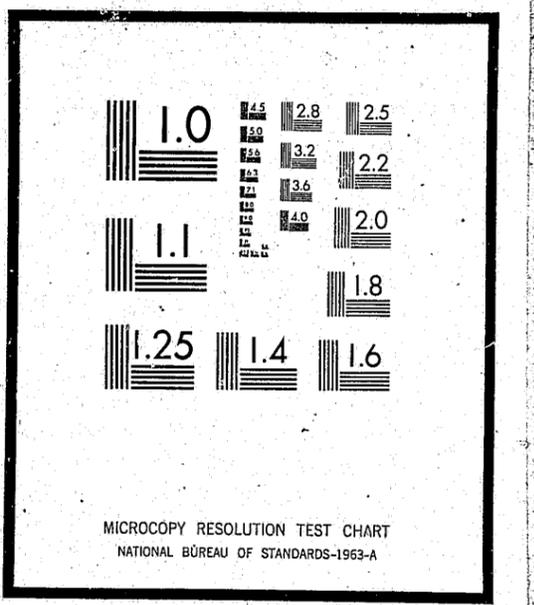


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Refunding Evaluation Report,  
on the Municipal Court of Philadelphia's  
4-A (Arbitration-As-An-Alternative) Project  
PH-74C-E3-5-244

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February 25, 1975

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Evaluation; Loan ①

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I. Executive Summary

The Philadelphia Municipal Court's Arbitration Project seeks to provide a viable alternative to traditional court processing of private criminal complaints. The other primary objective of the Municipal Court this year was to institutionalize the arbitration concept (which had been successfully tested by previous pilot programs) and efficiently manage the project itself. Comparisons with previous arbitration projects and with comparable cases processed through the Court indicate that the current Project is achieving its goals.

The Project has met or bettered the criteria established in this year's evaluation design to measure "success." The transfer of the project to Court management was accomplished without incident. After seven months of operation, the Project had been referred more than 7/12 of the projected yearly case-load of 700. Starting with a back-log of 84 cases, the current Project disposed of 524 cases by the end of January, 1975. It achieved a withdrawal rate well below the 12.3% rate of last year's project and a remand rate before arbitration of less than 5.1%. Fewer than 5.3% of the cases were remanded to Court for violations after arbitration, compared to 5.6% for last year's project.

The current Project also seems to be doing better with regard to number of days to disposition. It disposed of a full 75% of its cases within 29 days of referral from the Trial Commissioner. Last year's "snapshot sample" of 50 cases showed only 20% disposed of within the same time period. Best estimates of time to disposition for cases going to trial would indicate that few if any Court cases would be disposed of within 29 days of the Trial Commissioner's hearing.

One further area of improvement in case processing relates to the number of participants who fail to show up for their scheduled hearings. This year's project achieved an average "no show" rate of only 6.6% compared to approximately 33% "no shows" for last year's "snapshot sample."

In addition to the above, the current Project has been able to reduce the cost of case processing. A realistic cost-per-case figure was computed at \$83.60. Comparable figures for last year's project and cases processed through the Court are \$118.09 and \$144.00 respectively.

The types of cases handled by the current Project are similar to previous years. The majority involve charges of harassment,

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followed by assault and malicious mischief. Most of the participants live in the same neighborhood. The most usual claimant is female and the most usual defendant is male, although female-versus-female hearings are the most common.

Procedurally, there have been few changes from last year. However, the current Project did abandon the adjournment fee assessed responsible parties who failed to show for scheduled hearings. It also instituted a routine follow-up procedure of cases involving monetary awards. Both of these changes are viewed as positive measures.

The current Project has complied with many of the recommendations of last year's evaluator. A brochure explaining arbitration has been drafted and is awaiting printing. Arbitrators have begun to refer participants to social service agencies where indicated.

The most important recommendations of the present evaluation include making a concerted effort to recruit more minorities as arbitrators, developing a rotation schedule for assigning hearings to arbitrators, instituting both in-service and pre-service training sessions, and developing a system of regular feedback to arbitrators on cases where violations have been alleged. In addition, the evaluators recommend that the scope of arbitration be expanded to include other minor misdemeanor offenses as well as some types of juvenile offenses. The latter suggestion would, of course, necessitate expanding the resources allocated to arbitration as well.

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## II Project Activities<sup>1/</sup>

### A. Project Background and History

In Philadelphia, as in virtually every urban center in the country, the stresses of the urban environment lead to a large number of conflicts between residents, a significant number of which rise to levels of activity proscribed by the language of penal laws. Not infrequently, police are summoned. However, they may be reluctant to make an arrest, either because the alleged offense appears trivial or because they recognize that both parties may be equally to "blame" and that the criminal process offers no solution to the underlying problem. The aggrieved citizen's recourse, then, is to begin criminal prosecution by means of a private criminal complaint.

But the courts may not be the most appropriate institution for resolution of these matters. Private criminal complaints drain valuable criminal justice resources required for swift and just prosecution of more serious crimes. Further, a determination that one of the parties to the difference is "guilty" and should be subjected to criminal sanction is not calculated

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<sup>1</sup>Much of the following section on project background and history and portions of the next section on case processing were taken from last year's Final Evaluation Report submitted by Bert H. Hoff of Blackstone Associates. They include information that remains basically unchanged from year to year but provides necessary background for the first-time reader of an evaluation report or those unfamiliar with the project. These sections have been updated and expanded where applicable.

to offer any resolution to the conflicts which gave rise to the criminal incident.

In the words of the National Center for Dispute Settlement of the American Arbitration Association:

Community conflicts find their roots deep in our society and in human nature. Too often we only see the symptoms -- the surface evidence -- of a more pervasive problem. Much like the visible tip of an iceberg, the private criminal complaint or private warrant frequently deals with relatively minor charges growing out of deeper human conflict, frustration and alienation. In such cases, more often than not, neither the complainant nor the defendant is entirely blameless; yet the criminal law with its focus on the defendant alone is ill equipped to deal with this basic fact. The judge or prosecutor, faced with an overcrowded court calendar, beyond-a-reasonable-doubt criteria for conviction, conflicting stories, and "minor" offenses, typically dismisses the case and lectures the defendant -- threatening possible punishment for future offenses. This is not conflict resolution; it is not problem solving in the community; nor is it intended to be. The tip of the iceberg has been viewed briefly, but the underlying problem remains unseen and potentially as obstructive as ever. Neighborhood tensions have not been reduced. Relationships have not been improved. At best a shaky truce may have been ordered...

If all such cases were prosecuted, the courts would be backlogged everywhere as many now are. Even if the courts could process all such cases, they could not resolve the real problems, i.e., the causes of the technically criminal behavior; the courts are restricted to finding the defendants before them either innocent or guilty of the alleged offense.<sup>2/</sup>

<sup>2</sup> National Center for Dispute Settlement, The Four-A Program (Arbitration as an Alternative to the Private Criminal Warrant and Other Criminal Processes), Washington, D.C., NCDS, (Unpublished, revised December, 1972).

Philadelphia's answer to this problem was to develop an alternative to court proceedings for the resolution of such disputes. Arbitration was viewed as a more appropriate forum for handling criminal complaints which arise more out of troubled interpersonal relationships than serious questions of law.

The concept of arbitration as a form of resolution of community disputes was advanced in the report of the National Advisory Commission on Civil Disorders.<sup>3/</sup> In response to this recommendation of the Kerner Commission, the National Center for Dispute Settlement ("NCDS") of the American Arbitration Association established the West Philadelphia Center for Community Disputes in 1969 as an experiment in application of labor-management techniques to community disputes. Renamed the Philadelphia Center for Dispute Settlement following its move to a downtown location, this office continues to be involved in arbitrating community disputes. In recent years these have included mediation of a boycott in a suburban school district following prolonged racial strife, mediation of a student-faculty dispute at a local college, development of an election plan following a tenant organization dispute with the Housing Authority, and similar problems.

<sup>3</sup> National Advisory Commission on Civil Disorders, Report, U. S. Government Printing Office (1968), pp. 151-152.

In 1969, NCDS and the Philadelphia District Attorney reached an agreement establishing a pilot program for arbitration of criminal cases begun by private complaints. The "4-A Project", as it became known, started accepting cases at the beginning of 1970. The project was under the sponsorship of the Municipal Court of Philadelphia, and had the cooperation of the Philadelphia Bar Association.

On July 5, 1972, the Arbitration-As-An-Alternative Project received a grant for \$61,605 in LEAA funds from the Philadelphia Regional Planning Board and Governor's Justice Commission. Because Project success led to referral and satisfactory resolution of more and more cases, a supplemental appropriation of \$44,860 was approved, effective March 1, 1973, to continue operations to the end of the first project year.

The Project was re-funded by the Governor's Justice Commission in 1973. A grant representing \$93,000 in federal funds was provided for project operation from August 1, 1973 to July 1, 1974. The Governor's Justice Commission again refunded the Project for the current year (July 1, 1974 to June 30, 1975). However, federal funds were reduced to \$61,056 and the total project budgeted at just under \$68,000. The Municipal Court of Philadelphia, which had sponsored the program from the beginning, now assumed the management of the Project as well.

