



**ABORIGINAL JUSTICE STRATEGY
MID-TERM EVALUATION
Final Report**

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**Evaluation Division
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EXECUTIVE SUMMARY

The Aboriginal Justice Strategy (AJS) was created as a pilot project in 1991 and has since been renewed three times, in 1996, 2002, and most recently in 2007 for another five years with enhanced funding.

To meet the federal government's commitment to results-based management and accountability, the Department of Justice Canada conducted a mid-term evaluation of the AJS. The evaluation covered the first two years of the renewed AJS, specifically, the 2007/08 and 2008/09 fiscal years. Since the AJS has been in place for almost 20 years, the focus of the evaluation was to assess the implementation of the expansion, as well as outcomes associated with providing existing programs with additional funding. As such, the purposes of the mid-term evaluation were to:

- follow up on progress in addressing the recommendations from the 2007 AJS Summative Evaluation;¹
- assess the design and implementation of the expanded mandate of the AJS;
- examine results for selected short-term outcomes of existing Community-based Justice Programs; and,
- explore the adequacy of data to support a 2011/12 impact evaluation of the AJS.

1. Program description

The AJS enables Aboriginal communities to have increased involvement in the local administration of justice, providing timely and effective alternatives to mainstream justice processes in appropriate circumstances. Enhanced funding in 2007 allowed the AJS to expand its reach into areas of high need such as urban, northern and off-reserve Aboriginal communities, and to focus on Aboriginal youth.

¹ The 2007 Summative Evaluation can be found at: <http://canada.justice.gc.ca/eng/pi/eval/2007.html>

The objectives of the AJS, as stated in its 2007 *Terms and Conditions*, are:

- to contribute to decreasing rates of victimization, crime and incarceration among Aboriginal people in Aboriginal communities operating AJS programs;
- to assist Aboriginal people to assume greater responsibility for the administration of justice in their communities;
- to provide better and more timely information about Community-based Justice Programs funded by the AJS; and,
- to reflect and include Aboriginal values within the justice system.

The Community-based Justice Program component of the AJS provides support to culturally relevant Aboriginal justice programs in partnership with Aboriginal communities and provincial and territorial governments. The Capacity Building Fund supports capacity-building efforts in Aboriginal communities in relation to building increased knowledge and skills for the establishment and management of Community-based Justice Programs. The enhanced funding, resulting from the last renewal, allowed the AJS to expand the reach of existing AJS program services, to fund new Community-based Justice Programs and to implement the Capacity Building Fund.

The Department's Aboriginal Justice Directorate (AJD) is responsible for managing the AJS and chairing² the Federal/Provincial/Territorial (F/P/T) AJS working group, which consists of representatives from the Department of Justice, provinces and territories.

2. Methodology

The methodology used to conduct this evaluation is comprised of four main components:

- 69 key informant interviews with Department of Justice staff, provincial and territorial partners, and funding recipients;
- a review of project files;
- a Web-based survey of 46 police and Crown representatives; and
- a review of documentation.

² There was no P/T co-chair until fall 2009.

The evaluation was conducted between November 2008 and January 2010. The file review included all 232 program files for fiscal years 2007/08 and 2008/09. Most interviews with provincial and territorial partners were completed during August and September 2009. Interviews with Department of Justice staff took place in September and October of 2009, while the police/Crown survey was conducted in September 2009. Interviews with funding recipients occurred between November 2009 and January 2010. Given that the focus of the mid-term evaluation is on the first two years of the AJS after the renewal in 2007, the findings presented herein are relevant to that time period. Although many key informants noted recent improvements, these were deemed to be outside the scope of the mid-term evaluation.

3. Program Relevance

The objectives of the AJS, as cited in its 2007 *Terms and Conditions*, are well aligned with the strategic outcome of the Department of Justice “to create a fair, relevant and accessible justice system that reflects Canadian values”.³ The AJS provides an alternative to the mainstream justice system that recognizes the cultural values and unique context of Aboriginal communities while operating within the Department’s strategic framework. As evidenced by the 1996 *Criminal Code* amendments pertaining to Aboriginal justice⁴ and the ongoing federal strategic mandate of encouraging self-government within Aboriginal communities, the objectives of the AJS are derived from and very closely aligned with federal priorities.

The 2005/2006 *Annual Report of the Office of the Correctional Investigator* observed the ongoing failure of the criminal justice system to meet the unique needs of the population and reflect the “fundamentally different world view” of Aboriginal peoples.⁵ As such, it remains an ongoing federal priority to encourage culturally appropriate alternative justice measures within Aboriginal communities, reflected in the renewal and enhancement of the AJS. A number of federal initiatives such as the Aboriginal Courtwork Program (ACW), First Nations policing and other crime prevention strategies also address these concerns. Furthermore, the AJS provides funding to programs that support alternative court systems built around the “Gladue principle” which requires that the Aboriginal offender’s situational context be considered before a ruling or sentence is passed down.

³ Department of Justice. *2008-2009 Part III - Departmental Performance Reports (DPR)*.

⁴ The amendments sanctioned the consideration of contextual circumstances and alternative justice measures or sentencing, particularly for Aboriginal populations (described in greater detail in Section 4.1).

⁵ The Correctional Investigator Canada. *Annual Report of the Office of the Correctional Investigator 2005-2006*. Ottawa, p. 11.

All key informants indicated that the AJS is still relevant to Aboriginal people and communities, as there is a strong continued need for community-based Aboriginal justice programs due to the ongoing demand for alternative justice approaches that reflect traditional Aboriginal cultural values and practices. This ongoing need is also reflected in the fact that over 13,000 individuals benefited from a Community-based Justice Program in 2007/08 and 2008/09.⁶ It was also expressed that the programs consider victimization and healing in tandem with addressing offenders in a holistic approach that most closely mirrors Aboriginal culture-based justice traditions. It should be noted that some AJS-funded programs have already integrated program elements around victimization and healing.

4. Design and Delivery

Funding Criteria

During the transitional period after the announcement of renewal and enhancement of the AJS in 2007, a number of discussions were held between the AJD and its AJS partners regarding the criteria and selection of new community-based justice programs. Preliminary discussions with AJS partners were also held regarding the revision of the Community-Based Funding Guide, including the development of new selection criteria and joint processes for the selection of new programs. Consensus among all AJS regional partners, however, was not reached due to conflicting regional requirements.

Overall, the criteria for selecting new Community-based Justice Programs were perceived to be fair and effective, although there is room to improve the clarity of the assessment and selection criteria used. The Capacity Building Fund application and selection process and criteria could be further explained.

The sunseting nature of the AJS and the recurring need to secure program funding have created challenges for AJS programs and the communities they serve. Programs are forced to shut down or lay off staff in response to uncertainty about the availability of future funding. This has a negative economic impact in addition to disrupting ongoing community and individual healing.

⁶ It should be noted that this is likely an underestimate, as not all programs reported the total number of referrals/participants in their programs.

Communications

Initially, informal announcements and selection criteria regarding the Capacity Building Fund were communicated to community-based project funding recipients by AJD Regional Coordinators. There was no formal communication strategy to promote the Capacity Building Fund or application process. The extent of communication varied according to region and amount of available funding. During the second year after renewal, the AJD began to develop a Capacity Building Funding Guide, which would include selection criteria and a communication strategy, both of which were to be completed and implemented by fall 2009.

Reach

The reach of the AJS was expanded by 42 funding recipients, from 62 in 2006/07 to 104 in 2008/09, a 68% increase in the number of Community-based Justice Programs funded.

Staffing

The first two years of the renewal saw high staff turnover in the AJD, in addition to instability of leadership and lack of clarity concerning roles and responsibilities. Staff turnover made it difficult for AJS partners and funding recipients to communicate and collaborate with the AJD, and has created barriers in terms of accessing information and general program development. In addition, there have been instances where positions were vacant for extended periods and existing staff were shuffled around to different positions on an as needed basis. Although the staffing situation was beginning to improve under new leadership in the AJD toward the end of the second year of the renewal, many respondents indicated that dedicated funding for the AJS would likely help to reduce these challenges.

Contribution Agreements

In general, yearly renewal of contribution agreements can make it difficult to distribute the funds to programs in a timely manner, which interferes with the ability of the funding recipients to spend the funds within a few short months, particularly for the Capacity Building Fund, which is currently determined after Community-based Justice Program allocations have been committed. In the first two years after renewal, AJS disbursements were less than the amounts committed: \$2.98 million below the total allocated amount in 2007/08; and \$2.58 million below the allocated amount in 2008/09.

In 2007/08, the first year of the renewal, a main reason for the discrepancy was the delay in the announcement of the renewal and the allocation of funds to the AJS. The cost-shared nature of the AJS creates a situation whereby funding recipients in provinces/territories with tripartite or flow-through agreements are most affected by delays in the release of funding. In the second year, the late announcement and confirmation of funds was less of an issue.

In both years, the difference between the amount committed and the amount dispersed to funding recipients is the result of a number of factors. Funding recipients may not be able to meet their final reporting requirements during the fiscal year and, with a 10% hold back associated with final reporting, not all funds committed could be dispersed. Once reports and financial statements are submitted, at the end of the fiscal year, they must be reviewed and approved by the Department. The timeliness of this process can be exacerbated by late submission of reports. Some funding communities also under-expended the planned/committed amounts due to cost-efficiencies that may have been realized or to late signing of agreements. Finally, uncertainty around the timing and availability of funds, particularly for the Capacity Building Fund, made it difficult to adequately implement programs and projects as planned in the first two years of the renewal.

F/P/T Partners

The AJD cultivates relationships with its F/P/T partners in order to address AJS priorities, through: the AJS F/P/T working group, AJD Regional Coordinators and provinces/territories working with communities to develop their program proposals and Capacity Building Fund applications.

Roles and responsibilities of the funding recipients are clearly defined and documented in contribution agreements. However, as the Terms of Reference in place for the AJS F/P/T working group do not explicitly state the roles and responsibilities of each group, these remain less 'formally' defined.

Although many AJD staff members were unfamiliar with the role of the Aboriginal Law and Strategic Policy (ALSP) Group due to limited involvement, particularly Regional Coordinators, those who were familiar with the ALSP felt that their role was clear when interviewed in the fall of 2009. However, many feel disconnected from the policy-making process and resultant decisions, and it was also expressed that Regional Coordinators who work directly with the

programs are not directly involved with policy decisions. This is problematic, as many issues at the 'ground' or program-level are not necessarily being fully communicated at the policy level.

5. Results

In 2007/08 and 2008/09, Community-based Justice Program and Capacity Building Fund funding recipients were located across all provinces and territories. In addition, the reach of funded programs often extends beyond the community in which the recipients are located. AJS-funded programs and projects reached more than 400 communities across Canada.⁷ Overall, 13,166 Aboriginal youth and adults were served by AJS-funded programs in the two years after the Strategy's renewal.⁸ It should be noted that although there has been an increase in the number of communities served, many key informants indicated that there are still many Aboriginal communities and people in Canada that do not have access to AJS alternative justice programming.

Community-based Justice Programs funded in 2007/08 and 2008/09 provided a wide range of services to adults and youth, either prior to or after a charge had been laid, depending on the program. Referrals tend to be first-time offenders accused of minor infractions, although some programs try to assist the reintegration of those who have been incarcerated back into the community. Family, community members and victims are typically invited to participate in the alternative programming. Anecdotal evidence from the interviews suggests that the Community-based Justice Programs are successful, often deterring first-time offenders, particularly youth, from exhibiting similar behaviours in the future. As reported in the 2007 AJS Summative Evaluation, a 2006 recidivism study provided evidence supporting the notion that those who participate in a Community-based Justice Program are less likely to reoffend than those who are referred but do not participate. The success of the programs are reported to be the result of a combination of factors that represent Aboriginal approaches to justice and healing, including fostering understanding, restitution and re-establishing balance in relationships.

Capacity Building Fund projects supported Community-based Justice Programs through implementing the following types of activities:

⁷ Department of Justice. "The Aboriginal Justice Strategy". Retrieved January 2010 from: <http://www.justice.gc.ca/eng/pi/ajs-sja/index.html>.

