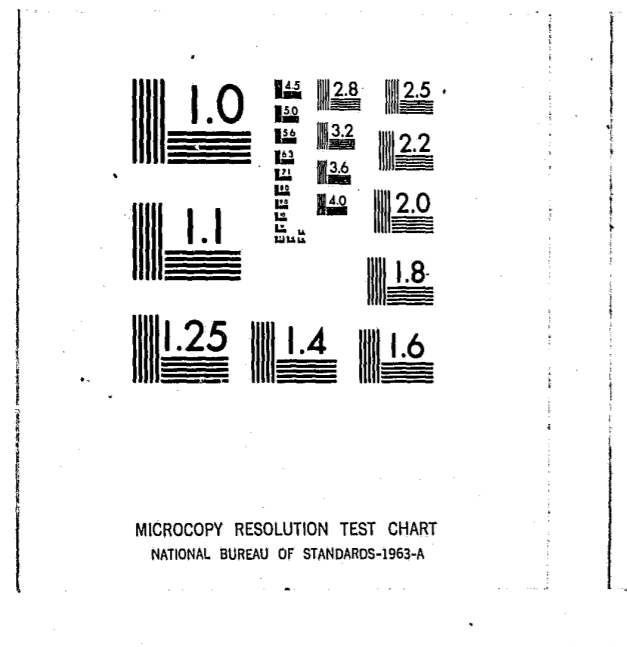


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JULY 1, 1981

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**RESOLUTION OF MINOR DISPUTES**

**JOINT HEARINGS**

BEFORE THE

**SUBCOMMITTEE ON COURTS, CIVIL LIBERTIES,  
AND THE ADMINISTRATION OF JUSTICE**

OF THE

**COMMITTEE ON THE JUDICIARY**

AND

**SUBCOMMITTEE ON CONSUMER PROTECTION  
AND FINANCE**

OF THE

**COMMITTEE ON  
INTERSTATE AND FOREIGN COMMERCE**

**HOUSE OF REPRESENTATIVES**

**NINETY-SIXTH CONGRESS**

**FIRST SESSION**

ON

**RESOLUTION OF MINOR DISPUTES**

**JUNE 6, 7, 14 AND 18, 1979**

**Serial No. 25**

(Committee on the Judiciary)

**Serial No. 96-78**

(Committee on Interstate and Foreign Commerce)



for the use of the Committee on the Judiciary and  
Committee on Interstate and Foreign Commerce

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Printed for the use of the Committee on the Judiciary and  
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AN EVALUATION OF THE AKRON 4-A PROJECT

(Roderick Smith/Terrence Smith, Summit County Criminal Justice Commission, June, 1977)

CHAPTER I

INTRODUCTION

The purpose of this research paper is to perform an evaluation of the Akron 4-A project (Arbitration As An Alternative to minor criminal complaints) to determine if the project is effectively and efficiently achieving its goals and objectives. This evaluation can be very useful to administrators in the criminal justice system who make funding decisions. Of equal importance, this evaluation should be a useful planning tool in guiding the project to more fully attain its goals and objectives.

This evaluation will be limited to the operation of the project in fiscal year 1976 (July 1, 1975 to June 30, 1976). Following this introduction, Chapter I will discuss the economic aspects of arbitration as a public good. Accountability for public programs will be introduced and followed by a section on the essentials of evaluation research in the public sector.

Chapter two introduces the project's background, history, and operations. Chapter three is an evaluation of the project from a "process" evaluative approach.

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Chapter four is an evaluation of the project from an "impact" evaluative approach.

Chapter five lists the conclusions and recommendations of this study.

A. Arbitration as a public good

A substantial amount of literature has been written about the concepts of public goods, externalities, and collective action (Musgrave, 1939; Dahl, 1953; Samuelson, 1964; Downs, 1957; Buchanan, 1962; Tullock, 1965).<sup>1</sup>

The basic theory surrounding the concepts of public goods and services is that they are provided because of certain characteristics: joint consumption and non-exclusion. Joint consumption of public goods is possible because the consumption by any one individual in no way diminishes the amount of public goods that can be consumed by other individuals. The costs of excluding any one individual from enjoying a "pure" public good without excluding all other individuals are infinite.