#### B. Case Processing

Perhaps this Project can best be put in perspective by first describing the private criminal complaint process. A person seeking to begin criminal proceedings when no arrest has been made must apply to a private criminal complaint office manned by detectives attached to the District Attorney's Office. Complaints are issued and the case scheduled to appear before a trial commissioner unless the facts are insufficient to make out a crime or an arrested defendant is seeking a cross-complaint. But if the case appears to involve a long-simmering neighborhood feud, the detective will attempt to call the putative defendant and get the parties to agree to send the case directly to the 4-A Project. Only a handful of cases is sent to the Project this way. The detectives do not note any recommendation regarding arbitration on the complaint sent to the trial commissioner, for the obvious reason that this document is a public record which would then preserve for posterity the detective's judgment of the case's merits.

Citizens thus securing a complaint then file it with the Prothonotary and pay an \$11 filing fee. The case is then scheduled to appear before a trial commissioner. Table I below indicates the number of private criminal complaints filed during 1974 and their subsequent disposition. These statistics were obtained from the Municipal Court Trial Commissioner's Office. Comparable statistics for 1972 and 1973 were obtained from last year's Final Evaluation Report (p. 60).

TABLE I

MUNICIPAL COURT TRIAL COMMISSIONER'S DISPOSITION

OF

PRIVATE CRIMINAL COMPLAINTS

	a. Year-end figures 1974	b. From 1-1-74 to 7-1-74	c. From 7-1-74 to 12-31-74	d. Year-end figures 1972	e. 1973 figures (1-1-73 to 12-10-73)
Total cases filed	N- 10,127 %- (100%)	N- 4,769 %- (100%)	N- 5,358 %- (100%)	N- 8,636 %- (100%)	N- 8,222 %- (100%)
Conditional Withdrawals	N- 1,227 %- (12.1%)	N- 626 %- (13.1%)	N- 601 %- (11.2%)	N- 1,073 %- (12.4%)	N- 1,270 %- (15.4%)
Arbitration	N- 800 %- (7.9%)	N- 376 %- (7.9%)	N- 424 %- (7.9%)	N- 860 %- (10.0%)	N- 639 %- (7.8%)
Municipal Court Trial	N- 1,736 %- (17.2%)	N- 700 %- (14.7%)	N- 1,036 %- (19.3%)	N- 1,314 %- (15.2%)	N- 1,521 %- (18.5%)
Other *	N- 6,364 %- (62.8%)	N- 3,067 %- (64.3%)	N- 3,297 %- (61.5%)	N- 5,389 %- (62.4%)	N- 4,792 %- (58.3%)

\*Note: This category includes both open and closed cases. Dispositions of closed cases in the "other" category include cases withdrawn, cases dismissed due to the failure of either party to appear or due to lack of prosecutable merit, and cases continued until further notice. Numerical breakdowns for this category are not available.

The trial commissioner's proceeding in a private criminal complaint is the rough equivalent of preliminary arraignment in an arrest case. Cases surviving this stage are given a trial date in Municipal Court and the defendant is advised to retain an attorney or contact the Defender Association of Philadelphia. However, many of the cases are disposed of by other means. In conditional withdrawal, for example, the complainant withdraws the original complaint on the stipulation that if the respondent repeats the offending behavior within a two year period, he/she will face the original charge and a contempt-of-court charge. Typically, these cases involve a husband or paramour striking his wife or girlfriend or a charge of harassment. Not infrequently, in cases involving money, restitution is made within a week or two and the complaint withdrawn.

If the complaint cannot be disposed of, the trial commissioner will consider sending the case to arbitration. No specific guidelines are followed, but the major criterion appears to be whether the parties have known each other for awhile. Complaints between adjacent neighbors, for example, are routinely considered. If arbitration appears appropriate, the trial commissioner briefly describes the Project to the parties and asks if they consent. If there are no objections, a 4-A Project staff member (the Referral Clerk) takes the parties to a small adjacent room and explains arbitration in more detail. If the parties are agreeable, they both sign an

arbitration consent form (see Appendix A,1) and a hearing date acceptable to both is established. Consent is usually forthcoming: rarely does a complainant seek more than monetary restitution or believable assurances that he or she will be left alone.

Although by far the majority of cases reach the 4-A Project in this manner, a few come on direct referral from Municipal Court judges or at the solicitation of defense counsel.

Following assignment of a case to the arbitration project, the Tribunal Administrator selects an arbitrator for the hearing and sends him/her a Notice of Appointment form (see Appendix A,2) for confirmation. If either party has retained counsel,<sup>4/</sup> the Tribunal Administrator notifies the lawyers of

<sup>4</sup>Counsel is retained in approximately one-third of the cases. While it is conceivable that only one party may have retained counsel, the usual circumstance is for both to have legal representation or neither. Of the 472 cases arbitrated or mediated in the first seven months of the current funding period, 158 retained counsel. The table below shows the number and percent of arbitrated or mediated cases per month represented by counsel. See Table XI for base figures.

TABLE II  
Number Represented by Counsel  
(One or Both Parties)

1974		1975		Total										
July	Aug.	Sept.	Oct.		Nov.	Dec.	Jan.							
N	%	N	%	N	%	N	%	N						
5	9.3	20	(27.0)	34	(40.0)	41	(44.6)	25	(39.7)	12	(24.0)	21	(38.9)	158

(% of 472 = 33.5% Average)

the hearing date and makes any necessary adjustments in scheduling. All parties are contacted the day before a scheduled hearing as a reminder.

The key to the arbitration project is the informality of the arbitration hearing proceedings. The room most frequently used is carpeted, draped and tastefully furnished. The arbitrator introduces himself to the parties in the reception area, escorts them to the room and urges them to make themselves comfortable. He/she explains that an arbitrator has the powers of a judge, and that if the parties fail to reach an agreement, the arbitration order is final and enforceable in court. After noting that strict rules of evidence do not apply, each side is permitted to tell its story in turn, without interruption. The arbitrator asks questions at the end of each story to firm up details and ambiguities.

But few of the arbitrators dwell at any length on the criminal charge. Rather, they inquire about any underlying relationship which might have been brought to a head by the alleged criminal act and ask the parties about any contact they have had since the complaint was filed.

Witnesses accompany the parties in a minority of cases. Because formal rules of evidence are not followed, they are not needed to establish a chain of evidence or to circumvent hearsay problems. But they do lend background information. Most frequently, the witnesses are family members or friends

who have come to give moral and evidentiary support to a disputant.

The informality of the proceedings and the apparent willingness of the arbitrator to allow each side to give a full and fair explanation of its side of the story encourages the participants to give vent to their feelings. Arbitrators vary in the amount of heated discussion they will permit, but none of the ones observed allowed any interruptions or insulting comments.

Not infrequently, this mutual exchange of views, with a little guidance from the arbitrator, is enough for the parties to see some ground of mutual concern. One party, for example, may finally state that all he wants is for his neighbor to leave him alone. This the other party is only too willing to do, provided that he doesn't have to admit that he had been harassing his neighbor. Nobody is found to be "guilty" of a "crime." The goal of the arbitrator is not to establish that either or both of the parties are at fault, but to fashion a method for the parties to avoid future conflict.

If the disputants are able to agree to a solution, a consent award is frequently drafted up for them to sign before they leave. It is important to bear in mind that agreement on the facts is not required, but rather, only agreement on the remedy. If the parties are unable to reach an agreement, the arbitrator mails an award to them within ten days. This does not mean that the parties are necessarily

still at loggerheads. Frequently there is underlying agreement on all but one or two minor points. Even where the parties do agree, some arbitrators issue an arbitration award rather than a consent agreement, on the feeling that there is more "majesty" to the formal award (see Appendix A,3 for an example of an arbitrator's award). On the other hand, some arbitrators seek consent agreements where possible, believing that the remedy will be more lasting if the parties themselves agree to it. As indicated in Table 3 below, the latter view seems to prevail more frequently.

Of the 472 cases arbitrated or mediated during the first seven months of the current funding period, statistics were available on all but four cases. Thus, the base figure was reduced to 468. Of these 468 cases, 331 (70.7%) resulted in consent agreements, 130 (27.8%) in arbitration awards and only 7 cases (1.5%) were dismissed at the time of the hearing. This represents something of a reversal from last year's figures. Keeping in mind that last year's rates were computed on the basis of a 50-case "snapshot sample," the analysis showed 77% of the arbitrated cases (N=35) resulted in arbitration awards and only 23% in consent agreements. Agreement was not one hundred percent, but the consensus of the current arbitrators seemed to be that the solution would be more lasting if agreed to by the parties rather than imposed by the arbitrator. Unfortunately, this impression cannot be

established as fact. While the Project keeps records of the number of alleged violations that occur per month, it does not do cross-tabulations by type of award. It is suggested that these statistics be kept for the remainder of the Project year to attempt to establish whether consent agreements or arbitration awards result in fewer instances of violation.

