



Department of Justice  
Canada

Ministère de la Justice  
Canada

## **EVALUATION DOCUMENT**

### **FINAL EVALUATION ABORIGINAL JUSTICE STRATEGY**

#### **Summary and Recommendations and Management Response**

**October 2000**

**Evaluation Division  
Policy Integration and Coordination Section**

## EXECUTIVE SUMMARY

### 1.0 OVERVIEW

The Aboriginal Justice Strategy (AJS) has a five-year mandate from April 1996 to March 2001. There is a Treasury Board requirement (dated March 1996) that the Minister of Justice report to Cabinet with an evaluation of the impact and effectiveness of the AJS within five years. The purpose of this report is to briefly summarize the key findings from the Final Evaluation of the AJS.

The AJS is part of the federal response to the recommendations in the *Royal Commission on Aboriginal Peoples, Gathering Strength: Canada's Aboriginal Action Plan, Securing our Future Together* and numerous Aboriginal Justice inquiries across the country. The AJS was designed to help “establish policies and programs that will be the foundation of long term administration of justice improvements within the framework of the Canadian law for Aboriginal people.”<sup>1</sup> The AJS is intended to work within the existing Canadian justice system to build partnerships between the mainstream system and Aboriginal communities. These partnerships are to support the development of better, and sustainable, justice system programs and policies to meet Aboriginal justice needs. This is consistent with the implementation of the justice elements of the Inherent Right Policy of self-government. The AJS was developed in co-operation with other federal departments (the Solicitor General, including the RCMP, Privy Council Office (PCO) and Indian Affairs and Northern Development (DIAND)).

There are three primary components of the AJS: Policy Development and Support, Community-Based Program Funding Agreements, and the Aboriginal Justice Learning Network. The objectives of the AJS are to respond to the aspiration of Aboriginal people to assume greater responsibility for the administration of justice in their communities and to help reduce the rates of incarceration and crime among Aboriginal people.

The final evaluation report addresses the impact and effectiveness of the AJS, as committed to in the Evaluation Framework (dated October 1, 1997), approved by Treasury Board. The report also discusses lessons learned in the three components of the AJS. It is within the context of observations and findings that a series of recommendations have been developed to provide constructive suggestions for improving the Aboriginal Justice Strategy should the Department seek renewal.

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<sup>1</sup> Aboriginal Justice Directorate, *Aboriginal Justice Strategy Operational Plan*, (Ottawa: Department of Justice, October 1996) p. 1

## **2.0 POLICY DEVELOPMENT AND SUPPORT**

The Aboriginal Justice Directorate (AJD) provides multi-disciplinary policy advice and support, on Aboriginal justice matters to the Minister, Deputy Minister, other organizations within the Department, negotiators and others in the federal government.

The AJD, on behalf of the Department of Justice, provides the policy approach and advice in relation to the negotiations of the “administration of justice” components of self-government negotiations. The policy is developed after consultation with a number of policy areas within Justice. While a general paper on the approach to these negotiations has been developed (*Guidelines for Negotiators on Administration of Justice*), AJD is now developing a more detailed set of guidelines. The AJD participates at the table, develops language to reflect matters agreed to at the table and reviews “administration of justice” components to ensure they reflect and remain in the policy guidelines.

As of March 2000 the AJD was involved in 27 negotiation tables that required input on the "administration of justice" component of self-government. Half of these tables cover communities that have AJS community justice programs. Final Agreements are approved by the Federal Steering Committee on Self-Government and Comprehensive Claims, Cabinet, and Treasury Board.

## **3.0 RELEVANCE**

The disproportionate involvement of Aboriginal persons in conflict with the law has been recognized for some time. The over-representation of Aboriginal people is evident in the offender population and the victim population, and ultimately is carried through the correctional system. Aboriginal people continue to be over-represented among admissions to adult correctional facilities relative to their numbers in the general population. Based on the latest available statistics, these conditions are worsening. As one example, the Aboriginal portion of the federal offender population rose from 11% in 1991/92 to 17% in 1998/99 and that number is expected to rise dramatically in the next decade due to the high rate of Aboriginal youth population growth.

