

POLICY BRIEFS

Action Guides for Legislators and Government Executives

Neighborhood Justice Centers

THE PROBLEM

Minor criminal and civil court actions often stem from conflicts within family and neighborhood groups, or between merchants and consumers, landlords and tenants, and other parties with ongoing relationships. In many cases, these actions are only the visible symbol of a long history of reciprocal complaints.

In the absence of adequate alternatives, the court is expected to resolve these matters. Yet many disputes require compromises not readily achieved by the winner-takes-all approach of adjudication. Extensive court delays, high costs and inconvenience, and high dismissal rates are further barriers to effective case resolution. Moreover, formal processing of minor disputes clearly adds to the burden of the court, reducing the resources available to handle the remaining civil and criminal matters.

CONTENTS OF THIS BRIEF

This Brief describes programs for resolving minor disputes without arrest or formal court action. Using conciliation, mediation, or arbitration techniques, these projects are designed to provide citizens with ready access to a more rapid, effective process for dealing with interpersonal conflicts, without contributing to the courts' growing burden of minor cases.

- Sections I-III provide further information on the key features and benefits of the Neighborhood Justice Center approach.
- Section IV outlines the executive and legislative actions required to support this approach.
- Section V includes sample legislation and lists sources of additional information and assistance.

Based on research and program development projects of the National Institute of Justice



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I. INTRODUCTION

Historically, minor disputes were often resolved with the assistance of the extended family, the church, local leaders and other community groups. In today's highly urbanized, mobile America, the influence of these groups has waned, and the courts are more frequently called upon to fill this role. Yet there are a number of barriers to the effective use of adjudication in many civil and criminal cases:

- **Extensive Delays** – Some civil cases often take over 4 years to process in cities such as Boston, Chicago, New York (the Bronx) and Philadelphia. Many criminal cases also involve lengthy delays.¹
- **Limited Access** – The high costs of legal assistance, wages lost while attending court sessions and the inconveniences and costs of court hearings are prohibitive to many citizens.
- **High Dismissal Rates** – A 1971 study conducted in New York City's courts revealed that over 40 percent of felony arrests were dismissed. In more than half of all felony arrests for crimes against the person, the victim and defendant had a prior relationship. The vast majority of these cases ended in dismissal because the complainant failed to cooperate in the prosecution. Once the complainants had cooled off, they were simply not interested in pursuing legal action.²
- **Ineffective Procedure** – Many matters involve reciprocal offenses by the parties to a dispute or raise complex issues that require concessions by both sides. Yet the rules of evidence in adjudicatory proceedings require the court to focus on the specific incident of record rather than the underlying conflicts between the disputants.

Support for Alternative Dispute Resolution Mechanisms

In 1976, the American Bar Association, the Judicial Conference of the United States and the Conference of Chief Justices co-sponsored a national conference to investigate the major problems of the courts. Following the conference, the ABA published a **Report of the Pound Conference Follow-up Task Force** which recommended major court reforms, including the development of alternatives for the resolution of minor disputes.³ This report's influence can be seen in:

- recent Federal legislation (S.423) proposed by Senator Kennedy and others to support nationwide experiments with improved methods of dispute processing;⁴
- the current work of the ABA Committee on the Resolution of Minor Disputes;⁵
- research and program development efforts of LEAA's National Institute of Law Enforcement and Criminal Justice; and
- support for "Neighborhood Justice Centers" from the Justice Department's Office for Improvements in the Administration of Justice.

The Neighborhood Justice Concept

Neighborhood Justice Centers were defined by the ABA Task Force as "facilities designed to make available a variety of methods of processing disputes, including arbitration, mediation, and referral to small claims courts as well as referral to courts of general jurisdiction." A number of projects developed in recent years are similar in many respects to this broad definition of Neighborhood Justice Centers. These projects provide forums for resolving minor disputes and offer an alternative

to arrest or formal court action. In addition to arbitration, mediation and referral to the courts, the projects often employ social work staff, make referrals to social service agencies, and conduct fact-finding and related functions.

Development of Initial Projects

The forebears of today's neighborhood justice centers were developed by prosecutors and courts in response to clear needs for improved processing of minor criminal matters. The Philadelphia Municipal Court Arbitration Tribunal, for example, evolved from a project established in 1969 through the joint efforts of the American Arbitration Association, the Philadelphia District Attorney, and the Municipal Court. The project provides disputants with the option of binding arbitration for minor criminal matters. Shortly after the Philadelphia project began operation, a somewhat similar project was established in Columbus, Ohio by the City Attorney's Office. The Columbus project provides mediation rather than arbitration for minor disputes.

Both Philadelphia and Columbus received LEAA funding, and the Columbus program was designated an Exemplary Project by a board of LEAA officials in 1974. Extensive documentation of the Columbus experience was prepared, and the National Institute of LEAA sponsored nationwide seminars to encourage replication of the concept. Projects modeled after Columbus were subsequently developed in several jurisdictions, including other Ohio communities and Miami, Florida. The Miami project, in turn, has stimulated the development of centers in nine other Florida cities. Additional pioneering efforts include the American Arbitration Association's Community Dispute Services Project in Rochester, N.Y.; the Institute for Mediation and Conflict Resolution's Dispute Center in Manhattan; the Boston Urban Court Project; and the San Francisco Community Board Program.

Since 1974, roughly 100 projects for the mediation and/or arbitration of minor civil and criminal disputes have been developed in approximately 28 states. Three of these programs were initiated in 1978 under Department of Justice sponsorship—in Atlanta, Georgia; Kansas City, Missouri; and Los Angeles, California—and have been the subject of careful study.⁶ States currently taking the lead in terms of numbers of jurisdictions with existing or developing programs include Florida, Ohio, New Jersey, Massachusetts, and California.