However, there are only a few exceptional goods that can be categorized as "pure" public goods. Most goods and services that are provided by a government and other organizations have public characteristics. Some examples of these "quasipublic" goods include mosquito abatement, air and water depollution, fire and police protection, and law enforcement.

Another reason why goods and services are provided by governments and other organizations is because of the "merit principle". Some goods are considered merit goods and are not priced according to the workings of the market system. "Merit goods involve interdependence in utility functions such that citizens receive pleasure or other benefits from knowing that some of their fellows are able to consume more of certain services that they would not be able to consume if the market place alone determined their distribution."<sup>2</sup>

External effects also result from the production of public goods because costs and benefits occur to persons not accounted for in the transactions.

Increasingly, governments have produced quasi-public goods and services and have financed its production through taxation of its clientele. Federal dollars have been allocated to many public programs like education, housing, transportation, and law enforcement. These programs are established to accomplish a prescribed set of objectives through the conduct of specified activities. Programs may include specific projects at the implementation level. This is, the level where resources are used to produce and end product that directly contributes to the objective of the program.

The Court Arbitration project in Akron can be viewed in the broad context as a quasi-public good that is provided through the law enforcement program.

B. Accountability for public programs

The 4-A project in Akron is funded by the Summit County Criminal Justice Commission (SCCJC) through the Law Enforcement Assistance Administration (LEAA), U.S. Department of Justice. Like other projects which utilize public funds, the 4-A project has to have some accountability to the public.

"Accountability comprises a series of elements ranging from problem identification to goal formulation, and it raises the central questions of efficiency and effectiveness in reducing social problems. To be accountable means addressing a real problem that can be remedied. It means that professional work can be provided if society makes the resources available. That this work will be provided in the manner promised, and that the problem may be effectively minimized at the least possible cost."<sup>3</sup>

Accountability, at minimum, is utilized to assure the criterion of honesty. However, honesty is necessary but insufficient for a fully accountable system. A sound system of accountability goes beyond honesty and is based on results.

The input, output, and outcome of the arbitration project has to be measured to assess whether the project is achieving its goals and objectives (effectiveness) and economically utilizing its resources (efficiency).

<sup>1</sup> Richard A. Musgrave, "The Voluntary Exchange Theory of Public Economy", Quarterly Journal of Economics, LIII (February, 1939); Robert A. Dahl and Charles E. Lindblom, Politics, Economics and Welfare (New York: Harper and Row, 1953); Paul A. Samuelson, "The Pure Theory of Public Expenditure", Review of Economics and Statistics, XXXVI (November, 1955); Anthony Downs, An Economic Theory of Democracy (New York: Harper and Row, 1957); James M. Buchanan and Gordon Tullock, The Calculus of Consent (Ann Arbor: University of Michigan Press, 1962); Gordon Tullock, The Politics of Bureaucracy (Washington, D.C.: Public Affairs Press, 1965).

<sup>2</sup> Werner Hirsch, "Economics of State and Local Government" (New York: McGraw Hill, 1970), p. 12.

<sup>3</sup> Edward Newman and Jerry Turem, "The Crises of Accountability", Social Work, January 1974, pp. 5-16.

### C. Why Evaluation Research is Necessary

Evaluation is a necessary foundation for effective implementation and judicious modification of existing programs. Evaluation can provide the information required to strengthen weak programs, fully support effective programs, and drop those which simply are not fulfilling the intended goals and objectives.

The importance of evaluation of law enforcement programs was reflected in the 1977 budget of the United States. As stated by the budget document, "law enforcement assistance grants will decline by 8 percent in 1977, reflecting a more cautious and selective approach in this area. Emphasis will be placed on evaluation to determine the impact of these grant programs on the level of crime in the United States."<sup>4</sup>

Evaluation research will measure the effects of 4-A against the goals and objectives it sets out to accomplish as a means of contributing to subsequent decision making and improving future programming.

The methods employed in evaluating 4-A are process and impact measures.

"Process" evaluation will answer the question of how well is the project operating. "Impact" evaluation will assess the overall effectiveness of the project in meeting its goals and objectives. Cost analysis will be included in the impact evaluation to provide information on the cost efficiency of providing services through the project as compared to other projects.

