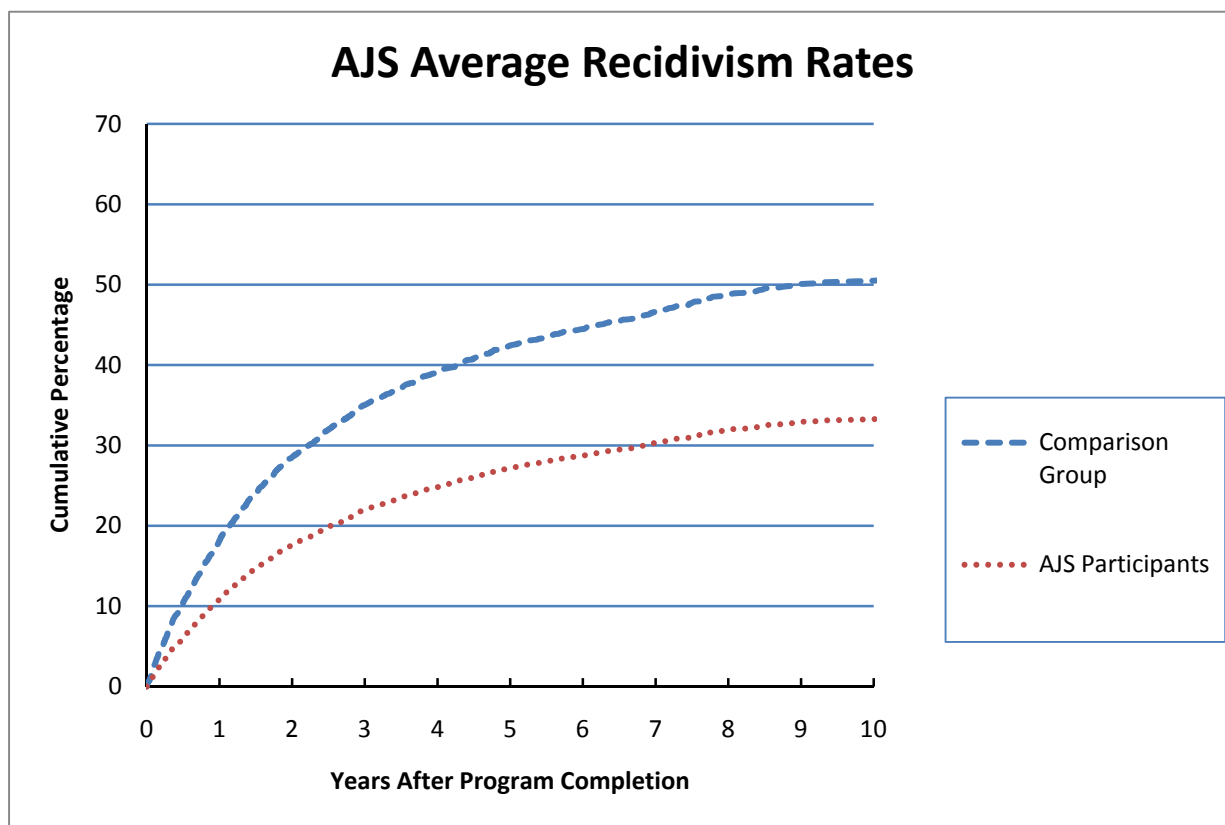
Results of the recidivism study indicate that AJS-funded program participants are significantly less likely than comparison group members to re-offend. In order to determine this relative likelihood, a Cox regression analysis was utilized (see Section 3.5 and Appendix A).

Table 5: AJS Average Recidivism Rates¹⁶, by Time and AJS Program Participation

Time after Program Completion	Cumulative Percent who have Re-offended	
	Participants	Comparison Group
1 year	10.9	18.2
2 years	17.6	28.5
3 years	22.0	35.1
4 years	24.8	39.1
5 years	27.2	42.4
6 years	28.7	44.5
7 years	30.4	46.7
8 years	32.0	48.8
Note: Recidivism rates are fitted from the proportional hazards model and are based on the average characteristics of the national sample: ➤ number of prior convictions – drug (mean = 0.09) ➤ number of prior convictions – violence (mean=0.63) ➤ number of prior convictions –non-violent (mean=1.41) ➤ age (mean=27) ➤ gender balance (0.58)		

¹⁶ Recidivism rates are cumulative over time and are adjusted to control for underlying differences in characteristics between the program and comparison groups. The adjustment uses Cox regression fitted to the total sample means for number of prior convictions, age, and gender (where 0 is woman and 1 is man).

Graph 1: Percentage of Offenders who have Recidivated, by Time and AJS Program Participation



Rates of re-offending were found to be significantly lower among program participants at every point in time after completing the program:

- At one year, 18.2% of comparison group members had been convicted of at least one other crime compared with 10.9% of AJS program participants.
- At four years, 39.1% of comparison group members had re-offended compared with only 24.8% of AJS program participants.
- At eight years, 48.8% of comparison group members had re-offended compared with 32.0% of AJS program participants.

Although these findings should be interpreted with caution, given the methodological limitations described in Section 3.5, they suggest that AJS-funded programs are associated with the intended long-term outcome of reducing crime. These findings are in line with results of recidivism studies conducted in 2000 and 2006.

A separate analysis of the rates of re-offending for youth participants found that participation in an AJS-funded program was a significant factor associated with reduced recidivism over time (see Table 6).

Table 6: AJS Average Recidivism Rates - Youth Under 20

Time After Program Completion	Cumulative Percent of Youth Who Have Re-Offended	
	Participants	Comparison Group
1 year	12.0	17.3
2 years	18.3	26.0
3 years	23.6	33.0
4 years	27.4	37.9
5 years	30.2	41.3
6 years	32.6	44.3
7 years	34.9	47.1
8 years	36.3	49.1
Note: Recidivism rates are fitted from the proportional hazards model run separately for youth under 20 and are based on the average characteristics of the youth sample only: ➤ number of prior convictions – drug (mean = 0.01) ➤ number of prior convictions – violence (mean = 0.15) ➤ number of prior convictions – non-violent (mean = 0.29) ➤ age (mean = 17) ➤ gender balance (0.61)		

The impact of community-based justice programs on the perceived safety of communities varies by community

Based on interviews and site visits conducted with 13 community-based justice programs, it was perceived that the programs had made a substantial contribution to an increased sense of community safety. One community in particular noted that prior to the program, there had been no victim services for community members, and the addition of this community service was an important factor in increasing perceived community safety. For another community, family group conferencing for families experiencing domestic violence had helped community members be less fearful.

The following is a list of factors that were perceived by key informants to have contributed to increased community safety:

- Reduced recidivism rates among program completers

- Community curfew for youth
- Elder involvement
- Increased support for program participants
- Increased anger management among program completers
- Community conflicts solved through the program
- Program credibility in the community
- Promoting the value of positive choices
- Increased community accountability
- Increased victim support
- Providing education about restorative justice program and community safety initiatives, such as Crime Stoppers and Citizens on Patrol

Two of the 13 programs did not report changes in the level of perceived community safety, for different reasons: one stated the community had always been safe; however, it now had increased awareness of crime and justice. The other program raised concerns regarding increased community fear due to the reintegration of some offenders into the community.

Although there was a general belief among the communities that participated in the case studies that community-based justice programs had contributed to decreased crime and recidivism rates, many communities noted pre-existing problems that maintained some level of community crime such as poverty, cigarettes, gaming and violence. Some programs were equipped to deal with violent cases within the restorative justice program while others were not, and some programs were working toward the inclusion of violent cases. Overall, it was noted that while programs could have an impact on participants, some issues were beyond the scope of the AJS.

4.2.3 Aboriginal Justice Strategy Federal-Provincial-Territorial Working Group

All key informants indicated that the structure of the AJS FPT WG and the level of communication between working group members have significantly improved

All key informants reported that the structure of the AJS FPT WG had improved over the period covered by the evaluation, particularly over the past two to three years. The regular meetings held by teleconference, the open communication on the part of the AJD and the WG's co-chairs,

the opportunities for FPT collaboration, and the supporting documents provided to WG members, such as agendas, were all cited as significant improvements.

These improvements, as well as the improved communication on behalf of the AJD, were credited with improving relationships between the AJD and its provincial and territorial partners. All respondents indicated the WG was effective as a means of sharing information.

Numerous respondents indicated that the face-to-face working group meetings were more effective than the telephone calls, though most acknowledged budgetary constraints at the FPT levels limited the frequency of these meetings. Holding in-person meetings at least once annually was a priority for most members of the WG.

Increased sharing of issues and initiatives that impact community-based justice programs could be beneficial to the AJS FPT WG

Although all key informants reported significant improvements to the AJS FPT WG, many noted that further improvements could be made. The first area noted for improvement was the sharing of information from other federal departments and sections working in community and Aboriginal justice. Several key informants noted that the various FPT working groups on Aboriginal justice issues, of which there are several, tend to work in silos, and greater communication of emerging issues and upcoming initiatives would benefit WG members.

The second area for improvement related to the operational side of the AJS. Several key informants noted that the AJS FPT WG could focus on the challenges faced by and promising practices of programs, to ensure that all jurisdictional representatives are aware of these. It was indicated that provincial and territorial partners could share stories and learn from one another. Currently, the focus of AJS FPT WG meetings is on sharing information at the federal level.