The arbitration and consent awards generally state that if either party violates the conditions, the case will be referred back to court. Much to the Project's credit; it has informally developed techniques of enforcing its awards short of court referral. For cases involving monetary awards (an average of 13.5% of the total judgments -- see Table IV for monthly figures), a routine follow-up procedure has been instituted. A form letter (see Appendix A,4) is sent to the award recipient inquiring whether payment has been made. If no payment has been received, a form letter (see Appendix A, 5) is sent to the respondent requesting compliance. Should payment still not be forthcoming, Project staff continue to urge compliance via telephone contact before returning the matter to court.

The follow-up procedure for non-monetary awards (which constitute the majority of judgments) is similar in instances where violations of the terms of the award or agreement are alleged. However, these cases are not routinely followed-up. Rather, the Project responds only to complaints.

TABLE III

## Number of Cases\* by Type of Judgement

Judgment in the Form of:	1974								1975		Totals					
	July		Aug.		Sept.		Oct.		Nov.			Dec.		Jan.		
	N	%	N	%	N	%	N	%	N	%		N	%	N	%	
Consent Agree- ment	29	(53.7)	58	(78.4)	64	(75.3)	66	(71.7)	43	(68.3)	32	(64.0)	39	(78.0)	331	(70.7)
Arbitration Award	23	(42.6)	15	(20.3)	21	(24.7)	22	(23.9)	20	(31.7)	18	(36.0)	11	(22.0)	130	(27.8)
Dismissals	2	(3.7)	1	(1.3)	0		4	(4.3)	0		0		0		7	(1.5)
Totals	54		74		85		92		63		50		50**		468	100%

TABLE IV

Monetary Judgments	1974								1975		Totals					
	July		Aug.		Sept.		Oct.		Nov.			Dec.		Jan.		
	N	%***	N	%	N	%	N	%	N	%		N	%	N	%	
	15	(29.8)	4	(5.4)	7	(8.2)	5	(5.4)	8	(12.7)	10	(20.0)	14	(28.0)	63	13.5% of of total judgments (average)

\* Includes arbitrated and mediated cases only.

\*\* At the time these statistics were compiled, the Project had not yet received notice of the type of judgment rendered in the additional four cases.

\*\*\* Table III above gives base figures from which percentages were calculated.

Complaining parties generally phone the staff Tribunal Administrator and discuss the problem. She counsels the party and agrees to look into the matter. Beyond this, the first response is to phone the violating party to inform him/her if he/she persists, the case could go back to court. Frequently this is sufficient to dissuade him/her from further non-compliance. If more appears needed, the Tribunal Administrator may have the arbitrator discuss the matter with the violator. If this appears unsuccessful, a second arbitration hearing is sometimes advisable. Only if these measures appear doomed to failure will the case be remanded to court.

Table V shows the total number of complaints (for both monetary and non-monetary cases) received each month and the number actually referred back to court for further handling.

TABLE V

Month	# of Alleged Violations	% of Cases Arbitrated/Mediated* w/ Alleged Violations	# & % of Alleged Violations Actually Re-manded to Court		% of Total Cases Arbitrated/Mediated* Actually Remanded
			N	%	
July, 1974	16	29.6	1	6.25	1.9%
Aug., 1974	26	35.1	4	15.40	5.4%
Sept., 1974	32	37.6	4	12.50	4.7%
Oct., 1974	33	35.9	3	9.1	3.3%
Nov., 1974	20	31.7	2	10.0	3.2%
Dec., 1974	14	28.0	5	35.7	10.0%
Jan., 1975	14	25.9	6	42.9	11.1%
Totals	155	32.8% (Average)	25	16.1% (Average)	5.3% (Average)

\* See Table XI for base figures.

Of the 472 cases arbitrated/mediated, alleged violations were reported in about a third (32.8% or 155 Cases). The number of complaints received reached a high of 37.6% in the third month of the Project's operation, but has continued to decline steadily since that time. An average of 16.1% of the cases where violations were alleged to have occurred ended up being remanded to court for further action. This represents only 5.3% (average) of the total number of cases arbitrated or mediated, however. This figure compares favorably to last year's 5.6% remand rate of cases arbitrated.

Once a case is remanded to court for contempt or judgment proceedings, it has left the Project's jurisdiction. Thus, there is no follow-up to indicate how many of the 25 cases were eventually satisfactorily resolved. In terms of type of remedy sought, however, Project staff indicated that contempt proceedings were by far the most common. Judgment proceedings are reserved for cases involving monetary awards and necessitate a minimum of \$15.00 filing fee which may be recovered with the judgment. However, Project staff could only recall helping one case to file for judgment and advising the attorney of another that this option was available.

#### C. Types of Cases and Characteristics of Participants

The types of cases referred to the Project remain basically the same. The majority of the cases involve some type of harassment (55.1%), followed by assault charges (15.0%), followed by malicious mischief (13.2%). Table VI gives a breakdown of number of cases by month and type of offense.

TABLE VI

## Number of Cases\* by Offense Type

Charge	1974						1975	Totals	
	July	Aug.	Sept.	Oct.	Nov.	Dec.	Jan.	N	%
Harassment	6	43	56	61	34	26	32	258	55.1
Malicious Mischief	22	6	6	12	5	6	5	62	13.2
Theft	3	4	3	0	3	3	5	21	4.5
Assault	10	10	14	10	12	6	8	70	15.0
Other	3	6	3	2	3	3	0	20	4.3
Double Charge	10	5	3	7	6	6	0	37	7.9
Totals	54	74	85	92	63	50	50**	468	100.0%

\* Refers only to cases disposed of by arbitration or mediation.

\*\* There were actually 54 cases arbitrated in January. However, at the time these statistics were compiled, judgments in four of the cases were still pending.

All of the participants know each other to some degree. As indicated in Table VII, 71.4% of the parties live next door to each other or in the same neighborhood. An additional 18.4% are acquaintances, while only 8.7% of the participants are family-related.

The most usual claimant is female (66.9%), while the most usual defendant is male (52.4%). A breakdown of cases by sex of the participants (see Table VIII) shows a female claimant-female defendant to be the most common occurrence (37.8%), and a male claimant-female defendant to be the least common (only 9.8%).

TABLE VII

## Number of Cases\* by Relationship Between Parties

1974

1975

Relationship	1974						1975	Totals	
	July	Aug.	Sept.	Oct.	Nov.	Dec.	Jan.	N	%
Acquaintance	15	15	17	16	11	2	10	86	18.4
Neighbor	24	29	34	54	27	28	25	221	47.2
Next Door Neighbor	9	21	20	21	20	10	12	113	24.2
Domestic	4	7	7	1	3	2	1	25	5.3
Family	1	2	6	0	2	3	2	16	3.4
Landlord	1	0	1	0	0	0	0	2	0.4
Work	0	0	0	0	0	5	0	5	1.1
Totals	54	74	85	92	63	50	50**	468	100.0

\* Refers only to cases disposed of by arbitration or mediation.

\*\* There were actually 54 cases arbitrated in January. However, at the time these statistics were compiled, judgments in four of the cases were still pending.

TABLE VIII

## Number of Cases\* by Sex of Participants

Sex		1974						1975	Totals	
Claimant	Defendant	July	Aug.	Sept.	Oct.	Nov.	Dec.	Jan.	N	%
Female	Female	19	15	33	39	30	25	16	177	37.8
Female	Male	24	35	19	22	15	9	12	136	29.1
Male	Male	10	23	31	18	10	12	5	109	23.3
Male	Female	1	1	2	13	8	4	17	46	9.8
Totals		54	74	85	92	63	50	50**	468	100.0

\* Refers only to cases disposed of by arbitration or mediation.

\*\* There were actually 54 cases arbitrated in January. However, at the time these statistics were compiled, judgments in four of the cases were still pending.

### III Evaluation Activities

Evaluation is basically an attempt to ascertain the extent to which a project has met its stated goals. The two primary objectives of the present Project were:

1. To relieve trial judges of minor criminal complaints which could be handled by arbitrators;
2. To institutionalize what has been a successful pilot program operated by outside agencies as a program of the courts, and efficiently managed by the regular Municipal resources.<sup>5/</sup>

These two goals include elements that relate to the efficient operation of the Project and its effectiveness in handling criminal complaints outside the traditional court setting. Thus, evaluation activities were focused on two types of analysis: a process analysis of efficiency and an impact analysis of effectiveness. The results of these evaluative efforts are presented in the next section. This section seeks only to describe how these results were obtained.

Information regarding Project background and history and case processing was obtained through available past reports and proposals, last year's Final Evaluation Report, on-site observations of Project activities of arbitration hearings

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<sup>5</sup>"Application for Subgrant." Municipal Court of Philadelphia, Unpublished proposal, July 1, 1974, p. 6c.

and interviews with Project staff, arbitrators, court staff and other individuals related to the Project.

All statistics for the current year on cases referred, manner of disposition, days to disposition, etc., were provided by Project staff from monthly and quarterly statistical reports. The only exception was those figures given in Table I which were provided by the Trial Commissioner's Office. Any figures used for comparison with previous years were obtained from last year's Final Evaluation Report by Bert H. Hoff of Blackstone Associates.