⁸ It should be noted that these numbers are underestimates, as not all programs reported the total number of referrals/participants in their programs.

- organizing forums and conferences, and networking;
- delivering or arranging workshops for staff and/or partners;
- undertaking program expansion activities;
- organizing and implementing skills-building activities for community members (particularly youth); and,
- delivering or arranging training related to program delivery (e.g., circles keeper training) that was not covered through the Community-based Justice Program.

6. Adequacy of Data for Impact Evaluation

Currently, the AJD does not have an electronic standardized reporting database. To address this issue, a working group⁹ has been established to develop a set of national data requirements and a data collection system for the AJS. As of fall 2009, the working group had established the objectives and guiding principles of the National Data Requirements project and a draft data model had been designed. The system will not be operational by the year of the impact evaluation; therefore, the data necessary for the evaluation will have to be obtained from other sources. As such, related data required for the impact evaluation will have to be accessed from existing paper reports submitted by funding recipients unless other methods of tracking are implemented prior to the evaluation. As these reports are not always complete and vary in terms of content, the ability to evaluate the impact of the AJS will be a challenge.

In addition, the capacity of communities to implement and conduct data collection, reporting and evaluation varies widely. Reporting was inconsistent in many cases, which could affect the impact evaluation should project files be used as a data source. Smaller communities may need capacity-building assistance to meet data collection requirements for the evaluation.

Finally, as overall program awareness was somewhat low within the police/Crown community, it would be beneficial to conduct a more comprehensive survey and/or telephone interviews with a larger sample size, in addition to expanding the sample population to include other mainstream justice professionals.

⁹ The working group is composed of federal representatives from the AJD, the Research and Statistics Division of the Department of Justice as well as provincial and territorial partners.

1. INTRODUCTION

The Aboriginal Justice Strategy (AJS) was created as a pilot project in 1991 and has since been renewed three times, in 1996; 2002; and most recently in 2007 for another five years with enhanced funding. As part of its current mandate, the AJS enables Aboriginal communities to have increased involvement in the local administration of justice, providing timely and effective alternatives to mainstream justice processes in appropriate circumstances. AJS programs are also aimed at reducing the rates of victimization, crime and incarceration among Aboriginal people in participating communities, as well as assisting the mainstream justice system to become more responsive and sensitive to the needs and culture of Aboriginal people. The objectives of the AJS, as stated in its 2007 *Terms and Conditions*, are:

- to contribute to decreasing rates of victimization, crime and incarceration among Aboriginal people in Aboriginal communities operating AJS programs;
- to assist Aboriginal people to assume greater responsibility for the administration of justice in their communities;
- to provide better and more timely information about community justice programs funded by the AJS; and
- to reflect and include Aboriginal values within the justice system.

Community-based Justice Programs provide support to culturally relevant community-based justice programs in partnership with Aboriginal communities and provincial and territorial governments. The Capacity Building Fund supports capacity-building efforts in Aboriginal communities in relation to building increased knowledge and skills for the establishment and management of community-based justice programs. The enhanced funding, resulting from the last renewal, allowed the AJS to expand the reach of existing AJS program services, to fund new Community-based Justice Programs and to implement the Capacity Building Fund.

The Department of Justice's Aboriginal Justice Directorate (AJD) is responsible for managing the AJS and co-chairing the AJS Federal/Provincial/Territorial (F/P/T) working group, which consists of representatives from the Department of Justice, provinces and territories.

1.1. Context for the Evaluation

To meet the federal government's commitment to results-based management and accountability, the Department of Justice conducted a mid-term evaluation of the AJS in 2009/10. The evaluation covered the first two years of the renewed Strategy, for the 2007/08 and 2008/09 fiscal years. Although the AJS has been in place for almost 20 years, the focus of the evaluation was to assess the implementation of the expansion, as well as outcomes associated with providing existing programs with additional funding. This report presents the findings from the mid-term evaluation.

1.2. Objectives of the Evaluation

The purpose of the mid-term evaluation is to:

- follow up on the recommendations from the 2007 AJS Summative Evaluation;
- assess the design and implementation of the expanded mandate of the AJS;
- examine results for selected short-term outcomes; and,
- explore the adequacy of data to support an impact evaluation of the AJS.

1.3. Structure of the Report

This evaluation report contains six sections, including this introduction. Section 2 provides an overview of the AJS, and Section 3 describes the methodology used to complete this evaluation. Section 4 summarizes the findings from the evaluation, while Section 5 presents the conclusions. Section 6 presents the recommendations and management response.

2. DESCRIPTION OF THE ABORIGINAL JUSTICE STRATEGY

As a result of the significant overrepresentation of Aboriginal people in the Canadian criminal justice system, the federal government elected to introduce measures designed to reduce the rate of victimization, crime and incarceration within Aboriginal communities. The following provides a brief history¹⁰ of the AJS, followed by an overview of the current Strategy mandate as established in 2007.

2.1. Aboriginal Justice Strategy/Aboriginal Justice Directorate History

The Department of Justice launched the Aboriginal Justice Initiative (AJI) in 1991 as part of an overall federal Aboriginal crime strategy. The AJI supported a range of community-based justice pilot projects across Canada, including diversion programs, community participation in sentencing offenders, mediation, and arbitration mechanisms for civil disputes. In 1996, partly in response to the Royal Commission's reports and recommendations, the federal government renewed and expanded the AJI, renaming it the Aboriginal Justice Strategy. A number of stakeholders including Indian and Northern Affairs Canada, the Privy Council Office, the former Office of the Solicitor General (now Public Safety Canada), and the Royal Canadian Mounted Police (RCMP) were involved in the development of the AJS.

By 2001, the AJS had expanded to eight provinces and three territories. In 2002, it was renewed as a five-year mandate and received additional funding. The renewed strategy included a cost-sharing program with the provinces/territories to address service gaps in urban, off-reserve and Métis populations. By 2003, the AJS achieved full national scope with all ten provinces and three territories included in the new cost-sharing structure. The AJS was most recently renewed for another five-year term in 2007 with enhanced funding.

¹⁰ Information in this section derived from Department of Justice. (2009). "History of the Aboriginal Justice Initiative". Retrieved December 2009 from: <http://www.justice.gc.ca/eng/pi/ajs-sja/his.html>.

2.2. Description of the Enhanced Aboriginal Justice Strategy

The 2007 Budget announced an initial enhanced funding investment of \$14.5 million over two years (2007/08 and 2008/09). In August 2008, the Minister of Justice confirmed that the AJS had in fact been renewed for a full five years (2007 - 2012), 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 will bring the total federal investment in the AJS from 1991 - 2012 to \$85 million.

The funding allocations for the first two years of the renewed Strategy are summarized in Table 1.

Table 1: AJS Funding 2007/08 and 2008/09

Year	2007/08	2008/09
Total Grants	\$ 260,000	\$ 29,105
Total Contributions	\$11,110,000	\$12,020,895
Total Program Activity	\$11,370,000	\$12,050,000

Source: Departmental Reports 2007/08 and 2008/09

The two funding components of the current AJS mandate are described below.¹¹

2.2.1. Community-based Justice Programs

Community-based Justice Programs have been the cornerstone of the AJS since its inception. This component of the Strategy provides support to culturally relevant community-based justice programs, in partnership with Aboriginal communities and provincial and territorial governments. Community-based programs are centred on the following objectives:¹²

- to help reduce the rates of crime and incarceration among Aboriginal people in communities with cost-shared programs;
- to allow Aboriginal people the opportunity to assume greater responsibility for the administration of justice in their communities; and

¹¹ The AJS also provides grants for training and development activities.

¹² Retrieved from AJS Website: <http://www.justice.gc.ca/eng/pi/ajs-sja/>.

- to foster improved responsiveness, fairness, inclusiveness and effectiveness of the justice system with respect to justice and its administration so as to meet the needs and aspirations of Aboriginal people.

Examples of program models funded under the AJS include: diversion, the development of pre-sentencing options, community sentencing alternatives (circles), the use of justices of the peace, family and civil mediation, and additional community justice services such as victims support for offender-reintegration services which support the overall goals of the AJS.

The most recent program renewal in 2007 allowed the AJS to expand the reach of existing program services and to support the development of new Community-based Justice Programs, paying particular attention to geographic/regional imbalances in programming as well as opportunities to develop new programs in underrepresented areas (e.g. civil and family mediation).

To be eligible for Community-based Justice Program funding, proposed and existing communities must fulfill AJS objectives and belong to one of the following groups:

- Bands, First Nations, Tribal Councils, local, regional or national Aboriginal organizations;
- agencies or institutions of regional/municipal governments;
- non-profit community organizations, societies, or associations that have voluntarily formed for a non-profit purpose; or
- provincial or territorial governments, in the case of flow-through agreements.

2.2.2. The Capacity Building Fund

The Capacity Building Fund is designed to support capacity-building efforts in Aboriginal communities, particularly as they relate to building increased knowledge and skills for the establishment and management of Community-based Justice Programs. Specifically, the objectives of the Capacity Building Fund are:

- to support the training and/or development needs of Aboriginal communities that do not have community-based justice programs;

- to supplement the ongoing training needs of current community-based justice programs where the cost-shared budget does not adequately meet these needs, including supporting evaluation activities, data collection, sharing of best practices and useful models;
- to support activities targeted at improved community reporting in AJS communities and the development of a data management system;
- to support the development of new justice programs, paying particular attention to:
 - the current geographic/regional imbalance in programming;
 - the commitment to develop new programs in the underrepresented program models, such as dispute resolution for civil and family/child welfare; and
- to support one-time or annual events and initiatives (as opposed to ongoing projects and programs) that build connections, trust and partnership between the mainstream justice system and Aboriginal communities.

Projects supported under the Capacity Building Fund can receive funding up to a maximum of \$20,000 per fiscal year per contribution agreement. These projects may or may not be cost-shared with other organizations.

To be eligible for Capacity Building Fund funding, proposed and existing communities must fulfill AJS objectives and belong to one of the following groups:

- Bands, First Nations, Tribal Councils, local, regional or national Aboriginal organizations;
- agencies or institutions of regional/municipal governments;
- non-profit community organizations, societies, or associations that have voluntarily formed for a non-profit purpose;
- provincial or territorial governments, in the case of flow-through agreements,
- individuals; or
- for-profit corporations, so long as these corporations will not make a profit on the work performed.

2.2.3. The AJS Federal/Provincial/Territorial Working Group

The AJD is also responsible for co-chairing the AJS F/P/T working group, which consists of representatives from the Department of Justice, the provinces and territories. The mandate for the working group is to:

- serve as a resource on issues related to AJS programs and on issues related to Aboriginal people in the justice system;
- serve as a forum for exchanging information, sharing best practices and engaging members on various AJS issues;
- provide advice on AJS programs' cost-sharing issues, including the negotiation, monitoring and implementation of contribution agreements;
- advise on the potential impact of new policy changes on the AJS and its clients;
- develop possible approaches and undertake evaluation and research activities to support the provision of effective AJS program delivery;
- establish, participate and maintain F/P/T working groups or other such bodies to handle specific portions of its mandate (e.g. evaluation activities, data collection); and,
- ensure linkages with other F/P/T groups, such as the F/P/T working group on Aboriginal justice, the F/P/T working group on the Aboriginal Courtwork Program and the F/P/T working group on victims of crime.

2.2.4. Aboriginal Law and Strategic Policy

The Aboriginal Law and Strategic Policy (ALSP) Group provides strategic policy support to the AJD. The general policy work undertaken by the ALSP on Aboriginal justice issues assists the AJD in improving justice outcomes for Aboriginal people and increasing Aboriginal community involvement in the administration of justice. This work takes place within a legal and policy framework designed to be responsive to current government priorities and emerging social and legal trends and realities. The ALSP's overarching legal and strategic policy work in the area of Aboriginal justice provides support for the AJS, particularly in relation to increasing collaboration and horizontality within the federal government and also the wider F/P/T Aboriginal justice context.

3. METHODOLOGY

The methodology used to conduct this mid-term evaluation is comprised of four main components: a review of documentation and administrative records, project file review, key informant interviews, and a survey of police and Crown representatives.