The level of participation in the AJS FPT WG could be improved

Some key informants noted that some jurisdictional representatives participate more fully in the AJS FPT WG than others. It was suggested that this might be due to varying levels of capacity. Since full provincial and territorial participation was noted as important to the success of the WG, participation of all provincial and territorial partners should be encouraged. Participation rates could be improved by having a back-up representative for each province and territory, so that they are represented even if someone is unavailable; having AJS FPT WG meeting dates for the year set in advance to allow representatives to prepare to attend; and having regional coordinators remind their provincial and territorial counterparts in advance of AJS FPT WG meetings.

4.2.4 Aboriginal Justice Directorate

Human resource capacity and stability within the Directorate has improved over the period covered by the evaluation

The stability of the AJD staff was cited as a challenge to effectiveness in the 2010 AJS Mid-term Evaluation, and the AJD's response to the evaluation report included a commitment to reduce staff turnover. Key informants interviewed in 2011 unanimously agreed that the AJD staff stability has greatly improved since 2008. Staff members have been hired, trained and grouped into teams to improve the stability of the Directorate. The AJD's response to this mid-term recommendation has been successful and has had a positive impact on the relationships between the AJD and its key partners.

Opinion was mixed as to whether the level of human resources was sufficient in the AJD; many key informants indicated that additional regional coordinators would be useful as the workload of current regional coordinators is heavy, while some others noted that additional support staff for the Directorate would ease workloads. However, most respondents agreed that given the current economic climate, the Directorate had sufficient staff to carry out its activities.

Some areas of improvement were noted, specifically with respect to AJD staff knowledge of relevant policies and of the communities served by the AJS. One key informant suggested more training for AJD staff on how to directly support communities, and a respondent suggested internal cross-training be used to create developmental opportunities for AJD staff. One respondent suggested creating a comprehensive resource book, including policies and legislation relevant to the AJS and descriptions of how they apply to communities, to assist AJD staff in supporting community-based justice programs.

Annual in-person gatherings are an effective means of connecting AJD staff

It was noted by several respondents that the geographic dispersion of AJD staff in headquarters and regional offices can lead to feelings of isolation in regional staff, which is addressed by annual face-to-face gatherings for all Directorate staff. These meetings are generally timed to coincide with the Programs Branch all-staff meeting so regional AJD staff can attend both. This annual gathering was cited by many regional AJD staff members as an important means for them to connect with the Directorate.

4.2.5 Communications

Communications internal to the Directorate have improved over the period of the evaluation and are perceived as enhancing the effectiveness of the AJS

The importance of internal communications to the achievement of the intended outcomes of the AJS was cited by numerous key informants. Many noted that AJD staff must be knowledgeable about the AJS, the communities and programs funded through the AJS, as well as many other policies and initiatives relevant to Aboriginal justice, in order to effectively assist community-based justice programs. Key informants from the Directorate noted that internal communications had improved over the period and, in 2011, included formalized measures such as regular meetings within and between teams, various working groups, and meetings between headquarters and regional staff.

Communications between the AJD and ALSP are sufficient to achieve the intended outcomes of the AJS but could be enhanced

Collaboration between the AJD and ALSP is essential to the achievement of the intended outcomes of the AJS, as the groups share responsibility for the implementation of the AJS. Some barriers to communication noted by key informants were the reporting structure that separates the AJD and ALSP under different branches within the Department, and the high levels of staff turnover in both groups.

AJD staff members who work closely with ALSP noted there was little duplication of work between the two groups, as ALSP works on high-level Aboriginal justice policy issues, while the AJD is focused on the funding of the AJS and program policy. However, some federal respondents were unaware of these distinctions and were unable to describe the initiatives undertaken by ALSP over the period of the evaluation. Some respondents noted that there was a lack of communication between the two groups beyond the AJD's policy team, which had sometimes led to additional work being completed when it was not necessary.

One regional AJD staff member stated that ALSP staff was accessible and open to answer questions when contact was initiated. The other regional coordinators did not communicate with ALSP, though the experience of one respondent suggested ALSP would be open to requests for information.

Several key respondents noted that ALSP staff involved in work related to the AJS demonstrated a willingness to learn about the community-based justice programs, and in some cases had travelled to communities to better understand the operational reality of the programs.

The area for improvement most frequently cited by key informants was the lack of AJD participation on the FPT Working Group on Aboriginal Justice chaired by ALSP. Several respondents indicated that AJD staff seem unaware of the work taking place in this working group, which can hinder their ability to implement the AJS as effectively and efficiently as possible. Some respondents noted that the AJD not being included on working groups relevant to the Strategy results in provincial and territorial representatives at times being more aware of federal initiatives in the area of Aboriginal justice than the AJD staff.

Communications with provincial, territorial and community partners have improved significantly over the period of the evaluation

Though provincial and territorial partners were not aware of a formal communications strategy, they all agreed that their communications with the AJD had improved significantly since 2008.

Communications between the AJD's program and policy staff and the communities was cited as an area for improvement by numerous key informants. The dialogue sessions were noted as a positive example of the relationships that develop and the information that is shared when the federal government and community justice programs meet in person, and as an example of how these relationships are strengthening.

An unintended, positive aspect of the strong relationships between the AJD and the communities is the assistance the AJD provides to community-based justice programs in finding additional sources of funding. For example, the Government of Canada's Initiative on Missing and Murdered Aboriginal Women was noted by a few respondents as an initiative for which the AJD provided support in connecting the Department with Aboriginal communities.

Responses were mixed with respect to the level of communication between AJD regional coordinators and the communities. Again, all respondents indicated improvements over the current mandate, with some indicating that regional coordinators regularly visited community-based justice programs. Others cited limited travel funds and high workloads of regional coordinators as challenges to community visits. All provincial and territorial key informants were satisfied with the responsiveness demonstrated by regional coordinators to issues arising in communities.

Some provincial and territorial partners mentioned that they felt they had to initiate contacts with their regional coordinators, and wanted more proactive communications on the part of the latter. It was also suggested that communications be used more effectively to inform and update new provincial and territorial partners, who are not aware of the processes and operations of the AJS.

However, in general, provincial and territorial respondents noted positive relationships with their regional coordinators, and often cited their heavy workloads as a reason communications were not as proactive as would be ideal.

Communications in some areas of the Strategy could be improved

Although all federal key informants were aware of the AJD's activities over the period covered by the evaluation, most provincial and territorial partners cited evaluations and the AJS FPT WG as the major activities of the Directorate, and many were unaware of other activities. Better communication of the AJD's internal activities was requested by some key informants.

Many respondents noted that although the AJS was effective in communities, these results were not communicated beyond the Strategy's partners. Several respondents indicated that communication of community-based justice program results to Aboriginal leadership and within the federal government and Department of Justice should be a priority of the AJD. Others suggested working in collaboration with Justice's Communications Branch to promote the benefits of the Strategy. It should be noted that the AJD is currently developing a "Success Stories" document meant to communicate to a wider audience the effectiveness of the community-based justice programs.

4.3 Efficiency and Economy

4.3.1 Comparative Cost Analysis of the AJS and the Mainstream Justice System

A cost analysis was conducted in conjunction with the 2011 AJS recidivism study as a means of estimating the cost efficiency of AJS-funded programs. The mainstream justice system was used for comparison as it is the only alternative for the majority of AJS-funded program participants. To simplify the analysis, only relative costs were included in each measure; costs incurred in the administration of both AJS program participants and other cases were not included.

The costs of AJS-funded programs were estimated based on information for fiscal year 2008-09¹⁷ provided by a sample of 17 community-based justice programs across Canada. Total program spending was averaged over the recorded number of clients for each program during the fiscal year. The following definitions were used in estimating the costs per client of AJS-funded programs:

¹⁷ At the time the cost analysis was conducted, 2008-09 was the most recent year for which data on costs of the mainstream justice system was available. Programs participating in the cost analysis were therefore asked to provide cost data from 2008-09 for consistency.

- Program costs for AJS-funded programs were defined as the total funds received from programs from federal, provincial and territorial governments, including administrative costs of the program, in 2008 dollars. Start-up costs that were designated as one-time expenditures and that were not associated with service delivery were excluded from analysis.
- Clients are defined for the purposes of this analysis as offenders referred to an AJS-funded program who participated in the program, whether or not they successfully completed the program.

For comparative purposes, the costs of the mainstream justice system, per implicated person, were estimated based on publicly available police and court data for fiscal year 2008-09. Spending covering court expenditures (including prosecution) and legal aid were included in the costs of the mainstream justice system, but policing and costs associated with carrying out sentences, including those incurred by correctional facilities, were excluded from analysis. The following definitions were used in estimating the costs per client of the mainstream justice system:

- Court costs were defined as the total court expenditures processed in courts in 2002-03, adjusted for inflation to 2008 dollars and adjusted to account for the average increase in elapsed time/number of appearances per case between 2002-03 and 2008. The number of cases was calculated as the total number of civil and criminal cases processed in courts in 2002-03. The total court costs per total cases resulted in an estimated cost of approximately \$1,418 per case in 2008^{18,19}.
- Total prosecution costs were calculated as the average prosecution cost per case (excluding British Columbia) in 2002-03, adjusted for inflation to 2008 dollars and adjusted to account for the average increase in elapsed time/number of appearances per case between 2002-03 and 2008. As a result, the total prosecution costs per case were estimated as \$1,114 in 2008²⁰.