II. KEY PROGRAM FEATURES

Various options for organizing Neighborhood Justice Centers are summarized in **Neighborhood Justice Centers: An Analysis of Potential Models**,⁷ a 1977 publication of LEAA's National Institute. Based on intensive reviews of six projects, the report covers these key program features:

- **Case Criteria**

Projects tend to focus on disputes occurring among individuals who have an ongoing relationship -- relatives, landlords and tenants, merchants and consumers, employers and employees or neighbors. These cases are considered most amenable to mediation/arbitration because they offer possibility for compromise and the parties typically are interested in arriving at a joint settlement. Cases at the various projects differ substantially in level of seriousness. New York City's Dispute Center processes misdemeanors as well as felonies occurring among acquaintances (such as felonious assaults) while most of the other projects restrict their case-loads to misdemeanors. Many of the projects process a range of civil complaints including consumer, landlord-tenant, and domestic cases.

- **Referral Sources**

Projects receive referrals from many sources including the police, prosecutors, the courts, social service agencies, and individual citizens. For example, Boston's Urban Court Project receives the majority of its referrals from the local court; projects in Miami and Columbus receive the bulk of their referrals from the prosecutor's office. A San Francisco program has made a major effort to solicit referrals directly from the local community. Findings from evaluations to date (in Florida⁸ and in the 3 Department of Justice sponsored sites) indicate that disputants referred by criminal justice personnel are the most likely to follow through to the hearing stage.

- **Intake Procedures**

Projects vary considerably in the degree to which they actively pursue clients once they have been referred to the project. Typically, both the complainant and the respondent are notified by mail once a referral is received. Although the voluntary participation of both parties is desirable, in some cases respondents in criminal disputes are informed that failure to appear may result in filing criminal charges on the complaint.

- **Resolution Technique**

Many projects attempt to settle disputes through conciliation before scheduling a formal mediation or arbitration session. Conciliation attempts may involve either telephone or letter contacts with disputants. Mediation involves attempts on the part of a neutral third party to settle a dispute through discussion and mutual agreements. By definition, a mediator does not have the power to resolve a dispute unilaterally but instead may offer suggestions and attempt to facilitate sufficient communication among disputants to encourage a resolution. Arbitrators, on the other hand, have the authority to develop a binding agreement enforceable in the civil courts if the disputants fail to reach a settlement. Projects that employ arbitration (e.g., Rochester and New York City) attempt to mediate the dispute first and resort to imposed arbitration awards only when all mediation attempts have failed. The majority of states have modern arbitration legislation and can support projects using either mediation or arbitration. Hearings may range in length from 30 minutes to 2 hours and may use either one or a panel of mediators.

- **Project Staff**

Administrative, intake and social service staff at the various projects tend to have varied backgrounds, most commonly in the social sciences. Hearing staff have included lay citizens trained in mediation or arbitration techniques (used by projects in Boston, Rochester and New York City), law students or lawyers (typified by projects in Columbus, Ohio, and Orlando, Florida, respectively) or professional mediators including clinical psychologists and social workers (employed by the Miami project). A small claims court mediation effort in Maine has relied heavily on retired persons as dispute resolvers.

- **Hearing Staff Training**

The American Arbitration Association and the Institute for Mediation and Conflict Resolution have developed rigorous training programs for mediators and arbitrators. In addition, local training resources often are available. Projects generally provide their mediators/arbitrators with 40-50 hours of training including lectures, role-played hearings, videotaped feedback on performance and co-mediation with experienced hearing officers in actual hearing situations.

- **Follow-up Techniques**

Many of the projects recontact disputants after 30 to 60 days to determine if the resolutions remain in force. If a former complainant is dissatisfied with the progress of the resolution, the respondent is typically called and encouraged to adhere to the terms of the agreement. In the arbitration projects, staff members are available to assist disputants who wish to file a civil claim in cases where the arbitration agreement has broken down. Despite this provision, disputants have rarely chosen to enforce civil awards in court.

III. BENEFITS

The potential benefits of using a neighborhood justice approach for handling minor disputes range from more equitable and efficient case processing to possible reduced caseload burdens on the traditional justice system:

- **Rapid case processing.** Project evaluations report that cases usually receive hearings within 7-15 days of initial referral. Court processing of comparable cases is often reported to require 10 weeks or longer.
- **Increased access.** Access to justice is improved since projects do not charge for services, do not require lawyers, hold hearings at times convenient to all parties to the dispute (including nights and weekends) and often provide multilingual staffs to serve non-English speaking disputants.
- **Improved process.** Mediation and arbitration methods offer the opportunity to explore the disputants underlying relationships and conflicts -- a process not often possible in the traditional court setting but important to the resolution of the dispute.
- **Effective, fair hearings.** Only limited data are available on client perceptions of Neighborhood Justice Center dispute processing. Composite data from an evaluation of three NILECJ funded projects in Atlanta, Kansas City and Los Angeles show that 84 percent of over 1,000 disputants interviewed expressed satisfaction with the mediation process.
 - 88 percent expressed satisfaction with the mediator;
 - 88 percent expressed satisfaction with the overall experience at the Neighborhood Justice Center; and
 - 73 percent stated that they would return to the Neighborhood Justice Center for similar problems in the future.

