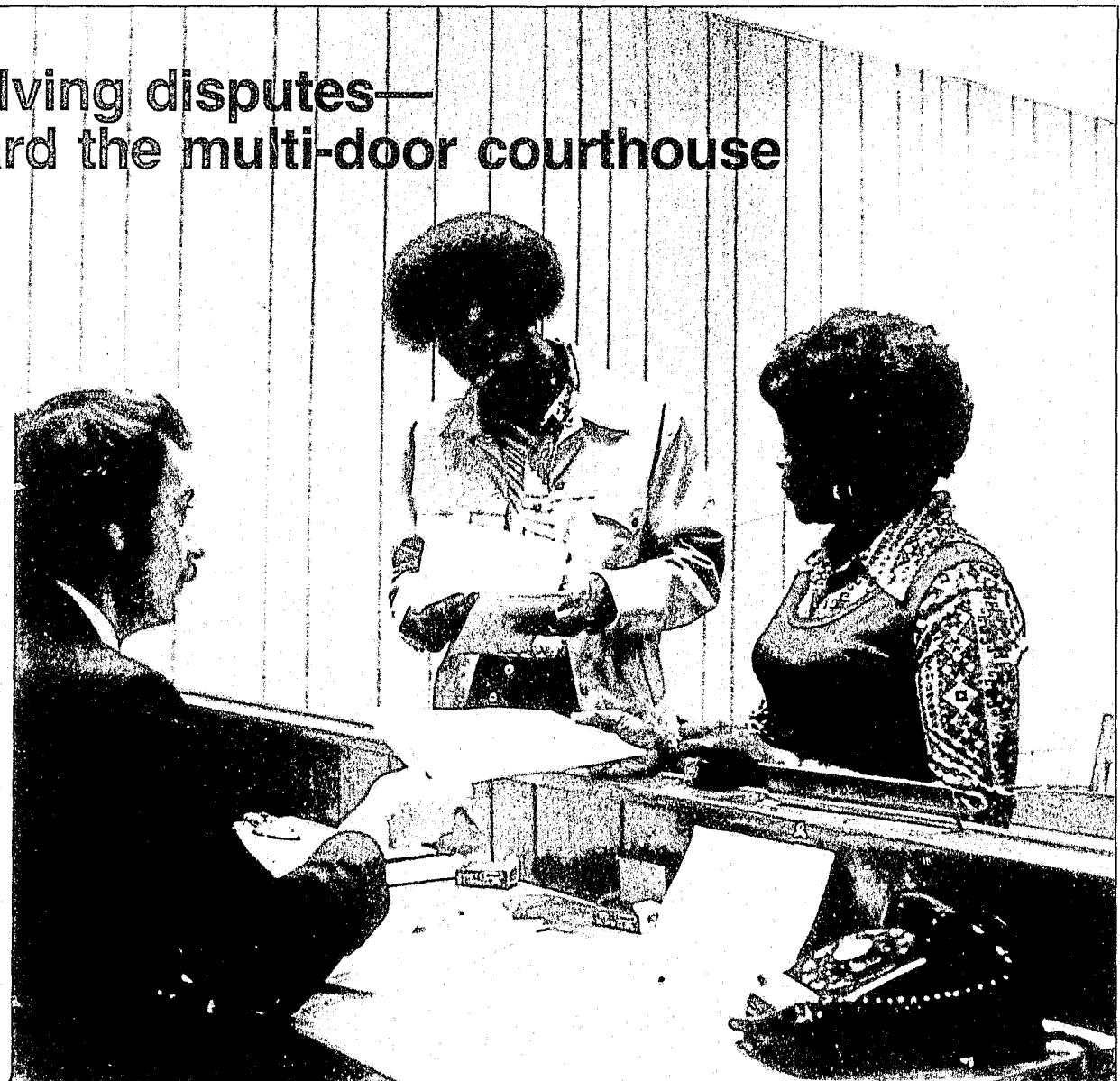


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Resolving disputes— Toward the multi-door courthouse



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PP 8-7

Contents

This month's Research in Action reports on dispute resolution programs in three cities where intake specialists guide disputants to the most appropriate means of resolution. The programs form part of the American Bar Association's Multi-Door Courthouse Centers Project.