¹⁸ 2002-03 was the most recent fiscal year for which data was available at the time of the study. For comparative purposes, values were converted to 2008 dollars.

¹⁹ Justice Canada, *Costs of Crime in Canada*, 2008, p.9.

²⁰ Justice Canada, *Costs of Crime in Canada*, 2008, p.10.

- Legal aid costs were considered to be the sum of all provincial and territorial legal aid plans' direct legal service expenditures in the areas of criminal and civil law in 2008-09; these costs were \$587,124,000²¹.
- Number of cases receiving legal aid was calculated as the total number of approved civil and criminal legal aid applications for all provincial and territorial legal aid plans, which in 2008-09 was 655,909²². The average legal aid cost per case was therefore calculated to be approximately \$895.

To the greatest extent possible, only the costs that would differ between the AJS-funded community-based justice programs and the mainstream justice system were compared. Policing costs were excluded from analysis, as these costs are generally the same whether an offender is referred to an AJS program or proceeds through the mainstream justice system. Post-sentencing costs were excluded as no data on how sentencing differed between AJS program participants and offenders in the mainstream justice system was available. Additionally, a comparison of AJS program participant outcomes could not be made to offenders in the mainstream system in general, due to underlying differences in characteristics between the two groups.

The mean of the average cost per participant of the 17 AJS programs included in the study was \$3,149.71, while the median was \$2,129.81.

Costs per participant for programs under analysis ranged from \$671.07 to \$11,428.57 in the programs participating in the cost analysis. This wide range could be due to program differences in defining and tracking participants, and costs could be higher in newer programs that have not yet reached full capacity to serve clients. Of the 17 programs for which data was analyzed, federal and provincial/territorial financial contributions to AJS programs were approximately equal²³.

Costs per participant in the mainstream justice system were taken as the sum of the court, prosecution and legal aid costs per case, which totalled approximately \$3,472 in 2008-09. Therefore, AJS provides immediate savings to the mainstream justice system in the amount of approximately \$322.29 per program participant²⁴.

²¹ Statistics Canada, *Legal Aid in Canada: Resource and Caseload Statistics 2008-09*, 2010, p.21.

²² Statistics Canada, *Legal Aid in Canada: Resource and Caseload Statistics 2008-09*, 2010, p.51.

²³ Of the 17 programs that provided data for the cost analysis, the average proportion of the federal financial contribution was 51%, while the average provincial/territorial contribution accounted for 49% of the total budget.

²⁴ \$3,472.00 - \$3,149.71 = \$322.29

Although there were some methodological limitations in the comparative cost analysis, as discussed in Section 3.6, it appears that AJS community-based justice programs are a cost-efficient alternative to the mainstream justice system. This is especially true when considering the future cost savings to the mainstream justice system produced by AJS programs through reduced rates of recidivism on the part of program participants. Since the recidivism study found lower rates of recidivism among AJS-funded program participants than the comparison group, the cost savings of the AJS to the mainstream justice system extend into the years beyond program participation.

The present value, in 2008 dollars, of the longer-term (8 year) cost savings associated with the AJS were calculated based on the rationale that the differences in the participant and comparison groups' rates of re-offending result in fewer instances of AJS-funded program participants being involved in the mainstream justice system in the future, which reduces the amount of required future court expenditures. To estimate the value of these cost savings, the incremental reduction²⁵ in the average recidivism rates between program participants and the comparison group were calculated each year for eight years following program participation. Table 7 presents these incremental reductions in recidivism rates. The incremental reduction in the recidivism rate each year can then be calculated as an average cost savings to the mainstream justice system each year over the eight-year period in question, for each AJS-funded program participant. Since the recidivism study found the program participants in the study were 7.3% less likely to re-offend after one year than the comparison group, and the average cost per case in the mainstream justice system was estimated at \$3,472, the cost savings per program participant, in 2008 dollars, one year later would be:

$$\$3,472 \times 7.3\% \sim \$253$$

Table 7 below provides the cost savings per program participant in each of the eight years following program participation.

²⁵ The incremental difference in rates of recidivism over time calculates the percent reduction occurring each year, rather than the cumulative reduction over time which calculates the total reduction in recidivism over the full time period.

Table 7: Incremental Reductions in Recidivism Rates of AJS Program Participants and Resulting Cost Savings

Time After Program Completion	Cumulative Percent Who Have Re-Offended		Incremental Percent Who Have Re-Offended	Cost Savings Per Program Participant to the Mainstream Justice System Each Year (2008 \$)
	Participants	Comparison Group		
1 year	10.9	18.2	7.3	253
2 years	17.6	28.5	3.6	125
3 years	22.0	35.1	2.2	76
4 years	24.8	39.1	1.1	38
5 years	27.2	42.4	1.0	35
6 years	28.7	44.5	0.6	21
7 years	30.4	46.7	0.5	17
8 years	32.0	48.8	0.5	17

Finally, the total present value (in 2008) of the eight years of cost savings per participant was calculated using the cost savings per participant per year²⁶, and the TBS-accepted real social discount rate for federal cost-benefit analysis of 8% per year. The following formula for calculating present value was applied:

$$\sum_{i=0.08}^{n=8} \frac{\text{cost savings per program participant to the mainstream justice system each year}}{(1 + i)^n}$$

Using this formula, the present value of the cost savings per AJS-funded program participant over the eight years following program participation was \$485.85, while the cost savings achieved the year of program participation was \$322.29, for a total present value of savings of \$808.14.

²⁶ Cost savings are based on immediate savings due to the relatively low cost of AJS-funded program and future savings based on reduced recidivism.

As AJS-funded programs served thousands of participants each year, these cost savings per participant would contribute to much greater total savings. As an example, in 2010-11 10,050 clients were served by AJS-funded programs²⁷. Assuming the present value of the cost savings per participant to the mainstream justice system over eight years is \$808.14, the total savings of one year's cohort to the mainstream justice system would be:

$$\$808.14 \times 10,050 = \$8,121,807$$

This suggests that, in 2008-09, approximately \$8M in present and future cost savings to the mainstream justice system were achieved through AJS-funded programs. As the costs of AJS-funded programs, numbers of clients served, and reductions in participant recidivism rates tend to remain relatively steady over time, it is reasonable to assume that the future cost savings incurred each year would be similar.

4.3.2 Streamlining Reporting

The National Data Requirements project was designed to implement an electronic reporting tool that would focus specifically on the information requirements identified in the 2007 AJS RMAF. The tool was specifically designed to meet the needs of Aboriginal community-based justice delivery organizations and FPT program funders, and was intended to streamline data entry for the programs and improve the consistency and accessibility of data. This streamlining would represent an increased efficiency for the community-based justice programs by reducing differences in federal, provincial and territorial reporting requirements. Agreement-in-principle has been reached on client indicators for the national database and AJD anticipates piloting the national data collection system by the end of this fiscal year.

Interview results indicate that the national data requirements project is a “work in progress”, with mixed levels of confidence in the project. Some key informants indicated that the national data system was necessary and would improve accountability, while others were concerned that it would create an added level of reporting burden for community-based justice programs.

Some respondents emphasized the importance of reducing reporting requirements for low-risk programs, while others noted that the maintenance of program records is important to provide support for the legitimacy and effectiveness of programs. One key informant suggested that end-of-year reporting requirements be reduced to alleviate administrative burden, while ongoing monitoring of programs be increased throughout the year.

²⁷ Data on the total number of clients participating in AJS-funded programs was not available for 2008-09, but is assumed to be similar to the number served in 2010-11.

4.3.3 Linkages Between ALSP and AJD

Many AJD and ALSP respondents were comfortable approaching the other group with questions and indicated that the relationship between the groups was good, while others expressed interest in stronger ties. Making the links between the two groups more explicit could lead to increased partnerships and improved efficiency.

The previously mentioned lack of communication of the work of the Aboriginal Justice Working Group, chaired by ALSP, has led to AJD staff being less informed of some federal initiatives than the provincial and territorial representatives who participate in this working group. This finding was noted by both federal and provincial/territorial key informants.

Although no specific examples of duplication of work between the AJD and ALSP were mentioned, some key informants noted that work would be done more efficiently if staff were more aware of the priorities and needs of both groups; otherwise, work is completed without staff knowing fully the expectations of both groups.

4.3.4 Other Issues Related to Efficiency and Economy

Implementation of the Treasury Board Secretariat's Policy on Transfer Payments has had a positive impact on the efficiency of community-based justice programs and the Directorate

Many respondents indicated that the increased flexibility for community-based justice programs, as a result of effective AJD implementation of the Policy on Transfer Payments and risk-based program assessments, have reduced the administrative burdens of programs, allowing them to focus on service delivery and improving program efficiency.

Several key informants indicated that more work could be done by the AJD to fully implement Appendix K of the Treasury Board Secretariat's Directive on Transfer Payments, which specifies approaches that can be taken in transfer payments to Aboriginal recipients.

Implementation of multi-year funding agreements has been a success

The implementation of multi-year contribution agreements with the provinces and territories, whenever possible, was a recommendation of the 2010 AJS mid-term evaluation. Key informants were unanimous in describing a significant improvement in this area since 2008, and in noting that the multi-year funding agreements in place have been successful at improving the efficiency of the AJS.

Increased communication and coordination with other federal initiatives related to Aboriginal justice could improve efficiency

Many respondents indicated that it seemed programs related to Aboriginal issues work in silos, contrary to Aboriginal values. Better communication and being better informed could lead to more holistic service delivery, which would be more efficient.