These data are difficult to interpret without comparable data from other dispute processing forums such as the courts, but they do suggest high absolute levels of satisfaction.⁹

- **Diversion from the traditional court system.** To the extent that cases handled by a dispute resolution project would have required additional official attention, the burden at all stages of the system is reduced. Although rigorous data confirming the nature and magnitude of the diversion benefit are not presently available, programs that process large caseloads are likely to provide substantial relief to their local courts. (The Columbus, Ohio City Attorney's Office, for example, reports that annual court case filings excluding traffic offenses have dropped substantially perhaps due to the project's influence).
- **Possible reduced costs to the criminal justice system.** Programs vary widely in unit costs for processing referrals and hearings, based upon factors such as the volume and types of cases handled, mediator characteristics, and facilities. The Columbus, Ohio project, the least expensive of those recently studied, reports a cost-per-referral for interpersonal disputes of less than \$10 and a cost-per-hearing of approximately \$20. This project uses law students for mediators, has low fixed costs and a large caseload. If the cases processed by the Columbus project went to court, costs might have averaged \$200 per case according to Columbus prosecutorial personnel. Other projects report costs ranging from \$36 to \$300 per referral. More rigorous cost comparisons are needed and will require research to determine the proportion of project cases that would have actually proceeded to court.

IV. AGENDA FOR ACTION

Defining local needs, designing a responsive program, choosing an appropriate project sponsor and obtaining commitments to cover operating costs are steps required in virtually all jurisdictions before projects can be established.

Determining Local Needs

In assessing the need for a project in a given locality, planners should:

1. Assess the current court capacity for processing minor civil and criminal cases by reviewing available data on court caseload size, backlogs in case processing, average delays in processing and related issues. These data are often available in annual reports prepared by the court administrator's office. Data should be gathered from courts handling minor criminal cases as well as small claims courts and other courts processing minor civil cases. (Data recently collected by the National Center for State Courts provides information on typical delays in local courts.)¹⁰
2. Determine the availability of local forums providing alternative methods for dispute processing. According to recent research, a surprisingly large number of modest efforts already exist in many communities. These may include:
 - Better Business Bureau and/or Chamber of Commerce mediation of consumer cases;
 - Housing Authority, Housing Court, or tenant union mediation projects for housing-related matters;
 - American Arbitration Association fee mediation and arbitration services;
 - informal mediation efforts by the court clerk's office or local prosecutors for minor criminal matters.
3. If the preliminary data indicate unmet needs in the community, a planning board should be established, made up of:
 - representatives of the local courts and justice agencies such as the police and prosecutor's office;
 - directors of any alternative dispute processing projects located in the community;
 - members of local civic and neighborhood organizations; and
 - executives from the city or county government.

Ideally, boards should attempt to raise funds from local sources (foundations or planning agencies) to hire a small staff to continue the needs assessment. If such funds are not available, the members of the board may be able to gather relevant data from local agencies at no cost.

Selecting a Project Sponsor

Once the needs assessment is completed and tentative plans for a specific project design have been formulated (based upon a consideration of the major program elements discussed in Section II of this Brief), the board members should explore possibilities for project sponsorship. Three major types of sponsors are common:

1. **Public Sponsorship.** Project sponsors have included the courts (the Miami Citizen Dispute Settlement Program), the prosecutor (the Columbus Night Prosecutor Program), a city manager's office (the Kansas City Neighborhood Justice Center) and county government (the Santa

Clara Neighborhood Mediation and Conciliation Services). The Kansas City Police Department sponsored an experimental project a number of years ago, and many police departments sponsor family crisis intervention units which may mediate family-related disputes.

2. **Private sponsorship with close ties to the justice system.** A number of projects have been sponsored by private organizations with close ties to the local justice system. (These include the Rochester Community Dispute Services Project operated by the American Arbitration Association, the Institute for Mediation and Conflict Resolution Dispute Center in New York City, the Orlando Citizen Dispute Settlement Project sponsored by the local bar association, and the Atlanta Neighborhood Justice Center operated by a group specifically incorporated to sponsor the program).
3. **Private sponsorship with a community rather than justice system orientation.** Projects have also been developed under the sponsorship of local private organizations which rely primarily upon community control of operations and the referral of cases directly from the community with only limited referrals from the justice system. The San Francisco Community Board Program and the Los Angeles Neighborhood Justice Center both have this orientation and are sponsored by a local non-profit corporation and the local bar association, respectively. Projects of this type tend to stress the value of decentralization of power, return of control regarding major decisions to the community, and increasing leadership skills within the community. Jurisdictions developing community-based projects should anticipate relatively low caseloads during the initial stages of project development due to the need to develop credibility and visibility within the community.

Choice of a sponsor depends on many factors including the availability of potential sponsors and the goals of project planners. If assisting the local criminal justice system is paramount, then public sponsorship or private sponsorship with close ties to the system may be preferable. If, on the other hand, planners feel the greatest need is to provide support to reduce community tensions, build a sense of community spirit, and develop local leadership, then private sponsorship with a community orientation may be appropriate. The National Institute publications on Neighborhood Justice Centers mentioned earlier provides a more detailed discussion of the advantages and disadvantages of various forms of sponsorship.

Obtaining Funds

A variety of organizations have funded mediation projects including city and county government, state government, foundations, the American Bar Association, and federal agencies including the Department of Housing and Urban Development through community development funds, the Department of Labor through CETA funds, and LEAA through state-administered block grant funds. The Law Enforcement Assistance Administration also recently funded the development of three experimental projects in Atlanta, Kansas City, and Los Angeles. However, these projects were supported with research funds in order to test the relative effectiveness of different approaches to Neighborhood Justice. No additional funds are currently available from LEAA. If funds become available in fiscal year 1980, the program will be announced in LEAA's **Guide to Discretionary Grant Programs**.