## CHAPTER II

### THE AKRON 4-A PROJECT

#### A. Project background

In Akron, as in virtually every urban center in the United States, the stresses of the urban environment lead to a large number of conflicts between residents. A significant number of conflicts rise to levels of activity prescribed by the language of penal laws.

One of the aggrieved resident's recourse is to begin criminal prosecution by means of a private criminal complaint in the prosecutor's office of the Akron Municipal Court. Many of these complaints are for minor criminal offenses such as harassment, simple assault, threatening, domestic quarrels, and the like. These offenses usually occur between relatives, friends, or neighbors.

The Community Dispute Service (CDS)<sup>5</sup> of the American Arbitration Association (AAA) felt that the traditional court process was not the proper forum for settlement of these common urban living disputes, albeit, technically criminal in nature.

In the words of the CDS, 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; 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 as now. Even if the courts could process all such cases, they could not resolve the real problem, 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.

So what has been done? First, it was felt by the CDS that the criminal process was not the proper forum for the settlement of these common urban living disputes. This is because the warrant and ensuing criminal prosecution may be used by one of the parties as another weapon in the underlying dispute rather than as

<sup>4</sup> U.S. Budget in Brief, 1975.

<sup>5</sup> CDS was formerly known as the National Center for Dispute Settlement.

a means of resolving the dispute. Nor was it felt that the dispute would be any better resolved by seeking a resolution by way of the civil courts. What was needed was a procedure independent of the court which would be, quite simply, fast, cheap, and easy. The 4-A project does this with the added benefits of greatly reducing the underlying cause of the criminal conduct and avoiding criminal conviction and arrest records.<sup>6</sup>

#### B. Project history

The Community Dispute Services of the American Arbitration Association established the West Philadelphia Center for Community Disputes in early 1969 as an experiment in application of labor-management techniques to community disputes. Later that year, the CDS and 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. Due to the success of 4-A in Philadelphia, arbitration projects have been established in approximately twenty-five other U.S. cities including Akron.

The Akron 4-A Project began operating in 1973. In the first year of operation, the project worked out of available space in the Akron prosecutor's office. In 1974, the project moved to a new location in the John D. Morley Health Center.

Presently, the project is staffed with a director, tribunal clerk, referral clerk, and a professional arbitrator. The project also utilizes about twenty-five community volunteers who serve as trained arbitrators and community workers.

The budget of 4-A in fiscal year 1976 was \$29,222.00. This fund was provided as follows:

AAJ .....	\$20,000
State buy-in .....	1,111
Local cash .....	1,111
Additional local cash .....	7,000
<b>Total budget .....</b>	<b>29,222</b>

The budget was broken down into the following category:

<b>Budget category .....</b>	<b>\$29,222</b>
Personnel	
Consultants	
Travel	
Equipment	
Supplies	
Other services	
Construction	
Indirect costs	
<b>Total project cost .....</b>	<b>29,222</b>

Additional costs to the project are fixed in that they are borne by the American Arbitration Association.

#### C. The project

The 4-A project in Akron operates under the principle that the dispute will voluntarily be submitted to final and binding arbitration by both parties.

The project begins to function when a person in the community feels wronged by another person's acts. The wronged party (complainant) seeks criminal prosecution against the other party (respondent) by choosing to file a complaint at the office of the city prosecutor.

The complainant meets with an assistant prosecutor who screens the case and decides if the case should be sent to 4-A, prosecutor's hearing, juvenile court, or elsewhere.

Cases are only initially referred to 4-A with the consent of the complainant. The respondent is immediately notified and has to consent to arbitration. The parties are advised that while it is not necessary for them to contract the services of an attorney for the hearing, they are entitled to be represented by counsel if they desire.

The "Submission to Arbitration" form is forwarded by the prosecutor's office to the 4-A project which then schedules the hearing. A "Notice of Hearing" is

<sup>6</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., MCDS (unpublished, revised December, 1972).

sent to the parties advising them of the hearing date and procedures to follow if they desire to use attorneys or witnesses. The Arbitrator is appointed to the case by a "Notice of Appointment". Arbitrators are selected from the Arbitrator Panel consisting of citizens from the Akron Community and CDS staff. At the hearing, the arbitrator hears the facts of the dispute from each of the parties allowing each side to tell his story and ask questions of the other party. The arbitrator may also ask questions to clarify facts and issues. After each side has had a full opportunity to relate his story, the arbitrator uses his mediation skills seeking to find a basis for the parties to reach a voluntary agreement as to the resolution of their problem. If these mediation efforts fail, then the arbitrator exercises his authority to render an award in the case as to a remedy which is final and binding on the parties.