Many respondents noted that communications at the federal level between groups involved in Aboriginal justice were limited. Increased collaboration between the AJD, ALSP and other federal groups involved in the delivery of Aboriginal justice programs was seen as being an opportunity to improve the efficiency of all Aboriginal justice initiatives. It was also suggested that a review be completed to determine whether Aboriginal justice initiatives are delivered by the most appropriate groups.

5. CONCLUSIONS

This section provides conclusions based on the findings related to the relevance and performance (effectiveness, efficiency and economy) of the AJS between 2007-08 and 2011-12.

5.1 Relevance

The objectives of the AJS are consistent with the priorities of the Department of Justice and align with the Department's strategic outcome to "create a fair, relevant and accessible justice system that reflects Canadian values". The AJS is consistent with these aims to the extent that it provides a culturally relevant alternative to the mainstream justice system. According to the Department's 2011-12 Report on Plans and Priorities, Aboriginal justice is one of the five core priorities of the Department. The AJS is also well aligned with the priorities of the federal government, as it contributes to ensuring the safety of communities and to reducing and preventing crime.

The AJS is clearly aligned with federal roles and responsibilities, as the policy mandate for which the Minister of Justice is responsible includes Aboriginal justice, while the day-to-day administration of justice is the responsibility of the provinces and territories. The AJS is delivered in a manner consistent with this constitutional division of powers, as the federal government funds the delivery of community-based justice programs in the area of Aboriginal justice.

The AJS was created by the federal government in response to the disproportionate number of Aboriginal persons involved in the criminal justice system, both as offenders and victims. As the continued over-representation of Aboriginal persons in the justice system underscores, there remains a need for culturally relevant alternatives to the mainstream justice system.

5.2 Effectiveness

Effectiveness of the Capacity Building Fund

Capacity building funds are provided to communities exploring the possibility of launching a community-based justice program in the future, fulfilling the intended outcome of the AJS to

“increase capacity to implement community-based justice programs and other community-based justice services”. However, the fixed level of funding of the AJS has precluded launching new AJS-funded programs in these communities.

Funds provided for gatherings through the Capacity Building Fund increased capacity of community-based justice programs to provide effective services, by offering opportunities for training, networking and support. The cross-country dialogue sessions held in 2011 between community-based justice programs, the AJD and provincial/territorial partners are an example of successful gatherings funded through the Capacity Building Fund.

The use of capacity building funds for the purchase of office equipment and other materials was seen as an efficient means of improving the capacity of community-based justice programs, while requiring a minimum of reporting on the parts of both the programs and the AJD.

The lack of a dedicated Capacity Building Fund, which has resulted in late calls for project proposals and inconsistent levels of funds year to year, has led to limited access to the Fund for those communities and programs lacking the resources to complete proposals and projects in such short timeframes.

Each year, numerous proposals for capacity building projects are not approved due to a lack of funds.

Effectiveness of the Community-based Justice Programs

The AJS was described by all key informants as essential to Aboriginal community-based justice programs; without the AJS, it was noted that programs either would not exist or would exist at reduced capacity. In both cases, access to community-based justice programs would be limited.

Access to and participation in community-based justice programs is enhanced by the community-driven nature of AJS-funded programs, which allows programs, sometimes in collaboration with other community organizations, to target outreach initiatives to those most in need in their communities.

Positive relationships between AJS-funded program staff and mainstream justice partners was cited as essential to ensuring access to and participation in community-based justice programs. Key informants noted an increase in referrals to programs over time, an indication of increased trust of mainstream partners, and a measure of improved access to community-based justice programs. In some jurisdictions, mainstream partners have requested expanded community-

based justice program services in order to accept a greater number of referrals, which would further increase access to and participation in AJS-funded programs.

The high level of community-based justice program staff turnover and burnout were both cited as impediments to program effectiveness. Key informants noted that this challenge was a result of the inability to provide cost of living salary increases and, in some cases, for full-time salary, as well as the stress faced by program coordinators participating in the healing journey of so many participants.

The AJS was found to be effective in achieving its intermediate outcome of involving Aboriginal communities in the local administration of justice, as the community-driven nature of AJS-funded programs allow Aboriginal communities to tailor their programs to meet the particular needs of their communities. This, in turn, promotes a sense of ownership and responsibility for the community-based justice program; program staff and volunteers are highly motivated and dedicated to assisting their communities. The inclusion of Elders and other local organization in programs further increases the local administration of justice and the investment of the communities in the programs.

It was determined that the AJS was effective in achieving its intermediate outcome of relevant Aboriginal cultural values being reflected in the Canadian justice administration at the local level when community-based justice program staff had established positive relationships with mainstream justice partners. This reflection of Aboriginal values in the Canadian justice administration was evidenced by increased buy-in for programs and increased participation of program staff in working groups and in provincial meetings related to policy. Although several key informants noted an increasing reflection of Aboriginal values in the mainstream justice system, this was attributed to several factors and not the AJS alone.

To a certain extent, it was found that community-based justice programs contributed to achieving the long-term outcome of the AJS of “safer and healthier communities”. Community-based justice programs utilize holistic methods that reconnect offenders with themselves, their families, and the community as a whole. As well, the perception of most key informants was that communities were safer as a result of AJS-funded programs. However, it was noted that some factors affecting crime were beyond the control of community-based justice programs, meaning their impact was limited.

Evidence that the second long-term outcome of the AJS, “reduced crime and incarceration rates in communities with funded programs”, is being achieved is evident through the results of the

recidivism study, which found a significant difference between rates of re-offending of AJS-funded program participants and a comparison group.

Effectiveness of the Aboriginal Justice Strategy Federal-Provincial-Territorial Working Group

All key informants reported that the structure of the AJS FPT WG had improved through the period covered by the evaluation, particularly since the previous mid-term evaluation. Improvements include regular meetings, open communication, provision of information and supporting documents, and improved relationships between the AJD and provincial and territorial partners.

Full participation of provinces and territories in the AJS FPT WG was underlined as being essential to the success of the group. It was noted that capacity issues might hinder the participation of some jurisdictions.

Effectiveness of the Aboriginal Justice Directorate

Since 2008, the AJD has focused on reducing rates of internal staff turnover, and on improving training and Directorate structure to ensure staff are able to effectively meet their responsibilities.

Collaboration of the AJD and ALSP is essential to the effectiveness of the AJS. AJD and ALSP staff members who work closely together noted that there was no duplication of work between the two groups, and that communications between groups were sufficient. However, many key informants noted having only limited contact with ALSP and being unaware of their initiatives. It was noted that there was a lack of communication between the two groups beyond the AJD's policy team.

It was noted by both federal and provincial/territorial key informants that the lack of AJD representation on the FPT Working Group on Aboriginal Justice hindered the effectiveness of the AJD as they were not always aware of new federal issues and initiatives.

5.3 Efficiency and Economy

Results of a cost analysis based on 2008-09 data demonstrated that the average cost per community-based justice program participant was lower than the average cost of sending an offender through the mainstream justice system. This was especially true when considering the future cost savings to the justice system represented by the reduced rates of recidivism following

participation in a community-based justice program. These findings indicate that the AJS is a cost-efficient alternative to the mainstream justice system.

Some key informants noted that the work undertaken by the AJD and ALSP to support the AJS could be conducted more efficiently if staff in both groups were more aware of the initiatives and priorities of the other; otherwise, work could be completed that does not align with the expectations of one or both groups.

The AJD's implementation of the Treasury Board Secretariat's Policy on Transfer Payments was found to have improved the efficiency and economy of the AJS by reducing the administrative burden of both community-based justice programs and the AJD. In addition, it was unanimously noted that the implementation of multi-year funding agreements had also improved the efficiency of the AJS.

6. RECOMMENDATIONS AND MANAGEMENT RESPONSE

Issue 1: Work-related Challenges Faced by Community Justice Workers

A challenge to community-based justice workers' effectiveness noted by nearly all key informants, and supported by case study findings, is the high level of burnout and staff turnover. This is most significant for programs with only one paid staff member, who is in the position of acting as the main point of entry to justice programs, and is dealing with sensitive and/or complex community issues. Interviewees cited the significance of the longevity of their community-based justice workers, as the length of time required for replacement training following turnover can reduce program effectiveness.

Key informants noted this challenge was a result of several factors. They indicated emerging issues in communities (with respect to the nature of offences committed, or the underlying factors affecting offenders); high rates of staff turnover necessitated continuing learning opportunities, which are lacking for justice workers. Vicarious trauma training is also considered essential for community-based justice workers who participate in the healing journeys of their clients in stressful and often emotional situations. Although the Capacity Building Fund provides resources for training, it is designed for short-term, one-time projects rather than serving ongoing needs.

Insufficient funds to retain qualified community-based justice workers were also cited as a contributing factor to rates of justice worker burnout and turnover. Community justice workers do not receive regular salary increases linked to rises in the cost of living, and experienced workers often find better-paying employment outside the community-based justice programs.

Recommendation 1: Increase community justice workers' access to information, networking opportunities and training on established and emerging issues identified as significant to community-based justice programs.

Management Response:

Agreed.

The AJD has drafted a Communication Strategy in an effort to reinforce our commitment to efficient communication with P/T partners, funding recipients and other stakeholders. The Communication Strategy, which stemmed from the mid-term evaluation findings, includes improvements in areas such as an online resource information toolbox, electronic newsletter/bulletins and interactive AJS forums to facilitate networking, information sharing and capacity building.