Neighborhood Justice Centers need not be costly. Projects with relatively modest budgets include Columbus, Ohio, and Rochester, New York (with operating costs in 1977 of \$43,000 and \$65,000 per year, respectively). Project costs vary due to a wide variety of factors including caseload size, the degree of need for intake staff at justice system agencies, availability of donated space and supplies from local agencies, etc. To keep project costs low, consider:

- **The use of volunteers.** The Atlanta Neighborhood Justice Center involves many volunteers in case intake; the Chapel Hill, North Carolina, Dispute Settlement Center is run entirely by volunteers with a projected annual budget of less than \$8,000 including the cost of office

space. Gallup polls suggest that the majority of Americans are eager to volunteer for social service work, and some projects have been swamped with volunteer applications: A San Jose project received 300 applications for 18 volunteer slots.

- **The use of “free” space.** The Miami project holds hearings in unused courtrooms at night. Many projects receive in-kind contributions of space from government agencies. Other projects use donated space in churches, YMCA’s or schools (e.g., the Coram, New York mediation center).
- **Possible use of sliding scale charges.** The Denver Conciliation and Mediation Services project charges clients on a sliding scale for services, as does the American Arbitration Association for domestic dispute processing in some cities. Projects may wish to explore the possibilities for such charges in certain cases, with no charge for low-income individuals.

Developing State-Level Support for Local Projects

Although state-level legal authorization is not required, legislative support can promote and guide the development of appropriate dispute resolution alternatives. The California legislature has developed a bill for support of neighborhood justice centers. (Assembly Bill No. 1186 is attached.) The bill provides (1) a statewide advisory committee for encouraging the development of justice centers, (2) project guidelines, (3) funding mechanisms (no state appropriation is provided due to the lack of general revenues resulting from enactment of Proposition 13 but any available Federal funds would be channeled through the mechanisms), and (4) confidentiality safeguards.

States considering assisting justice center development have numerous options including:

- **Financial Support.** The California Legislature originally proposed a state appropriation of 1.5 million dollars and the New York Legislature is currently drafting a bill to provide \$3 million dollars for experimental project support.
- **Confidentiality safeguards.** Both the California bill and a recently drafted Florida House of Representatives bill provide confidentiality safeguards for case-related material. (Florida HB 49 is also appended.) The California bill notes that all memoranda, files and written agreements are confidential and privileged and are not subject to disclosure in any judicial or administrative proceedings. Similarly, all communications are privileged. The Florida bill provides a very broad safeguard: “any information received by any person employed by, attending or present at or volunteering services to, a Citizen Dispute Settlement Center . . . is privileged and confidential.” A legislative provision of confidentiality of information presented at a Neighborhood Justice Center would be very valuable. At present, projects must rely on attempts to negotiate agreements from local prosecutors’ offices that information will not be demanded from mediators or staff members.
- **Limitations on staff civil liability.** The Florida bill provides an additional safeguard against the civil liability of staff members stating “a Citizen Dispute Settlement Center may refer the parties to judicial or nonjudicial supportive service agencies without being held liable for any civil damages for such action.” The value of such a legislatively-mandated safeguard should be considered by those proposing justice center legislation.

In addition to these legislative actions, policy makers in the executive and judicial branches can provide valued support. The Supreme Courts of Wisconsin and Iowa, for example, have encouraged the funding of neighborhood justice centers in their states. In Florida, the Supreme Court has instituted a state-level project to provide research, technical assistance, evaluation and training in support of dispute settlement programs through the Office of the State Courts Administrator.¹¹ Development of a statewide public information campaign is also planned. Services such as these can encourage the creation of effective alternatives for minor dispute resolution.

V. SOURCES FOR FURTHER INFORMATION AND ASSISTANCE

The Appendix provides copies of legislation drafted in California and Florida for the support of innovative dispute processing mechanisms. Both legislatures will be considering variants of these bills in the future.

The following written reports, referenced in the text of this Brief, are available from the sources noted in each citation.

1. **Outside the Courts: A Survey of Diversion Alternatives in Civil Cases**, National Center for State Courts, 1977. (Available from National Center for State Courts, 300 Newport Ave., Williamsburg, Va. 23185 as Publication No. R0023.)
2. **Felony Arrests: Their Prosecution and Disposition in New York City's Courts**, Vera Institute of Justice, 1977. (Available from the Vera Institute of Justice, 275 Madison Avenue, New York, New York 10016.)
3. **Report of the Pound Conference Follow-up Task Force**, American Bar Association, 1976. (Available from the American Bar Association, 1800 M Street, N.W., Washington, D.C. 20036.)
4. **Dispute Resolution Act (S. 423)**. (Current version available from Senator Edward M. Kennedy, Senate Judiciary Committee, Washington, D.C. 20510.)
5. **Report on the National Conference on Minor Disputes Resolution**, American Bar Association, 1977. (Available from the American Bar Association, 1800 M St., N.W., Washington, D.C. 20036.)
6. **Neighborhood Justice Centers: Interim Evaluation Report**, U.S. Department of Justice, LEAA, National Institute of Law Enforcement and Criminal Justice, 1979. (Available through the National Criminal Justice Reference Service (NCJRS), Box 6000, Rockville, Maryland 20850.) Final report expected early in 1980.
7. **Neighborhood Justice Centers: An Analysis of Potential Models**, U.S. Department of Justice, LEAA, National Institute of Law Enforcement and Criminal Justice, 1977. (Available from NCJRS.) An updated and expanded version of this document will be published in the summer of 1980 and will be announced by NCJRS.
8. **The Citizens Dispute Settlement Process in Florida: A Study of Five Programs**, Florida Supreme Court, 1979. (Available from Office of the State Court Administrator, Supreme Court Building, Tallahassee, Florida 32304.)
9. See also **The Citizen Dispute Settlement Program: Resolving Disputes Outside the Courts, Orlando, Florida**, American Bar Association, 1977. (Available from the American Bar Association, 1800 M St., N.W., Washington, D.C. 20036.)
10. **Reducing Trial Court Delay Project**, National Center for State Courts, 1978. (Available from the National Center for State Courts, 300 Newport Ave., Williamsburg, Va., 23185.)
11. "Citizen Dispute Settlement: The Florida Experience," **ABA Journal**, April 19, 1979.