In the event either or both parties are represented by legal counsel, the correspondence is sent directly to the attorneys, who in turn are responsible for notifying their clients. On the day of the hearing, a clerk from the ODS staff administers an oath of office to the arbitrator and swears in the parties and any witness they elect to call. The hearings are held in accord with the CDS rules and the laws of the State of Ohio.

Following the hearing, the arbitrator forwards his award to the CDS office for transmittal to the parties and the prosecutor's office, thereby closing out the case. In the event charges are withdrawn during the course of the administrative proceedings, the prosecutor's office is likewise notified. Should either party fail to appear for the hearing, an effort to reschedule the hearing is made at the discretion of the CDS.

A summary of the problem 4-A is addressing is that the traditional court process is not the best forum for resolution of minor conflicts resulting from human interaction in the urban environment. Arbitration is a viable alternative to the criminal court for resolution of these minor criminal complaints.

The goals of the project are to:

1. Provide system support activities geared to improve the ability of criminal justice and related agencies to deliver services;
2. Provide a meaningful alternative to prosecution of minor criminal complaints, independent of the Akron Municipal Court;
3. Streamline the workload with direct impact upon the municipal prosecutor's time and having indirect impact upon the court's time and manpower requirements of the police department.

The objectives of the project are:

1. Diversion of minor criminal complaints to reduce the case load of the criminal justice system by diverting 33.33 percent of the complaints filed through the prosecutor's office;
2. 90 percent of the cases referred to 4-A will have a private hearing scheduled within seven (7) days aiding in the speedy resolution of problems;
3. Provide a more lasting resolution of private criminal complaints through a means which are less costly and more swift than traditional court processing;
4. Increase the probability of resolving problems by removal of rules of evidence applicable in the court room.

### CHAPTER III

#### PROJECT "PROCESS" EVALUATION

"Process" evaluation answers the question of how well is the Project operating. Information for the "process" evaluation was gleaned through observations of the Project in operation and interviews with the Project's staff and municipal court personnel. In addition, an examination of the Project's office procedures, record system, and management information system was made.

Observations were made at the prosecutor's office when private complaints were launched. The evaluator followed some complaints to the final disposition by sitting in on arbitration hearings. The city prosecutor and clerk of court were interviewed. The evaluator also interviewed the Project's director, a professional arbitrator, community volunteer, tribunal clerk, and referral clerk.

The case volume figures given are from the Project's records. Since the record keeping system includes periodic monitoring, these figures are believed accurate.

#### A. Diversion

This project can best be put in perspective by first presenting the private criminal complaint process. A person seeking to begin criminal proceeding must file a complaint at the prosecutor's office of the Akron Municipal Court.

In fiscal year 1976, 4,223 private criminal complaints were filed in the prosecutor's office. After interviewing the complainants, the prosecutor scheduled 1,075 cases (25 percent) for prosecutor's hearings; 1,219 cases (29 percent) were referred to 4-A; 1,929 (46 percent) were dropped by the prosecutor's interview, or referred elsewhere. (See table 1-A).

One of the objectives of 4-A is to divert minor criminal complaints to reduce the caseload of the criminal justice system diverting 33.33 percent of the complaints filed through the prosecutor's office.

As gathered from the 4-A quarterly reports, the project diverted 29 percent of all complaints filed in the prosecutor's office. Although, this is below the stated 33.33 percent diversion level, this is very significant in that the prosecutor's office handled less cases than 4-A (25 percent). Many of the cases (46 percent) were initially dropped by the prosecutor in the first interview, or referred elsewhere (legal aid, small claims court, etc.).

However, this 46 percent is beyond the control of the project in that these cases are not within the realms of criminal complaints that could have been referred to 4-A. They mainly consisted of civil matters and the like which are outside the specialization of 4-A.