Working with P/T partners and community justice workers, AJS will also identify opportunities to focus its available capacity building funds on supporting training, knowledge exchange and learning opportunities that better equip community justice workers to deal with these issues.

Issue 2: Challenges to Capacity Building Fund Applications

The call for proposals for capacity building funds has occurred in the late fall in previous fiscal years. Once proposals are approved, communities generally only have two to three months to complete projects before the end of the fiscal year. The lateness of the call for proposals and the short timeframes for project completion have been identified as limitations to the types of Capacity-Building Fund proposals that can be approved, especially since key informants indicated that many programs do not have the resources to write project proposals and implement capacity building projects while completing end-of-year reporting.

An unintended outcome of this Capacity-Building Fund proposal process is that it can favour communities which already have relatively high capacity, as they may be more likely to complete proposals and projects within the allotted timeframes. Due to the short window between the call for proposals and the deadline for applications, some interviewees indicated that those programs most in need of funds do not have the resources to complete an application.

Additionally, a lack of dedicated funding precludes the AJD from advertising the funds available for capacity building projects, which provincial and territorial representatives cited as the primary reason communities and community-based justice programs are not able to plan or prepare for project funds in advance.

Recommendation 2: Create procedures and systems to allow the advertisement of the Capacity Building Fund earlier in the fiscal year, and develop tools to assist programs applying for capacity building funds.

Management Response:

Agreed.

Early identification of funds permitted the AJD to launch the 2011-12 Capacity-Building Fund Call for Proposals on September 6 in order to provide applicants with additional time to apply.

AJD also reviewed and updated its Capacity-Building Fund application form, rating guide, and regional coordinator screening guide, and developed additional tools to assist potential applicants applying for capacity building funds. In total, nine new tools for the 2011-12 Call for Proposals were developed, all available on the Justice website in French and English.

Issue 3: Challenges Associated with FPT Initiatives on Aboriginal Justice

An area for improvement frequently cited by key informants was the lack of AJD participation on the FPT Working Group on Aboriginal Justice chaired by ALSP. Several respondents indicated that AJD staff are often unaware of the work taking place in this working group. This can hinder their ability to implement the AJS as effectively and efficiently as possible, especially given that AJD is responsible for the administration and operational policy of the AJS.

Many respondents noted that communications at the federal level between groups involved in Aboriginal justice were limited. Increased collaboration between the AJD, ALSP and other federal groups involved in the delivery of Aboriginal justice programs was seen as an opportunity to improve the efficiency of all Aboriginal justice initiatives.

Recommendation 3: Improve communication and collaboration between various federal initiatives on Aboriginal justice, as well as the communication of emerging issues/initiatives in the area of Aboriginal justice.

Management Response:

Agreed.

Justice Canada officials are working to improve internal practices to ensure better coordination and collaboration of programs and initiatives focused on Aboriginal justice. For example, AJS, Aboriginal Courtwork Program, Victims and Restorative Justice Program officials participate in respective FPT working groups to ensure consistent messaging and program-specific information dissemination.

Federal officials are also making efforts to ensure Aboriginal justice programs complement each other and work to identify joint funding opportunities. As examples, it is quite common for the AJS Capacity-Building Fund and the Victims Fund to co-fund training programs. Joint training for Courtworkers and community justice workers also takes place.

In addition, federal officials are working together to provide a one-window approach for project funding opportunities, as was the case for proposals relating to violence against Aboriginal women. In this particular case, an ad-hoc working group was created to ensure that proposals could be received and reviewed, and that funding could be delivered in the most timely and coordinated manner possible.

Issue 4: AJS FPT WG Participation Challenges

The AJS FPT WG serves as a policy forum for ongoing monitoring of inter-jurisdictional issues that concern the AJS. It is considered to be an important forum for members to exchange information, share best practices, engage each other on various AJS issues, and for relationship-building between the AJD and its provincial and territorial partners.

Key informants noted that some jurisdictions participate more fully in the AJS FPT WG than others, possibly resulting from the heavy workloads of P/T representatives. Since full P/T participation was noted as being essential to the success of the AJS FPT WG, ensuring participation of all P/T partners is important. It was suggested that participation rates could be improved by having a back-up representative for each province and territory in case the representative is unable to attend; having AJS FPT WG meeting dates set a year in advance; and having regional coordinators remind their provincial/territorial counterparts in advance of upcoming AJS FPT WG meetings.

As well, some key informants noted that having resources available to new P/T partners that explain the structure and functioning of the AJD, as well as the AJS, would assist in the transition between representatives.

Recommendation 4: Continue to strengthen P/T participation on the AJS FPT WG and ensure that new representatives have the information required and understand communication channels and resources available in order to learn about the AJS.

Management Response:

Agreed.

P/T participation is crucial to further discussions related to the cost-shared AJS; therefore, efforts have been made to assist P/T partners to regularly attend meetings. AJD has established a routine of setting teleconference dates two months in advance, and has extended an invitation to back up P/T representatives to participate.

Issue 5: Coordination Challenges between the AJD and ALSP

Enhanced collaboration between the AJD and ALSP is essential to the achievement of the intended outcomes of the AJS, as the groups work collaboratively to support the Strategy. Some barriers to communication noted by key informants were the reporting structure that separates the AJD and ALSP under different branches within the Department, and the high levels of staff turnover in both groups. Some respondents noted there was a lack of communication between the two groups beyond the AJD's policy team; for example, while one regional AJD staff member stated that ALSP was accessible and responsive to questions when contact was initiated, others noted they did not communicate with ALSP.

AJD staff members who work closely with the ALSP noted there was little duplication of work between the two groups, as ALSP works on high level strategic Aboriginal justice policy issues, while the AJD is focused on administering the AJS and operational policy. However, some federal respondents were unaware of these distinctions and were unable to describe the initiatives undertaken by ALSP over the period of the evaluation. Although no specific examples of duplication of work between the AJD and the ALSP were mentioned, some key informants noted that work could be done more efficiently if staff were more aware of the priorities and needs of both groups.

Increasing the awareness of AJD and ALSP staff with respect to the roles, responsibilities and tasks of both groups could improve efficiency; making the links between the two groups more explicit could lead to increased partnerships and collaboration between staff.

Recommendation 5: Clarify roles and responsibilities of the AJD and ALSP and develop a communications strategy between ALSP and program/regional staff within the AJD to better integrate AJS program and policy functions, focusing on effectiveness and efficiency.

Management Response:

Agreed.

The need for enhanced collaboration between AJD and ALSP was identified by the policy team during the preliminary discussion on the renewal of the AJS. As a result, the AJD policy team and ALSP have been meeting once a week to exchange information and discuss policy-related issues for the past two years.

Bilateral meetings with the Director of the AJD and the Senior Advisor for ALSP were also established at that time to allow for increased communication and information exchange on

activities related to the renewal, which has allowed the AJS staff to keep abreast of issues that may be of relevance to the Strategy.

In an effort to further clarify the roles, responsibilities and work of ALSP with program/regional staff, ALSP has been invited to participate in bi-weekly AJD Staff Meetings. This will provide ALSP with the opportunity to share with the broader Directorate updates on working groups they participate on and/or policy related activities relevant to the AJS.

AJD has also extended an invitation to ALSP to participate in its annual face-to-face meetings. These meetings include staff from the NCR and its regional offices. This will provide an opportunity for greater information exchange between the ALSP and the broader Directorate and provide an opportunity to elaborate how this relationship works in practice, for example how we collaborated on the renewal of the AJS.

Issue 6: Performance Communication Challenges

Many respondents noted that while the AJS was effective in communities, these results were not communicated beyond the Strategy's partners. Several respondents indicated that communication of the success of community-based justice programs to Aboriginal leadership, other federal departments and the public at large should be a priority of the AJD. Increased communication of the impact of the AJS could improve awareness of the Strategy among Aboriginal persons and communities, and other community groups whose partnerships at the program level are important to the effectiveness of the community-based justice programs.

Some respondents suggested working in collaboration with Justice's Communications Branch to advertise the benefits of the AJS. It should be noted that the AJD is currently developing a "Success Stories" document meant to communicate the effectiveness of the community-based justice programs to a wider audience.

Recommendation 6: Seek opportunities to improve communication of the impact of the AJS to a wider audience.

Management Response:

Agreed.

The AJD has been taking advantage of opportunities to communicate the impact of the AJS to other FPT working groups as well as other federal government working groups, including the Federal Committee on Aboriginal Justice and Safety, the National Aboriginal Youth Suicide

Prevention Strategy, and the Aboriginal Information Management Committee, which includes national Aboriginal organizations.

The AJS has established a repository of success stories identified by the regional staff, in partnership with the communities, to promote the Strategy.

APPENDIX A:
Evaluation of the Impact of the Aboriginal Justice Strategy
on Rates of Re-offending

This appendix provides a condensed and non-technical summary of the study of the impact of the AJS on rates of re-offending.

Background

In 2000, an evaluation²⁸ of the Aboriginal Justice Strategy by the Department of Justice Canada included a preliminary statistical analysis of the impact of the Strategy on rates of re-offending (recidivism) for five community-based programs. This study was expanded in 2006²⁹, when the same statistical analysis was conducted on data from nine AJS-funded programs (four of which had also been included in the 2000 study). These studies were based on a comparison of recidivism rates for Aboriginal offenders who participated in one of the selected programs to a comparison group of offenders who were referred to a program but did not participate. While the results were generally positive in both studies, their results can only be interpreted with caution due to limited generalizability, a quasi-experimental approach, and a lack of true control group.