Director's notes ii

Research in action 2

Toward the multi-door courthouse—Dispute resolution intake and referral

Office of Juvenile Justice and Delinquency Prevention 8

School safety programs

Dispute Resolution Information Center 12

Peacemaking panels apply traditional ways to modern problems

Selective notification of information 13

Courts 13

Free press v. fair trial—Television and other media in the courtroom

Guideline-based justice—The implications for racial minorities

Crime prevention/deterrence 14

Prevent burglary—An aggressive approach to total home security

Criminology 14

Confronting crime

Economics of prostitution

The great American crime myth

Mass murder—America's growing menace

Organized crime

Women in the criminal justice system

Dispute resolution 15

Alternatives to criminal courts—The potential for non-judicial dispute settlement
Negotiation

Facility design 15

Color and its effect on behavior modification in correctional/detention facilities

Institutional corrections (adult) 16

American corrections
Managing long-term inmates—A guide for the correctional administrator
Prisoners and the law

Law enforcement 16

Coping with police stress
The tactical edge—Surviving high-risk patrol

Reference and statistics 17

Crime and justice facts, 1985
Prosecution of felony arrests, 1981
Sourcebook of criminal justice statistics, 1985

Technology/systems 17

Direct connect police annunciator panels
Evaluation of the differential police response field test—Research report
Evaluation of the differential police response field test—Executive summary

Victim services 18

The crime victim's book
Victimization in schools

Criminal justice calendar of events 19

Announcing . . . 22

The National Institute of Justice/NCJRS—the National Criminal Justice Reference Service—is the centralized national clearinghouse serving the criminal justice community since 1972. NCJRS also operates the Juvenile Justice Clearinghouse for the National Institute for Juvenile Justice and Delinquency Prevention, the Dispute Resolution Information Center for the Federal Justice Research Program, and the Justice Statistics Clearinghouse for the Bureau of Justice Statistics.

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Research in action

Toward the multi-door courthouse— Dispute resolution intake and referral

Courts, the most visible dispute settlers in our society, are increasingly being supplemented in many American cities by a variety of alternative forums for resolving disputes: consumer dispute mediation and arbitration programs, ombudspersons, prosecutors' programs for criminal complaints, community agencies, and neighborhood dispute centers handling domestic conflicts, landlord-tenant problems, and other controversies.

In fact, since 1970, more than 300 dispute resolution programs have originated across the country as alternatives to litigation. One-third of such programs are sponsored by prosecutors' offices and another third by the courts themselves.

Such programs have sprung up as remedies not only for court problems such as delay and high costs but also for citizen dissatisfaction with ineffective processes for dealing with particular kinds of disputes. As Associate Supreme Court Justice Sandra Day O'Connor has pointed out:

The courts of this country should not be the places where the resolution of disputes begins. They should be the places where the disputes end—after alternative methods of resolving disputes have been considered and tried.

Assessment of intake and referral experiments for the Multi-Door Courthouse Centers Project was supported by grant number 83-JJ-0039, awarded by the National Institute of Justice to the Special Committee on Dispute Resolution, American Bar Association (ABA). To assess the experiment, the ABA chose the Institute for Social Analysis, whose Janice Roehl drafted the assessment summary. Larry Ray, staff director of the ABA Special Committee, wrote a condensed account of the project and the assessment.

This article is based on Ms. Roehl's and Mr. Ray's reports. Opinions or points of view expressed do not necessarily represent the official position or policies of the U.S. Department of Justice.

The origins of many dispute settlement mechanisms can be traced to the 1976 Conference on the Causes of Popular Dissatisfaction with the Administration of Justice. At the Pound conference, as it was referred to, Professor Frank Sander of Harvard encouraged the use of alternatives but highlighted the need to develop systematic methods for effective diagnosis and referral of citizen disputes:

... one might envision, by the year 2000, not simply a courthouse but a Dispute Resolution Center where the grievant would first be channeled through a screening clerk who would then direct him to the process . . . most appropriate to his type of case.

Professor Sander described a building containing many rooms. In each room disputes could be resolved by a different process. When he published these ideas in an article for *The Barrister*, the concept was called "The Multi-Door Courthouse."