In actuality, the city prosecutor would have handled 2,294 complaints had 4-A not existed. The project had a direct impact upon the workload of the municipal prosecutor's time by reducing the caseload through diverting 1,219 (53 percent) of these 2,294 complaints.

According to Mr. Peter Oldham, Chief Prosecutor for the City of Akron, "The 4-A project bypasses criminal proceedings. It does lighten caseload considerably and helps iron out the situations."<sup>7</sup>

It can be concluded that *je jure*, 4-A has not reached the 33 1/3 percent diversion level. De facto, 4-A surpassed the diversion level by diverting 53 percent of private criminal complaints that would have to be processed through the Akron Municipal Court Prosecutor's office.

TABLE 1-A.—CASE REFERRAL

Case referral	July to September 1975	October to December 1975	January to March 1976	April to June 1976	Total	Percent
Total complaints filed with the prosecutor <sup>1</sup>	1,250	985	917	1,071	4,223	100
Prosecutor's notice sent for prosecutor's hearings	315	243	239	278	1,075	25
Total cases referred to 4-A by prosecutor	453	243	218	305	1,219	29

<sup>1</sup> Actual complaints taken in prosecutor's office. Includes (1) cases upon which affidavits were issued, (2) cases that were disposed of at the time the complaint was made, (3) cases which were referred elsewhere (Legal Aid, Small Claims Court, etc.), (4) cases which were referred to 4-A, (5) cases which were referred to prosecutor's hearings.

Note: Compiled data is for fiscal year 1976 (July 1, 1975 to June 30, 1976)

Source: Court arbitration quarterly report.

#### B. Problem resolution

The project has another objective of increasing the probability of resolving problems by removal of rules of evidence applicable in the court room.

The cases arbitrated are of "petty" variety. Out of 1,219 cases referred to 4-A, the criminal charge was simple assault (22 percent), fraud/larceny (6 percent), trespassing (3 percent), conversion (5 percent), threats (12 percent), malicious destruction (8 percent), harassment (14 percent), domestic/neighborhood (19 percent), and miscellaneous (11 percent.) (See Table 1-B.)

<sup>7</sup> Interview with Oldham, March 1977.



It is the experience of the arbitrators that these criminal charges are infrequently the result of isolated incidents. Rather, the incidents are symptoms of long smouldering disputes. The case type data presented in Table 1-B appear to support this evaluator's observations and the arbitrator's opinions on this point. The acts alleged could well be viewed as the type of action one might take in expressing anger or hostility or exacting revenge.

During the arbitration hearing, an attempt is made to penetrate the incident and probe the underlying problem. The issue in a criminal trial, on the other hand, is whether or not one of the parties is guilty of violating a specific criminal statute.

The informality of the arbitration hearing proceeding is a key element to the arbitration project. The arbitrator introduces himself to the parties in the reception area, escorts them to the room and urges them to make themselves comfortable. He explains that he has the powers of a judge, and that if the parties fail to reach an agreement, his arbitration order is final and enforceable in court. After noting that strict rules of evidence do not apply, he permits each side to tell his story in turn, without interruption. The arbitrator asks questions at the end of each story to firm up details and ambiguities.

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. The parties are asked 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 his side of the story encourages the participants to give vent to their feelings. An arbitrator may vary in the amount of heated discussion they will permit, but usually interruptions or insulting comments are not allowed.

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. The other party is usually too willing to do this, provided that he doesn't have to admit that he had been harassing his neighbor. Nobody is found to be "guilty" or "innocent" of a crime.

Arbitration 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. The ability of the arbitrators to fashion unique remedies enhances their ability to resolve long-standing disputes.

It can be concluded that the nature of the problems have enhanced the ability of the Project to increasingly resolve disputes with the absence of rules of evidence used in the court process.

The arbitrator and consent award generally state that if either party violates, the conditions of 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. Complaining parties generally phone the project and discuss the problem. The staff then phones the violating party to inform him that if he persists the case would go back to court. Frequently, this is sufficient to dissuade him from further non-compliance. If more appears needed, the arbitrator discusses the matter with the violator. If this is unsuccessful, a second arbitration hearing is sometimes advisable.