Taken together, demographic, socio-economic and criminogenic evidence strongly supports the continuing need to find more appropriate means by which Aboriginal communities can work to address their socio-economic problems and apply culturally appropriate remedies with potential for long-term sustainable impact. The challenges to which the AJS must respond are deeply and obstinately rooted in the disadvantaged socio-economic conditions that continue to describe the context of Aboriginal Justice.

#### **4.0 COMMUNITY-BASED PROGRAMS**

The AJS administered by Justice Canada, in partnership with provinces, territories and Aboriginal communities, has developed alternative justice programs which are delivered in over 260 communities across Canada. These programs provide alternatives to the mainstream justice system, and assist Aboriginal communities to increase their involvement in the administration of justice. These programs provide culturally-appropriate, community-based alternatives to the mainstream justice system.

Community justice programs are contributing to community capacity building. Community justice workers rely on a broad base of volunteers and often provide the training necessary for the volunteers. In some communities a number of resources are available to assist the program, such as alcohol and drug addiction workers, anger management courses, victim services, and mental health workers. In other communities, the community justice workers provide a number of these services to their clients. Given the holistic approach to treating offenders, these services are an integral part of the treatment process. To continually develop to meet the needs of the community and clients, community justice workers are taking training in a variety of skills including conflict resolution and crisis intervention, probation services, victim assistance, circle sentencing, and legal education.

Many Aboriginal communities are taking on administration of justice responsibilities at a time when they are also being asked to take over many other services such as health and education. Community justice programs rely heavily on volunteers, which can be a problem if there are not enough volunteers and the existing volunteer base is over-used. Staff and volunteer burnout have been on-going challenges to the Aboriginal community justice programs. Many programs depend on Elders to provide assistance. With a high demand for the limited number of Elders, they too are stretched to the limit to provide services to their communities.

A statistical analysis of the impact of five AJS community justice projects was undertaken for the evaluation. Two of the five projects were found to have significantly reduced the likelihood of offenders committing another offense following participation in the program, while the results of the remaining three projects were inconclusive. Since the analysis was restricted to only five projects, these results cannot be generalized to the whole AJS. However, the analysis was able to clearly measure a quantifiable outcome for some of the projects funded under the AJS, demonstrating that some positive impacts are being made on rates of crime and incarceration in Aboriginal communities.

The AJS has made an impressive start at addressing the need for culturally relevant community justice programs to address the underlying causes of crime. The goal of reducing incarceration of Aboriginal people is one that will require sustained effort and a long-range plan.

Very little information is available on cost-effectiveness of Aboriginal community justice programs. Recently Solicitor General Canada attempted to address this issue by

commissioning a cost-benefit study of an Aboriginal community justice program (currently co-funded by AJS) that serves family violence and sexual offenders, their victims and families. The program has been running for 10 years. The draft report estimated the cost of treating 107 offenders in the community saved the federal government, at minimum, over \$1 million and saved the provincial government over \$2.5million.

Another AJS co-funded program estimated, based on a hypothetical case of assault, that diverting such cases saves \$2,393.50 over the cost of incarceration for one month followed by one month of probation. This urban program currently receives an average of 100 referrals a month.

There are a few areas where improvements would be required to the Aboriginal community justice programs component of the AJS, should the Department seek renewal of the Strategy. These are presented below.

#### **4.1 Co-ordination of the AJS**

The mid-term evaluation of the AJS conducted in 1998 determined the need for more effective interdepartmental co-ordination at the federal government level<sup>2</sup>. During the fieldwork for this evaluation, all federal partners indicated that there has been a definite improvement in co-ordination since the earlier years of the AJS. They expressed a desire for more on-going contact with AJD, and a willingness to work more closely together in the communities to achieve the goals of the AJS.

Although federal/provincial/territorial co-ordination and partnerships have continued to improve over the last two years of the AJS, some areas for improvement remain. These include firstly, the desire for more federal presence at the community level to interact with community justice personnel; secondly, the need for on-going training at the community level; and thirdly, the need for the federal government to co-ordinate the work of various federal departments in the communities.

Progress on this front has been made but ongoing effort is required to ensure that preliminary discussions among federal departments to co-ordinate activities in Aboriginal communities be followed-up on an on-going basis so as not to lose momentum and commitment. Close co-operation with DIAND, Solicitor General, including the RCMP, and provincial/territorial officials is important for effective delivery of the AJS at the community level.