In 1981, the Special Committee on Dispute Resolution of the American Bar Association (ABA) recognized that getting all dispute resolution mechanisms under one courthouse roof might indeed take until the year 2000 or longer. Nevertheless, the ABA Special Committee sought to make multiple paths to justice a reality by encouraging systematic screening and referral of disputes to the appropriate resolution facilities, often scattered throughout a city.

A primary objective was decreasing the "runaround" many citizens experience in seeking redress for their grievances. It is not unheard of for a citizen to arrive at the district attorney's office, be referred to the city prosecutor a mile away, then back to the district attorney, then to the mediation program.

"... it is almost accidental," said one committee member, Judge Earl Johnson of California, "if community members find their way to an appropriate forum other than the regular courts."

To help solve the problem, the ABA planned a three-stage process for creating multi-door centers, beginning with the development of effective and centralized intake and referral for assigning disputes to appropriate existing forums. Figure 1 depicts this intake and referral process. The project sought what former Assistant Attorney General Maurice Rosenberg described as "letting the forum fit the fuss."

This article summarizes the assessment of the intake and referral project. Findings from the assessment, which was sponsored by the National Institute of Justice, shed light on the nature of the caseload and how the matching of disputes to specific resolution methods can be improved.

The three project sites

After an extended process of application and site review, the ABA Special Committee chose Houston, Texas; Tulsa, Oklahoma; and the District of Columbia as the sites for the initial program. Throughout the program, ABA offered fund-raising assistance and intake training¹ but left decisions regarding program implementation and operations in the hands of the local staff and sponsors.

As a result, the three sites drew their caseload in different ways and relied on different manners of handling them. The strategies and styles of implementation depended on existing systems in each of the three cities, differences in the loca-

1. Larry Ray, staff director of the ABA Special Committee, was assisted by Daniel McGillivray of the Harvard Law School in preparing the program description and request for proposals and by Janet Riskin of the University of Massachusetts in training intake specialists for the three sites.

tion of intake offices, the goals of program sponsors, and the referral agencies available. Thus the three cities produced three variations on and three different names for the multi-door concept. This variety and the sometimes quite different results from site to site provide a wealth of information to researchers, policy-makers, and those considering the development of such programs.

Tulsa Citizen Complaint Center. The court administrator for the Municipal Court launched the Tulsa effort, eventually becoming its full-time director. He enlisted support from the local bar association, judges, and the Chamber of Commerce and, with two respected retired attorneys, led a fund drive that raised nearly \$100,000.

First sponsored by the city through the Municipal Court, the program is now housed and sponsored by the County Bar Association and has both "walk-in" and "phone-in" intake at the Court (Police/Prosecutor Complaint Office), a television station's "action line" service ("the Troubleshooter"), and the Better Business Bureau, as well as the Bar Association.

Outreach activity has been continuous. Luncheon clubs, police roll calls, the Bar Association, the television program, and a billboard reading "Turn to us when you don't know where to turn" all provided audiences. A public relations firm advised on these activities and on selection of the overall name for the program.

Houston Dispute Resolution Centers. Houston has been a leader in the alternative resolution movement since it established the Neighborhood Justice Centers in 1980. After learning of the multi-door program through the ABA in 1982, the director and deputy director of the Neighborhood Justice Centers undertook developmental activities under the direction of the Chief Judge of the First Texas Court of Appeals, a member of the ABA Special Committee.

The Houston Bar Association sponsors both the multi-door program and the Neighborhood Justice Centers; the two share a director and a joint name—the Dispute Resolution Centers. Intake, which occurs in person and by phone, began in two courthouse offices next door to each other—the Neighborhood

Justice Center desk and the District Attorney's intake division.

The program sought to involve the city's 16 justices of the peace (JP's), whose courts hear minor civil and misdemeanor cases. Some JP's are actively supportive; some see mediation as an encroachment on their turf.

Three more intake points were set up, at two community centers and at one of the JP courts. One of the community centers, Ingrando House, also houses a police substation, a Neighborhood Justice Center satellite, and a juvenile offender program. As in Tulsa, the Houston program staff sought professional advice in developing a public awareness campaign and in naming the program.