In fiscal 1976, the Project settled 82 percent of all cases referred by the prosecutor's office. Ten percent of the cases were referred back to the prosecutor and 8 percent were cancelled by the complainant after an arbitration hearing was scheduled.

This evaluator further concludes that 4-A has been successful in settling a significant percentage of cases referred to the project. In some instances, cases included in the 10 percent referred back to the prosecutor should not have been initially referred to 4-A. Although they fall in the general category of minor complaints, the underlying problem is extremely intense and beyond the reach of 4-A for a suitable resolution.

TABLE 1-B.—CASES REFERRED TO 4-A

	July to September 1975	October to December 1975	January to March 1976	April to June 1976	Total	Percent
<b>Case disposition:</b>						
Cases settled.....	364	191	179	261	995	82
Cases pending.....	0	0	0	0	0	0
Cases referred back to prosecutor.....	43	35	21	21	120	10
Cancellations.....	46	17	18	23	104	8
<b>Total.....</b>	<b>453</b>	<b>243</b>	<b>218</b>	<b>305</b>	<b>1,219</b>	<b>100</b>
<b>Case breakdown:</b>						
Assault.....	105	49	49	60	263	22
Fraud/larceny.....	20	16	17	21	74	6
Trespassing.....	23	9	4	6	42	3
Conversion.....	7	15	9	23	54	5
Threats.....	49	38	25	36	148	12
Malicious destruction.....	23	17	31	26	97	8
Harassment.....	57	49	28	59	173	14
Domestic/neighborhood.....	100	43	39	54	236	19
Miscellaneous.....	69	27	16	20	132	11
<b>Total.....</b>	<b>453</b>	<b>243</b>	<b>218</b>	<b>305</b>	<b>1,219</b>	<b>100</b>

Note: Compiled data is for fiscal year 1976 (June 30, 1975 to July 1, 1976).

Source: Court arbitration quarterly report.

#### C. Speedy Resolution

A third objective of 4-A is that 90 percent of the cases referred to the project will have a private hearing scheduled within seven days aiding to the speedy resolution of problems.

The evaluator took a random sample of 50 cases within the evaluation period and discovered that 99 percent of the cases were scheduled within seven days.

Although this sample is relatively small to be statistically accurate, it does indicate a trend to conclude that 4-A is successfully fulfilling this objective.

#### D. Management System

##### Supervision

The project is well supervised by a director, tribunal clerk, referral clerk, and a professional arbitrator. All appear to be working at or near capacity.

The involvement of trained volunteers has proven to be successful and has allowed 4-A to expand its services to the community. The volunteers serve as arbitrators and community workers. Community workers go into the neighborhood for subsequent follow-up that is needed for some cases. As more individuals are becoming involved in this program office space has become a problem. However, the success with community volunteers is a plus in favor of the project. This has also expanded the operations of the project in order to achieve its goals and objectives.

##### Records

Since inception this project has maintained excellent records. There is a quarterly monitoring and daily logs. It should be pointed out that this experience is not necessarily typical of "small" projects with very few full-time staff.

This project's record system has grown with the caseload and serves as a quite adequate management information system. All cases are entered in a log as soon as received. From this log, a staff prepares a quarterly summary indicating the number of cases received, remanded, withdrawn, and arbitrated.

The high quality of supervision and accurate record system indicate that the project is well managed. The project staff is very responsive to problems and dynamic to incorporating new ideas for the betterment of the project.

## CHAPTER IV

### PROJECT IMPACT EVALUATION

Impact evaluation will answer the question of whether the project offers a viable alternative to criminal justice processing of minor criminal complaints.

The project's effectiveness and efficiency in meeting its goals and objectives will be assessed. Information for impact evaluation was obtained through:

(1) collecting a random sample of fifty minor criminal cases that were resolved by the city prosecutor's hearing and arbitration hearing during the same time period (August, 1976) to determine if any cases re-entered the criminal justice system by March 30, 1977. This recidivism measurement will also determine if the project achieved its goals of having an impact on the prosecutor's time, court load, and police manpower requirements,

(2) presenting the results of an interview of twenty-nine persons that had cases arbitrated during fiscal 1976. This outcome measurement will determine if the project met its objective of providing a more lasting resolution to their disputes as opposed to the court process, and

(3) determining the cost per case to process 4-A cases as compared to other alternatives. This cost measurement will determine if the project is cost efficient.