4.1.1 It is recommended that:

***A process be developed to co-ordinate activities with partner federal departments and with Aboriginal Justice Regional Coordinators.***

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<sup>2</sup> Evaluation Division, *Aboriginal Justice Strategy Mid-Term Evaluation*, December 1998, Department of Justice Canada.

This will go a long way to ensure that provincial/territorial officials involved with Aboriginal community justice programs are informed of relevant policy and funding arrangements in Justice Canada. (see also 4.3).

Significant steps are also needed to address intradepartmental co-ordination among various Aboriginal strategies.

4.1.2 It is recommended that:

***A process be developed to ensure linkages between policy and programs that impact on Aboriginal Justice within the Department.***

At the community level, this co-ordinated approach will go a long way to address the need for "one window access" to Aboriginal related justice issues. The AJS may be the most visible program in the Aboriginal Community setting and is therefore seen to be in a logical position to play this co-ordinating role. At the federal level this co-ordination across Departmental policies and programs is necessary to sustain an active and credible role in providing advice to the self-government negotiating table.

### ***Management Response***

#### ***Agreed***

- At the mid-point of the current AJS mandate, Senior Management recognized that there was a weak co-ordination on Aboriginal dimensions of policy development between the Policy Sector and the Aboriginal Justice Directorate (the "Directorate") which resulted in a lack of internal coordination mechanisms. Given this, the Senior Assistant Deputy Minister, Policy Sector, and the Assistant Deputy Attorney General, Aboriginal Affairs, set up a small task group to develop a report on the needs and policy gaps in Aboriginal justice. This resulted in the task group report, "What We Have Heard" and the implementation of the Deputy Minister's Senior Advisory Committee on Aboriginal Issues (SACAI).
- Since the mid-term evaluation, the Directorate has taken steps to share information on policies and programs within the Department of Justice (i.e. the DOJ Aboriginal programs meetings held in April and September 2000; the Multi-Issue Program and Policy Working Group meeting on Aboriginal justice issues in October 2000; participation in the Youth Justice, Restorative Justice, Nunavut Programs and Victims Working Groups) and has worked closely with other Departments (i.e. the Indian Justice Tripartite Committee in Saskatchewan, the Yukon Justice Strategy working group, the AFN Initiative Working Group).
- In the future, the Directorate will take a headquarters and a regional approach to coordination and information-sharing on Aboriginal Justice, recognizing that the different mandates, terms and conditions and working relationships among the various initiatives may place a limit on the extent to which the communities' goal of

“one-stop” shopping can be achieved. First, the Directorate will participate in the mult-issue departmental working group proposed by Victims Issues in its Treasury Board Submission. The working group will identify Aboriginal program and policy issues and opportunities for joint support of projects to avoid the stacking of funding proposals throughout the entire department. It will also ensure that there is consistent information on recipient guidelines provided to applicants.

- In addition to SACAI and its commitment to participate in the multi-issue working group, the Directorate has re-convened the Interdepartmental Working Group on Aboriginal Justice, to share information, discuss common challenges, and identify practical means of working more closely together.
- Under a renewed mandate, the AJS will develop work plans with Solicitor General, Correctional Services of Canada, PCO (Aboriginal Affairs), and DIAND (Self-Government Policy).
- At a regional level, the Regional Coordinators will continue to work with their federal colleagues to share information on programs, funding and community and/or provincial developments of common interest; this will be formalized through the participation of AJS and other federal “Aboriginal justice” programs in: Working Groups under the MOU’s such as the current British Columbia MOU Working Group, Aboriginal Issues sub-committees of Federal Regional Council, and other working groups, such as the Nunavut Programs Working Group and the recently initiated NWT Programs Working Group.

#### **4.2 Co-ordination of Community Self-Evaluations**

The Evaluation Framework for the AJS was developed without consultation with the provinces/territories, Aboriginal Organizations or Aboriginal communities. AJS did not take a leadership role with provinces/territories to encourage a self-evaluation approach. In most situations, resources for evaluation were not built into the funding agreements from the outset. By the time the self-evaluation booklets were developed and the training undertaken, many communities had been operating for a year or more without being aware of the need to collect the needed information in a format suitable for roll-up at the national level. Some jurisdictions, such as Ontario and Saskatchewan, are collecting systematic information on community justice programs, but there still remains a need for a coordinated approach that would lend itself to a national roll-up.