Cost per case was determined from budget figures provided in the 1974 application for refunding and Project statistics reflecting the number of cases disposed of and the kind of disposition. Similar "cost per case" figures were derived for last year from the 1973 budget provided in that year's application for refunding and from last year's Final Evaluation Report. Cost comparisons with the Court and with similar projects were taken from last year's Final Evaluation Report.

Information regarding demographic characteristics of the arbitrators, and number of hearings per arbitrator was provided by Project staff at the evaluators' request. Additional information regarding staffing patterns, selection and assignment of arbitrators, management and training issues, etc., was obtained through interviews with Project staff and arbitrators and on-site observation of Project activities and arbitration hearings.

Further insight on the above issues was obtained from the arbitrators themselves through a telephone survey conducted during the first two weeks in February, 1975. The 26 arbitrators were first sorted into different categories based on their length of association with the Project and the number of hearings they held during the first seven months of the current funding period. Arbitrators who were new to the Project this year were designated as "New" and those who had been with the Project prior to the current funding period were called "Old." Those who held hearings were designated as "Active" and as either "High," "Medium," or "Low," depending on the number of hearings held. Those who held no hearings were called "Inactive." These categories broke out as follows:

<u>TABLE IX</u>			Total	Sample
<u>Type of Arbitrator</u>			<u>N</u>	<u>N</u>
Old	Active	High	2	1
Old	Active	Medium	6	3
Old	Active	Low	6	3
Old	Inactive	-	2	1
	Total "Old"		<u>16</u>	<u>8</u>
New	Active	High	3	1
New	Active	Medium	2	1
New	Active	Low	1	1
New	Inactive	-	4	2
	Total "New"		<u>10</u>	<u>5</u>

Half of the arbitrators in each category, or 13 in all, were then selected on a random basis (using a table of random numbers) to be interviewed.

All evaluation activities were conducted by either B. Jaye Anno or Bert H. Hoff of Blackstone Associates. The Project was visited at least once by one or both evaluators during the months of November and December, 1974, and January and February, 1975. In addition, regular contact has been maintained with Project staff by telephone. Unless otherwise specified, the period of evaluation includes the first seven months of Project operation, from July 1, 1974 through January 31, 1975.

#### IV Project Results and Analysis

##### A. Process Evaluation

##### 1. Transfer to Court Setting

Pre-planning for the current Project began in the latter part of June 1974. The Project Director had been selected and he, in turn, selected the remaining staff. The Director, the Tribunal Administrator and the Referral Clerk came on board July 1, 1974. An Administrative Assistant was added August 1, 1974. Project staff initially worked out of the Municipal Court judges' library. By July 15, 1974, new staff had been indoctrinated and hearings were being scheduled. Hearings were held in available courtrooms until the Project's present facilities became available on August 29, 1974.

According to the Project Director, the transition from the old setting to the new went smoothly. No major problems were experienced. That the arbitration concept was capable of being transferred and replicated without difficulty should be viewed as one measure of the Project's success. Within two weeks of the time funding was approved, the Project was fully operative. It was accepting new cases as well as working on the backlog of cases from the previous Project. All this was accomplished without assistance from previous staff members since the internal management staff was all new, although some of the arbitrators from the old Project were carried over to the present one.

##### 2. Project Caseload

Year-end figures for 1974 from the Trial Commissioner's Office (see Table I) showed 800 cases having been referred to the Project -- 424 of these since the Project was refunded in July of 1974. Project figures, however, show 414 cases having been referred during that same time period (see Table X). This discrepancy of ten cases is not significant unless these cases have been lost. The evaluator has suggested that the Project staff reconcile its figures on a monthly basis with those of the Trial Commissioner to ensure that all cases referred are processed. Project staff has agreed to do this, beginning with the February statistics.

The 424 case figure from the Trial Commissioner's Office represents 7.9% of the total criminal complaints filed during that time period. Last year, under NCDS, the Project received 7.8% of the total criminal complaints filed.

The Project started with a backlog of 84 cases pending from last year's operation. From July of 1974 through December of 1974, it received 414 new cases. In January of 1975, 53 new cases were referred, bringing the total number of cases to be disposed of to 551 for the first seven months of Project operation. Of this 551, 524 cases were disposed of by the end of January 1975, leaving a balance of only 27 cases, or 4.9%, pending (see Table X for monthly figures). This compares favorably to the 15.4% of cases pending at the end of seven months of operation of last year's project.

TABLE X

## Base Caseload

Month 1974	a. Cases Available for Trial Begin- ning of Month	b. New Cases Re- ceived During Month	c. Total Cases Available for Disposition	d. Total Cases Disposed Of	e. Balance Carried Over to New Month
July	84	102	186	56	130
Aug.	130	84	214	84	130
Sept.	130	48	178	94	82
Oct.	82	69	151	109	43
Nov.	43	57	100	69	31
Dec.	31	54	85	58	28
Sub-Totals: 1974	-	414	-	470	-
1975 Jan.	27	53	80	54	26
Totals	-	467	-	524	-

Note: This Table should be read across. Columns a and b total to column c within each month, as do columns d and e. Columns are totaled down only where applicable.

At the end of 11 months of operation in last year's Project, a total of 712 cases had been referred to the Project and 628 cases disposed of. This represents an average of 64.7 cases referred per month and 57.1 cases disposed of. The current Project is ahead in both number of cases referred (average 78.7 cases) and number of cases disposed of (average of 74.9 cases) on a monthly basis.

In addition, the current Project is more than meeting its projected caseload in terms of referrals. The 1974 Application for Refunding anticipated referral of 700 cases to the Project over a 12-month period. To meet this goal, an average of 58.3 cases would have to be referred each month ( $700 \text{ cases} \div 12 \text{ months} = 58.3 \text{ cases/month}$ ). Thus, for a seven month period, 408 cases should have been referred ( $58.3 \text{ cases} \times 7 \text{ months}$ ). As indicated above, the current Project received 551 cases during the first seven months, which represents an additional 143 cases over its projected caseload.

Of the 524 cases disposed of, the bulk of cases were arbitrated (461 or 88%). An additional 11 cases (2.1%) were closed by office mediation. The remaining 10% of the cases were withdrawn, dismissed due to lack of prosecution, or remanded to court. Table XI shows the number of dispositions of each type by month.

TABLE XI

## Total Dispositions by Month and Type

Dispositions	1974												1975		Totals	
	July		Aug.		Sept.		Oct.		Nov.		Dec.		Jan.			
	N	%	N	%	N	%	N	%	N	%	N	%	N	%	N	%
Arbitrated	52	92.9	74	88.1	85	90.4	90	82.6	61	88.4	45	77.6	54	100	461	88.0
Remanded	2	3.6	3	3.6	3	3.2	6	5.5	1	1.4	6	10.3	-	-	21	4.0
Office Mediation	2	3.6	-	-	-	-	2	1.8	2	2.9	5	8.6	-	-	11	2.1
Withdrawn	-	-	7	8.3	3	3.2	8	7.3	-	-	2	3.4	-	-	20	3.8
Lack of Prosecution	-	-	-	-	3	3.2	3	2.8	5	7.2	-	-	-	-	11	2.1
Totals	56	100	84	100	94	100	109	100	69	100	58	100	54	100	524	100

The criteria to be used as indicators of Project success were outlined on page 7 of Blackstone Associates "Plan for Evaluation" for this year. Accordingly, the Project would have to show a withdrawal rate of 12.3% or fewer cases and a remand rate before arbitration of 5.1% or less to be deemed successful. As indicated in Table XI, the Project was more than successful in meeting these standards at the end of seven months. The remand rate before arbitration was 4% and the withdrawal rate only 3.8%.

The current Project also seems to be doing better with regard to number of days to disposition. It disposed of an average of one-third of its cases (N=144 or 33.9%) within 9 days of receiving them. An additional 20.2% (or 54.1% totaled) were disposed of within 19 days and a full 75% (N=139) within 29 days. (See Table XII for monthly breakdowns.) Keeping in mind that last year's figures were based on a "snapshot sample" of only 50 cases compared to the 425 cases noted this year, last year's figures showed no cases disposed of within 9 days, 4% disposed of within 19 days and only 20% of the cases disposed of within a 29-day period.