Washington, D.C., Multi-Door Dispute Resolution Program. The D.C. Multi-Door Dispute Resolution Program is sponsored by the Superior Court, which furnished a main "walk-in" intake point (just outside the courthouse cafeteria), office space, furnishings, and staff support, including the director's

time. Private foundations supply additional funding.

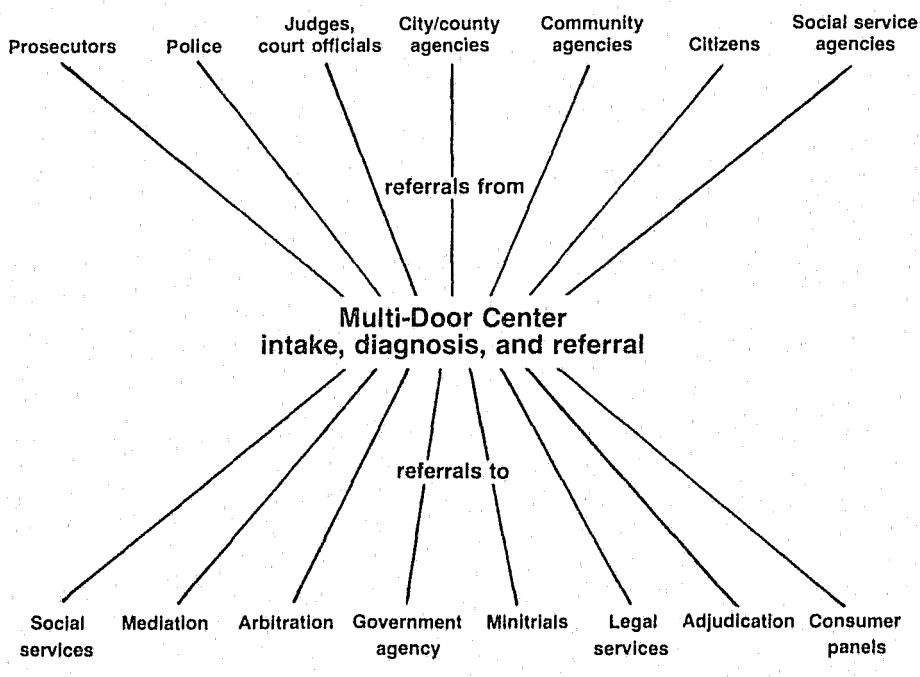
A second intake point was the D.C. Bar Association's Lawyer Referral and Information Service, 75 percent of whose high caseload came from citizens who turned out not to need referral to a lawyer.

More recently, another courthouse intake desk was set up in the small claims intake office. All new small claims complainants are referred there first, and mediation can be scheduled either separately or on the day of trial.

Early in the implementation process, the director's staff prepared a detailed Referral Manual for use by intake specialists. It provides hours, case criteria, names of contact people, and other information on the many dispute resolution, legal assistance, and social service agencies in the District of Columbia.

Efforts to reach the public included widely distributed bilingual flyers (English and Spanish). Every organization listed in the Referral Manual received a

Figure 1.
Multi-door dispute resolution flow chart



Toward the multi-door courthouse— Dispute resolution intake and referral

visit; several distribute the flyers. A television station filmed a public service announcement on the center featuring a Washington Redskins player.

How the programs differed

Both the size and the nature of the caseload for the three programs varied dramatically, due primarily to the different situations under which the intake points were implemented, where they were located, and the connections between intake and referral points.

None of the programs handled serious criminal matters or large civil disputes involving substantial amounts of money or complex legal issues. Apart from these commonalities, programs differed in both size and nature of caseload. These differences were due primarily to the different situations under which the intake points were implemented, where they were located, and the connections between intake and referral points.

Tulsa was the first of the three to start intake services, in April 1984. In the beginning, police officers made referrals to the multi-door intake point in the

courthouse, and citizens called the television action line directly.

Like "action line" programs in other cities, the television station used the most interesting grievance calls for further investigation and evening news spots. An intake specialist assigned to the program attempted to place those cases that the news effort could not handle or, in some cases, even answer.

The Tulsa Better Business Bureau (BBB), another intake point, provided a unique opportunity for a joint activity. When the BBB incurred criticism for failure to implement locally a national arbitration program on auto warranty problems, the Citizen Complaint Center director offered to help run the arbitration program for the BBB.