**A. Recidivism**

Recidivism as defined in this study is a tendency of repeated relapse into criminal or delinquent habits by the same parties over the same problems.

A distinction should be made between recidivism and cases remanded. Remanded cases are those which the arbitrator sends back to the prosecutor for many reasons. The reasons could include: the parties did not abide by the arbitrator's award; the arbitrator did not reach a resolution satisfying to both parties; the parties prefer to prosecute after being referred to 4-A, among many. Recidivism, on the other hand, only measures the rate of repeaters after cases have been arbitrated or heard by the prosecutor and determined closed.

The results of a random sample of fifty "minor" cases arbitrated vis-a-vis those that went to prosecutor's hearing shows the following: the recidivism rate of 4-A cases was 2 percent in fiscal 1976 as compared to 12 percent for cases heard by the prosecutor. This means that the prosecutor had a higher percentage of repeaters after they had closed a case as compared to 4-A. (See Table 2.)

Although the type of cases in this sample are unevenly distributed, it should be mentioned that the only recidivist case for 4-A fell within the category of malicious destruction. This evaluator followed the case to its final disposition and found that the case never passed the pre-trial stage. The complainant, who was the husband of the respondent, did not show up for the hearing and the case was dropped.

The evaluator realizes the limitations of such a sample. However, the results do indicate that the project has been successful in keeping cases out of court and reducing the time that municipal prosecutors and police officers have to spend on these cases as they re-entered the criminal justice system.

TABLE 2

	Number cases	Recidivism	(Percent)
Cases arbitrated.....	50	1	2
Prosecutor's hearing.....	50	6	12

Type of Cases:	4-A (percent)	Prosecutor's hearing (percent)
Assault.....	20	38
Trespassing.....	4	6
Conversion.....	10	8
Threats.....	10	16
Malicious destruction.....	10	10
Harrasment.....	32	16
Domestic/neighborhood.....	14	6
Total.....	100	100

**B. More lasting resolution**

A total of twenty-nine arbitrated cases were randomly selected in fiscal 1976 to determine the effectiveness of the services provided by the Akron 4-A project.<sup>8</sup>

<sup>8</sup> This survey was conducted by the College of Business Administration, University of Akron, August, 1975.

The conclusion from this survey is presented in Table 3.

The highlights of this survey is that: 65 percent of the respondents felt that 4-A resolved their problem; 10 percent felt that their conflict could best be solved in court; 79 percent favored the continuation of arbitration service; and 0 percent ended up in court in spite of the 4-A hearing.

There is good reason to believe that the arbitration process is very effective in solving minor criminal complaints vis-a-vis the traditional court process. This 4-A objective has been achieved to a very acceptable level by the project's clientele.

TABLE 3.—COMPOSITE SAMPLING; AKRON COMMUNITY DISPUTE SERVICES

Question	Number of responses	Percent		
		Yes	No	No response
1. My problem was resolved.....	29	65.5	17.25	17.25
2. My problem was not solved.....	29	10.3	27.5	62.2
3. My problem was partly solved.....	29	27.5	20.7	51.8
4. My conflict could best be solved in court.....	29	10.3	31.0	58.7
5. No court could have solved my problem.....	29	24.1	20.7	55.2
6. The arbitration service should continue.....	29	79.3	3.4	17.25
7. I was given a fair complete hearing before the arbitrator.....	29	82.7	3.4	13.9
8. I was the complainant.....	29	44.8	20.7	34.5
9. I ended up in court in spite of the arbitration conference.....	29	0	51.8	48.2

Note: This evaluation was conducted by the University of Akron, College of Business Administration.

**C. 4-A cost**

1. Compared with other "hearing projects".—In fiscal 1976, the 4-A project had an annual budget of \$29,222.00 in public funds (other costs borne by the project are fixed costs and do not vary considerably if the project did not exist). Thus, the cost per case is \$23.97 since the project met a projected caseload of 1,219 cases in fiscal 1976.

