

NEIGHBORHOOD JUSTICE IN CHICAGO,
A CITY OF NEIGHBORHOODS

A REPORT OF
THE NEIGHBORHOOD JUSTICE TASK FORCE

James H. Klein, J.D., Ph.D.
Task Force Director

Jane Ratcliffe, Ph.D.

Joseph Griseta

Clement Risk

NCJRS

JUN 29 1978

ACQUISITIONS

PREPARED FOR
THE CHICAGO BAR ASSOCIATION

Esther R. Rothstein, President
Paul C. Kimball, Jr., Chairman, Young Lawyers Section
Elias N. Matsakis, Chairman, Pro Se Court Committee

April, 1978

48347

TABLE OF CONTENTS

	<u>Page No.</u>
PREFACE	v
I. INTRODUCTION	1
II. NEIGHBORHOOD JUSTICE AS AN ALTERNATIVE TO FORMAL ADJUDICATION	2
III. THE COMMUNITY NEED: CHICAGO	6
IV. A PILOT PROJECT FOR THE UPTOWN-EDGEWATER NEIGHBORHOOD	12
A. A Neighborhood Of Diversity	12
B. The Unsatisfied Demand For Justice In Uptown-Edgewater	15
1. Misdemeanor data	16
2. Agency data	22
C. Community Receptivity To The Neighborhood Justice Center	28
V. ORGANIZATIONAL STRUCTURE OF NEIGHBORHOOD JUSTICE	30
A. Experience Of Other Centers	30
B. Structure Of The Uptown-Edgewater Neighborhood Justice Center	40
1. Not-for-profit corporation	41
2. An interim board of directors	42
3. Long-run composition of board of directors	42
VI. JURISDICTION	46
A. The Threshold Requirement: An Ongoing, Personal Relationship Between Disputants	47

B.	Exceptions To The General Rule Of An Ongoing, Personal Relationship	51
	1. Bad check cases	51
	2. Institutional and corporate parties	53
	3. Group conflict	54
C.	Jurisdictional Limits On The Seriousness Of Criminal Matters	55
D.	Special Considerations Pertaining To Civil Matters	61
	1. Limitations derived from the jurisdiction of the Pro Se Court	61
	2. Domestic disputes	63
VII.	INTAKE PROCESSES	65
A.	Criminal Cases	65
B.	Civil Cases	77
C.	Pressure On Defendants/Respondents	79
D.	Screening The Parties For Seriousness: Filing Fees, Consent Forms and Waivers	80
VIII.	RESOLUTION PROCESSES	82
A.	Cooling Off The Disputants	82
B.	Mediation, Arbitration, Or A Mixed Model?	84
	1. A preference for mediation	85
	2. Preserving an arbitration option	88
	(a) Special submission to arbitration	89
	(b) Distinguishing the mediator and arbitrator roles	91
C.	Follow-Up	93

IX.	HEARING OFFICERS	95
	A. Qualifications Of Hearing Officers	95
	1. Community residency	100
	2. Lawyers	102
	3. Ethnic and linguistic diversity	105
	B. Training Of Hearing Officers	107
X.	DUE PROCESS	109
XI.	EVAUATION	113
	A. Assessment Of Operating Procedures	113
	B. Assessment Of Project Impact	116
	C. Attention To Central Research Questions	118
XII.	FUNDING	121
	A. First Year Cost Estimates	122
	B. Long Range Projections	124
XIII.	IMPLEMENTATION	126
XIV.	CONCLUSION	128
	NOTES FOR PARTS I-IV	129
	NOTES FOR PART V	131
	NOTES FOR PART VI	132
	NOTES FOR PART VII	133
	NOTES FOR PART VIII	135
	NOTES FOR PART IX	136
	NOTES FOR PART X	138
	NOTES FOR PART XI	138
	NOTES FOR PART XII	139

APPENDIX A: UPTOWN-EDGEWATER ORGANIZATIONS AND AGENCIES
CONTACTED, FEBRUARY 1978

APPENDIX B: SAMPLE RESEARCH INSTRUMENTS

APPENDIX C: SAMPLE FORMS USED BY SOME EXISTING NEIGHBORHOOD
JUSTICE CENTERS

APPENDIX D: EXCERPT FROM NEIGHBORHOOD JUSTICE CENTERS (1977)
- "MAJOR CHARACTERISTICS OF SIX SAMPLED DISPUTE
PROCESSING PROJECTS"

PREFACE

The Neighborhood Justice Task Force grew from efforts by the Pro Se Court Committee of the Young Lawyers Section of the Chicago Bar Association to make legal processes more accessible to average citizens. In September, 1977 the Committee, under the chairmanship of Elias N. Matsakis, met with Arthur J. Frank, chairman-elect of the Section, to discuss a suggested arbitration center for minor civil disputes in Uptown. After a preliminary survey of what other cities had accomplished, in January 1978 the Committee proposed a pilot project that would use mediation and arbitration for both civil and criminal cases. The Young Lawyers Section, under the chairmanship of Paul C. Kimball, Jr., and with the encouragement of Esther R. Rothstein, President of the Chicago Bar Association, resolved to develop a project plan for presentation to the CBA Board of Managers. The Neighborhood Justice Task Force was then constituted to research and formulate a plan. I assumed responsibility for directing this effort out of a long-standing interest in the concept as both an attorney and a political scientist.

The Task Force drew heavily upon the resources of the Political Science Department at Loyola University of Chicago, through the cooperation of Sam C. Sarkesian, its chairman. I

was joined by Jane Ratcliffe, a research associate with the Department, and undergraduates, Joseph Griseta (Class of '78) and Clement Risk (Class of '79). The students received academic credit for their work through the Department's internship program.