Tulsa handled approximately 400 cases a month. Consumer disputes accounted for nearly a quarter of the cases, followed by assaults (13 percent), complaints regarding city or county services (10 percent), neighborhood problems (9 percent), and threats or harassment charges (8 percent).

Tulsa conducted an active public relations program that focused on the overall

Police can refer disputants to a multi-door center.



theme of complaint consultation and referral rather than on details of how the dispute resolution process actually worked. To provide a broader view and access to more courts, sponsorship of the program shifted in late 1984 from the Municipal Court to the County Bar Association.

Houston's program began intake in December 1984, having slowed its development following a period of staff turnover earlier that year. A subcommittee within the Bar Association began to assume natural leadership of both the multi-door program and the Neighborhood Justice Centers, which then began to share the name Dispute Resolution Centers.

Although new intake points have been opened, many referrals during much of the period of the assessment originated with the district attorney's staff, which sent from 40 to 50 percent of its cases to the Dispute Resolution Center. About half of the multi-door cases—46 percent—were referred to the Neighborhood Justice Centers.

Houston's caseload was roughly 600 a month. At least half the disputes handled by the multi-door intake specialists involved money, property, contractual services, theft, fraud, or forgery. One-third were more interpersonal or criminal in nature, involving assault, threats, harassment, and various personal problems.

An extended outreach program planned to begin in late 1985 came after assessment of the program was completed.

The District of Columbia has the newest of the three programs, starting intake in January 1985. Data collection for the assessment ended generally in June 1985; thus data on D.C. cover considerably less time than at the other sites.

An intake center was created at Superior Court. Caseload figures indicate that the center handled approximately 125 cases a month.

The D.C. Multi-Door Center caseload was dominated by civil matters involving monetary claims for the most part, with just over half the cases involving small claims disputes. A few family, domestic relations, and interpersonal disputes were also received.

Most complainants in D.C. learned of the Multi-Door Center through newspaper and broadcast coverage, and a few more were sent by court clerks at the Small Claims and Landlord-Tenant branches. Only those who went first to the Lawyers Referral and Information Service had not previously heard of the multi-door service.

No cases were accepted by telephone; complainants were to visit the Center. The use of "multi-door" as part of the official local name, additional publicity, the setting, and advertised services all emphasized referrals rather than solutions during intake.

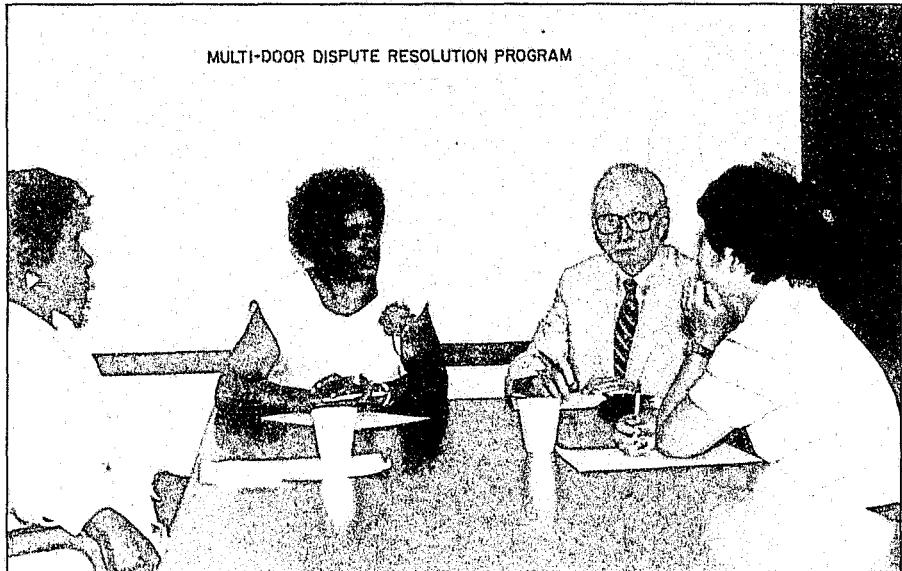
How the intake process works

ABA's trainers designed the intake process (1) to give the citizen immediate relief in the form of a caring, professional intake process and (2) to diagnose disputes expertly and offer options leading to appropriate referrals. Six stages were defined:

- Introduction, making the complainant comfortable and establishing rapport.
- Complainant's narration, maintaining an open, sensitive climate while gathering information.
- Problem clarification, with the intake specialist taking a more active role.
- Problem summary, with the specialist defining central issues.
- Review of the options and consequences, considering the complainant's resources and possible outcomes, including adverse effects.
- Selection of the option, with the specialist constructing a plan and encouraging the complainant to take responsibility for it.