3.1. Review of Documentation and Administrative Records

A review of program-related documents was used to explore the clarity of AJS objectives and expected outcomes, as well as the roles and responsibilities of various stakeholders involved in the delivery of the AJS. The document review not only provided context for the interpretation of information collected through other methods, it also provided the means for determining whether the AJS, as delivered, is aligned with its original intended objectives and goals. Documentation reviewed included:

- 2007 Results-based Management and Accountability Framework (RMAF);
- Aboriginal Courtwork Program (ACW) Evaluation;
- 2006 AJS Case Studies Report;
- AJS 2005 Mid-Term Evaluation;
- AJS 2007 Summative Evaluation;
- financial data;
- terms and conditions (grants and contributions);
- one-year bilateral agreements;
- one-year tripartite agreements;
- operational guidelines and policies; and,
- communications documents (e.g. meeting minutes, communications plan, Website information, etc.).

3.2. Project File Review

All Community-based Justice Programs and Capacity Building Funds funded in the 2007/08 and 2008/09 fiscal years were reviewed for the evaluation. A total of 232 project files were examined: 188 Community-based Justice Program files and 44 Capacity Building Fund files.¹³ The review allowed for a comparison of project files and the objectives of the AJS's current mandate. This comparison provided information as to whether the AJS is targeting appropriate projects, the level of access and availability these programs provide (e.g., community sentencing, mediation, etc.) and the extent to which planned activities are implemented.

3.3. Key Informant Interviews

Sixty-nine semi-structured interviews were completed with 83 individuals representing three different stakeholder groups: Department of Justice staff (AJD and ALSP); government representatives from the provinces and territories; and individuals involved in the management/delivery of Community-based Justice Programs or Capacity Building Fund (funding recipients). Most interviews with provincial and territorial partners were completed during August and September 2009. Interviews with Department of Justice staff took place in September and October 2009, while interviews with funding recipients occurred between November 2009 and January 2010. The interviews with key informants were used to address all evaluation issues. The number of key informants interviewed in each stakeholder group is summarized in Table 2.¹⁴

Key informant group	Number of individuals consulted
Department of Justice Staff Members	19
Provincial/Territorial Partners	20
Funding Recipients	44
Total	83

¹³ Project files are maintained on the basis of fiscal year (as opposed to individual project); therefore, Community-based Justice Programs funded over both fiscal years had more than one administrative file.

¹⁴ It should be noted that some interviews were completed with more than one respondent. As such, the numbers presented in Table 2 represent the total number of informants interviewed.

3.4. Survey of Police and Crown Representatives

A Web-based survey was designed to explore the awareness of Community-based Justice Programs among Crown and police representatives. The survey was sent to all RCMP members nationwide, via a link provided in a RCMP electronic bulletin in September 2009. Crown counsel that work with the communities delivering a Community-based Justice Program were identified by the provincial/territorial partners and they received an email inviting them to participate. At the outset of the survey, respondents were screened for participation based on if they worked or had worked sometime since 2007 in or near a community delivering a Community-based Justice Program. Those who did not satisfy these criteria were thanked for their interest, but excluded from survey participation.

Summarized in Table 3 is the number of respondents to the police and Crown surveys respectively. The exact number of eligible participants is not known; therefore, response rates and sampling error cannot be calculated.¹⁵

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

¹⁵ Response rates and sampling error cannot be determined as the size of the sample frame and population are not known.

4. KEY FINDINGS

The mid-term evaluation of the AJS addressed four issues: relevance, implementation (design and delivery), effectiveness, and adequacy of data for the impact evaluation. Key findings for each of these issues are presented in this section.

4.1. Relevance

Rationale for the Aboriginal Justice Strategy

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. The over-representation of Aboriginal persons remains evident throughout the correctional system, as evidenced by the following statistics¹⁶:

- In 2007/08, 22% of Canadian adults admitted to sentenced custody were Aboriginal; meanwhile, fewer than 4% of the Canadian population are Aboriginal.
- This proportion is higher in the western provinces: for example, 81% of adults admitted to sentenced custody in Saskatchewan were Aboriginal. According to the 2006 Census, Aboriginal persons account for approximately 11% of Saskatchewan's population.
- The number of Aboriginal persons admitted to sentence custody decreased from 1998/99 to 2007/08, but at a slower rate than non-Aboriginal persons. Therefore, the proportion of Aboriginal persons in sentenced custody has increased since 1998/99.
- Demographic factors such as age, employment, and education level do not fully account for the over-representation of Aboriginal persons in the correctional system.

The AJS increases the involvement of Aboriginal communities in the local administration of justice, and emphasizes the importance of reflecting Aboriginal values within the justice system.

¹⁶ The incarceration of Aboriginal people in adult correctional service, Juristat article, July 2009.

The need for this type of programming is underscored by the continuing over-representation of Aboriginal persons who are victims, offenders, and incarcerated across Canada.

Despite these efforts, the 2005/2006 Annual Report of the Office of the Correctional Investigator observed the ongoing failure of the criminal justice system to meet the Aboriginal population's unique needs, reflecting the "fundamentally different world view" of Aboriginal peoples.¹⁷ As such, it remains an ongoing federal priority to encourage culturally appropriate alternative justice measures within Aboriginal communities, reflected in the renewal and enhancement of the AJS.

4.1.1. Alignment of AJS Objectives with Government Priorities

All Department of Justice staff and most provincial and territorial representatives interviewed agreed that the objectives of the AJS align with the strategic outcome of the Department of Justice to "create a fair, relevant and accessible justice system that reflects Canadian values."¹⁸ The AJS provides an alternative to the mainstream justice system which recognizes the cultural values and unique context of Aboriginal communities.

The objectives of the AJS are also well aligned with federal government priorities. Upon expanding AJS funding in 2008, Minister of Justice Rob Nicholson highlighted the value of the AJS in helping to meet the federal government's priority of protecting Canadian families and communities by strengthening the justice system:

"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."¹⁹

In terms of federal funding, the Treasury Board of Canada Secretariat has developed the Aboriginal Horizontal Framework,²⁰ which groups programs and expenditures directed specifically to Aboriginal people into seven thematic areas. Under the theme "Safe and Sustainable Communities" is a sub-category entitled "Community Safety & Justice," within

¹⁷ The Correctional Investigator Canada. *Annual Report of the Office of the Correctional Investigator 2005-2006*. p. 11.

¹⁸ Department of Justice. *2008-2009 Part III - Departmental Performance Reports (DPR)*.

¹⁹ Department of Justice, August 18, 2008. http://www.justice.gc.ca/eng/news-nouv/nr-cp/2008/doc_32293.html

²⁰ http://www.tbs-sct.gc.ca/aaps-aapd/pdf/poverview_e.pdf

which the AJS is an associated program. The strategic mandate of this sub-category is to foster “just, peaceful and safe Aboriginal communities”,²¹ under which the AJS objectives are aligned.

4.1.2. Relevance to Aboriginal Communities

Key informants were unanimous in their opinion that the AJS is still relevant to Aboriginal people and communities, as there is a strong continued need for community-based Aboriginal justice programs. Furthermore, demand for this type of programming still exceeds its availability, particularly as Aboriginal persons remain over-represented in the justice system. All funding recipients emphasized that the AJS is very relevant to Aboriginal communities and that there is a continued need for alternative justice programs that reflect traditional Aboriginal values. About 83% of the police and Crown surveyed also felt that there is a continued need for community-based Aboriginal justice programs in their jurisdictions to some or a great extent.

Many key informants, however, expressed the view that greater access to the AJS is required, describing the need to expand the reach of the AJS. Some suggested that programming could be expanded in order to include Aboriginal persons who live in non-Aboriginal communities. It was often expressed that the programs could consider victimization and healing, particularly as Aboriginal offenders have often been victims themselves, in a holistic approach that most closely mirrors traditional Aboriginal approaches to justice and the restoration of community harmony. However, it should be noted that some AJS-funded programs have already integrated program elements around victimization and healing.

Gladue Principle

Federal priorities regarding the unique context of Aboriginal citizens were highlighted in 1996, when the *Criminal Code* was amended to better reflect the needs of Aboriginal communities. Section 717 clarified the conditions to be met when employing alternative justice measures, while sub-section 718.2 (e) stated that “all available sanctions other than imprisonment that are reasonable in the circumstances should be considered for all offenders, with particular attention to the circumstances of Aboriginal offenders.”²² The Supreme Court of Canada clarified the proper implementation and application of the sub-section in the 1999 case *R. v. Gladue*, stating: “the drastic overrepresentation of Aboriginal peoples within both the Canadian prison population and the criminal justice system reveals a sad and pressing social problem...the provision [in sub-

²¹ http://www.tbs-sct.gc.ca/aaps-aapd/pdf/pooverview_e.pdf

²² <http://canada.justice.gc.ca/eng/pi/ajs-sja/his.html>

section 718.2 (e)] may properly be seen as Parliament’s direction to members of the judiciary to inquire into the causes of the problem and to endeavour to remedy it, to the extent that a remedy is possible through the sentencing process.”²³

Some communities now offer alternative justice programs that deliver services designed to respond to *R v. Gladue* through, for example, writing ‘Gladue Reports’. These reports are built around the “Gladue principle” which requires that an Aboriginal offender’s situational context be considered before a ruling or sentence is passed down. There are now three Gladue (Aboriginal Persons) courts in Toronto that Aboriginal offenders can be referred to from the mainstream system. Communities that have adopted a Gladue-centred approach are able to receive AJS funding for services to support the Gladue approach. In 2008/09, four Gladue support programs in Ontario used the AJS funding for this purpose.

4.2. Design and Delivery (Implementation)

Key findings related to the design and delivery of the AJS are presented below.

4.2.1. Implementation of the Capacity Building Fund

During the 2002-2007 AJS mandate, funding was available to support training and development activities. Results of the 2007 AJS Summative Evaluation revealed that the vast majority of these activities took place in communities already receiving Community-based Justice Program funding. The Department of Justice committed to providing communities, particularly those interested in implementing a new Community-based Justice Program, the opportunity to seek funding for training and development initiatives tailored to the needs of their communities. The Capacity Building Fund was developed in response to this commitment, and in the 2008/09 fiscal year, seven communities that did not have a Community-based Justice Program in place received Capacity Building Fund funding.

In the first two years after the renewal, the amount of funding allocated to the Capacity Building Fund was determined after the commitment of funds to the Community-based Justice Programs. Therefore, the call for Capacity Building Fund proposals did not take place until late in the year. Since the funds had to be spent by the end of the same fiscal year, turnaround time from application to completion of the project was very short in 2007/08 and 2008/09. Many funding

²³ (Para 64), qtd. in Legal Aid Ontario (2008). *The Development of Legal Aid Ontario’s Aboriginal Strategy. Appendix G*, pg. 3.

recipients noted that the uncertainty around the timing and availability of funds due to a lack of dedicated funding separate from the Community-based Justice Program component made it difficult to adequately implement projects. AJD staff and provincial and territorial representatives noted that the uncertainty made it difficult to promote the fund for fear of creating expectations that cannot be met. Many respondents suggested that allocating a specified amount to the Capacity Building Fund, in addition to allowing Capacity Building Fund funding to be carried over to the following fiscal year, would improve the component substantially.

4.2.2. Selection Criteria: Community-based Justice Programs

As a follow-up to the recommendations from the 2007 Summative Evaluation, preliminary discussions with provincial and territorial partners were held regarding the revision of the *Community-based Justice Program Funding Guide* and the development of selection criteria for new Community-based Justice Programs. Although efforts to collaborate were made between the AJD and the provincial/territorial partners in the development of the new Community-based Justice Program criteria, they were limited due to the diversity of regional needs and priorities. Consensus on specific criteria could not be reached due to conflicting regional requirements; therefore, the AJD developed a set of universal criteria. Despite these difficulties, the majority of the provincial and territorial representatives interviewed were satisfied with the degree of collaboration in developing these criteria, given the challenge of addressing regional differences.

The majority of key informants considered the selection criteria and process for Community-based Justice Programs to be fair and flexible, reflecting the needs of the communities and the provinces/territories. In 2008/09, eligibility criteria and guidelines for applying for Community-based Justice Programs funds were available on-line to assist new organizations or communities wishing to apply.