Finally, the following individuals who are experienced in planning and implementing Neighborhood Justice Centers may be contacted for information and advice:

- **Ms. Joan Fund**
Night Prosecutor Program
City Hall Annex Building
67 North Front Street, Room 400
Columbus, Ohio 43215
614/725-8731
- **Ms. Linda Hope**
Citizen Dispute Settlement Program
1351 N.W. 12th Street
Miami, Florida 33125
305/547-7062
- **Mr. Raymond Shonholtz**
Community Board Program
149 Ninth Street
San Francisco, California 94103
415/552-1250
- **Ms. Edith Primm**
Neighborhood Justice Center of Atlanta
1118 Euclid Avenue, N.E.
Atlanta, Georgia 30307
405/523-8236
- **Mr. Maurice Macey**
Neighborhood Justice Center
American Bank Building, Suite #305
One West Armour
Kansas City, Missouri 64111
816/274-1895
- **Mr. Joel Edelman**
Neighborhood Justice Center
1527 Venice Blvd.
Venice, California 90291
213/390-7666
- **Mr. Lawrence Ray**
American Bar Association
1800 M Street, N.W.
Washington, D.C. 20036
202/331-2298

Appendix
Sample State Legislation Supporting Justice Centers

- **Florida HB49**

- **California Assembly Bill
No. 1186**

By Representative Davis

A bill to be entitled an act relating to mediation of disputes between citizens; authorizing the establishment of Citizen Dispute Settlement Centers; requiring appointment of a council to adopt certain rules for the administration of such a center; prohibiting such a center from making or imposing any adjudication, settlement, or penalty; providing for confidentiality of certain information; providing for referral of disputes to certain agencies; authorizing the seeking and acceptance of funds from certain sources and the expenditure of such funds; providing exemptions for certain existing centers; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. (1) The chief judge of a judicial circuit, after consultation with the board of county commissioners of a county or with two or more boards of county commissioners of counties within the judicial circuit, may establish a Citizen Dispute Settlement Center for such county or counties.

(2) Each Citizen Dispute Settlement Center shall be administered in accordance with rules adopted by a council composed of at least six members. The chief judge of the judicial circuit shall serve as chairman of the council and shall appoint the other members of the council. The membership of the council shall include a representative of the state attorney and of each sheriff, county court judge, and board of county commissioners within the geographical jurisdiction of the center and two members from the community. The membership of the council may also include any other interested persons. The council shall appoint a director of the center, who shall meet criteria for appointment established by the council, and who shall administer the operations of the center.

(3) The Citizen Dispute Settlement Center, subject to the approval of the council, shall formulate and implement a plan for creating an informal forum for the mediation and settlement of disputes. Such plan shall prescribe:

- (a) Objectives and purposes of the center;
- (b) Procedures for filing complaints with the center and for scheduling informal mediation sessions participated in by the parties to the complaint;
- (c) Screening procedures to ensure that each dispute mediated by the center meets criteria for fitness for mediation set by the council;
- (d) Procedures for rejecting or refusing to mediate any dispute which does not meet such criteria;
- (e) Procedures for giving notice of the time, place, and nature of the mediation session to the parties, and for conducting mediation sessions; and
- (f) Procedures to ensure that participation by all parties is voluntary.

(4) Each mediation session conducted by a Citizen Dispute Settlement Center shall be nonjudicial and informal. No adjudication, sanction, or penalty may be made or imposed by the mediator or the center.

(5) Any information received by any person employed by, attending or present at, or volunteering services to a Citizen Dispute Settlement Center, which information is obtained from files, reports, case summaries, mediator's notes, or otherwise in the performance of the duties of the center, is privileged and confidential and shall not be publicly disclosed without the written release of all parties involved. Any research or evaluation effort directed at assessing program activities or performance may not compromise the confidentiality of such information.

(6) A Citizen Dispute Settlement Center may refer the parties to judicial or non-judicial supportive service agencies. [A center may not be held liable for any civil damages arising out of such action.]

(7) A council may seek and accept contributions from counties and municipalities within the geographical jurisdiction of the Citizen Dispute Settlement Center, agencies of the Federal Government, and private sources, and any other available funds, and may expend such funds to carry out the purposes of this section.

(8) Any Citizen Dispute Settlement Center in operation on the effective date of this act may, with the approval of the chief judge of the judicial circuit in which such center is located, continue its operations in its current form, except that subsections (5) and (6) shall apply to such centers.

Section 2. This act shall take effect July 1, 1979.

SENATE SUMMARY

Authorizes the establishment of Citizen Dispute Settlement Centers as informal forums for the mediation and settlement of certain disputes. Provides for appointment of a council to adopt rules for the governance of a center. Prohibits a center from making or imposing any adjudication, sanction, or penalty. Provides for confidentiality. Authorizes a center to refer the parties to a dispute to certain other agencies. Authorizes a center to seek and accept funds from certain sources. Provides an exception for centers operating on the effective date of the act.

Introduced by Assemblyman Levine

March 23, 1979

REFERRED TO COMMITTEE ON CRIMINAL JUSTICE

An act to add and repeal Chapter 3.5 (commencing with Section 1143.10) of Title 3 of Part 3 of the Code of Civil Procedure, relating to dispute resolution, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 1186, as introduced, Levine (Crim.J.). Neighborhood resolution centers.