One further area of improvement in case processing relates to the number of participants who fail to show up for their scheduled hearings (see Table XIII). Of the 647 hearings scheduled during the first seven months, only an average of 6.6% of the participants failed to show. The number of "no shows"

TABLE XII

## Number of Days to Disposition by Month

# of Days	July '74		Aug '74		Sept '74		Oct '74		Nov '74		Dec '74		Jan '75		Totals	
	N	%	N	%	N	%	N	%	N	%	N	%	N	%	N	%
1-9	3	6.5	4	6.3	15	20.8	33	44.0	29	44.6	31	57.4	29	58.0	144	33.9
10-19	7	15.2	17	27.0	17	23.6	8	10.7	19	29.2	14	26.0	4	8.0	86	20.2
20-29	28	60.9 (82.6)	19	30.2 (63.5)	13	18.1 (62.5)	10	13.3 (68.0)	5	7.7 (81.5)	5	9.2 (92.6)	9	18.0 (84.0)	89	20.9 (75.0)
30-39	4	8.7	7	11.1	10	13.9	2	2.7	0	--	2	3.7	7	14.0	32	7.5
40-49	0	--	10	15.9	9	12.5	0	--	0	--	2	3.7 (100)	1	2.0 (100)	22	5.2
50-59	3	6.5 (97.8)	3	4.8 (95.3)	2	2.8 (91.7)	7	9.3 (90.0)	0	-- (81.5)	0	--	0	--	15	3.5 (91.2)
60-69	1	2.2 (100)	2	3.2	1	1.4	2	2.7	0	--	0	--	0	--	6	1.4
70-79	0	--	1	1.5 (100)	4	5.5	2	2.7	0	--	0	--	0	--	7	1.7
80-89	0	--	0	--	1	1.4 (100)	3	4.0 (89.4)	0	-- (81.5)	0	--	0	--	4	0.9 (95.2)
90-99	0	--	0	--	0	--	2	2.7	5	7.7	0	--	0	--	7	1.7
100-109	0	--	0	--	0	--	6	8.0	7	10.8	0	--	0	--	13	3.1
TOTALS	46	100	63	100	72	100	75	100	65	100	54	100	50	100	425*	100

Note: The numbers in parentheses represent cumulative percentages of cases disposed of within various time intervals.

\* Statistics on "days to disposition" were not available on all cases at the time monthly reports were completed. However, this figure represents over 81% of all cases disposed of during the first seven months of the current funding period.

TABLE XIII

Number of Scheduled Cases Arbitrated  
or Mediated

Number of "No Shows"

Month	Number of Scheduled Cases Arbitrated or Mediated			d. Total (b+c)	e. % of sched. cases heard*	Number of "No Shows"			% of scheduled cases not showing *
	a. # Scheduled	b. # Arbitrated	c. # Mediated			Claimant	Defendant	Total	
July '74	70	52	2	54	77%	1	6	7	10 %
Aug '74	117	74	-	74	63%	9	13	22	18.8%
Sept '74	129	85	-	85	66%	3	3	6	4.7%
Oct '74	126	90	2	92	73%	2	3	5	5 %
Nov '74	76	61	2	63	83%	1	1	2	2.6%
Dec '74	62	45	5	50	81%	0	1	1	1.6%
Jan '75	67	54	-	54	81%	0	0	0	0 %
<b>TOTALS</b>	<b>647</b>	<b>461</b> (97.7%)	<b>11</b> (2.3%)	<b>472</b> (100%)	<b>73%</b> (average)	<b>16</b> (37.2%)	<b>27</b> (62.8%)	<b>43</b> (100%)	<b>6.6%</b> (average)

\*Note: The balance of the scheduled cases for each month were either disposed of by other means or rescheduled due to other than claimants or defendants not showing up.

reached a high of 18.8% in August of 1974, but has continued to decline steadily since that time. By December of 1974, the "no show" rate was only 1.6% and in January of 1975 it was zero. Last year's "snapshot sample" indicated that about one-third of the 50 cases were adjourned due to "no shows" and had to be rescheduled.

The low "no show" rate of the current Project is particularly impressive in light of the abandonment of the adjournment fee. Last year's Project enabled a sliding fee of \$10 to \$40 to be assessed against the responsible party who failed to show for a scheduled hearing without giving notice or showing cause. It is not known how often this "enforcement technique" was actually applied. Nevertheless, the present Project Director indicated that this adjournment fee was believed to be "contrary to the spirit of arbitration" and was thus discontinued.

Many of the arbitrators have speculated that the presence of the words "Philadelphia Municipal Court" on the top of the standard forms has increased the appearance rate. Project staff attribute the low "no show" rate to the fact that hearing dates are determined by the participants themselves in most instances. Regardless of the reason, the figures are noteworthy.

### 3. Staff

As noted previously, the internal management staff consists of: a Director, who oversees and coordinates all

Project activities; a Tribunal Administrator, who schedules hearings, assigns arbitrators and maintains Project statistics; a Referral Clerk, who obtains the necessary consent of the parties and handles case referral procedures; and an Administrative Assistant who also serves as secretary to the Director. In addition, an officer on loan from the Municipal Court serves as a security guard whenever hearings are being held. He helps direct traffic and maintain order in the reception area but does not accompany the participants into the hearing room. There have not been incidents to date, but his presence is deemed necessary as a precautionary measure.

The number of internal management staff has been reduced from last year. In spite of the increased caseload, present staff allocations have been sufficient to meet the Project's needs.

### 4. Arbitrators

Where the current Project has room for improvement is in its selection and use of arbitrators. Of the 26 arbitrators on the current list, 16 were carried over from last year and 10 new arbitrators appointed. The 10 appointed were all white male attorneys. Last year's Final Evaluation Report indicated a lack of representation of women, Spanish-speaking individuals, indigenous community members, and to a lesser extent, blacks. This situation has not been improved.

From the profile given in Table XIV, it can be seen that 23% of the arbitrators are black and only 15% are

TABLE XIV

## Profile of Arbitrators

36

37

ID#	# of Hearings	%	Rank	NCDS or MC <sup>1</sup>	A or NA <sup>2</sup>	Race	Sex	Profession	
1. 1	65	17.4	1	MC	A	W	M	Law Student	
2. 23	48.4%	60	2	11.5%	MC	A	W	M	Attorney
3. 5	56	15.0	3	MC	A	W	M	Attorney	
4. 4	65.3%	32	4	19.2%	NCDS	A	W	F	H.R.C. <sup>3</sup>
5. 16	31	8.3	5	NCDS	A	B	M	Law Student	
6. 7	19	5.1	6	NCDS	A	B	M	H.R.C.	
7. 19	83.2%	17	7	34.6%	NCDS	A	W	M	Attorney
8. 12	16	4.3	8	NCDS	A	B	F	Housewife	
9. 21	15	4.0	9	MC	A	W	M	Attorney	
10. 26	11	2.9	11	MC	A	W	M	Attorney	
11. 11	91.9%	11	11	46.2%	NCDS	A	W	M	H.R.C.
12. 20	11	2.9	11	NCDS	A	B	F	H.R.C.	
13. 15	94.0%	8	13	50.0%	NCDS	A	W	M	Minister
14. 2	4	1.1	15	NCDS	A	W	M	Attorney	
15. 10	4	1.1	15	NCDS	A	W	M	Attorney	
16. 13	4	1.1	15	NCDS	A	B	M	H.R.C.	
17. 18	3	0.8	17.5	MC	A	W	M	Attorney/ Teacher	
18. 8	3	0.8	17.5	NCDS	A	W	F	Psychologist	
19. 9	2	0.5	19.5	NCDS	A	W	M	Attorney	
20. 14	2	0.5	19.5	NCDS	A	B	M	Attorney	
21. 22	0	0	23.5	MC	NA	W	M	Attorney	
22. 24	0	0	23.5	MC	NA	W	M	Attorney	
23. 25	0	0	23.5	MC	NA	W	M	Attorney	
24. 6	0	0	23.5	MC	NA	W	M	Attorney	
25. 3	0	0	23.5	NCDS	NA	W	M	Teacher	
26. 17	100%	0	0	23.5	NCDS	NA	W	M	Teacher
N= 26	N=374			16 NCDS	20 A	20 W	22 M	16 Atty/Law	
	X=14.38			10 MC	6 NA	6 B	4 F	students	
								5 H.R.Cs	
								2 Teachers	
								3 Others	

Key:

<sup>1</sup>NCDS = National Center for Dispute Settlement<sup>2</sup>A = Active

NA = Not Active

<sup>3</sup>H.R.C. = Human Relations Commissioner

women. There are no Hispanic arbitrators at all. Some 62% are members of the legal profession. When these figures are cross-tabulated with the arbitrators' active-inactive status, there is no substantial difference in representation.

The other point of interest in Table XIV relates to the number of hearings per arbitrator.<sup>6</sup> Assuming equal availability, each arbitrator should have conducted an average of 14.38 hearings (a total of 374 hearings divided by 26 arbitrators.) However, 3 of the newly appointed arbitrators handled 48.4% (N=181) of the hearings and 6 arbitrators (2 old and 4 new) handled no hearings at all.

When questioned about their availability (see Appendix B for types of questions asked), virtually all of the arbitrators interviewed said their schedules were flexible, but they all had time available, had never turned a case down when asked, and could handle more cases than they do. However, one of the old active low arbitrators said he was satisfied with minimal involvement and the old inactive case said he was "not too disappointed" that no cases had been referred. The two new inactive cases said they had never been asked to serve as an arbitrator but had never checked with the Project staff to find out why.