Overall, the provincial and territorial partners felt that their objectives and those of the AJS are well aligned in terms of the criteria for selecting Community-based Justice Programs, and that they would not want the process to change significantly. Furthermore, the provincial and territorial partners agreed that the framework supports the selection of communities that are ready for the program and prepared to take more of a leadership role. It was noted by many key informants that the AJD is relatively hands-off after the selection process is complete, which enables programs to respond to the needs of the communities served. AJD staff felt that this hands-off approach is a positive feature of the program as it allows Aboriginal communities to assume greater responsibility in the administration of justice.

4.2.3. Selection Criteria: Capacity Building Fund

In contrast to the Community-based Justice Program component, the assessment and selection process for Capacity Building Fund applications was in the planning stage during the 2007/08 and 2008/09 fiscal years, and was not described in great detail in any of the materials accessible on-line. An application/proposal form has been developed for the Capacity Building Fund, although it does not contain the level of detail found in the Community-based Justice Program Funding Guide. Unlike the Community-based Justice Program component, the Capacity Building Fund may or may not be cost-shared; as such, communication about the Capacity Building Fund was conducted at the national level and consequently shared with the provinces and territories as opposed to being developed in collaboration with them. During the early implementation of the Capacity Building Fund, communication to AJS communities was informal, occurring mainly through the Regional Coordinators or provincial/territorial partners.

Funding recipients expressed a much higher degree of uncertainty with the review and selection process for Capacity Building Fund projects as compared to Community-based Justice Programs. AJD staff and provincial and territorial partners expressed concern over the perceived fairness of the Capacity Building Fund selection process due to the lack of explicit selection criteria and transparency; this, they indicated, creates the potential for non-transparent selection. It was noted that the provision of clear and consistent information across the various information sources ideally contributes to transparency and fairness of the process.

4.2.4. Staffing Challenges

For the first two years after renewal, the AJD faced high rates of staff turnover. There was complete turnover of Regional Coordinators between April 2007 and June 2008. Since Regional Coordinators are critical to maintaining solid relationships with the provinces and territories, program analysts and other staff acted in the role of Regional Coordinator when necessary. The Director of the AJD left the position in June 2008, with the position being permanently staffed again in December 2008 (the position was staffed on an acting basis in the interim). Although executive administrative support was stable throughout the period, there was a high rate of turnover in administrative support staff for analysts.

The lack of stability in AJD human resources made it difficult for AJS partners and funding recipients to communicate and collaborate with the AJD, and it created barriers in terms of accessing information and general program development. The resulting lack of corporate

memory among new AJD staff was noted by key informants from all groups as having been a serious issue that caused disruptions in service delivery.

The relationships between the funding recipients and regional AJD staff vary, depending in part on the location of the Regional Coordinator. Funding recipients in provinces and territories where the Regional Coordinators are located elsewhere indicated that they have infrequent contact, particularly in person, with the coordinators. However, many of the funding recipients consider their Regional Coordinators to be very responsive in the event they have had to contact them. Infrequent in-person contact could be a function of both caseload and budget. Current fiscal constraint, in particular in the area of travel, has made monitoring of and support for implementation of the contribution agreements more challenging.

As summarized in Table 4 below, the 2007/08 budget allocation for salaries, \$1.97 million, was increased to \$2.68 million in 2008/09. Expenditures on salaries increased from 2007/08 to 2008/09; 19% of the total budget allocation in 2008/09 was not spent.

O&M allocations were not fully spent during the first two years of the renewal, as indicated in Table 4 below. This was also due to high staff turnover, as there was relatively less spending on materials, training and travel.

**Table 4: AJD Salary and O&M Budget Allocations and Expenditures
(2007/08 and 2008/09)**

Budget Component	2007/08			2008/09		
	Total Budget	Expenditures	Difference	Total Budget	Expenditures	Difference
Salary	1,973,602	2,018,615	(45,013)	2,677,460	2,174,446	503,014
O&M	1,016,892	583,256	433,636	1,380,703	956,812	423,891

Source: Department of Justice, February 2010

4.2.5. Roles and Responsibilities

Most key informants felt that the roles and responsibilities of the funding recipients are clearly defined at the community level, in part due to the specific language of the program contribution agreement. The responsibilities of the funding recipients to the Department of Justice are contained in Schedule C of the contribution agreement, which outlines financial, activity and statistical reporting requirements.

Terms of Reference are in place for the AJS F/P/T working group, which clearly state the group's mandate and activities. These Terms of Reference do not explicitly distinguish the roles and responsibilities of AJD staff and the provincial and territorial partners. AJD and provincial and territorial representatives expressed dissatisfaction with the clarity of their roles and responsibilities as they relate to the AJS F/P/T working group. Some AJD staff noted that standardized descriptions of roles across the regions would be beneficial.

4.2.6. Role of the Aboriginal Law and Strategic Policy Group

The ALSP Group supported the Strategy through a number of activities in 2007/08 and 2008/09, including:²⁴

- providing strategic advice and communication on high level issues with regard to AJS strategic legal and legal policy material for the Assistant Deputy Attorney General, Aboriginal Affairs Portfolio, the Deputy Minister and the Minister of Justice;
- assisting with the renewal of the AJS in 2007 by providing strategic policy direction, writing the Memorandum to Cabinet, conducting interdepartmental consultations and consultations with Aboriginal organizations and other stakeholders; and,
- maintaining and developing linkages to promote greater horizontality across federal programs, such as: homelessness programs, alcohol and drug treatment programs, employment programs, healing programs, Gladue Courts for Aboriginal offenders, Drug Treatment Courts, other specialized court initiatives, Aboriginal policing programs in the Department of Public Safety and the RCMP, crime prevention programs, and correctional programs such as the Native Liaison Services program.

ALSP noted that the AJD is able to dedicate more resources and energy to ongoing priority areas and activities of the AJS as a result of this division of responsibilities.

The role of the ALSP is clear to most AJD staff, but many, especially the Regional Coordinators, feel disconnected from the policy-making process and decisions. ALSP assists with the renewal of the Strategy and meets with F/P/T representatives to discuss 'big policy' issues pertaining to Aboriginal justice in general. The majority of AJD representatives, particularly regional staff, stated that they have only limited involvement with ALSP, with access occurring mainly at the senior management level through informal, ongoing communication. It was generally felt that

²⁴ The ALSP also conducts other activities to support Aboriginal justice programming.

many policy decisions are made by ALSP in isolation from AJD program analysts and regional staff. Many Department of Justice staff felt that the relationship between ALSP and the AJD could be more inclusive in terms of addressing and reporting on policy issues.

4.2.7. Federal/Provincial/Territorial Relations

As Community-based Justice Programs are cost-shared through either dual or in-kind arrangements between the provinces, territories and the federal government, decisions with respect to selecting new programs are achieved through a joint process involving the Department of Justice's provincial, territorial and community-based partners. Attempts are made to use collaborative processes between the Department and its provincial/territorial partners and funding recipients wherever possible, as appropriate.

The AJD maintained regular electronic and face-to-face communication with its provincial and territorial partners. The AJS F/P/T working group was the formal vehicle through which collaboration occurred, consisting of representatives from the Department of Justice and the provinces and territories. In the first two years after the renewal of the Strategy in 2007, there were four formal meetings either in-person or via teleconference. Communication also occurred on a one-on-one basis between Regional Coordinators, AJD management and provincial and territorial counterparts.

An assessment committee consisting of representatives from the AJD and their provincial/territorial counterparts completes the review and assessment of Community-based Justice Program funding proposals for new programs, through a joint process on a case-by-case basis, in an effort to address the diversity of community needs. Recommendations for funding are made by the assessment committee. In addition, less formal ongoing communication and coordination takes place between the provincial and territorial partners and the Regional Coordinators. Regional Coordinators also strive to develop relationships with the communities and funding recipients in their jurisdictions.

All interview groups identified information sharing and communication as a key area for improvement. Funding recipients indicated that although their Regional Coordinators are a helpful point of contact, many do not have enough 'on the ground' time with the individual communities. This group also expressed that they have little to no direct contact with the AJD staff in Ottawa, and would benefit from increased and regular contact with national

representatives to ensure that their experiences, opinions and challenges are being addressed within the Strategy's overall framework.

Similarly, Regional Coordinators expressed that while the level of information sharing and communication within their region's communities was relatively strong, the level of communication with the AJD and regional offices could be improved.

Provincial/territorial partners suggested that a greater amount of communication and collaboration is required between the province/territory, the AJD and the community justice programs.

In general, all interview groups indicated that they would benefit from a more formalized communication strategy. Both funding recipients and provincial/territorial partners suggested that communication between communities should be encouraged and formalized, if possible. Some communities are already coming together on their own to share best practices, advice and experiences, and many felt that this was an important process that could be formally mandated at the federal level.

Despite the importance of outreach and information-sharing to the success of Community-based Justice Programs, limited human resources at the program level can make it difficult to conduct outreach activities. However, it was noted that once programs become well established and supported, the need for outreach somewhat declines. Therefore, newer programs may require additional support and capacity-building initiatives related to outreach and information sharing while more established Community-based Justice Programs do not.

Increasing awareness of and participation in AJS programming by police, provincial judges, probation officers and Crown representatives is also essential. These representatives act as the gatekeepers between the mainstream justice system and Community-based Justice programs by referring potential participants to the programs. Raising awareness of operational programs and strengthening relationships with key stakeholders in the mainstream justice system is integral to the successful implementation of a Community-based Justice Program. As such, a dedicated approach to building awareness is an important area that requires the involvement of AJD national and regional staff and community leaders. This could help establish relationships with and encourage the participation of those who direct the referral process.

4.2.8. Horizontal Relationships

The AJD has a number of federal partners, namely:

- Correctional Service Canada, Aboriginal Initiative Branch;
- Indian and Northern Affairs Canada, Urban Aboriginal Strategy;
- other justice programs at the Department of Justice Canada;
- Health Canada and other federal departments that have Aboriginal areas of focus;
- Public Safety and Emergency Preparedness Canada, Aboriginal Policing Directorate and the National Crime Prevention Strategy; and,
- the Royal Canadian Mounted Police, Aboriginal Policing.

The AJD also has an ongoing collaborative relationship with the Department of Justice ACW Program, which assists Aboriginal people within the court system to obtain fair, just, equitable and culturally sensitive treatment.²⁵ ACW representatives indicated that they have a good working relationship with the AJD, particularly at the policy/headquarters level, and that the ACW acts as a referral agency on the ground.

4.3. Effectiveness

This section presents the key findings with respect to the effectiveness of the AJS in meeting some of its short-term objectives.

4.3.1. Support for AJS Objectives

In general, the activities listed in the Community-based Justice Program and Capacity Building Fund program work plans align with the types of activities that can be funded according to AJS criteria. Community-based Justice Program activities listed in these plans also align with the four objectives of the AJS. The two objectives that were supported by the greatest number of Community-based Justice Program activities were:

- *reflecting and including relevant Aboriginal cultural values in Canadian justice administration* (46% of activities, as described in program work plans); and,

²⁵ Retrieved from: <http://www.justice.gc.ca/eng/pi/pb-dgp/arr-ente/acp-apa.html>

- contributing to decreasing rates of crime and victimization in Aboriginal communities operating AJS programs (24% of activities, as described in program work plans).²⁶

The objective supported by the least number of stated activities was: *assisting Aboriginal communities to provide better and timelier information about community justice programs funded by the AJS* (14% of activities, as described in program work plans). Table 5 below illustrates the alignment between AJS objectives and stated Community-based Justice Program and project activities.