As it developed, the researchers found, the process differed by location and by individual intake specialist. In Tulsa, most intakes were by telephone; in Houston and Washington, virtually all were in person.

Citizens were listened to and allowed to tell their stories at length in their own words. The assessment team reported that the last two steps, reviewing and selecting options, seemed most difficult in all three sites.



MEDIATION IS FREQUENTLY USED TO RESOLVE DISPUTES.

Often the complainant left with a definite, well thought-out plan, as desired. Sometimes, however, it appeared that the intake specialist made a quick referral with no real exploration of consequences with the complainant. At times the specialist seemed merely to go along with the complainant's idea, such as sending the case to a prosecutor even though the chances of prosecution were slim. At other times, the specialist might strongly urge the citizen to use a particular process, such as mediation.

Where the cases were sent

In Tulsa, 35 percent of the cases were referred to the prosecutor's office or to other divisions of the courts, 18 percent to mediation, 13 percent to city or county agencies, 8 percent to the Better Business Bureau, and 6 percent to legal services.

The intake desk at the prosecutor's office referred from half to two-thirds of its cases to the prosecutor. The Better Business Bureau, which got mainly consumer complaints, referred 20 to 30 percent of them to itself.

Over time, however, the Police/Prosecutor Complaint Office made fewer referrals to the prosecutor and more to alternative resources, mainly mediation. From the start, the television station referred its intake to a variety of agencies.

Houston showed a different pattern. Although 75 percent of intake came through the district attorney, 11 percent through the city prosecutor, and only about 6 percent from the Neighborhood Justice Centers, about half the caseload from all points was referred back to the neighborhood centers for mediation. Houston also sent 12 percent of its cases to justice of the peace courts, 10 percent to the district attorney, and 9 percent to the city prosecutor.

In D.C., the specialists had a wide variety of agencies to choose among and usually called the referral agency in advance to make sure it could handle the dispute. Almost a third of cases went to a small claims mediation program and another 12 percent to the D.C. Mediation Service, which handles all kinds of cases.

Of the 7 percent referred to government agencies, the Rental Accommodations Office got most housing and landlord-tenant disputes and the Department of Consumer and Regulatory Affairs most consumer matters. Employment disputes, often quite complex, tended to go to the Lawyer Referral and Information Service, itself a referring agency, or to university law-school-sponsored legal clinics.

Very few D.C. cases went to traditional referral points, such as police, prosecutors, courts, or private lawyers. In

Toward the multi-door courthouse— Dispute resolution intake and referral

Tulsa and Houston, however, the researchers found "somewhat surprising" the reliance on traditional dispute resolution agencies—the courts, prosecutors, district attorneys, police, and private lawyers—and their effectiveness in handling these kinds of cases.

Matching disputes to forums

"One can discern patterns," writes staff director Larry Ray of the ABA Special Committee, "in the matching of disputes to dispute resolution processes. As expected, in 'matching the forum to the fuss,' the nature of the relationship between the disputants proved important."

When disputes involved close relationships (couples and friends), the most common method of resolution was mediation. In disputes involving people with semiclose relationships (between acquaintances and neighbors) and with distant relationships (between landlords

and tenants, consumers and merchants), the most common method of resolution was by the parties themselves, frequently *prior* to a hearing. When no previous relationship existed, the method of resolution varied greatly, with resolution by a government agency having a slight edge.

The researchers also looked at the methods used to resolve different *types* of disputes. Assault cases were resolved primarily by the threat and process of prosecution, even though they rarely went to court. Mediation in assault cases can help preserve relationships, but its use in domestic assault is increasingly under attack because, critics say, it lacks enforceability. It may confirm the more aggressive party in a dominant role, and even a compromise between the disputants' positions may result in unfairness to an injured but less demanding party.