The current study builds on the two previous ones with the goals of including more programs, in a greater number of provinces/territories, and increasing the size of the participant group. The current study expanded the sample size, from 4,246 to 5,141; the size of the participant group, from 3,361 to 4,570; and the number of AJS-funded community programs represented in the analysis, from nine to 25.

Methodology

This study compared the likelihood of re-offending of individuals who participated in an AJS program from January 1, 1998 to December 31, 2007, with that of individuals who were referred to, but did not participate in, an AJS program during the same period of time. It was intended to provide insights into the impact of the AJS programs on clients' likelihood of re-offending over time.

The methodology developed for this study was based on the principle of replicating and extending the quasi-experimental approach taken for the two previous recidivism studies in 2000 and 2006. However, the number of programs participating in the study was greatly expanded: from nine in the 2006 study to 25. Seven of the nine programs who participated in the 2006 study consented to continued participation and provided updated information on individuals referred; this included four of the five programs who participated in the first study, conducted in 2000.

²⁸ Justice Canada. *Final Evaluation: Aboriginal Justice Strategy*, October 2000.

²⁹ Justice Canada. *Evaluation of the Impact of the Aboriginal Justice Strategy on Rates of Re-offending*, July 2006.

Survival analysis was the statistical approach used to model the likelihood of re-offending. This method is ideally suited to modeling the occurrence and timing of events, particularly where the event (re-offending) has not occurred to all individuals in the sample by the end of the observation period (known as “right-censored” data). Further, because there were a number of intervening variables to be controlled for, it was necessary to utilize a regression procedure that allowed isolation of the impact of participating in the program. The standard survival regression procedure used for these types of analyses is the Cox Proportional Hazards Model³⁰, which was also used in the 2006 and 2000 recidivism studies.

Criminal history information for adults and youth³¹ was obtained from the Canadian Police Information Centre (CPIC) of the Royal Canadian Mounted Police.

Offenders who participated in an AJS program, whether or not they successfully completed the program, are referred to throughout this document as “program participants.” Offenders who were referred to an AJS program but did not participate are referred to as “comparison group members”. Criminal behaviour is defined in terms of criminal offences that result in convictions (or findings of guilt in the case of young offenders).³²

Recidivism was defined, for the purpose of this study, as a criminal conviction following participation in the program. While all charge information is available from CPIC, restricting the definition of recidivism to convictions allows for a higher degree of certainty that an offence had been committed. Using the end date of the program as the reference point, convictions were identified as being either pre-program offences or post-program offences³³. In keeping with past practice, administration of justice offences (such as violations of probation conditions, failure to appear, etc.) were excluded from the individuals’ offence histories. It has been argued that these types of offences are not predicate offences and may not rise to the same level of seriousness as other offence types.

³⁰ As a regression procedure, an advantage of the Cox approach is its ability to simultaneously control for intervening variables (“covariates”) and to provide a quantitative estimate of the impact of each covariate on the likelihood of recidivism. Standard OLS or logistic regression is not appropriate in cases of right-censored data. Another competing class of models includes Accelerated Failure Time (AFT) regression, but they are less flexible and often considered to be less robust than the Cox approach.

³¹ In accordance with the *Youth Criminal Justice Act*, judicial authorization was obtained prior to the release of information on young offenders (i.e., offenders under the age of 18).

³² Throughout the report, “convictions” refers to both convictions under the *Criminal Code* and also to “findings of guilt” under the *Youth Criminal Justice Act*.

³³ In cases where programs were only able to provide a start date, it was assumed that the program was completed after three months.

Consistent with the approach taken for the 2000 and 2006 studies, an offence that occurred while in the program was not considered to be a post-program conviction; typically, CPIC dates offences using the disposition date and in some cases there is uncertainty surrounding the timing of these offences. Coders manually verified whether offences near the time of participating in the program were to be considered as pre-program offences or post-program offences.

For the analysis, the time elapsed after completing the program until receiving a criminal conviction or, in the absence of a conviction, the time to the end of the observation period (December 31, 2010) was statistically modeled. This elapsed time was modeled as a function of age, sex, number of pre-program convictions (the intervening variables), and participation or not in an AJS program. The sample was analyzed as a whole for the purposes of this report, although we also conducted analyses at the provincial and program levels when the sample was sufficiently large.

Limitations to Methodology

Participation in this study was voluntary; therefore, the 25 programs willing to participate cannot be considered randomly selected as they agreed to participate with many others did not. Additionally, only programs from provinces and territories whose representatives had signed a formal agreement with the Department of Justice in support of the study were invited to participate.

The quasi-experimental design employed for this study did not permit the use of a randomized control group of individuals not participating in a program, nor did it permit for a randomization of individuals who participated in a program. Differences in the characteristics of the two groups are to be expected, reflecting the reasons for participating or not participating in the program. For example, exclusion from a program may have been the result of circumstances of the offence, previous criminal history or attitudinal issues. A simple comparison of the re-offending experience of program participants with non-participants could be misleading in such circumstances, as it is possible that the characteristics that draw offenders to participate in AJS-funded community-based justice programs may also predispose them to lower recidivism rates than those offenders who were referred to, but did not participate in, those programs.

This quasi-experimental design leaves open the likelihood of selection bias in the results obtained. The fact that the comparison group consists of program referrals who did not ultimately participate in the program further increases the likelihood that selection bias is almost certainly present in the analysis. Examining the differences in characteristics between the two

groups shows that there are some statistically significant differences, though not necessarily in the expected direction (for example, comparison group members tend to be slightly older but have relatively fewer previous convictions of some types of offences).

This problem was mitigated to an extent with the use of regression analysis which controls for these differences, but the ability to do so is restricted by limitations in the available information known about the individuals in the sample. We are largely limited to taking into account, and controlling for, the individuals' age, gender and previous criminal background. This allowed the analysis to control for underlying differences in offender characteristics which correlate with (but do not cause) criminal behaviour; in this way, recidivism rates among program participants and non-participants were compared in order to try to isolate any incremental impact attributable to the program itself.

Findings

The program participants and comparison group members tended to be similar in background characteristics but some key differences between the two groups were identified: comparison group members tended to have fewer prior convictions and to be slightly older.³⁴ These differences are presented in Table 8 on the following page.

³⁴ These group differences might be due to selection bias (i.e., the background characteristics of an offender may influence whether or not this individual is selected—or self-selects—to participate in an AJS program).

Table 8: Characteristics of Offenders in the AJS Recidivism Study

	Program Participants (n = 4,570)	Comparison Group (n = 571)	Total Sample (N = 5,141)
Number of Prior Convictions (%)			
<i>Drug</i>			
0	94.9	96.5	95.1
1-5	4.9	3.3	4.7
6 or more	0.2	0.2	0.2
Mean	0.09	0.06	0.09
<i>Violent</i>			
0	81.5	82.3	81.6
1-5	15.1	15.8	15.2
6 or more	3.4	1.9	3.2
Mean	0.65	0.45	0.63
<i>Non-violent</i>			
0	74.5	70.7	74.1
1-5	18.0	20.5	18.3
6 or more	7.5	8.8	7.7
Mean	1.40	1.53	1.41
Year of Program Completion (%)			
1997-99	12.0	17.3	12.6
2000-03	33.7	39.2	34.3
2004-07	48.0	40.5	47.2
2008-10	6.3	3.0	6.0
Age at Program Completion (%) ³⁵			
17 and under	12.6	0.2	11.2
18-24	42.2	51.8	43.2
25-34	22.0	25.2	22.3
35-44	14.1	14.2	14.1
45 and over	9.2	8.6	9.1
Mean	27	28	27
Gender (%)			
Male	58.0	56.2	57.8
Female	42.0	43.8	42.2
Province (%)			
New Brunswick	3.4	0.0	3.0
Nova Scotia	1.0	0.0	0.9
Ontario	28.0	0.0	24.9
Saskatchewan	64.8	100.0	67.8
British Columbia	3.9	0.0	3.4

³⁵ For the comparison group, age at program completion is three months following referral to the program.

Four covariates were considered in the survival analysis: participation in an AJS-funded program, number of prior convictions, gender (man, woman), and age. The regression results for the national-level analysis are presented in Table 9. These results demonstrate that the overall model was statistically significant, suggesting that the combination of the covariates (i.e., AJS participation, age, sex, and number of prior convictions) is significantly associated with the probability of re-offence over time.

Table 9: Cox Regression of Recidivism – National Results (N = 5,141)

Variable	Coefficient Estimate	Standard Error	Chi-Square	P-Value	Hazard Ratio (e^{β})
AJS Participation (comparison: 0; program: 1)	- 0.553	0.068	66.18	< 0 .0001	0.57
Gender (women: 0; men: 1)	0.275	0.053	27.23	< 0.0001	1.32
Age (years)	- 0.031	0.003	123.08	< 0 .0001	0.97
Prior Convictions - Drugs (number)	0.019	0.043	0.19	0.6634	1.02
Prior Convictions - Violence (number)	0.088	0.009	85.86	< 0 .0001	1.09
Prior Convictions – Non-violent (number)	0.041	0.005	73.84	< 0 .0001	1.04
Number Re-offending:	1,635				
Number Not Re-offending (“right censored”):	3,506				
Wald Test for Model Significance:	620.8 ($p < 0.0001$)				
Degrees of Freedom:	6				

These results indicate that the probability of re-offence over time was correlated with each of the covariates, after holding the other covariates constant. Most notably for the purposes of this study, participation in an AJS program was significantly correlated with a lower likelihood of recidivism³⁶.