Table 5: AJS Objectives and Planned Activities of Community-based Justice Program Funding Recipients

AJS Objective	Stated Activities	Distribution (across 104 Community-based Justice Programs) ¹
1. To contribute to a decrease in the rate of victimization, crime and incarceration among Aboriginal people in communities operating AJS programs	<ul style="list-style-type: none"> • Client support and after care • Healing circles • Peacemaking circles • Family group conferencing • Mediation • Conflict resolution • Victim support programming 	<ul style="list-style-type: none"> • 24% of activities fall within this objective • 34% of Community-based Justice Programs offered client support and aftercare, and 31% held healing circles
2. To assist Aboriginal people to assume greater responsibility for the administration of justice in their communities	<ul style="list-style-type: none"> • Attending workshops, conferences, etc. • Ongoing training related to existing Community-based Justice Programs (skills updating) • Training for communities without Community-based Justice Programs 	<ul style="list-style-type: none"> • 17% of activities fall within this objective • 63% of Community-based Justice Programs offered ongoing training related to existing Community-based Justice Programs • 26% of Community-based Justice Programs attended workshops, conferences, etc.
3. To provide better and more timely information about community justice programs funded by the AJS	<ul style="list-style-type: none"> • Community awareness/outreach • Improve reporting/evaluation capacity (existing Community-based Justice Programs) 	<ul style="list-style-type: none"> • 14% of activities fall within this objective • 74% of Community-based Justice Programs included community awareness/outreach activities
4. To reflect and include relevant Aboriginal values within the justice system	<ul style="list-style-type: none"> • Developing/establishing partnerships for program development • Justice committees/panels • Victim advocacy • Court/community justice programming • Restorative justice programming • Offender programming • Elders councils/Elder involvement • Special events/ceremonies • Cultural programming • Sentencing circles 	<ul style="list-style-type: none"> • 46% of activities fall within this objective • 80% of Community-based Justice Programs worked on developing/establishing partnerships for program development • 28% of Community-based Justice Programs included court/community justice programming, 38% included offender programming, and 26% included cultural programming

¹ Based on a total of 603 activities (excluding administrative activities and activities other than the ones listed).
Source: Project File Review; Contribution Agreements

²⁶ The activities identified as representing these two objectives overlap and some could be seen as addressing both. However, for the purpose of analysis, the activities were divided between the two objectives.

Capacity Building Fund projects supported existing or new Community-based Justice Programs through implementing the following activities:

- organizing forums, conferences, and networking;
- delivering or arranging for workshops for staff and/or partners;
- undertaking program expansion activities;
- organizing and implementing skills-building activities for community members (particularly youth); and,
- delivering or arranging for training related to program delivery (e.g., circle keeper training) that was not covered through the Community-based Justice Program.

Results from the key informant interviews suggest that the activities undertaken by the programs and projects are perceived as supporting most of the AJS objectives. Funding recipients emphasized that reducing Aboriginal crime and victimization is the objective that they strive towards; by engaging the community and working with other departments and organizations, crime reduction is supported through a holistic effort grounded in culturally relevant approaches. Capacity to deal with offenders is built within the communities and a greater culture of awareness is fostered, particularly with youth.

Some funding recipients and AJS staff suggested that programming focus could be expanded beyond intervention, concentrating more on prevention and victimization and emphasizing the root causes of elevated crime rates. Some programs already have elements in place that support prevention and victim services.

All key informant groups agreed that Community-based Justice Programs assist Aboriginal communities in taking greater responsibility for the administration of justice and indirectly impact justice and criminality. Furthermore, the program gives Aboriginal leaders a real role in justice programming. Funding recipients indicated that the direct involvement of community members in the justice process, particularly Elders, allows for greater community-based autonomy. This can also lead to a greater general awareness of the criminal justice system in participating communities.

Many respondents expressed confusion as to the overall aim of the objective “*to assist Aboriginal communities to provide better and timelier information about community justice programs funded by the AJS*”. It was unclear to most funding recipients how Community-based

Justice Program activities assist Aboriginal communities to provide better and more timely information about community-based justice programs.

4.3.2. Cultural Programming

Funding recipients emphasized that including Aboriginal cultural values in the administration of justice is the objective around which programs revolve. In particular, it was often noted that the multi-generational approach and involvement of Elders ensured that Aboriginal cultural heritage and tradition were focal points of alternative justice programming. For example, Elders, community members and program staff facilitated the following types of cultural programming and special ceremonies:

- community events/festivals with games (stick gambling, hand games, field games), traditional activities (berry harvesting, story telling, traditional food processing) and social activities (community dinners and pot lucks, shows);
- ceremonies (signing, tree planting, sacred fires, sweat lodges);
- youth camps (teaching of spiritual beliefs, berries, leaves and their healing components, traditional foods);
- workshops (cutting and drying meat, making eagle feather snares, making drums, harvesting and outdoor cooking); and,
- outdoor activities (hunting, fishing, outdoor cooking, canoeing, camping, horseback riding).

Aboriginal cultural values are being included in the programs due to the fact that the communities themselves play a primary role in program design. AJD staff felt that since the community-based Aboriginal justice programs make use of traditional cultural values such as holism and healing, Aboriginal communities are empowered to reclaim the justice process and build capacity within the community.

Some funding recipients stated that “putting a face” on crime and creating an environment of responsibility and accountability helps to contribute to decreasing crime and victimization rates within their communities.

Several funding recipients interviewed provided qualitative examples illustrating how the programs led to reduced recidivism in individuals and youth. Almost all AJD and many provincial and territorial representatives noted, however, that it is difficult to measure this

objective empirically. As reported in the 2007 AJS Summative Evaluation, there is evidence to suggest that rates of recidivism are lower for offenders who participate in a Community-based Justice Program than for those who are referred but do not participate²⁷; within eight years, 59% of participants who were referred but did not participate in a Community-based Justice Program reoffended; whereas 32% of participants involved in alternative programming funded by the AJS reoffended. Although this empirical data supports the anecdotal accounts of funding recipients, results must be interpreted with caution due to methodological limitations.

4.3.3. Community Access to AJS Programs

AJS-funded programs and projects are reaching a large number of communities. Overall, more than 400 communities are served by 104 AJS programs, according to AJS documentation.²⁸ Based on reports submitted by the programs, 7,532 Aboriginal people were served by AJS-funded programs in 2007/08 and 5,634 in 2008/09, for a total of 13,166. As not all communities reported how many people were referred and participated in their program, this total is considered an underestimate.

Based on the results from funding recipient interviews and the survey of police and Crown representatives, those referred to programs were most often first-time offenders, frequently youth accused of minor infractions such as vandalism, minor property crimes, shoplifting, mischief, or minor alcohol/drug offences. Some funding recipients and police indicated that the person must also show remorse or willingness to take responsibility for his or her actions.

In general, programs seem to be meeting the needs of participants in that most groups reported lower levels of recidivism within communities and a greater degree of cultural sensitivity in the justice process.

4.3.4. Access Challenges

Several gaps were identified concerning the extent to which AJS programs are reaching Aboriginal offenders and victims of crime. A number of communities with the capacity and inclination to introduce a program are often not able to implement one, as there is not enough funding available.

²⁷ This includes individuals referred to a Community-based Justice Program but who did not attend the program for various reasons.

²⁸ Department of Justice. "The Aboriginal Justice Strategy". Retrieved January 2010 from: <http://www.justice.gc.ca/eng/pi/ajs-sja/index.html>

Rural communities may lack services related to Aboriginal justice due, in part, to limited capacity to implement a program or to a lack of awareness of the Strategy.

4.3.5. Awareness of Programming in Aboriginal Communities

Funding recipients strongly felt that Community-based Justice Programs provide opportunities to strengthen linkages and partnerships both within the community and outside of it. Most noted that they actively network with other communities and related organizations, hold events such as celebration dinners, host information sessions, publish articles in community newspapers, and frequently offer education and public awareness initiatives.

4.3.6. Awareness of Programming in Justice Communities

Involvement of mainstream justice professionals helps foster a coordinated effort to prevention, education and awareness, which many respondents described as the ideal approach to alternative justice programming. Understanding and sensitivity on the part of non-Aboriginal justice officials is considered an integral part of successful alternative justice programming. Communicating with professionals in the mainstream justice system was also noted as important for gaining the level of support necessary to reach Aboriginal offenders.

Survey results showed that all Crown respondents were aware of one or more programs operating in their region. In the same survey, 25.7% of police respondents working in regions where Community-based Justice Programs are offered were not aware of any programs; this could be a function of high mobility within police forces.

Survey results suggest limited direct participation beyond referrals between mainstream justice professionals and Aboriginal community-based justice programs. Some 34.8% of the police and Crown respondents indicated that they have participated in the Aboriginal justice programs offered in their communities.

A significant gap in program reach, according to many funding recipients, comes from a lack of awareness of or participation in AJS programs on the part of mainstream justice professionals. Since programs are referral-based, if external stakeholders are not familiar with or are unsupportive of the programs, they will not refer offenders to them. Awareness and ongoing outreach to other criminal justice stakeholders are key factors to individual program success, as referrals from the mainstream justice system require involvement of local justice professionals.

4.4. Economy and Efficiency

4.4.1. Funding

Despite the fact that key informants generally felt that there are insufficient funds to meet community needs, particularly for the Capacity Building Fund, the amounts expended in the first two years of the expansion were less than the committed and allocated amounts.

According to AJD staff and provincial/territorial representatives, the main barrier to implementing the AJS enhancements has been the overall lack of funds to adequately meet demand. However, the amounts committed to Community-based Justice Programs and Capacity Building Funds were less than the amount allocated in 2007/08 (\$10.49 million), and the disbursements were less than the amounts committed during both fiscal years indicated. As evident in Table 6, Community-based Justice Program and Capacity Building Fund disbursements were \$2.98 million and \$2.58 million below the total allocated amount in 2007/08 and 2008/09, respectively.

Table 6: Grant and Contributions Commitments and Disbursements (as of January 26, 2010)

	2007/08		2008/09	
Contributions				
Allocated Amount – Contributions	\$10,490,000		\$10,490,000	
Fund Component	Commitments	Disbursements	Commitments	Disbursements
Total Community-based Justice Program	\$8,766,826	\$6,811,297	\$10,867,344	\$7,391,993
Total Capacity Building Fund	\$792,179	\$700,035	\$889,287	\$519,535
Balance Not Committed	\$930,995		\$1,266,631	
Balance Not Disbursed	\$2,978,668		\$2,578,472	
Grants				
Allocated Amount – Grants	\$260,000		\$260,000	
Total Grants	\$86,796	\$86,796	\$13,105	\$13,105
Balance Not Committed	\$173,204		\$246,895	
Balance Not Disbursed	\$0		\$0	

Source: Aboriginal Justice Directorate; January 26, 2010

In addition to the funds allocated to the Community-based Justice Programs and Capacity Building Fund, \$260,000 in grants was available each year for one-time, small-scale capacity or training-related needs of funding recipients for up to \$20,000 per project. The information in Table 6 above shows that only 33% (\$86,796) and 5% (\$13,105) of the grant allocation was committed and disbursed in 2007/08 and 2008/09 respectively. This could be due to the need to

reallocate some of the grant amount to cover planned commitments in the programs included in contributions funding.

Most funding recipients and Regional Coordinators were unclear about the grant portion of the AJS; many thought that grant allocations had been replaced by the Capacity Building Fund.

4.4.2. Funding Challenges

A key factor that interfered with implementing the AJS enhancement in the first year after renewal was that funding to the programs had to be disbursed retroactively. Although the 2007 Budget announced an initial enhanced funding investment over 2007/08 and 2008/09, there were a number of implementation challenges related to the renewal of the program. During this period, Community-based Justice Program communities had to shoulder the costs until the funds were released and Capacity Building Fund projects had little time to complete the activities and expend the funds planned for that fiscal year.

In 2008/09, the second year of the renewal, actual spending was lower than anticipated for the following reasons:

- finalizing funding agreements was delayed due to ongoing complex negotiations with communities and provincial/territorial partners with tripartite or flow-through agreements;
- allocation of capacity-building funds was delayed, thereby affecting the ability of funding recipients to complete activities in the same fiscal year;
- staffing issues at AJD caused delays in negotiating agreements; and,
- some funding recipients faced capacity and training needs, which left them unable to undertake the full extent of proposed community-based initiatives expected.

Payments throughout the duration of the contribution agreements are tied to reporting outputs submitted by the program. If certain reporting requirements are not met or not all activities are completed, then not all of the allocated funding is released. Some funding recipients do not meet the final reporting requirements (final report and financial statements) that are tied to release of 10% of the total committed amount. Following submission of these reports, a desk audit is conducted at the Department of Justice to review and confirm the figures.