Disputes over money and property were most frequently resolved by mediation.

In cases of harassment, threat, and inter-family dispute, mediation also appeared to offer flexible outcomes and to increase the parties' ability to resolve future problems.

In general, the researchers noted that "Any outside intervention or even outside awareness of a dispute . . . often seems to instigate resolutions . . . where compromise and conciliation are attractive to both parties."

In addition, the connections of the multi-door programs to particular dispute resolution agencies—especially the housing of intake points within agencies and the adoption of the agencies' screening functions by the intake specialist—substantially influenced decisions about referrals.

Figure 2 summarizes information from all three sites on how the disputes were resolved.

Although a small number of referrals appeared inappropriate, the complainant's wishes enter into the decision. In some cases, clients want prosecution and punishment more than resolution.

Personnel at participating agencies expressed great satisfaction with the program, saying that they had been able to serve more people and had learned more about other resources available to complainants. In Tulsa, police expressed satisfaction with being able to present citizens with an option other than making an arrest or doing nothing.

One objective of the effort was to reduce the runaround many complainants feel through having to tell their stories over and over again. At all three sites, referrals to mediation spared the citizens repetitive recitals; the case was scheduled for mediation by the intake specialist, with no secondary intake. Referrals to prosecutors also involved a single intake; some repetition occurred, of course, in referrals to lawyers or legal clinics.

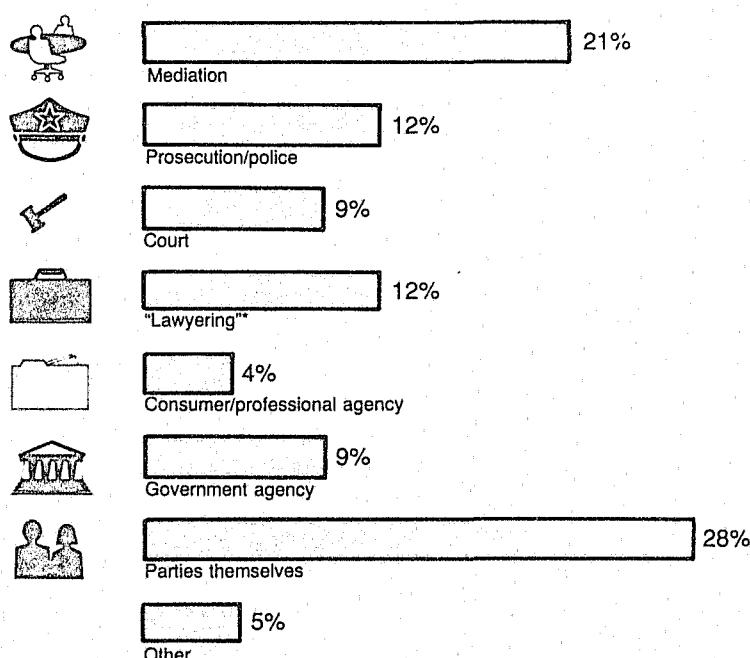
Followup results

Not all the complainants followed through by visiting the agency to which they were referred and not all the agencies succeeded in resolving the disputes sent to them. Over the three sites, ap-

Figure 2.

How cases were resolved

The means of resolution at all three sites is expressed as a percentage of the total number of resolved cases.



*Resolution achieved by private attorneys, lawyer referral services, legal aid groups, and clinics.

proximately half the cases were resolved at the time of followup interviews and 14 percent were pending.

Despite the cases unresolved and the differing forms the program took, user satisfaction predominated in the interviews. Figure 3 shows the overall results.

Although 83 percent of those interviewed were satisfied with the intake centers and 82 percent were willing to return, only 59 percent thought the center had "helped" with the dispute (another 15 percent said it had helped "somewhat"). The most frequent explanation for this apparent contradiction was misunderstanding of what to expect from the centers. Many thought the intake centers would intervene directly in their complaints.