Existing law makes no provision for the resolution of civil claims or criminal matters by an informal resolution procedure.

This bill would establish the neighborhood resolution center program to resolve civil claims and certain criminal matters by an informal dispute resolution procedure conducted in resolution centers and administered and supervised under the direction of the Office of Criminal Justice Planning and subject to specified duties of the Neighborhood Resolution Centers Committee, which is established by the bill.

Under the program, resolution centers meeting specified criteria would be selected for funding by the committee from applications made to it by such centers.

Such centers would be required to furnish dispute resolution to the participants in accordance with specified guidelines established by the bill and rules and regulations promulgated by the executive director of the office and the committee.

This bill would require or authorize execution of written process agreements expressing the method for the resolution of the issues disputed, would authorize each center to subject the disputing parties to arbitration, would permit the disputing parties to enter into written resolution agreements during or after the dispute resolution process, would preclude the enforceability or admissibility in evidence of such written resolution agreements in a court or administrative proceeding unless such agreements provide otherwise, would provide for the confidentiality of memoranda, work notes or product, and case files of a mediator, and of any communications made during such dispute resolution process relating to the subject matter of such dispute resolution, and would make such material and communications privileged and not subject to disclosure at any judicial or administrative proceeding.

This bill would provide that its provisions shall not prohibit any person who consents to dispute resolution from revoking his consent, withdrawing from dispute resolution, and seeking judicial redress prior to reaching an agreement and would preclude the imposition of any penalty, sanction, or restraint for such person's action.

This bill would provide that a representative selection of centers be funded on the basis of applications which would be required to include specified information. The data supplied by each applicant would be required to be used to assign relative funding priority by the committee.

This bill would provide for possible payment structures to be used in funding eligible centers.

This bill would authorize the Office of Criminal Justice Planning to accept from any public or private agency or person any money for purposes of this bill, to receive and disburse federal funds for such purposes, and to perform all services and acts as necessary for the receipt and disbursement of such federal funds.

This bill would require each resolution center funded pursuant to the bill to annually provide to the committee such data regarding its operation as the committee requires.

Thereafter, it would require the committee to report annually to the Governor and the Legislature regarding the operation and success of resolution centers funded pursuant to this bill, to evaluate and make recommendations in such report regarding the operation and success of each resolution center, and to evaluate and make recommendations in such report regarding such operation and success.

This bill would provide that its provisions shall cease to be operative and shall be repealed on January 1, 1983, unless a later enacted statute chaptered prior to such date deletes or extends such date.

This bill would appropriate \$1,500,000 to the Office of Criminal Justice Planning for expenditure for the purposes of this act.

Vote: $\frac{2}{3}$. Appropriation: yes. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Chapter 3.5 (commencing with Section
2 1143.10) is added to Title 3 of Part 3 of the Code of Civil
3 Procedure, to read:

4 CHAPTER 3.5. NEIGHBORHOOD RESOLUTION CENTERS

5 Article 1. Legislative Purpose

6
7
8 1143.10. The Legislature hereby finds and declares:

9 (a) The resolution of civil claims can be unnecessarily
10 costly, complex, and inadequate in a formal institutional
11 setting where the parties involved are in an adversary
12 posture, subject to formalized procedures with the
13 attendant constraints and restraints.

14 (b) The resolution of criminal matters can be costly
15 and complex and in many instances is inadequate in a
16 formal judicial proceeding where the procedures and the
17 attendant constraints and restraints are not equipped to
18 adequately examine the circumstances surrounding
19 criminal conduct to the end of protecting the interest of
20 the public and those persons directly involved against the
21 recurrence of such conduct except through the
22 confinement of the accused.

23 (c) To assist in the resolution of disputes in a complex
24 society composed of citizens of different ethnic, racial,
25 and socioeconomic characteristics, there is a compelling
26 need to explore informal methods of dispute resolution
27 forums as alternatives to such structured judicial settings.
28 Neighborhood resolution centers can meet the needs of
29 their neighborhoods by providing private forums in
30 which persons may voluntarily participate in the
31 resolution of both civil claims and criminal matters in an
32 informal, personal atmosphere without restraint or
33 intimidation.

34 (d) While there are several neighborhood centers
35 where dispute resolution is available for the resolution of
36 such claims and matters, the lack of financial resources
37 for existing centers limits their operation to the
38 detriment of the public.

39 (e) Neighborhood resolution centers can themselves,
40 and as guidelines to other dispute resolution centers,
41 subserve the interests of the citizenry and promote quick
42 and voluntary resolutions of civil claims and certain
43 criminal matters.

44 1143.11. (a) It is the intent of the Legislature that
45 programs funded pursuant to this chapter shall:

46 (1) Stimulate the establishment and use of
47 neighborhood resolution centers to address the unmet
48 need for alternatives to the courts for the resolution of
49 certain disputes.

50 (2) Encourage continuing community participation in
51 the development, administration and oversight of local
52 programs designed to facilitate the private and informal
53 resolution of disputes between and among members of
54 the community.

55 (3) Offer models for dispute resolution which may
56 serve as guidelines for resolution centers in other
57 communities.

58 (4) Provide an alternative to the present costly and
59 formalized criminal procedure system in certain criminal
60 matters.

1 (b) The Legislature further declares its intent to fund
2 neighborhood resolution centers in a variety of different
3 types of communities.