Uncertainty about the timing and availability of Capacity Building Funds led to suggestions by many respondents that a dedicated Capacity Building Fund funding allotment would allow such funds to be carried over fiscal years in order to adequately implement programs and projects as planned. Capacity Building Fund recipients were often unsure whether they would receive funding until the time of, or after, the planned activity.

In addition, these uncertainties have made it difficult for funding recipients to adequately implement programs and projects. This has resulted in cash flow difficulties for some smaller programs serving small communities. It also contributed to staffing challenges in some programs, particularly in rural, remote locations.

Funding recipients did note that once the funding was made available, the amount of time it took to receive the funds was short. As well, multi-year Community-based Justice Program contribution agreements are now being negotiated in an effort to support consistency and reliability of service.

4.4.3. Cost Effectiveness

A cost-effectiveness analysis conducted for the 2007 AJS Summative Evaluation demonstrated that the AJS is a more cost-effective approach than the mainstream justice system for offenders participating in community-based programs. This analysis showed that, while the cost per unit for an AJS referral is higher than the cost per charge in the mainstream justice system, the lower recidivism rate among AJS participants results in savings to the justice system over time. Additionally, many AJS programs provide services in remote locations, in which the cost of participation in the mainstream justice system is higher than in the AJS program.

Although this issue was not explored in detail for the purposes of this report, it will be addressed in detail in the next summative evaluation of the AJS.

4.5. Adequacy of Data for an Impact Evaluation

As previously noted, an impact evaluation of the Strategy is planned for 2011/12. This section of the report examines the degree to which processes are in place to support the impact evaluation.

4.5.1. Reporting Sources

At the time of the evaluation, the AJS did not have a standardized reporting database. To address this issue, a working group²⁹ was established to develop a set of national data requirements and a data collection system for the Strategy. As of fall 2009, the working group has established the objectives and guiding principles of the National Data Requirements project and a draft data model had been designed. The draft model consists of four data tables designed to collect details related to the program, the accused/offender and the activities completed by each offender (e.g., restitution, donation, formal apology, cultural education, counselling, etc.). A review of the draft model shows that all performance indicators identified by the AJD will be covered, although data regarding the communities' capacity to deliver the program (e.g., staffing resources, training) are not included.

Data is also stored in the federal government's Grants and Contributions Information Management System. This system was not reviewed as part of the mid-term evaluation; however, the system has challenges as staff training with the system was low.

Given that limited data will be available from electronic systems, community-based justice and Capacity Building Fund program data required for the impact evaluation will have to be accessed from existing reports submitted by funding recipients unless other methods of tracking are implemented prior to 2011/12.

4.5.2. Reporting Capacity

Interview results indicate that the capacity of communities to implement and conduct data collection, reporting and evaluation varies widely. Programs implemented by large, well-established organizations have the capacity to meet reporting and evaluation requirements, while smaller communities, particularly those located in remote areas, face challenges due to limited staffing resources. The project file review revealed that none of the Community-based Justice Program or Capacity Building Fund funded communities had implemented training to improve their capacity for reporting.

²⁹ The working group is composed of federal representatives from the AJD, the Research and Statistics Division of the Department of Justice as well as provincial and territorial partners.

Voluntary evaluation and reporting of internal processes were not widely observed within Community-based Justice Program activities; while 11 of the work plans identified evaluation as one of their Capacity Building Fund funded program activities, only two final reports indicated that the evaluations had been completed (e.g., satisfaction surveys, formal follow-up).

Many Community-based Justice Program files did not include a final report, and Capacity Building Fund project files rarely contained one, indicating that final payments were temporarily or permanently held back depending on whether the reports were delayed or not submitted at all.

4.5.3. Consistency of Data

In general, reporting was inconsistent within and across Community-based Justice Programs and Capacity Building Fund projects. This could affect the data for the impact evaluation. There were often discrepancies between the activities cited in the work plan and those included in quarterly or final reports. In some cases, the reports identified activities that were not part of the original work plan. Quarterly and final reports tended to be more detailed and precise than the work plans.

In addition, the reporting approach varied according to the size and structure of the recipient organization. Larger multiple-community projects typically reported on administrative activities, providing only overviews for each Aboriginal community's activities, while single-community projects tended to focus on specific activities.

As overall program awareness from the police survey was somewhat low, a more comprehensive survey and/or telephone interviews with a larger sample size should be conducted to obtain more representative information and explore the awareness issue further. The impact evaluation could also be expanded to include consultation with additional mainstream justice professionals to gain a better understanding of the impact of AJS communities on the justice system overall. These supplementary consultations could include police, members of the judiciary and Crown in the communities served by Community-based Justice Programs, as well as adjacent communities.

5. CONCLUSIONS

The AJD has made substantial progress in addressing the recommendations from the 2007 AJS Summative Evaluation and implementing the enhancements. The following five key recommendations from the 2007 Summative Evaluation were in various stages of implementation: implement measures to make the selection of new programs more formalized and accessible; increase awareness and access for communities to training and development initiatives; develop a systematic approach to data collection and reporting; increase the number of Community-based Justice Program communities; and improve communication and collaboration.

The primary barrier to implementing the AJS enhancements was that while it was approved in principle in November 2006, it was not until close to the end of the 2007/08 fiscal year that the Department was able to access the expansion funds due to the late renewal of the AJS and a delay in releasing funds for program allocation. During this time, communities had to shoulder the costs of activities until payments could be disbursed. Although AJS has little control over the length and timing of the policy cycle as it pertains to program renewal, it is important to note that the ALSP and AJD have begun the preparatory work to facilitate a smooth renewal process.

The renewal-based nature of both the Strategy as a whole, provincial/territorial agreements and memoranda of understanding as well as individual contribution agreements with the communities, have presented challenges to the administration of the AJS, to the implementation of programs and projects, and to maintaining continuity in AJD staff. There is a widely held view among stakeholders that multi-year agreements with communities would reduce uncertainty and funding inconsistency at the program level. Many respondents also recommended that the AJS should receive permanent funding, as opposed to the current renewal-based structure.

Results from the project file review reveal that some objectives are supported by program activities to a greater degree than others. In particular, the objective *“to assist Aboriginal communities to provide better and timelier information about community justice programs funded by the AJS”* was supported by only a few Community-based Justice Programs, and many

key informants were unclear as to the applicability of the objective to their programs and/or to the expected outcomes of the Strategy.

Although improvements have been made with the level of communication at the federal level, the level and amount of communication between the AJD and community-based funding recipients is informal and relatively inconsistent. As such, there is a need to develop communications protocols for and between all levels of stakeholders involved in the delivery of Community-based Justice Programs.

Consistency in federal contacts (which is improving after the period of instability within the AJD), and a sufficient number of Regional Coordinators who can act as a stable, knowledgeable point of contact for funding recipients in all regions, would ensure that information pertaining to the AJS and its available services is adequately and consistently conveyed to individual programs and communities. In particular, it was recommended by most key informants that a concerted communication effort be undertaken to raise awareness of the AJS among communities not currently participating. Continuing to encourage and foster opportunities between AJS communities in the sharing of best practices, challenges and successes was also suggested.

AJD representatives, particularly regional staff, indicated that they have only limited involvement with ALSP, and expressed that many policy decisions are made by ALSP in isolation from AJS programs. Increased frequency and formality of communication would promote a more inclusive relationship in terms of addressing and reporting on policy issues, and would better integrate Aboriginal programs and policy functions. Increasing awareness and participation in AJS programming by police and Crown representatives and other referral agencies is also essential, due to their critical role in referring potential participants to the programs.

Although the AJS enhancement allowed for the implementation of new Community-based Justice Programs and the creation of the Capacity Building Fund, many respondents felt that significant funding shortages remain. The extent to which this is accurate cannot, however, be specifically determined due to the method of calculating the amount allocated for grants and contributions, the amount committed and disbursements. As committed Community-based Justice Program funds were often not paid out in full due to communities not fulfilling final or interim reporting requirements, not carrying out all program activities or unexpected changes in yearly workplans and deliverables, some AJS funding lapsed. In addition, the amount of

Capacity Building Fund funding available was limited due to the lack of a dedicated allotment for this component of the AJS, the receipt of funding late in the fiscal year, and projects not completed in the planned timeframe. Furthermore, there was confusion about the use and limitations of grants under the Capacity Building Fund.

Community reporting and data collection varied widely, depending on the size of the program and capacity/staffing resources dedicated to reporting. Through the project file review, it was found that many of the programs had incomplete or missing reports. As the National Data Requirement Reporting system will not be in place prior to the impact summative evaluation, Community-based Justice Program and Capacity Building Fund project-related data required for the evaluation will have to be accessed from existing reports submitted by funding recipients unless other methods of tracking are implemented prior to the evaluation. As these reports are not always complete and vary in terms of content, it may be necessary to collect additional data to adequately measure the impact of the AJS and/or Community-based Justice Programs.

6. RECOMMENDATIONS AND MANAGEMENT RESPONSE

1. Funding Challenges

Uncertainty around the timing and availability of funds has made it difficult for funding recipients to adequately implement programs and projects. This resulted in cash flow difficulties for some programs that serve small communities and also contributed to staffing challenges for some programs, particularly those located in rural and remote areas.

Recommendation: Continue to work with the provinces and territories to implement multi-year funding agreements, which will provide funding recipients with the stability and predictability of secure funding.

Management Response: Agreed. Work with the provinces and territories has been ongoing to implement multi-year contribution agreements, where feasible. Further, the Aboriginal Justice Directorate (AJD), in partnership with Aboriginal Law and Strategic Policy (ALSP), will explore opportunities for increased stability of the Strategy through the renewal process.

2. Communications Challenges

All interview groups identified information sharing and communication as a key area for improvement. Funding recipients indicated that they have little to no direct contact with the AJD staff in Ottawa, and would benefit from increased, regular contact with national representatives. Regional Coordinators indicated that the level of communication with the AJD could be improved. Provincial and territorial partners suggested that a greater amount of communication and collaboration is required between the province or territory, the AJD and community justice programs.

In general, all interview groups indicated that they would benefit from a more formalized communication strategy. Both funding recipients and provincial and territorial partners suggested that communication between communities should be encouraged and formalized, if possible.

Recommendation: Develop and implement a formalized and multi-faceted communications strategy that involves the AJD, ALSP, the Aboriginal Courtwork Program (ACW), provinces, territories, funding recipients, and other stakeholders in order to increase the effectiveness of the AJS.

Management Response: Agreed. The AJD is committed to, and has increased efforts to ensure consistent, ongoing communications both internally between AJD, ALSP, other programs with linkages and common goals such as the ACW, and externally between the AJD, provincial and territorial representatives and Aboriginal communities. A formalized communications strategy for engaging recipients and Aboriginal NGOs on AJS issues is being developed in partnership with provincial and territorial partners. Additionally, the Aboriginal Justice Strategy (AJS) Federal-Provincial-Territorial (F/P/T) Working Group, co-chaired by the AJD and a provincial or territorial counterpart, has been meeting regularly since 2009 to discuss and share information regarding the AJS.

3. Reporting Challenges and Consistency of Reporting

Interview results indicate that the capacity of communities to implement and conduct data collection, reporting and evaluation varies widely. Programs implemented by large, well-established organizations have the capacity to meet reporting and evaluation requirements, while smaller communities, particularly those located in remote areas, face challenges due to limited staffing resources. The project file review revealed that none of the Community-based Justice Program or Capacity Building Fund funded communities had implemented training to improve their capacity for reporting.

Many Community-based Justice Program files did not include a final report, and Capacity Building Fund project files rarely contained one, indicating that final payments were temporarily or permanently held back depending on whether the reports were delayed or not submitted at all. In general, reporting was inconsistent within and across Community-based Justice Programs and Capacity Building Fund projects. In addition, the reporting approach varied according to the size and structure of the recipient organization.

Recommendation: Develop and implement a National Database for data collection and ensure that project-level reports are completed in a consistent manner and retained on file.

Management Response: Agreed. A National Database for data collection, reporting and evaluation purposes is currently being developed by a F/P/T working group led by the Research and Statistics Division of the Department of Justice. It is anticipated that a data model of the National Database will be presented for consultation to all provinces and territories and Aboriginal communities as early as fall 2010. Due to the complexity of negotiations, an implementation approach is still being developed.