³⁶ e^{β} , the hazard ratio, is interpreted as the percent difference in the likelihood of re-offending per unit change in the covariate.

In terms of the Cox regression model, the censoring variable was recidivism (no re-offence, re-offence) and the dependent variable was the time elapsed between the end of the participant's involvement in the program and either re-offence or the end of the data collection phase. The results presented in Graph 2 and Table 10 demonstrate the cumulative percentage of offenders who recidivated during the observation period, by program participation (the analysis that produced these results controlled for differences in age, sex, and number of prior convictions between the participant and comparison group):

Graph 2: AJS Average Recidivism Rate

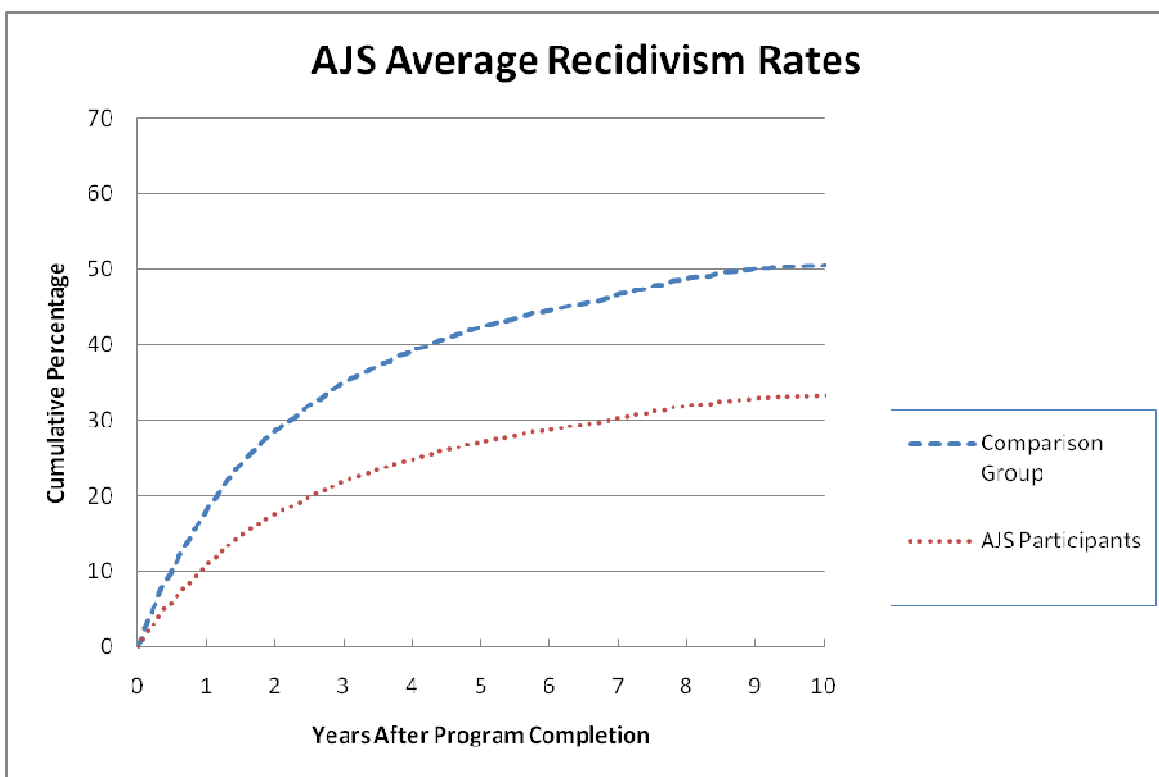


Table 10: AJS Average Recidivism Rates

Time After Program Completion	Cumulative Percent who have Re-offended	
	Participants	Comparison Group
1 year	10.9	18.2
2 years	17.6	28.5
3 years	22.0	35.1
4 years	24.8	39.1
5 years	27.2	42.4
6 years	28.7	44.5
7 years	30.4	46.7
8 years	32.0	48.8
Note: Recidivism rates are fitted from the proportional hazards model and are based on the average characteristics of the national sample: ➤ number of prior convictions – drug (mean = 0.09) ➤ number of prior convictions – violence (mean=0.63) ➤ number of prior convictions –non-violent (mean=1.41) ➤ age (mean=27) ➤ gender balance (0.58)		

Rates of re-offending were found to be significantly lower among program participants at every point in time after completing the program:

- At one year, 18.2% of comparison group members had been convicted of at least one other crime compared with 10.9% of AJS program participants.
- At four years, 39.1% of comparison group members had re-offended compared with only 24.8% of AJS program participants.
- At eight years, 48.8% of comparison group members had re-offended compared with 32.0% of AJS program participants.

Although these findings should be interpreted with caution, given the methodological limitations described in Section 3.5, they suggest that AJS-funded programs are associated with the intended long-term outcome of reducing crime. These findings are in line with results of recidivism studies conducted in 2000 and 2006. The differences between the likelihood of re-offending for AJS program participants and non-participants is particularly pronounced in the years immediately following the program, but the cumulative effects, even after 8 years, remain.

Conclusions

An intended outcome of the AJS is to contribute to decreasing rates of victimization, crime and incarceration among Aboriginal persons participating in AJS-funded programs. One indicator for measuring the effectiveness of the AJS in meeting this objective is through the rates of crime and recidivism among those offenders who participate in the community justice programs funded under the AJS. It is an aim of the AJS to reduce the rates of re-offending for offenders who have participated in AJS-funded community programs.

The analyses presented in this report were carried out in an effort to assess whether a measurable link could be established between offender participation in these community justice programs and their likelihood of re-offending. As a whole, findings derived from these analyses show strong support for the existence of such a link. Most notably, at the national, provincial and program levels, offenders who were referred to, but did not participate in, an AJS program were more likely to re-offend, compared with offenders who participated in the AJS program. Further, while it was not specifically measured as part of this study, a logical extension of this finding is that rates of incarceration may have been similarly reduced.

APPENDIX B:
Interview Guide

Aboriginal Justice Strategy
Summative Evaluation

Inventory of Interview Questions

Thank you for participating in the evaluation of the Aboriginal Justice Strategy (AJS). As part of the impact evaluation of the AJS, we would like to seek your input regarding the relevance and performance of the AJS. Your input in the evaluation process is greatly appreciated.

The interview will take approximately 45 minutes depending on your involvement in the AJS. All findings will be reported in aggregate form, and your responses will be treated confidentially by the Evaluation Division of the Department of Justice.

A) CONTACT INFORMATION

Respondent Name	
Phone Number	
Position/Organization	
Date of Interview	

B) INVOLVEMENT WITH THE ABORIGINAL JUSTICE STRATEGY

1. What is your role with respect to the AJS? _____
- _____
- _____
- _____
- _____

C) PERFORMANCE

C1: Grants and Contributions

(Skip to C2 if not involved in this group of activities)

The purpose of this section is to assess the extent to which the Community-based Justice Program Fund and the Capacity Building Fund are contributing to the achievement of the intended outcomes of the AJS.

1. How has funding provided through the Capacity Building Fund helped increase communities' capacity to implement community-based justice programs and other community-based justice services? _____

Please provide concrete examples. _____

- 2a. What aspects of the Capacity Building Fund have been particularly successful? _____

- 2b. What have been the challenges associated with administering the Capacity Building Fund? _____

- 2c. What aspects of the Capacity Building Fund could be improved? _____

How could these aspects be improved? _____

3. How has funding provided through the Community-based Justice Program Fund:

3a. Increased access to and participation in community-based justice programs and other community justice services tailored to Aboriginal needs? _____

Please provide concrete examples. _____

3b. Increased involvement of Aboriginal communities in the local administration of justice? _____

Please provide concrete examples. _____

3c. Helped ensure that Aboriginal cultural values are reflected in the Canadian justice system? _____

Please provide concrete examples. _____

4a. What aspects of the Community-based Justice Program Fund have been particularly successful? _____

4b. What have been the challenges associated with administering the Community-based Justice Program Fund? _____

4c. What aspects of the Community-based Justice Program Fund could be improved? _____

How could these aspects be improved? _____

C2: Aboriginal Justice Directorate

(Skip to C3 if not involved in this group of activities)

1. What significant activities have been initiated by the Aboriginal Justice Directorate (AJD) during the past five years? _____

2. What have been the main challenges with respect to carrying out the AJD's activities? _____

3. What AJD activities have been particularly successful? _____

4. What AJD activities could be improved? _____

- 4a. How could they be improved? _____

5. Have there been any unanticipated results or unintended impacts (positive or negative) associated with the AJD activities? _____

6. In your opinion, is the AJD appropriately resourced to support the achievement of the AJS's intended outcomes (increase communities' capacity to implement community-based justice programs and other community-based services; access and participate in community-based justice programs and other community services tailored to Aboriginal needs; increase community involvement in the local administration of justice; encourage Aboriginal cultural values to be reflected in the Canadian justice administration; and contribute to a reduction in crime and incarceration rates in communities with AJS programs and safer and healthier Aboriginal communities where AJS programs are in place)?