There is evidence that this situation has improved over the last two years of the program, with more provinces and territories signing Memoranda of Understanding with Justice Canada, which includes agreement of data collection. This evaluation found agreement among interviewed provincial and territorial officials that the community justice programs personnel must be provided with the necessary skills development and training from the outset to participate in evaluating their own initiatives. There is also support for capacity building to be built into the design of the programs and financially supported from the outset. Training for self-evaluations during the start-up phase needs to be

maintained to ensure understanding of the need for proper record keeping and reporting. All these steps are seen as necessary to the proper self-evaluation of community justice programs and in keeping with the provincial/territorial commitment to accountability.

There are strong indications that the provinces and territories are willing to work collaboratively on developing uniform core reporting requirements.

4.2.1 It is therefore recommended that:

***A comprehensive national approach to evaluation be adopted. Where the size and investment of the community justice programs warrant, dedicated resources be provided for evaluation in each region, to support the on-going evaluation, to attend to the training and follow-up of community justice workers to be overseen by the Evaluation Division of Justice Canada. In addition, specific provincial/territorial frameworks need to be developed in consultation with provinces/territories and Aboriginal communities to coordinate with the national approach (as per SUFA).***

### ***Management Response***

#### ***Agreed***

- The Directorate has already commenced work with provinces and territories on joint evaluation approaches and frameworks for AJS programs in each jurisdiction. In Saskatchewan, through the Indian Justice Tripartite Committee, discussions are underway to develop a common baseline upon which to build a province-wide evaluation approach. In the NWT, the Directorate funded Community Justice Division's work to develop a territorial evaluation framework and database for all community justice initiatives, including those supported by the AJS.
- Should the AJS be renewed, the Directorate will work with the Evaluation Division to consult with provinces, territories and Aboriginal communities in the development of the evaluation framework for the new mandate that will build on the existing community-based self-evaluation approach and guarantee a common set of core data requirements.
- AJS will strengthen the capacity to provide ongoing support for community self-evaluation, and will work closely with provinces and territories in the delivery of such support, so that it matches the federal requirements and the provincial or territorial evaluation framework. Because of the need to work within negotiated jurisdiction-specific evaluation frameworks, however, it might not be feasible to dedicate regional resources that report to the Evaluation Division as per the recommendation.



### **4.3 Regional Coordinators' Role in AJS**

There has been a steady improvement in provincial/territorial and federal coordination and partnerships throughout the four years of the AJS, however there is still a need for a more "hands-on" approach from the Regional Coordinators, as was the case during the mid-term evaluation. The regional Justice presence could be stronger, to enable more Federal Regional Coordinator presence in the provinces, and with the communities.

The extensive role of the Regional Coordinators has been more demanding than the existing resource level (five persons) could sustain. While they were called on to develop new programs and bring more provinces on board, the attention to monitoring existing programs and following up on self-evaluation training suffered. Until recently, some Regional Coordinators lacked sufficient administrative support, which in turn has meant that administrative advice and assistance was not getting to the community justice programs in a timely manner.

4.3.1 It is therefore recommended that:

*There be one Regional Coordinator assigned to each of the Western provinces, similarly one each to Ontario and Quebec, one to each Territory, and one to the Atlantic Region. It is further recommended that each Regional Coordinator be provided sufficient administrative support.*

#### ***Management Response***

##### ***Agreed***

- We recognize that as the numbers, scope and complexity of AJS programs and activities grew, the Directorate's resource allocation did not expand to keep pace with the workload demands.
- Should the AJS be renewed, the Directorate will expand the number of Regional Coordinators and will review the mix of resources needed to support the full range of program, policy and coordination activities. The recommended funding option in the renewal proposal takes into account these operational requirements.

### **4.4 Financial Administration of Community Agreements**

The AJD was late in providing payments to some community justice programs. This problem arises because within the Department of Justice the processes for payment of grants and contributions are multi-step and time-consuming.