Since the 2008/09 fiscal year processes and procedures have been established to improve the monitoring of program requirements. For example, a monitoring template has been developed, which facilitates effective monitoring of program requirements, including any outstanding reports. Consequently, the number of outstanding final payments has been reduced. Furthermore, efforts are ongoing to reduce reporting obligations for recipients, thereby decreasing their administrative burden. For example, it is anticipated that in the 2010/11 fiscal year, a standard reporting template will be developed to further simplify reporting and consequently improve the completion rate of program reports, while maintaining accountability using a risk-based approach.

4. Staffing Challenges

For the first two years after renewal, the AJD faced high rates of staff turnover. There was complete turnover of Regional Coordinators between April 2007 and June 2008. Given that Regional Coordinators play a critical role in developing and maintaining strong relationships with communities, as well as with provincial and territorial partners, AJD ensured that other staff members assumed the role of Regional Coordinators in an effort to ensure that relationships were maintained.

The relationships between the funding recipients and regional AJD staff vary, depending in part on the location of the Regional Coordinator. Funding recipients in provinces and territories that do not have regional AJS offices indicated that they have infrequent contact, particularly in person, with the Regional Coordinators.

Recommendation: Ensure a sufficient number of Regional Coordinators who can act as primary, stable, knowledgeable points of contact for funding recipients in all regions.

Management Response: Agreed. Efforts have been ongoing to stabilize the Regional Coordinator complement at AJD. Despite these efforts, face-to-face contact between Regional Coordinators

and recipients can sometimes be limited as a result of a variety of factors, including: the remoteness of some communities, the number of communities that some Regional Coordinators are responsible for, inclement weather, as well as the availability of provincial or territorial partners. In order to respond to these challenges, other methods of communication are routinely employed, such as teleconferences and regional meetings.

5. Selection Criteria: Capacity Building Fund

Funding recipients expressed uncertainty with the review and selection process for Capacity Building Fund projects. AJD staff and provincial and territorial partners expressed concern over the perceived fairness of the Capacity Building Fund selection process due to the lack of explicit selection criteria and transparency, creating the potential for non-transparent selection.

Recommendation: Clarify the assessment and selection criteria for the Capacity Building Fund.

Management Response: Agreed. During the 2009/10 fiscal year, an information sheet and a funding application form were developed to assist applicants interested in applying for funding from the Capacity Building Fund. These documents are available on the AJS Website, where a call for proposals was also prominently displayed during the period when applications were being accepted. An assessment criteria form has also been developed for internal use to ensure that project proposals are reviewed in a consistent and transparent manner.

7. APPENDICES : DATA COLLECTION INSTRUMENTS

ABORIGINAL JUSTICE STRATEGY EVALUATION POLICE & CROWN ONLINE SURVEY

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 Aboriginal Justice Strategy 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 to 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 & 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 you would like to add?

Thank you very much for taking the time to participate.

ABORIGINAL JUSTICE STRATEGY EVALUATION

AJD OFFICIALS AND P/T REPRESENTATIVES INTERVIEW GUIDE

Name: (First) _____ (Last): _____

Position/Organization: _____

Phone: () _____

Interview Date _____ Time _____

Introduction

Thank you for agreeing to participate in an interview for the mid-term evaluation of the Aboriginal Justice Strategy (AJS). The interview should take about one hour and a half.

As described in the email you received inviting you to participate in an interview, a mid-term evaluation of the current AJS mandate (2007-2012) is being undertaken by the Department of Justice Evaluation Division. R.A. Malatest and Associates have been retained to assist with conducting this evaluation. The purpose of the evaluation is to examine the design and delivery of the AJS, success/early impacts, adequacy of data for a future summative evaluation in 2011-2012 and to follow up on recommendations identified in an evaluation (2006) completed during the last mandate.

A main component of the evaluation is to conduct interviews with federal and provincial/territorial government representatives to discuss relevant issues.

I'd like to remind you that your participation in this interview is completely voluntary. Any information you provide will be used for evaluation purposes only, to provide an overall perspective. Every effort will be made to ensure that the information collected is accurately recorded and reported for the evaluation.

Do you have any questions before we begin?

Part A: Role in the AJS

1. Please describe your current role and responsibilities with respect to the Aboriginal Justice Strategy (AJS). (Ask AJD, ALSP, ACW, P/Ts)

Part A. Relevance

This section is designed to explore the relevance of the AJS to the Department of Justice overall, and to Aboriginal communities in particular.

2. The Department of justice has two strategic outcomes: 1) a fair, relevant and accessible justice system that reflects Canadian value; and 2) a federal government that is supported by effective and responsive legal service. To what extent do the objectives of the AJS align with those of the department? (Summative Issue #1)

3. a) In what ways or to what extent is the Aboriginal Justice Strategy still relevant to Aboriginal people/communities? (Summative Issue #2)

-
- b) Is there a continued need for community-based justice programs? (Summative Issue #2)

Part B. Strategy Design and Delivery

The questions in this section address several issues related to the current design and delivery of the AJS. The questions start out by addressing the Strategy overall and then move to the two funding streams, Community-Based Justice Programs and the Capacity Building Fund.

4. What elements and activities of the AJS contribute to supporting the stated objectives of the Strategy? Please describe how each of the following objectives is supported. (Issue #5 & Issue #10) (Ask AJD, P/Ts)

- a) Contribute to decreasing rates of crime and victimization in Aboriginal communities operating AJS programs.

b) Assist Aboriginal communities to take greater responsibility for the administration of justice.

c) Provide better and more timely information about community justice programs funded by the AJS.

d) Reflect and include relevant Aboriginal cultural values in Canadian justice administration.

5. a) To what extent are the roles and responsibilities of stakeholders involved in the delivery of AJS programs (e.g., AJD staff members, provincial/territorial representatives and community-based justice program managers) clearly defined? Please comment on any specific roles or responsibilities that could benefit from further clarification. (Issue #11) (Ask AJD, P/Ts)

b) Are there any roles or responsibilities that could be changed to improve program delivery? If yes, please describe how they could be changed. (Issue #11) (Ask AJD, P/Ts)

6. a) Based on your experience, do you feel that the management (i.e., monitoring, oversight and internal communication) activities in place are adequate for effective and efficient

program delivery? Please explain what elements make these management practices and activities adequate or inadequate. (Issue #5 & #12; Summative Issue #3) (Ask AJD)

b) Do you have any suggestions that might increase the effectiveness and efficiency of the program delivery in terms of monitoring, oversight and communication (internal) practices and activities? (Issue #5 & #12; Summative Issue #3) (Ask AJD)

7. a) In your experience, are there adequate administrative systems (e.g., financial tracking and reporting, policy guidelines and processes/procedures, etc.) for effective and efficient program delivery? Please explain what elements make these systems adequate or inadequate. (Issue #5 & #12) (Ask AJD)

b) Do you have any suggestions that might increase the effectiveness and efficiency of the program delivery in terms of administrative systems? (Issue #5 & #12) (Ask AJD)

8. Based on your experience, are there sufficient Department of Justice human resources assigned to the AJS to deliver the program and support the objectives of the AJS? If no, please explain where additional resources are required. (Issue #5) (Ask AJD, P/Ts)

9. Are there sufficient financial resources available to provide for program delivery and to support the objectives of the AJS? (Issue #5) (Ask AJD)

10. Please describe the role and responsibilities of the Aboriginal Law and Strategic Policy (ALSP) in terms of providing policy and legal advice to the AJS? (Issue #13) (Ask AJD, ALSP)

11. To what extent has the ALSP successfully secured policy renewals for the AJS? What has facilitated or hindered its success? (Issue #13) (Ask AJD, ALSP)

12. Overall, is the role of the ALSP sufficient in providing policy support to the AJD (in providing policy/legal advice, policy renewals, and overseeing the negotiations of Administration of Justice chapters in Aboriginal self-government agreements)? That is, are there other areas where the ALSP could provide policy advice or support, or are there ways that the current support provided could be improved? (Issue #13) (Ask AJD, ALSP)

13. a) What measures have been taken to improve the coordination and communication between the AJD and the ALSP in terms of supporting policy development and program delivery since the last mandate? (Issue #7) (Ask AJD, ALSP)

b) How successful have these measures been in improving the coordination and communication between policy and program delivery? Are there ways that coordination or communication could still be improved? (Issue #7) (Ask AJD, ALSP)

14. Could the role of the ALSP with regards to the AJS be changed in any way to improve the efficiency and effectiveness of the delivery of the AJS? If yes, how could it be changed? (Issue #13) (Ask AJD, ALSP)

15. a) What barriers, if any, have been encountered in implementing AJS enhancements (i.e., the Capacity Building Fund and new projects funded through Community-Based Justice Programs)? Please describe the effect of any barriers on implementation. (Issue #8) (Ask AJD, P/Ts)

b) Have the barriers been addressed? If so, how have they been addressed? (Issue #8) (Ask AJD, P/Ts)

16. a) We would like to obtain some feedback about the dual funding arrangement between federal and provincial/territorial partners, (e.g., reporting requirements, management, etc.). From your own experience/observations, what aspects of the dual funding arrangement having been working well? (Ask AJD, P/Ts)

b) What aspects of the dual funding arrangement, if any, could be improved? Please explain why these areas could benefit from improvement. (Ask AJD, P/Ts)

17. a) To what extent do the activities of the Aboriginal Courtwork Program support or complement those of the AJS provincially/territorially and/or nationally? (Ask AJD, Aboriginal Courtwork Program)

- Significantly
- Somewhat
- Don't know
- Not at all

b) In what ways does the Aboriginal Courtwork Program support or complement the activities of the AJS? OR Why doesn't it support or complement those activities (Ask AJD, Aboriginal Courtwork Program)

c) Please describe any ways you think integration or collaboration between the Aboriginal Courtwork Program and the AJS could be enhanced?

18. a) What is the difference between contribution agreements and the grant funding option? Are grants only being used as part of the Capacity Building Fund?

b) Please provide some examples of projects that are being funded by grants. Why are grants being used for these projects as opposed to contribution agreements?

The next questions ask about various elements of Community-Based Justice Programs and the Capacity Building Fund. We'll start with Community-Based Justice Programs.

a) Please describe the collaborative processes used in developing the funding criteria for the Community-Based Justice Programs between AJD and the provinces/territories. (Issue #2) (Ask AJD, P/Ts)

b) Have these processes been effective? Please explain why or why not. (Issue #2) (Ask AJD, P/Ts)

19. a) Do you find the criteria for selecting Community-Based Justice Programs to be fair? Please explain why or why not. (Issue #10) (Ask AJD, P/Ts)

b) Are there criteria that you feel should be changed, added or removed? If so, what are they and why should they be changed, added or removed? (Issue #10) (Ask AJD, P/Ts)

20. Are the criteria for selecting Community-Based Justice Programs effective in supporting AJS objectives? Please explain why or why not. (Issue #10) (Ask AJD, P/Ts)

21. a) Is there a communication strategy in place for the Community-Based Justice Programs to communicate with existing AJS communities? If yes, please describe the strategy and its effectiveness? If not, what has impeded its development and/or implementation? (Issue #7) (Ask AJD)

b) Is there a communication strategy in place for the Community-Based Justice Programs to communicate to potential communities? If yes, please describe the strategy and its effectiveness? If not, what has impeded its development and/or implementation? (Issue #7) (Ask AJD)

22. Is the level of coordination between provincial/territorial and federal efforts in relation to the implementation of Community-Based Justice Programs sufficient? What, if anything, would you suggest to improve coordination of these efforts in funding Community-Based Justice Programs? (Issue #7) (Ask AJD, P/Ts)

23. a) Are there specific protocols in operation to monitor the contribution agreements in place under Community-Based Justice Programs? If yes, please describe these protocols and comment on their effectiveness. (Issue #12) (Ask AJD, P/Ts)

b) Are there protocols that you feel should be in place, but aren't, with respect to monitoring Community-Based Justice Programs funding agreements? If yes, please describe them. (Issue #12) (Ask AJD, P/Ts)

24. Are the required resources (i.e., Regional Coordinators) in place in each province/territory to adequately oversee and monitor the implementation of contribution agreements and program progress? Please explain why or why not. (Issue #12) (Ask AJD, P/Ts)

Now I'd like to ask you some questions about the Capacity Building Fund.