When questioned as to whether they thought they were getting their fair share of the cases, only two of the arbitrators interviewed (both old active lows) said that they did not think they were and voiced complaints. The remainder

<sup>6</sup>It should be noted that while 461 cases were arbitrated during the first seven months, only 374 hearings were held. This is because one hearing may involve more than one case due to multiple claimants or defendants or to counter-charges being filed. Arbitrators are paid \$30.00 per hearing, regardless of the number of cases involved.

of the active arbitrators either said they were getting their fair share (two highs), were not concerned about it (three mediums) or had no way of knowing.

The evaluators have two basic suggestions regarding the selection and use of arbitrators. The first is that the Project develop an "affirmative action" approach to attempt to recruit more minorities. This group should include women, blacks and Spanish-speaking individuals, preferably indigenous to the communities most often served. Project staff have indicated their willingness to do this and have recently interviewed three women (two of whom are Spanish-speaking) as potential arbitrators. The staff plans to have these women sit in on arbitration hearings to see if they are interested in being appointed.

The second recommendation relates to the use of arbitrators. The staff should first ascertain the "interest level" of those on the present list. Anyone not interested or generally unavailable could be eliminated and new arbitrators appointed. Secondly, some type of rotation schedule for selecting arbitrators for hearings should be devised. Either arbitrators should be called in the order that they appear on the list, or each should choose a morning or afternoon each month when they would be available for hearings. This way, coverage would be guaranteed and the staff could schedule hearings without the additional hassle of lining up an arbitrator.

The evaluators believe that implementing these suggestions would not only make the selection and use of arbitrators more equitable, but would aid in the efficient operation of the Project as well.

#### 5. Supervision, Case Management and Training

The current Project has made no provision for either pre-service or in-service training of arbitrators. It could be argued that since the sixteen old arbitrators were experienced and the ten newly appointed arbitrators had legal training, further training was unnecessary. The arbitrators themselves, however, disagree.

Of the ten active arbitrators interviewed, seven said pre-service training was important and one wasn't sure; six said some type of in-service training should be offered and only two said it was not needed for experienced arbitrators. Of the remaining two, both said neither pre- nor in-service sessions were necessary for those with legal backgrounds, although one qualified this statement by exempting "only lawyers accustomed to dealing with people" from the training requirement.

Virtually everybody except one said that a legal background was not necessary for arbitrators as long as a "legal reference person" was available to answer any questions that might arise on legal issues. "Life experience" and the ability to relate to people were considered more important criteria.

The evaluators believe that some type of training program should be instituted for both new and experienced arbitrators. Periodic informal in-service sessions could be held over lunch-hours or on week-ends. These sessions would not need to be highly structured. The most important criterion enunciated by the arbitrators themselves was that a forum be provided where they could get together and discuss their mutual problems regarding policy and procedural issues, and case management techniques. The orientation of new arbitrators should be more structured and include a brief introduction to legal issues involved in arbitration, sessions on conflict management skill development, observations of actual arbitration hearings and role-playing.

Arbitrators were also asked whether they ever received any follow-up reports on the cases they arbitrated and whether they ever received feedback from the staff on their performance. Only two of the arbitrators followed up their cases on a regular basis. Two others said they received follow-up reports only "inadvertently" and not usually. The remaining six said they did not receive follow-up reports on their cases. Four arbitrators said they received feedback from the staff regarding their performance (one said "constantly") and the remaining six said they did not.

The Project has instituted a regular follow-up procedure for cases involving monetary judgments (see page 14 of this report). For non-monetary cases, the Project has adopted a "no news is good news" approach -- that is, cases

are followed-up only when a violation of the award or agreement is alleged. In view of the number of non-monetary judgments and the personnel requirements that would be necessary to follow-up all cases, this procedure seems justified. Thus, it is not that cases are not being followed-up adequately, but rather, that the results of such follow-up are not being communicated back to all arbitrators on a regular basis.

Arbitrators should be made aware of any complaints received of alleged or substantiated violations in the cases they arbitrate. The staff and the arbitrators could then review these cases to see whether a different solution could have been offered that might have proved more satisfactory.

#### 6. Records

By and large, this Project has an excellent record-keeping system. The few changes suggested in last year's Final Evaluation Report have been instituted, and the Project regularly maintains statistics on number of cases referred, type of disposition, days to disposition, type of participants, etc. Monthly and quarterly statistical reports issued by the Project greatly facilitated the evaluators' tasks this year and allowed for a much more complete analysis to be made. The evaluators did suggest that base figures as well as percentages be provided on monthly statistical reports and Project staff readily complied.

## B. Impact Analysis

The main question an impact analysis must seek to answer is whether one way of doing things is better than another. In the present evaluation, we are concerned with whether arbitration is a better alternative to handling private criminal complaints than traditional court proceedings. In order to answer this question, "better" must be operationally defined.

One measure of "betterness" would include a determination of how lasting the various resolutions were. Random samples could be selected of a control group (court cases) and an experimental group (Project cases). The two groups could then be compared in terms of various recidivism criteria. This objective measure of impact could be bolstered with a subjective measure of participant satisfaction obtained through interviews and questionnaires.

Unfortunately, the limited resources allocated to the present evaluation preclude such a sophisticated research design. A "soft" measure of client satisfaction for arbitration cases is available from Project statistics on cases where violations have been alleged (see page 17 of this report). However, comparable statistics for court cases are not available. Thus, the only two measurable criteria of Project impact available to the evaluators were cost per case and swiftness of disposition. It should be noted that both of these are indirect measures.

## 1. Cost per Case

### a. The Current Project

The Project has a yearly budget of \$67,840. This figure divided by twelve yields an average monthly cost of \$5,653.33. For the first seven months of operation then, the projected cost is \$39,573.31. This figure, divided by 524 (the number of dispositions through the end of January 1975) yields an average cost per case of \$75.52.

A more realistic cost analysis, however, would account for actual rather than projected expenditures. A total of \$11,976 was allotted for arbitrators' fees for the full twelve months. The Project spent \$11,220 (374 hearings times \$30 per hearing) during the first seven months. Thus, the actual average cost per case breaks down as follows:

-- \$55,864 (total budget minus \$11,976 in arbitrators' fees)  
 ÷ 12 months = \$4,655.33 (average monthly cost)  
 x 7 months of operation = \$32,587.33  
 + \$11,220 (amount actually expended in arbitrators fees  
 = \$43,807.33)  
 ÷ 524 (number of dispositions to date)  
 = \$83.60 average cost per case.

### b. Comparison with Last Year's Project

Last year's Final Evaluation Report indicated \$126.00 as the average cost per case. This figure was raised to \$141.00 at the time of Blackstone Associates' "Update Report" of August 30, 1974, since the Project had not achieved its

projected caseload of 800. A direct comparison of this figure with the \$83.60 computed above would be patently unfair to last year's Project, however.

The budget for this year includes only four line items: staff salaries, fringe benefits, arbitrators' fees, and evaluation costs. Last year's budget included costs for rent, office supplies, telephone, etc., that are picked up by the Court for this year's Project. It was not possible to obtain comparable costs for these items from the Court since arbitration expenditures are not distinguished from other costs. Thus, the next best solution was to drop out all costs from last year's budget except for the four line items included in this year's budget. Last year's costs then broke down as follows:

--- Total salaries (including fringe benefits and	
\$21,734 in arbitration fees) = -----	\$70,155
plus evaluation costs of -----	<u>4,006</u>
yields a total cost of -----	\$74,161

From 7/30/73 to 7/1/74, there were 712 cases submitted. Of these, 84 were pending at the end of the old grant period. Thus, actual cases disposed of equal 628. The total cost figure above divided by 628 cases yields an average cost per case of \$118.09.

According to these calculation then, the current project has been able to reduce the case processing figure by \$34.49 over last year's.

c. Comparison with Other "Hearing Projects"

There are a number of other projects in existence that use some type of arbitration to attempt to divert cases from the traditional court processing. These projects vary tremendously in the amount and kind of services offered, however. Cost estimates derived from last year's Final Evaluation Report show a cost range of \$13.00 to \$639.00 per case.

Since none of these projects are strictly comparable to the current Philadelphia Project, a direct comparison in terms of cost per case would be misleading. For a good description of other projects and a discussion of how cost figures for each were derived, the interested reader is referred to last year's Final Evaluation Report, pages 36-38 and 47-55.

d. Comparison with Municipal Court

Last year's Final Evaluation Report estimated the "direct" cost of a case going to court rather than to arbitration at \$144.00 per case (see pages 38-43 for a discussion of how this figure was derived). Since "direct" court costs include mostly salaries and fringe benefits and the amount allotted for witness fees, but do not include costs for indirect items such as rent, administrative expenses, etc., the cost figures are in many ways comparable. Nevertheless, some caution must be exercised.

To state that the current Project has "saved" the Court \$57.60 per case (\$141.00 Court costs per case minus \$83.60 Project costs per case) would be misleading. These

figures are estimates at best that fluctuate with caseload volume.

By the same token, the differences in cost figures should not be considered insignificant. From Table I it can be seen that the arbitration caseload volume has consistently represented about half of the Court's trial caseload over the past three years. In addition, the argument can logically be made that the Project offers more "benefit" per dollar in terms of time devoted to each case and services rendered.