☐ Yes ☐ No ☐ Don't know

- 6a. If no, please explain. _____

C3: Aboriginal Law and Strategic Policy Group

(Skip to C4 if not involved in this group of activities)

1. What significant initiatives (activities, presentations, communications, etc.) have been carried out by the Aboriginal Law and Strategic Policy (ALSP) Group to support the AJS during the past five years? _____

- 1a. Which of these ALSP initiatives have been particularly successful? _____

2. What ALSP initiatives could be improved? _____

2a. How could they be improved? _____

3. Have there been any unanticipated results or unintended impacts (positive or negative) associated with the policy role of ALSP? _____

4. Are communication and coordination between AJD and ALSP sufficient to support the achievement of the intended outcomes of the AJS (increase communities' capacity to implement community-based justice programs and other community-based services; access and participate in community-based justice programs and other community services tailored to Aboriginal needs; increase community involvement in the local administration of justice; encourage Aboriginal cultural values to be reflected in the Canadian justice administration; and contribute to a reduction in crime and incarceration rates in communities with AJS programs and safer and healthier Aboriginal communities where AJS programs are in place)?

☐ Yes ☐ No ☐ Don't know

4a. Please explain. _____

C4: AJS Federal/Provincial/Territorial (FPT) Working Group

(Skip to D if not involved in this group of activities)

1. What aspects of the AJS FPT Working Group have been particularly successful? ____

2. What aspects of the AJS FPT Working Group could be improved? _____

2a. How could these aspects be improved? _____

3. Have there been any unanticipated results or unintended impacts (positive or negative) associated with the AJS FPT Working Group or its activities? If yes, what were they? _____

D) EFFICIENCY AND ECONOMY OF THE AJS

1. In your opinion, is the level of funding provided through the Community-based Justice Program Fund adequate to support the achievement of the AJS's main goal of increasing community involvement in the local administration of justice, in order to reduce the rates of victimization, crime and incarceration among Aboriginal people in communities operating AJS programs?

☐ Yes ☐ No ☐ Don't know

1a. If no, please explain. _____

2. In your opinion, is the level of funding provided through the Capacity Building Fund adequate to support the achievement of the AJS's main goal of increasing community involvement in the local administration of justice, in order to reduce the rates of victimization, crime and incarceration among Aboriginal people in communities operating AJS programs?

☐ Yes ☐ No ☐ Don't know

2a. If no, please explain. _____

3. Do the activities of AJD and ALSP support the achievement of the intended outcomes of the AJS in a way that is complementary, or is there duplication in the activities of the two groups? Please explain. _____

4. Could any aspects of the AJS be delivered more efficiently? If so, please explain. _____

E) OTHER

1. To what extent have the following recommendations from the last mid-term evaluation been implemented?

- implementation of multi-year funding agreements _____

- creation of a communications strategy _____

- roll-out of a national database for program data _____

- clarification of the assessment and selection criteria for the Capacity Building Fund _____

- ensuring a sufficient number and stable cadre of Regional Coordinators _____

2. **Do you have any other comments about the AJS?** _____

THANK YOU FOR YOUR PARTICIPATION

APPENDIX C:
Case Studies Group Session Methodology

1. Opening Prayer/Welcome

Participants will first be welcomed and provided with background information on the case study project by the local AJS staff and the DC/JRI Team Representative. The consent form is reviewed and all participants will first sign it. They will then be introduced to the group session process.

2. Waawiyeyaa Evaluation Tool

The Waawiyeyaa Evaluation Tool will then be introduced. The room will be pre-set with flyers, paper and pencil crayons, sample stories, the session questions for each person, and digital recorders. The process will be explained. A DVD explaining the tool is played. The session questions are asked and the pre-posted questions are pointed out on the flip chart. The participants begin to document their stories and the facilitator circles the room offering assistance (e.g., writing the story on paper, listening to the story verbally, encouraging others to draw a picture that shows their experience with the program). The questions addressed through the Waawiyeyaa Evaluation Tool are as follows:

1. Please share with us your story as you remember it, thinking back before your involvement with the program and whether your story started at crisis or as a challenge that eventually brought you to the program. Think about your spirit, emotions, mind and physical body and how they were impacted by your crisis or challenge, and how the program helped you in reaching better balance in your life by addressing the needs of your spirit, emotions, mind and physical body.
2. If you are a family member, we want you to think about how your life was before your loved one sought help from the program, how were your spirit, emotions, mind and physical body. Then think about how your spirit, emotions, mind and physical body benefitted and changed from your loved ones' involvement (and maybe also by your involvement with the program).
3. For the program participants, we want you to tell a second story about how the program helped family members of yours, either in them attending the program with you, or as a result of your participation with the program.

3. Break

4. Iconic Symbols Group Session

The group sessions will encourage active participation through a three-stage process.

Stage 1: Brainstorm (15 minutes)

Participants will be given a handout identifying the six questions and the facilitator reads these aloud. They will have 5-10 minutes to brainstorm their ideas for each of the topic areas. In this stage, participants will be encouraged to write at least two comments for the six questions on post-it note papers.

Stage 2: Circulate and Articulate (10 minutes)

The six group session questions are each written individually on poster paper and hung around the room.

- (1) Participants will be encouraged to circulate around the room and ‘stick’ their responses under corresponding questions.
- (2) Participants will be encouraged to read the responses of other participants and put a checkmark beside comments or key words that apply to their personal opinions or experiences. If the group is sufficiently large, this level of quantification will be done through a show of hands in the "verify and clarify" stage.
- (3) During this stage, the facilitator is circling the room looking for those needing help, and writing on the sticky notes and hanging them up as needed, listening to a verbal story and making notes, or encouraging others to draw a picture of how the Program was helpful and meaningful.

Stage 3: Verify and Clarify (60 minutes)

The third phase will be facilitator-led with the entire group participating. The facilitator will thematically organize the comments and responses. The discussion will center on providing additional details and clarifying the participants’ comments on a question-by-question basis and determining group consensus on thematic (commonly reported) areas. The facilitator’s probing questions will be focused on:

- Understanding whether the successes or problems are related to mainstream or traditional health care.

- Determining whether the specific positive experience and/or challenges are due to issues with access to services or whether the issue arises as a result of the perceived quality or appropriateness of care.

5. Making appointments with those who would prefer a one-on-one interview

6. Closing Remarks

APPENDIX D:
Web-based Survey of Police and Crown

Introduction

This online survey is being administered on behalf of the Department of Justice Evaluation Division by Malatest & Associates, a professional research firm, as part of an evaluation of the Aboriginal Justice Strategy (AJS). The AJS supports cost-shared programs that are developed and managed in partnership with Aboriginal communities, provinces and territories. There are four program models that Aboriginal communities can develop and operate under the AJS: diversion/alternative measures, community sentencing, mediation, and court/community justice programs.

This survey is one component of the evaluation, which includes other research activities to help us better understand the level of awareness in the criminal justice system about the community-based justice programs and the extent to which they are serving Aboriginal communities. In general, the study will explore how well the AJS is working.

Your participation is voluntary; however, your involvement is important as it will help us to assess the effectiveness of the community-based justice programs. The information you provide is for the evaluation only and will be used for no other purpose. Respondents will not be identified and no comments will be attributed to any individuals in the evaluation report.

We appreciate your support and thank you in advance for participating in this study.

The survey will take about 15 minutes to complete.

Please indicate whether you are a police officer or provincial Crown.

- ☐ Police officer
- ☐ Provincial Crown

1. In which province/territory are you located?

- ☐ Alberta
- ☐ British Columbia
- ☐ Manitoba
- ☐ New Brunswick

- ☐ Newfoundland and Labrador
- ☐ Northwest Territories
- ☐ Nova Scotia
- ☐ Nunavut
- ☐ Ontario
- ☐ Prince Edward Island
- ☐ Quebec
- ☐ Saskatchewan
- ☐ Yukon

2. Please indicate which communities you have served since 2007.

3. a) Are you aware of any Aboriginal Justice diversion/alternative measures, community sentencing, mediation and court/community justice programs being delivered in the communities you serve?

4. a) Have you referred to [*Program selected in Q3*].

- ☐ Yes, often
- ☐ Yes, sometimes
- ☐ Yes, rarely
- ☐ Never

b) In general, in what situations do you refer/not refer Aboriginal offenders to community-based justice programs?

5. a) Have you participated in/attended any of the Aboriginal justice program(s) offered in the communities you serve, for example sentencing circles, special events/ceremonies, or community awareness?

- ☐ Yes, often
- ☐ Yes, sometimes
- ☐ Yes, rarely
- ☐ Never *[Go to 5c]*

b) If yes, which programs?

c) If never, why have you not participated?

6. To your knowledge, to what extent are the community-based Aboriginal justice programs reaching Aboriginal offenders in your jurisdiction?

- ☐ To a great extent
- ☐ To some extent
- ☐ No extent at all
- ☐ Don't know

7. In general, what, if anything, could be done to make the community-based Aboriginal justice programs more relevant to Aboriginal offenders and their communities?

8. a) To what extent is there a (continued) need for community-based Aboriginal justice programs in your jurisdiction?

- ☐ To a great extent
- ☐ To some extent
- ☐ No extent at all
- ☐ Don't know

b) Please explain your response:

9. Do you have any additional comments?

Thank you very much for taking the time to participate.

APPENDIX E:

References

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