Problems encountered

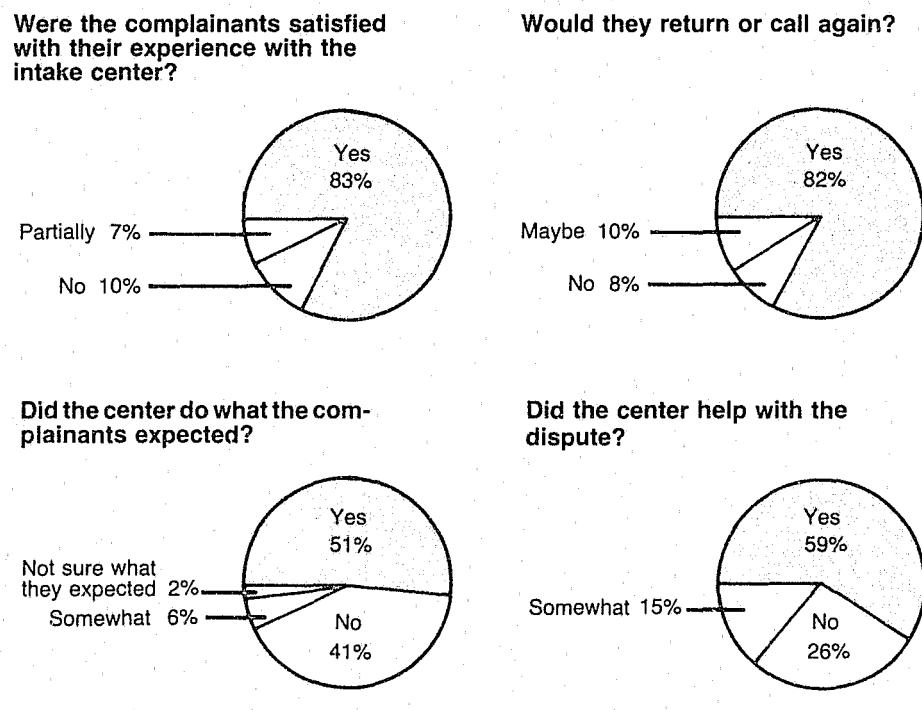
In the small claims process, a court judgment in favor of the complainant did not automatically ensure payment by the respondent. *Pro se* complainants (those representing themselves without an attorney) rarely sought such avenues as wage garnishments to collect. Private attorneys were effective in many cases but beyond the means of many complainants.

Better Business Bureau case-handling procedures led to considerable consumer dissatisfaction, but State agencies used by the intake specialist at the Tulsa BBB were often effective, as were professional societies that handled complaints against doctors, dentists, and lawyers.

Despite overall satisfaction, many citizens are confused about the services of the intake centers. Decentralization of the intake process leads citizens to think their problem has been "solved" by the agency on whose premises intake specialists receive the complaint. Centralized intake, as in D.C., enhances program identity and makes staff supervision easy. On the other hand, relationships with other agencies may be more difficult and the location may be inaccessible to some citizens.

Public education and community outreach are critical to solution of all these problems—and thus to program success.

Figure 3.
Satisfaction with intake centers. Summary results from all three sites.



All these issues led Professor Sander, who gave the program its name, to comment, "the multi-door concept may be a simple one to conceive and a monumental one to implement."

Next steps

The ABA Special Committee intends to develop or improve dispute resolution forums found ineffective or absent during the initial effort. In D.C., for example, new intake centers are planned for the citywide Citizen Complaint Center² and for the Domestic Relations Mediation Service at Superior Court, where many matters of property settlement and

even details of custody might be resolved without taking up trial time.

Tulsa plans to add court-annexed arbitration to its available tools and to expand use of its relatively new Early Settlement mediation process.

Houston will continue expanding public understanding of its program. Like the other cities, it will continue to watch new developments in dispute resolution that put more teeth into resolutions without adding more pain to disputes.

For the American Bar Association, the next step is to build on what was learned in Tulsa, Houston, and the District of Columbia by improving existing processes and creating new programs.

For the country as a whole, the example of the multi-door courthouse has been set. As other cities pick up the idea, adding innovations of their own, more answers will develop, and more doors will open.

2. The Citizen Complaint Center receives many noncriminal complaints, although it operates under the Office of the U.S. Attorney which, in D.C., fills some of the functions of prosecutors elsewhere.