When payments to the community justice programs are late, this results in uncertainty of employment for the staff and threatens cancellation of the program. This situation creates a credibility problem for AJD with communities and provincial/territorial officials. The problem of late payments was identified in the mid-term evaluation and continues to be a

concern identified by both provincial/territorial officials and community justice workers. Therefore the recommendation is repeated:

*An administrative process be implemented to ensure that funds which are due and payable are provided to communities in a timely manner.*

### ***Management Response***

#### ***Agreed***

- Providing timely payments to communities has been an on-going Departmental problem. We recognize that the Department needs to re-examine its internal process for issuing cheques, while respecting the terms and conditions established by Treasury Board for financial accountability and monitoring.
- Nonetheless, the Directorate has taken steps to increase the resources available to process payments, by expanding from one to four Program Administrators and by working closely with Finance Branch to streamline the payment approval process. The Directorate has also attempted to pursue discussions with Finance Branch and Programs Branch to review the process by which payments are made; to date, these discussions have not taken place.
- As noted above, should the AJS be renewed, the Directorate AJS will increase the number of Regional Coordinators and Program Administrators, and will hire a finance officer to work within the Directorate.

## **5.0 THE ABORIGINAL JUSTICE LEARNING NETWORK (AJLN)**

The AJLN was established in 1996 with a mandate to:

- act as a vehicle for communication between the justice system and Aboriginal communities;
- help ensure that Aboriginal women participate as full partners during both the negotiation and implementation of community justice programs;
- inform enforcement officers, prosecutors, judges and members of Aboriginal communities of the objectives, values and mechanisms of the approaches to justice in the agreements; and
- help communities and the current justice system implement community-based justice programs, with a focus on ensuring that the new approaches are fully integrated into the day-to-day operation of the justice system in the communities.

### **5.1 Current Performance of the AJLN**

Since 1997, the AJLN has supported numerous conferences, workshops and training seminars that focused on information sharing. The conferences and workshops funded by

the AJLN were organized by Aboriginal organizations across Canada. There have been approximately thirty conferences and forums funded by AJLN since the mid-term evaluation in October 1998.

These conferences encouraged linkages between Aboriginal communities and cross-jurisdictional sharing of information. Aboriginal people played prominent roles at the conferences and Aboriginal culture and traditions were inherent in the structure of each gathering. Many of the presenters at these meetings and conferences were Aboriginal people from different Aboriginal organizations. Women played a significant role in organizing and presenting at these gatherings. Many of these conferences and community meetings would not have occurred without funding from AJLN.

Examples of knowledge building and capacity building opportunities provided with AJLN funds include:

- youth camps, circle sentencing training,
- family group conferencing
- a training video (delivered by the RCMP for communities across the country),
- training sessions on peacemaking for judges, and
- training in provinces that are not yet participating in the AJS community justice programs

The AJLN has:

- produced videos and educational materials.
- developed a Website to disseminate their products and to link with mainstream and Aboriginal justice workers.

The AJLN went through a period of significant growing pains following the cancellation of the national conference in 1998 and the establishment of the National Advisory Committee to guide the AJLN. It took a significant amount of time, financial resources and energy to re-establish the focus of the AJLN. Sub Committees have been established from the members of the Advisory Committee. To reduce costs and improve accountability the number of meetings have been reduced from four a year to two, and the Advisory Committee Sub Committees will hold conference calls every six weeks. An annual progress report on the work of the sub-committees will be conveyed to senior management.

## **5.2 The Resource Challenge**

As identified in the mid-term evaluation, the high turnover of staff in the first two years of the AJS continued to be a problem over the last two years. The senior managers left and there has never been the full complement of support staff that was identified in the operational plan. The Learning Network has had two National Coordinators since the mid-term evaluation in October 1998 and was without a Coordinator for almost one year. Currently only three staff support the work of the Network, one of whom works on a part

time basis. A number of individuals have also been hired on a contractual basis to assist in the co-ordination of the AJLN Advisory Committee meetings and provide advice to the Director General and the AJLN National Coordinator. In addition, the approved budget of \$750,000 per annum was reduced each year, so that the budget for fiscal year 2000/2001 stands at \$608,000.