Estimates of the cost per case for some "hearing projects" in other cities are:

Philadelphia 4-A project.....	\$126
Columbus night prosecutor.....	20
Civilian complaint center (D.C.).....	13

These cost estimates must be viewed with a great deal of caution. A direct comparison would simply be inaccurate and misleading. One problem is that the projects vary greatly in the amount of services offered. Some only offer the briefest of hearings and attempt at mediation, while others issue final and binding awards in addition to referring clients for service. Further, the cost of providing basic public services varies from locale to locale depending on many factors including salaries and size of the community.

Also, cost varies because of the relationship of a project to the criminal justice system. Projects may be "in-house" projects, run as part of a prosecutor's office or "outside" projects which are independent of the traditional court process.

Thus, the Akron 4-A is far less expensive than the Philadelphia 4-A Project. But it is more expensive than the Columbus Night Prosecutor Project and the Civilian Complaint Center, D.C., which are "in-house" projects.

2. Compared with the Akron prosecutor's office.—In order to compare the project cost with how much it would cost the prosecutor's office had 4-A not existed, cost for case processing would be limited to salaries<sup>10</sup> for personnel handling these minor criminal complaints.

The clerk in the prosecutor's office took approximately five minutes to make a record of each of the 4,223 complaints filed with the prosecutor's office in fiscal 1976. At \$4.28 per hour, it cost \$1,478.00 to make a record of all complaints.

The prosecutor took approximately fifteen minutes to screen and refer these complaints for proper disposition. At \$10.16 per hour, it cost \$10,726.00.

Out of the 4,223 complaints filed in fiscal 1976, the prosecutor drafted 2,294 cases to be referred to 4-A or prosecutor's hearings.

<sup>9</sup> See Interim Evaluation Report, Philadelphia 4-A Project, Blackstone Associates, 1975.  
<sup>10</sup> Salaries for Municipal Court Personnel was obtained by the Summit County Criminal Justice Commission from the Akron Municipal Court Executive Officer.

It would take another ten minutes for the clerk to schedule and send out notices for each prosecutor's hearing. Had the clerk sent notices for 2,294 cases, it would cost \$2,956.00.

The prosecutor takes approximately thirty minutes during each hearing. It would cost \$21,452.00 for hearing 2,294 cases.

The total cost in salaries for the prosecutor's office to handle all complaints had 4-A not existed is \$36,612.00 (\$1,478 + \$10,726 + \$2,956 + \$21,452).

This does not include other fixed costs (equipment, furniture, record-keeping system) of the prosecutor's office.

The evaluator does not attempt to state that 4-A saves the prosecutor's office x number of dollars since the prosecutor's office would have to spend \$36,612 only in salaries had 4-A not existed (considering the entire 4-A project cost the public \$29,222.00). No accurate cost comparison is possible because no data is available to assure that cases processed by each method are in relevant respects comparable.

However, it is the conclusion of the evaluator that the public benefits from such a project in that it is cost efficient and cost to the public has been minimized

## CHAPTER 5

### CONCLUSIONS AND RECOMMENDATIONS

#### 1. Conclusion

It is the conclusion of the evaluator that the Akron 4-A project successfully achieved its goals and objectives in fiscal 1976.

The project is well-run, effective, efficient, and has benefited the public in providing system support services to the criminal justice system in the delivery of services.

However, arbitration is better viewed as a forum of diversion from the criminal justice system rather than an alternative criminal forum. The legality and propriety of 4-A referral is the same as that of other diversion projects; apparently, well within the discretion of the court and prosecutor. However, the Akron 4-A project has demonstrated the viability of a process diverting a large number of cases at a relatively low cost.

#### 2. Recommendation

The evaluator offers the following recommendations:

(1) The project should consistently document their goals and objectives not limiting them to the concept of what they strive to achieve but to the actual wordings of those concepts.

(2) The Municipal Prosecutor should establish a more clear cut criteria for referral of cases to 4-A to eliminate the probability of the remanded and recidivism cases stemming from the fact that they can't be solved through 4-A conflict resolution process. Also, descriptive brochures of the project should be issued in the prosecutor's office instead of only on verbal explanation of the project.

(3) Consideration should be given to expanding the scope of this project to include non-compulsory referrals to social service agencies as part of the arbitration process.

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**END**