## 2. Swiftiness of Disposition

As shown in Table XII, the current Project disposed of a full 75% of its cases within 29 days of receiving them. An additional 16.2% (or 91.2% totaled) were reached within 59 days.

In last year's Final Evaluation Report, it was estimated that the average case sent to trial by the Commissioner would not be scheduled for court appearance until seven or eight weeks later (some 49 to 56 days). At the time of the first scheduled trial, it was estimated that the Court disposed of 60% of its daily calendar (see pages 44-47 and 60-63 of last year's Final Evaluation Report for a discussion of Court disposition rates).

Using the earlier figure of 49 days as the Court's "first disposition date," a comparison with Table XII shows

that the Project had disposed of 87.7% of its cases by the time an average of 49 days had elapsed. Clearly, the current Project provides swifter disposition for the average case processed through arbitration rather than Court trial.

## V. Findings and Recommendations

### A. Response to Last Year's Evaluation

1. Brochures -- Acting on the suggestion of last year's evaluator, the present Project has put together a booklet to explain the arbitration procedure. The brochure is presently in draft form (see Appendix C) awaiting printing. It is to be published in both English and Spanish. The complainant will be given a copy of the brochure when he/she comes in to file the original criminal complaint. The defendant will receive his/her copy from the writ server.

2. Social Service Referrals -- There has been some attempt by the current arbitrators to refer participants to social service agencies when the circumstances warrant it. Of the ten active arbitrators interviewed, six said they had made such referrals at least once and two others indicated a willingness to do so should the need arise. Only two stated they did not feel it was an important part of an arbitrator's job.

3. Expansion of Type of Case Heard -- Last year's recommendations included two suggestions for expanding the kind of cases referred to the Project. It was believed that minor misdemeanor cases and some types of juvenile offenses could satisfactorily be resolved through arbitration. These recommendations still stand. Expanding the number and type of cases heard, of course, would necessitate expanding the resources presently devoted to arbitration.

### B. Current Recommendations

The evaluators' suggestions for the current Project have been discussed at length in the body of this report along with supporting evidence and rationale. Thus, a brief synopsis of these recommendations will suffice. They are as follows:

1. The Project should reconcile its figures on a monthly basis with those of the Trial Commissioner to ensure that all cases referred are being processed.
2. The Project should cross-tabulate the number of alleged and actual violations by type of award to see whether consent agreements or arbitration awards result in fewer instances of violation.
3. Numbers as well as percentages should be provided on monthly and quarterly statistical reports so base figures will be readily discernible.
4. The Project should make a concerted effort to appoint more minority members as arbitrators. The lack of a Spanish arbitrator and the dearth of women are particularly glaring as pointed out in last year's evaluation as well.
5. A rotation schedule for selecting arbitrators for hearings should be established to make the present distribution of number of hearings per arbitrator more equitable.
6. Periodic informal training sessions should be developed for current arbitrators.
7. A highly structured orientation program for any new arbitrators appointed is a must.
8. Arbitrators should receive regular feedback from Project staff regarding their performance and the outcome of any cases they have arbitrated where problems subsequently arise.

APPENDIX A

Examples of Project Forms

1. Consent Form----- A-1
2. Notice of Appointment ----- A-2
3. Example of an Arbitrator's Award- A-3
4. Follow-up of Monetary Judgment -  
Claimant ----- A-6
5. Follow-up of Monetary Judgment -  
Defendant ----- A-7

COMMONWEALTH OF PENNSYLVANIA  
THE PHILADELPHIA MUNICIPAL COURT  
CITY HALL - BROAD & MARKET STREETS  
PHILADELPHIA, PENNSYLVANIA 19107

A-1

CR NO. \_\_\_\_\_ DATE \_\_\_\_\_

Submission to Arbitration Before  
The Municipal Court Disputes Arbitration  
Tribunal

The parties named below hereby submit the following dispute to arbitration under the RULES of the National Center for Dispute Settlement of the American Arbitration Association and in accordance with the Commonwealth of Pennsylvania Arbitration Act of 1836 (5 Purdons Statues - Sections 1-7).

Nature of the Claim (copy):

What remedy is the Arbitrator being asked to Award?

We agree that we will abide by and perform any Award rendered hereunder and that a judgment may be entered upon the Award. We are aware that the decision of the Arbitrator shall have the same binding force as a court order with the same penalties for failure to honor it.

Name of Claimant \_\_\_\_\_ Relation to Respondent \_\_\_\_\_

Address \_\_\_\_\_

Signed by Claimant \_\_\_\_\_ or Attorney \_\_\_\_\_

Name of Respondent \_\_\_\_\_ Relation to Claimant \_\_\_\_\_

Address \_\_\_\_\_

Signed by Respondent \_\_\_\_\_ or Attorney \_\_\_\_\_



PHILADELPHIA MUNICIPAL COURT

ARBITRATION DIVISION

SUITE 811 - ONE EAST PENN SQUARE BUILDING  
JUNIPER & MARKET STREETS • PHILADELPHIA, PENNSYLVANIA 19107  
MU 6-7816

A-2

JOSEPH R. GLANCEY,  
President Judge

JOHN J. PETTIT, ESQ.,  
Court Administrator

JOHN R. KELLEY,  
Director

NOTICE OF APPOINTMENT

TO: \_\_\_\_\_ DATE: \_\_\_\_\_  
\_\_\_\_\_ HOUR: \_\_\_\_\_  
CASE: \_\_\_\_\_  
CHARGE: \_\_\_\_\_ ATTORNEYS: \_\_\_\_\_

You have been selected as Arbitrator in the above case. An Arbitrator must not only be impartial, but the parties must have complete confidence in his impartiality. Therefore, please disclose any past or present relationship with the parties or their counsel, direct or indirect, whether financial, professional, social or other kind. Any doubt should be resolved in favor of disclosure. If you are aware of such a relationship, please describe it on the other side of this form. The Arbitration Director will call the facts to the attention of the parties or their counsel.

I, being duly sworn, hereby accept this appointment and will faithfully and fairly hear and examine the matters in controversy, and make a just Award.

Signed \_\_\_\_\_  
ARBITRATOR

Approved for Payment \_\_\_\_\_

\_\_\_\_\_  
DIRECTOR



THE PHILADELPHIA MUNICIPAL COURT  
OFFICE OF THE COURT ADMINISTRATION

A-3

269 CITY HALL  
PHILADELPHIA, PENNA. 19107  
MU 6-7987

JOSEPH R. GLANCEY  
PRESIDENT JUDGE

JOHN J. PETTIT, JR., ESQ.  
MUNICIPAL COURT  
COURT ADMINISTRATOR

MUNICIPAL COURT ARBITRATION TRIBUNAL

In the Matter of the Arbitration between

LICHON VS. FLETCHER

AWARD

Case Number: 74-9-13-01958

I, THE UNDERSIGNED ARBITRATOR, having been designated in accordance with the Arbitration Agreement entered into by the above-named Parties, and dated 11-7-74 and having been duly sworn and having heard the proofs and allegations of the Parties, AWARD, as follows:

Since both parties had a living arrangement for an extended period of time which included some sharing of expenses and mutual gift-giving, it is hereby decided that:

1. The items listed in the complaint shall be considered separately and dispersed as follows:
2. Two hanging lamps which were returned to complainant prior to hearing shall remain in his possession.
3. A black and white Television Set which is now in possession of respondent shall be returned to claimant within one week of receipt of this Award.
4. A color Television Set now in possession of respondent shall remain in his possession.
5. A sewing machine which is now in possession of respondent shall be returned to claimant within one week of receipt of this Award.
6. This case shall be a matter of record as of November 7, 1974.
7. In the event of violation of this agreement this case shall be remanded to the Municipal Court of Philadelphia, Pennsylvania.

*Charlotte Isen*  
CHARLOTTE ISEN, Arbitrator

DATED: 11-7-74  
STATE OF PENNSYLVANIA  
COUNTY OF PHILADELPHIA



PHILADELPHIA MUNICIPAL COURT

A-4

ARBITRATION DIVISION

SUITE 811 - ONE EAST PENN SQUARE BUILDING  
JUNIPER & MARKET STREETS PHILADELPHIA, PENNSYLVANIA 19107  
MU 6-7816

JOSEPH R. GLANCEY,  
President Judge

JOHN J. PETTIT, Esq.,  
Court Administrator

JOHN R. KELLEY,  
Director

November 7, 1974

FACTS AND FINDINGS  
LICHON VS. FLETCHER  
74-9-18-01958

FACTS

At a hearing held Thursday, November 7, 1974, Mr. Charles Lichon, complainant, and Mr. Robert Fletcher, respondent, and Mr. James Schwartz, witness for the respondent, presented the facts in their disagreement before Mrs. Charlotte Isen, Arbitrator.