4 (c) The Legislature further declares its intent that
5 peace officers, prosecutors, and judges may refer certain
6 criminal matters, particularly those involving juveniles,
7 to such centers when:

8 (1) In their opinion, the underlying dispute can be
9 resolved to the best interests of the public and of the
10 persons directly involved without the necessity of court
11 proceedings; and

12 (2) No criminal prosecution has been initiated, or if a
13 prosecution has been initiated, it has been dismissed prior
14 to referring the matter to a center.

15 Such referrals may be made in conjunction with the
16 civil compromise provisions of Sections 1377 and 1378 of
17 the Penal Code or the provisions of Section 1383 of the
18 Penal Code authorizing a trial court to dismiss a criminal
19 matter in the interest of justice.

20 Article 2. Definitions

21 1143.12. As used in this chapter:

22 (a) "Office" means the Office of Criminal Justice
23 Planning.

24 (b) "Executive Director" means the Executive
25 Director of the Office of Criminal Justice Planning.

26 (c) "Center" means a neighborhood resolution center
27 which provides conciliation, compromise, facilitation,
28 mediation, arbitration, and other forms and techniques of
29 dispute resolution.

30 (d) "Mediator" means that person or persons who
31 facilitate the resolution of a dispute.

32 (e) "Committee" means the Neighborhood
33 Resolution Centers Committee.

34 Article 3. Neighborhood Resolution Centers 35 Committee

36 1143.13. (a) There is hereby established the
37 Neighborhood Resolution Centers Committee, which
38 shall consist of five members appointed by the Governor.

39 (b) The members of the committee shall serve for a
40 term equal in duration to the neighborhood resolution
41 center program established by this chapter.

42 (c) The members of the committee shall not receive
43 compensation for their services under this chapter, but
44 shall be reimbursed for their actual and necessary
45 expenses incurred in performance of their duties under
46 this chapter.

47 (d) The executive director shall serve as the executive
48 secretary of the committee.

49 (e) The Director of Consumer Affairs and the
50 Director of Housing and Community Development shall
51 be ex officio members of the committee.

52 (f) The committee's duties shall include each of the
53 following:

54 (1) Participation with the executive director in the
55 formulation of rules and regulations for the neighborhood
56 resolution centers program; and

57 (2) Such other powers and duties as are specified in
58 this chapter.

59 Article 4. Establishment and Administration of 60 Programs

61 1143.14. There is hereby established the
62 neighborhood resolution center program, to be
63 administered and supervised under the direction of the
64 office, to provide funds pursuant to this chapter for the
65 establishment and continuance of centers on the basis of
66 established or continued need in the neighborhoods.

67 1143.15. A center shall be operated by a corporation,
68 organized exclusively for the resolution of disputes,
69 religious, charitable, or educational purposes, not
70 organized for profit, and no part of the net earnings of
71 which inures to the benefit of any private shareholder or
72 individual. The majority of the directors of such a
73 corporation shall not consist of active or retired attorneys,
74 or active or retired judges or judicial officers, including

75 commissioners or referees.

76 1143.16. A center may be operated under an
77 organization structure, other than a corporate structure
78 under Section 1143.15, if the office determines that its
79 organizational structure is one that is consistent with the
80 purposes and intent of this chapter.

81 1143.17. All centers operated pursuant to this chapter
82 shall be operated pursuant to contract with the office and
83 shall adhere to all provisions of this chapter and to
84 applicable rules and regulations established by the
85 executive director and the committee pursuant to this
86 chapter. The executive director and the committee shall
87 promulgate rules and regulations to effectuate the
88 purposes of this chapter, including provisions for periodic
89 monitoring of the contract.

90 1143.18. A center shall not be eligible for funds under
91 this chapter unless it complies with all of the following:

92 (a) It provides or will provide dispute resolution in a
93 simple nonadversary format for a prompt resolution of
94 certain civil claims and criminal matters.

95 (b) It is or will be located in the neighborhood it serves
96 or will serve so as to be conveniently accessible to the
97 participants, and offers or will offer dispute resolution at
98 times convenient to the participants, including
99 weekends, afternoons and evenings.

100 (c) It is or will be responsive to the particular needs of
101 the participants, including, but not limited to, dispute
102 resolution in languages other than English.

103 (d) It provides or will provide dispute resolution
104 where the participants voluntarily agree to the dispute
105 resolution so that the participants are brought together in
106 a neutral and humane setting to define and articulate
107 their own resolution of such civil claims or criminal
108 matters.

109 (e) It provides or will provide neutral mediators who
110 during the dispute resolution process shall make no
111 decisions or determinations of the issues involved, but
112 who shall seek informally to facilitate negotiations by the
113 participants themselves to achieve a voluntary resolution
114 of the issues.

115 (f) It provides or will provide dispute resolution either
116 without cost to the participants or for a minor fee not
117 exceeding the filing fee established by law for small
118 claims court.

119 (g) It meets or will meet the other requirements of
120 this chapter and the rules and regulations of the
121 executive director and the committee.

122 1143.19. (a) As a condition for entering or
123 conducting the dispute resolution process, the centers
124 may, but are not mandated to, use any combination of the
125 following:

126 (1) Require the disputing parties to enter into a
127 binding written process agreement which expresses the
128 method by which they shall attempt to resolve the issues.

129 (2) Prior to entering the dispute resolution process,
130 permit the disputing parties to agree to enter into a
131 binding written process agreement which expresses the
132 method by which they will attempt to resolve the issues.

133 (3) After the dispute resolution process is underway or
134 has been concluded, the disputing parties may enter into
135 a written process agreement which expresses the method
136 by which they are resolving, have attempted to resolve,
137 or have resolved the issues.

138 (4) At any time, the center shall be empowered to
139 subject the disputing parties to arbitration in accordance
140 with Title 7 (commencing with Section 1280) of Part 3.