25. a) Do you find the criteria for selecting proposals for the Capacity Building Fund to be fair? Please explain why or why not. (Issue #10) (Ask AJD, P/Ts)

b) Are there criteria that you feel should be changed, added or removed? If so, what are they and why should they be changed, added or removed? (Issue #10) (Ask AJD, P/Ts)

26. a) In what ways do the criteria for selecting Capacity Building Fund projects support AJS objectives? (Issue #10) (Ask AJD, P/Ts)

b) Are there ways that the selection criteria might interfere with the achievement of AJS objectives? If so, in what ways? (Issue #10) (Ask AJD, P/Ts)

27. a) To what extent has the Capacity Building Fund been implemented as planned with regards to having infrastructure/resources in place? Please describe the extent to which the intended resources are available/have been implemented. (Issue #4) (Ask AJD)

- Not Implemented
- Partially Implemented
- Fully Implemented
- Don't Know

b) Have there been any factors that facilitated or acted as barriers to having the appropriate infrastructure or resources in place? Please describe. (Ask AJD)

28. To what extent has the Capacity Building Fund been implemented as planned with regards to having the funding criteria in place? Please explain. (Issue #4) (Ask AJD)

- Not Implemented
- Partially Implemented
- Fully Implemented
- Don't Know

b) Have there been any factors that facilitated or acted as barriers to having the funding criteria in place as originally planned? (Ask AJD)

29. To what extent has the Capacity Building Fund been implemented as planned with regards to having the contribution agreements in place for approved projects? Please explain. (Issue #4) (Ask AJD)

- Not Implemented
- Partially Implemented
- Fully Implemented
- Don't Know

b) Have there been any factors that facilitated or acted as barriers to having the contribution agreements in place? (Ask AJD)

a) Has a communications strategy been developed and implemented for the Capacity Building Fund? If yes, please describe the strategy, its stage of development/implementation, and its effectiveness (if applicable). If not, have there been any factors that have impeded its development or implementation? (Issue #3) (Ask AJD)

b) Describe the collaborative processes used/that will be used in developing the communications strategy for the Capacity Building Fund and how the views, needs or priorities of various stakeholders have been/will be addressed. (Issue #3) (Ask AJD)

Part D. Strategy Success: Short-term Outcomes

The next set of questions focus on the achievement of some of the short-term outcomes identified for the AJS during this mandate (2007-2012).

30. To what extent do the programs and projects implemented reflect the program commitments detailed in the contribution agreements? For example, have there been many instances where the stipulations set forth in the contribution agreements are not being met? What issues or problems have been identified and how are they being addressed? (Issue #14/Summative Issue #4) (Ask AJD, P/Ts)

31. Have the selection criteria for Community-Based Justice Programs allowed for new/different (i.e., not previously funded) Community-Based Justice Programs to be approved and implemented in new communities? If yes, what new communities have been approved? (Issue #15) (Ask AJD, P/Ts)

32. Please describe any new types of programs or projects that have been approved/implemented since the start of the new mandate and the enhancements of the AJS were put in place (April 2007). (Issue #15) (Ask AJD, P/Ts)

33. Have there been any projects approved/implemented under the Capacity Building Fund that specifically address the on-going training needs related to reporting requirements for Community-Based Justice Programs? (Issue #14 & #17) (Ask AJD, P/Ts)

ABORIGINAL JUSTICE STRATEGY EVALUATION

COMMUNITY-BASED JUSTICE PROGRAM MANAGER INTERVIEW GUIDE

Name: (First) _____ (Last): _____

Position/Organization: _____

Phone: () _____

Interview Date _____ Time _____

Introduction

Thank you for agreeing to participate in an interview for the mid-term evaluation of the Aboriginal Justice Strategy (AJS). As you know, your community (or nation) received funding, through the AJS and in collaboration with your province/territory, for your community justice project. The interview should take about one hour.

As described in the email you received inviting you to participate in an interview, a mid-term evaluation of the current AJS mandate (2007-2012) is being undertaken by the Department of Justice Evaluation Division. R.A. Malatest & Associates have been retained to assist with conducting this evaluation. The purpose of the evaluation is to examine the design and delivery of the AJS, success/early impacts, and to follow up on recommendations identified in an evaluation (2006) completed in the last mandate.

A main component of the evaluation is to conduct interviews with community-based justice program managers who receive funding under the AJS. This will help us to better understand how well different parts of the Strategy are operating.

I'd like to remind you that your participation in this interview is completely voluntary. Any information you provide will be used for evaluation purposes only, to provide an overall perspective. Every effort will be made to ensure that the information collected is accurately recorded and reported in the evaluation.

Do you have any questions before we begin?

Part A: Knowledge of the AJS

First, I'd like to get an idea of how familiar you are with the current Aboriginal Justice Strategy.

1. In general, what do you know about the Aboriginal Justice Strategy (AJS)?

2. a) Please describe the community-based justice program(s)/project(s) that you are currently involved with. When did the program(s)/project(s) first receive funding from the AJS?

b) Please describe your role and responsibilities related to the community-based justice program(s)/project(s) you are currently involved with.

3. How does the community-based justice program(s)/project(s) you are involved in support each of the following objectives? (Issue #10)

a) Contribute to decreasing rates of crime and victimization in Aboriginal communities.

b) Assist Aboriginal communities to take greater responsibility for the administration of justice.

c) Provide better and more timely information about community justice programs funded by the AJS.

d) Reflect and include relevant Aboriginal cultural values in Canadian justice administration.

e) Are there other objectives that the AJS should also support?

4. a) Are the objectives listed above still relevant to Aboriginal people/communities? Please explain. (Summative Issue #2)

b) To what extent is there a continued need for community-based justice program(s)/project(s) in the communities you serve?(Summative Issue #2)

Part B. Strategy Design and Delivery

This section is designed to explore several issues related to the design and delivery of the current AJS mandate (2007-2012), overall.

5. To what extent are the roles and responsibilities of each party involved in the AJS clearly defined? Please comment on any specific roles or responsibilities that could benefit from further clarification or that could be changed to improve the administration of the AJS? (Issue #11)

a) Regional Coordinators (i.e., Aboriginal Justice Directorate staff):

b) Provincial/Territorial Partners

c) Community-Based Justice Program Coordinators/Managers

6. Was this year's funding from the AJS received in a timely manner? If not, please describe the situation (e.g., length and consequences of the delay, programs/projects affected).

- Yes
- No
- Not sure/Don't know

7. Do you receive the support you need from the Department of Justice (i.e., Regional Coordinators) to adequately oversee and monitor the contribution agreements? Please explain why or why not. (Issue #12)

- Yes
- No
- Not sure/Don't know

Part C. Community-Based Justice Programs

The next set of questions deal specifically with community-based justice program(s)/project(s).

8. a) In the past two years, have you (your organization or community) submitted an application that has been rejected? (include instances where the application was subsequently approved)

- Yes
- No
- Not sure/Don't know

b) If yes, was the reason for rejection clearly explained? What was the reason for rejection?

c) Did you receive sufficient information or support that allowed you to correct the application and have it subsequently be approved? If so, please describe that support.

9. Is there clear information available about who (i.e., what individual, organization or community) is eligible to apply for funding for community-based justice programs? (*Issue #9*)

- Yes
- No
- Not sure/Don't know

b) If not, what additional information is required?

10. Community-based justice program(s)/project(s) are cost-shared between the federal and provincial/territorial governments. In your experience, is this requirement clearly stated and explained? If not, what additional information would be useful? *(Issue #9)*

11. When you applied for funding, were you provided with the criteria that are used to select which programs/projects receive funding? Were there any criteria that you were not clear about? *(Issue #9)*

12. To your knowledge, did you (your organization/community) have any problems understanding what was needed for each of the following items required in the application package? If yes, please describe why it was difficult to understand and what would help to clarify the requirement. *(Issue #9)*

a) Background on Organization Yes No Not sure/Don't know

b) Program Description Yes No Not sure/Don't know

c) Program Deliverables Yes No Not sure/Don't know

d) Communication Plan Yes No Not sure/Don't know

e) Evaluation Plan Yes No Not sure/Don't know

f) Proposed Work Plan Yes No Not sure/Don't know

g) Proposed Cash Flow Yes No Not sure/Don't know

h) Proposed Budget Yes No Not sure/Don't know

13. a) Does information about the application/proposal process clearly outline what are eligible expenses and what are ineligible expenses? (Issue #9)

- Yes
- No
- Not sure/Don't know

b) If no, what needs to be clarified and/or what additional information is required?

14. a) Overall, do you find the criteria for selecting community-based justice program(s)/project(s) to be fair? Please explain why or why not. (Issue #10)

b) Are there criteria that you feel should be changed, added or removed? If so, what are they and why should they be changed, added or removed? (Issue #10)

Part D. Capacity Building Fund Projects

15. a) Have you heard of the Capacity Building Fund? This part of the AJS funds projects that address training and capacity building needs related to the delivery of community-based justice program(s)/project(s). (Issue #3)

- Yes
- No (go to Q4)
- Not sure (go to Q4)

b) If you have heard of the Capacity Building Fund, do you recall how you heard about it?

16. a) In the past two years, have you (your organization or community) submitted a proposal(s) for a project under the Capacity Building Fund?

- Yes
- No [Go to Q19]
- Not sure/Don't know [Go to Q19]

b) Was the proposal rejected or approved?

- Approved
- Rejected
- Not sure/Don't know

c) If rejected, was the reason for rejection clearly explained? What was the reason for rejection?

d) If rejected, did you receive sufficient information or support that allowed you to correct the proposal and it subsequently be approved? If so, please describe that support.

17. a) If approved, was the Capacity Building Fund project(s) designed to address the on-going training needs related to community-based justice program(s)/project(s)? (Issue #14 & #17)

- Yes
- No
- Not sure/Don't know

b) Please describe the project(s)?

18. If approved, has the project(s) been implemented? If not, please explain why? (Issue #14 & #17)

- Yes
- No
- Not sure/Don't know

19. a) Is there clear information available about who (what organizations/communities) is eligible to apply for funding for projects that would be supported by the Capacity Building Fund? (Issue #9)

- Yes
- No
- Not sure/Don't know

b) If not, what additional information is required?

20. Are the criteria for selecting proposals under the Capacity Building Fund clear in terms of the type of projects funded or other factors? Please explain why or why not. (Issue #10)

Part E. Short-term Outcomes

The next few questions apply to each program or project you are involved with that has been funded by the Aboriginal Justice Strategy over the past two years (i.e., 2007/2008 and 2008/2009).

[NOTE: Please ask these questions for each program/project the interviewee is involved in delivering –copy each on a separate page]

Program/Project Name (1): _____

Is your program(s)/project(s) being delivered as outlined in the application and/or contribution agreement? If adjustments have been made, please describe why they were necessary and whether the contribution agreement has been adjusted to reflect these changes?
(Issue #14/Summative Issue #4)

How do your program(s)/project(s) reflect Aboriginal values of justice and healing? Please explain. (Summative Issue #7)

To what extent is your program(s)/project(s) reaching Aboriginal offenders? For example, are there any gaps in the people or communities that are not being reached but should be? (Summative Issue #6)

Are there any barriers to reaching Aboriginal offenders or that affect the extent to which they are being referred to your program(s)/project(s)? If yes, please describe the barriers.

Part F. Performance Reporting

The last questions ask about reporting requirements related to the programs or projects funded by the Aboriginal Justice Strategy.

21. What type of reports do you or your organization submit for your program(s)/project(s)? For example, what kind of information do you provide (statistics, evaluation results, satisfaction, financial, etc.) and in what format?

22. a) Do the reporting requirements make sense in terms of your program(s)/project(s)? For example, are the reporting requirements easy or difficult to meet and, if so, why?

b) Could the reporting requirements be changed so that the quality of information and/or reporting is improved? If so, how could they be changed (e.g., different information, different format, frequency of reporting, etc.)?

***Thank you for taking the time
to provide your experience and opinions!***