1. Complainant and respondent lived together for approximately four years.
2. There was a sharing of expenses and a series of interchange of gifts, none formalized by any agreement.
3. Complainant owned major property in his name (i.e.-duplex house, car, station-wagon) upon which respondent made informally agreed upon payments.
4. After a period of disagreements and efforts at reconciliation punctuated by gift-buying by each for the other, respondent moved out taking with him some items which he says were gifts to him by complainant and complainant wants returned:
  - a. Black and white TV
  - b. Sewing Machine (belonging to claimant's mother)
  - c. Two lamps (which since have been returned by respondent)
5. Witness for respondent rented apartment in same duplex and was on friendly terms with both parties for three years.
6. Witness states that the color TV was shown to him by respondent who mentioned it was a gift for claimant, in the presence of claimant, and claimant did not demur.
7. Witness states that respondent gave claimant costly gifts and shared expenses, and shared costs of many purchases. (i.e. gold ID Bracelet and gold cross, etc.) to which both parties agreed.

A-5

FACTS AND FINDINGS  
LICHON VS. FLETCHER  
74-9-18-01958

FINDINGS

It would appear that a sharing of expenses and exchange of gifts was part of an established pattern between the two parties. It further appears that during a period of disintegration of their relationship, an exchange of gifts was made in efforts at reconciliation; namely a gold cross from respondent to claimant and subsequently color TV from claimant to respondent, which is now in question.

CHARLOTTE ISEN  
Arbitrator



PHILADELPHIA MUNICIPAL COURT

ARBITRATION DIVISION

SUITE 811 - ONE EAST PENN SQUARE BUILDING  
JUNIPER & MARKET STREETS • PHILADELPHIA, PENNSYLVANIA 19107  
MU 6-7816

A-6

JOSEPH R. GLANCEY,  
*President Judge*

JOHN J. PETTIT, ESQ.,  
*Court Administrator*

JOHN R. KELLEY,  
*Director*

RE:

Dear

This is a routine follow-up to your Arbitration case. Will you kindly advise us whether you received the amount awarded to you.

Thank you for your cooperation.

Sincerely,

*John A. Kelley*  
JOHN A. KELLEY

JAK/vb



PHILADELPHIA MUNICIPAL COURT

ARBITRATION DIVISION

SUITE 811 - ONE EAST PENN SQUARE BUILDING  
JUNIPER & MARKET STREETS • PHILADELPHIA, PENNSYLVANIA 19107  
MU 6-7816

A-7

JOSEPH R. GLANCEY,  
*President Judge*

JOHN J. PETTIT, ESQ.,  
*Court Administrator*

JOHN R. KELLEY,  
*Director*

RE:

Dear

According to the terms of the Arbitration Award dated \_\_\_\_\_, you were to pay to \_\_\_\_\_ the sum of \_\_\_\_\_. We have been advised that no money has been received.

Kindly send us your check or money-order made payable to \_\_\_\_\_. We will mark our records and forward your payment.

Thank you for your cooperation.

Sincerely,

*John A. Kelley*  
JOHN A. KELLEY

JAK/vb

cc:

APPENDIX B

## Arbitrator Interview Guide

1. Inactive Arbitrators -----B-1
2. Active Arbitrators -----B-2

Interview Guide - Inactive Arbitrators

1. When are you usually available to hear cases?
2. About how many hearings would you estimate you have held in the past seven months?
3. Have you ever had to turn any cases down?
4. Why do you think no cases were referred to you? (Was asked but not available versus available but never asked.)
5. Did you ever check with the Project staff to find out why you were not being called?
6. Are you still interested in being an arbitrator?

Interview Guide - Active Arbitrators

1. When are you usually available to hear cases?
2. About how many hearings would you estimate you have held in the past seven months?
3. Do you feel you get your fair share of cases? Why or why not?
4. Have you ever had to turn any cases down? If so, why?
5. Could you handle more cases than you have been in the past?
6. Do you ever receive any follow-up reports on the cases you arbitrate -- i.e., whether the solution was a lasting one?
7. Do you ever receive any feedback from Project staff regarding your performance?
8. Do you ever refer arbitration participants to social service agencies or suggest it as part of an award? Should referral to social service agencies be part of an arbitrator's job?
9. How do you feel about training? Is it necessary for new arbitrators, old arbitrators, or both?
10. What kind of training is needed, if any?

11. How important is a legal background for an arbitrator?
- 12-a. (Old arbitrators only) -- Do you see any major differences in procedure or performance between this year's Project and last year's? Which is better and why?
- 12-b. (New arbitrators only) -- Are you familiar with last year's Project? (If yes, ask question 12-a).
13. Do you have any suggestions for changes to improve the current Project? Any additions, deletions or expansions you would like to see made?
14. Is there anything else about the Project you would like to comment on?

YOUR HEARING IS SCHEDULED FOR ARBITRATION:

DATE \_\_\_\_\_

PLACE \_\_\_\_\_

TIME \_\_\_\_\_

Note: FAILURE TO APPEAR MAY RESULT  
IN A CONTEMPT OF COURT  
CITATION AND/OR THE CASE BEING  
DISMISSED FOR LACK OF  
PROSECUTION.

ADDRESS: Room 811, One East Penn Square  
Juniper and Market Streets  
Philadelphia, Penna. 19107

PHONE: MU-6-7816

REMEMBER

Be on Time.  
Bring your records with you.  
Notify Witnesses of Hearing Date & Time

APPENDIX C

THE CITY OF PHILADELPHIA

MUNICIPAL

COURT

ARBITRATION

HOW DOES ARBITRATION WORK?

(Seal)

THE  
PHILADELPHIA MUNICIPAL  
COURT

JOSEPH R. GLANCEY  
PRESIDENT JUDGE

## GENERAL INFORMATION ABOUT ARBITRATION

### WHAT IS ARBITRATION?

Arbitration is the voluntary submission by the parties of any controversy, suit or quarrel to a Master for resolution of the dispute.

### WHAT IS THE "ARBITRATION AS AN ALTERNATIVE" PROGRAM IN THE PHILADELPHIA MUNICIPAL COURT?

"Arbitration as an alternative" is a program instituted by the Philadelphia Municipal Court to provide a procedure to resolve disputes caused by the stress between neighbors, community residents, spouses and other parties, which have arisen as the result of activity which is an offense under the penal laws of the Commonwealth of Pennsylvania.

### HOW DOES A CASE GET INTO ARBITRATION?

Most arbitration cases are referred into the program as the result of the filing of a private criminal complaint by one individual against another, and are voluntarily submitted by agreement of both parties at the time of arraignment on the complaint.

### WHAT ADVANTAGE IS THERE IN SUBMITTING A CLAIM TO ARBITRATION?

In most criminal cases, the rigid criminal procedures are time consuming and offer no solution to the underlying problem which gave rise to the criminal act committed. Much like the visible tip of an iceberg, the private criminal complaint frequently deals with relatively minor charges growing out of deeper human conflict frustration and aliena-

tion. The program is designed to reach behind the simple criminal charge and resolve the deeper problems which gave rise to the criminal act - In addition, we can give you a definite date and time for your hearing which is usually over in one hour. In many cases a DECISION is rendered on the day of the hearing. (The Decision is known as an "Award").

### IF I AGREE TO SUBMIT MY CASE TO ARBITRATION, DO I STILL GET A HEARING?

Yes, cases are scheduled for hearings before an arbitrator who has been specially trained in the resolution of community disputes, and who is in a position to mold an award which is designed to resolve the basic underlying conflict.

### WHAT HAPPENS AT THE HEARING?

An assigned Arbitrator will preside and conduct the hearing in an informal manner. You should bring with you any bills, receipts, checks or other documents you have which will aid in establishing your case. You may also bring witnesses. The Arbitrator will then hear all parties and witnesses appearing in the case. At the end of the case, an Award will be rendered. The parties to a case may, by agreement, settle their differences and the agreement will become the Award.

An Award given by an Arbitrator is binding on all parties and any violation of the Award may result in a Contempt of Court Citation.

### SHOULD I HAVE AN ATTORNEY?

It is not necessary to have an attorney represent either the claimant or defendant in arbitration. However, many people are

represented by counsel of their choice. If you do retain an attorney, you should advise the Arbitration Office within 3 days of submission of the case to arbitration of his name, number, address and phone number so we can take his schedule into consideration in setting a hearing date.

### WHAT IS THE EFFECT OF AN ARBITRATION AWARD?

The award of the arbitrator, approved by the Court has the same effect as the verdict of a jury and the party in whose favor the award is entered may have a judgment entered on it as a verdict.

### IS THERE ANY APPEAL FROM THE ARBITRATION AWARD?

There is no appeal as such from an arbitrator's award except that any party may file exceptions to the award for one or more of the following reasons:

1. The arbitrator has misbehaved.
2. The arbitrator committed a plain mistake in matter of fact, or matter of law.
3. The award was procured by corruption or other undue means.

### REMEMBER

The Philadelphia Municipal Court, "Arbitration As An Alternative" is voluntary, however, once accepted, all parties are bound by the decision of the arbitrator. Failure to comply with the award may result in the case being sent back to Court for Contempt of Court and/or trial on the original charge.

**END**