141 (b) During or after the dispute resolution process, the
142 parties may enter into a written resolution agreement
143 which sets forth the settlement of the issues and the
144 future responsibilities, if any, of each party.

145 (c) A written resolution agreement shall not be
146 enforceable in a court nor shall it be admissible as
147 evidence in any judicial or administrative proceeding
148 unless such agreement includes a provision which clearly
149 sets forth the intent of the parties that such agreement
150 shall be enforceable in a court or admissible as evidence.

151 1143.20. All memoranda, work notes or products, or
152 case files of a mediator are confidential and privileged
153 and are not subject to disclosure in any judicial or
154 administrative proceeding. Any communication relating

1 to the subject matter of the resolution made during the
2 resolution process by any participant, mediator, or any
3 other person present at the dispute resolution shall be a
4 privileged communication, and shall not be subject to
5 disclosure in any judicial or administrative proceeding.
6 Each center may maintain statistical records to be used
7 for evaluation.

8 1143.21. Nothing in this chapter shall be construed to
9 prohibit any person who voluntarily consents to dispute
10 resolution from revoking his consent, withdrawing from
11 dispute resolution, and seeking judicial redress prior to
12 reaching an agreement. No penalty, sanction, or restraint
13 shall be imposed upon such person.

14 Article 5. Application Procedures

15 1143.22. Funds appropriated or available for the
16 purposes of this chapter may be allocated for programs
17 proposed by eligible centers. Nothing in this chapter shall
18 preclude existing resolution centers from applying for
19 funds made available under this chapter; provided that
20 such resolution centers are otherwise eligible, and that
21 there are or will be unmet needs.

22 1143.23. Centers shall be selected by the committee
23 from applications submitted to it.

24 1143.24. The committee shall require that
25 applications submitted for funding include, but need not
26 be limited to, all of the following:

27 (a) A description of the proposed community area of
28 service and any other characteristics as determined by
29 the committee.

30 (b) A description of available dispute resolution
31 services and facilities within the defined geographical
32 area.

33 (c) A description of the applicant's proposed program,
34 by type and purpose, also including evidence of
35 community support factors, the present availability of
36 resources, and the applicant's administrative capability.

37 (d) Such additional information as is determined to be
38 needed by the committee.

39 1143.25. Upon receipt of applications by the
40 committee, the data supplied by each applicant shall be
used to assign relative funding priority, on the basis of
criteria developed by the committee. Such criteria may
include, but are not limited to, all of the following in
addition to the criteria set forth in Section 1143.18:

(a) Unit cost, according to the type and scope of the
proposed program.

(b) Quality and validity of the program.

(c) Number of participants who may be served.

(d) Administrative capability.

(e) Community support factors.

1143.26. Factors to be considered in funding shall be
the geographic area served by a center, the type of
program it operates or proposes to operate, and the
sponsoring group of the center.

17 Article 6. Payment Procedures

18 1143.27. Upon the approval of the committee, funds
19 appropriated or available for the purposes of this chapter
20 may be used for a center's payment arrangements to
21 allow for maximum utilization of the center. The design
22 of the center payment arrangement may be developed at
23 the local level and various methods of payment or
24 reimbursement for dispute resolution costs may be
25 employed. All such arrangements shall conform to the
26 eligibility criteria of this chapter and the rules and
27 regulations of the executive director and the committee.

28 1143.28. This chapter shall not be construed as
29 requiring one type of payment structure. Options for
30 payment processes include, but are not limited to, an
31 hourly rate reimbursement based on actual hours of
32 dispute resolution, unit reimbursement per participant,
33 or direct grants for yearly operation or any combination
34 thereof.

35 1143.29. The office may authorize a cash advance of
36 up to 10 percent of a center's estimated grant to provide
37 initial working capital.

38 1143.30. Notwithstanding any provision of this

1 chapter, no program funded pursuant to this chapter may
2 include religious worship or instruction, nor may any
3 funds be used for the general support of any private or
4 church-related school system.

5 Article 7. Funding

6 1143.31. The office may accept from any public or
7 private agency or person any money for purposes of this
8 chapter.

9 1143.32. (a) The office may also receive and disburse
10 federal funds for purposes of this chapter, and perform all
11 services and acts as may be necessary for the receipt and
12 disbursement of such federal funds, including any funds
13 available pursuant to the federal Comprehensive
14 Employment and Training Act of 1973 (29 U.S.C. Sec. 801,
15 et seq.).

16 (b) In the event federal funds are available under
17 Title 6 (commencing with Section 13800) of the Penal
18 Code for purposes of this chapter, the federal funds shall
19 be received and disbursed by the office pursuant to such
20 title for purposes of this chapter.

21 Article 8. Reports

22 1143.34. Each resolution center funded pursuant to
23 this chapter shall annually provide to the committee such
24 data regarding its operation as the committee requires.
25 The committee shall thereafter report annually to the
26 Governor and the Legislature regarding the operation
27 and success of centers funded pursuant to this chapter.
28 Such annual report shall also evaluate and make
29 recommendations regarding the operation and success of
30 such centers.

31 Article 9. Termination

32 1143.35. This chapter shall remain in effect only until
33 January 1, 1983, and as of such date is repealed, unless a
34 later enacted statute, which is chaptered before January
35 1, 1983, deletes or extends such date.

36 SEC. 2. There is hereby appropriated from the
37 General Fund to the Office of Criminal Justice Planning,
38 the sum of one million five hundred thousand dollars
39 (\$1,500,000) for expenditure for the purposes of this act,
40 provided that any expenditure for the costs of
administration shall not exceed one hundred twelve
thousand and five hundred dollars (\$112,500), except as
otherwise approved by the Department of Finance.

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