This evaluation found that, although the AJLN has encountered many staff and budget problems, it appears to be addressing most of its original mandate. It is not within the scope or resources of the AJLN to ensure "that the new approaches are fully integrated into the day-to-day operation of the principle justice system" and should therefore be reconsidered should the Department seek renewal of the Strategy.<sup>3</sup>

### **5.3 Additional/Emerging Demands on Learning Network Funds**

Funds from the AJLN were used to prepare six booklets on Self-Evaluation. The funds were also used for training the Federal Regional Coordinators, provincial/ territorial representatives and the community justice workers in self-evaluation.

During interviews for the final evaluation, community justice workers, Regional Coordinators and provincial/territorial representatives again expressed a need for various types of training, from program management to counselling for sexual abuse victims. Information products for judges and police officers could be prepared on topics ranging from restorative justice in general to circle sentencing in particular.

To expand production of the training materials and to organize the required training to meet the needs of the community justice programs and other justice personnel the level of staffing and resources would need to be increased.

5.3.1 If work is to be expanded, it is recommended that:

***Staff and resources be reinstated at least to the original level indicated in the operational plan in order to carry out the mandate of the AJLN.***

#### ***Management Response***

##### ***Agreed***

- Should the AJS be renewed, the AJLN will expand to the staffing level indicated in the original operation plan, with the addition of a Training Coordinator to manage the proposed Training and Development fund. The recommended funding option in the renewal proposal takes into account these operational requirements.
- Many of the resource problems faced by the AJLN under the current mandate stemmed from the fact that the original resource levels under the operation plan were

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<sup>3</sup> Aboriginal Justice Directorate, *Aboriginal Justice Strategy Operational Plan*, (Ottawa: Department of Justice, October 1996) p. 14.

not sufficient to fulfill all of the objectives of the AJLN's mandate: one budget was used for networking and conferencing activities plus community training and development. Should the AJS be renewed, the AJLN operational budget will remain at current levels while funding community training will be done through the proposed new Training and Development fund.

#### **5.4 AJLN Web Site**

One of the products available through the web site is the newsletter *LINK*. It was created in 1997 as a single page "flyer" and has since expanded to a 6 – 8 page newsletter that comes out at least bi-monthly. It covers issues as diverse as Supreme Court rulings through to personal stories on *AJLN* members. The excellent resource materials prepared by the AJLN (e.g. video resource guide, videos "A Matter of Trust" and the "Donald Marshall Youth Camp") would get wider distribution if they were advertised on the Website.

The Website could be expanded to include information on lessons learned about community justice programs. It could include models of community justice programs, materials and resources available for community justice programs, how to conduct self-evaluation, and how to build an infrastructure in the community to refer clients and provide services to the clients.

The Website could be enhanced as a source of referral; experienced Aboriginal community justice workers could act as mentors to those wishing to begin a program.

5.4.1 It is therefore recommended that the Learning Network:

##### ***Enhance the Learning Network information distribution function***

##### ***Management Response***

##### ***Agreed***

- The *AJLN* is currently broadening the scope of the *LINK* by involving members of Aboriginal communities more directly by soliciting their input and stories.
- The *AJLN* Website adds another forum for information sharing amongst Aboriginal groups. As well as general information on *AJLN*, its funding policies, its mandate, and its structure, the Website provides a two way means of interacting with members of Aboriginal communities who are inclined and/or resourced to access the internet. Users can send comments or messages, as well as download resources such as the newsletter *LINK*.
- The *AJLN* is currently developing a booklet of all the Aboriginal Justice programs that will serve as a resource tool for programs to network/exchange information with each other. This too would be available on the Website.

- Recent conferences and workshops sponsored by the AJLN, such as the Saskatoon Workout (October 1999) and the Ontario Workshop (October 2000), have focused on Aboriginal and mainstream justice personnel sharing information on Aboriginal justice processes and projects. Participants have noted that the conferences and workshops have been useful in gaining a better understanding of Aboriginal and mainstream justice processes. The lessons learned from these Workshops will be shared with the wider Aboriginal community through posting on the WebSite.

## **6.0 CONCLUSION**

In conclusion, the AJS is showing progress and successes, it is the beginning of a promising approach and much work needs to be done to ensure that the gains that have been made can be built upon.