Our efforts have culminated in this Report. In the course of its preparation we have talked with over one hundred individuals representing a variety of viewpoints within the Uptown-Edgewater community, its neighborhood organizations, and the agencies which serve it (including the police, the State's Attorney's office, the bar and the Circuit Court). We have surveyed the burgeoning literature on neighborhood justice as well as the unpublished experiences of those who are putting the concept to work elsewhere. Our goal has been to formulate a plan that would work in Chicago, a city of neighborhoods.

We have been encouraged and supported by those mentioned above as well as by many others. Special acknowledgement is given for the ready assistance of Alice D. Tully, Administrative Director for the Young Lawyers Section, and the efficient clerical support of Roslyn Steinberg. The Task Force assumes full responsibility for the contents of this Report.

J.H.K.

I. INTRODUCTION

The search for ways to make the legal system more responsive to the needs of average citizens is a matter of widespread concern among attorneys. This report explores one way of meeting that concern through the creation of neighborhood justice centers for mediating and arbitrating minor citizen disputes. Specifically, the report recommends that the Chicago Bar Association sponsor the development of a pilot project implementing the neighborhood justice concept in order to demonstrate its local feasibility. Finally, the report makes detailed recommendations concerning the form the pilot project should assume.

II. NEIGHBORHOOD JUSTICE AS AN ALTERNATIVE TO FORMAL ADJUDICATION

Many people in minor disputes over small amounts of money or property, or with neighbors, friends and family often cannot use conventional legal processes to settle these matters. To some extent, these unresolved matters are a breach in the law's promise of justice for all. Moreover, these controversies frequently fester over time and escalate into more serious disputes which ultimately increase the civil or criminal caseload of an already overburdened legal system. ¹

Recognition of this twofold problem -- the unfulfilled demand for justice compounded by system-overload -- has produced several calls for new alternatives to formal adjudication. ² Chief Justice Warren Burger, in his remarks before the 1976 National Conference on the Causes of Popular Dissatisfaction with the Administration of Justice, sounded the call eloquently: ³

First: Ways must be found to resolve minor disputes more fairly and more swiftly than any present judicial mechanisms make possible. The late Edmund Cahn, of New York University, reminded us that few things rankle in the human breast like a sense of injustice. With few exceptions, it is no longer economically feasible to employ lawyers and conventional litigation processes for many "minor" or small claims, and what is "minor" is a subjective and variable factor. This means that there are few truly effective remedies for such everyday grievances as usury, shoddy merchandise, shoddy services on a TV, a washing machine, a refrigerator, or a poor roofing job on a home. This

also means lawyers must reexamine what constitutes practice of law, for if lawyers refuse minor cases on economic grounds they ought not insist that only lawyers may deal with such cases.

It is time to consider a new concept that has been approached from time to time and has a background in other countries. To illustrate rather than propose, we could consider the value of a tribunal consisting of three representative citizens, or two nonlawyer citizens and one specially trained lawyer or paralegal, and vest in them final unreviewable authority to decide certain kinds of minor claims. Flexibility and informality should be the keynote in such tribunals and they should be available at a neighborhood or community level and during some evening hours.

Japan, for example, has only a fraction of the lawyers and judges we have per 100,000 population. In Japan, formal litigation is far less than in the United States, due to a long history of informal "community" and private processes for resolving disputes without litigation and, hence, without lawyers, judges and the attendant expense and delays.

Second: As the work of the courts increases, delays and costs will rise and the well-developed forms of arbitration should have wider use. Lawyers, judges and social scientists of other countries cannot understand our failure to make greater use of the arbitration process to settle disputes. I submit a reappraisal of the values of the arbitration process is in order, to determine whether, like the Administrative Procedure Act, arbitration can divert litigation to other channels.

While Chief Justice Burger's remarks aim primarily at reforming the civil litigation process, the thrust of actual reform has engaged both civil and criminal matters. ⁴

Practitioners recognize that many less serious criminal cases arise out of unresolved civil disputes which explode in controversies requiring police intervention and the filing of criminal complaints. Frequently, these are for assault,

battery or disorderly conduct. The City Attorney for Columbus, Ohio, for example, observes that many misdemeanors involve "reciprocally hostile relationships" in which two parties harass each other until a "victim" wins the race to the police station. ⁵ Consequently, the misdemeanor courts become dumping grounds for disputes which should be, but are not, resolved elsewhere. The experience of practitioners in many cities, including Columbus, New York, Rochester, Washington, D.C., Orlando, Florida, and Boston, has created a widespread belief that the reforms the Chief Justice suggests are applicable to both civil and criminal cases. ⁶

A concept which has emerged as a front-runner in the search for alternatives to adjudication is the "neighborhood justice center" ("NJC"). The American Bar Association defines these as "facilities . . . designed to make available a variety of methods of processing disputes, including arbitration, mediation, referral to small claims courts as well as referral to courts of general jurisdiction." ⁷ As implemented in many communities, the NJC concept assumes different forms. For example, in Columbus the center works out of one office serving the entire city, while in Atlanta, several neighborhood offices will be opened soon, each serving specific geographic communities within the city. Some centers are under the auspices of a governmental agency. Others are independent entities, sponsored by private organizations such as local bar

associations or community groups. However, a central theme runs throughout the NJC projects reviewed: many minor disputes (but no less real or aggravating in the lives of citizens), that would either be ignored completely or ineffectively processed, at high cost to individuals and the public, by civil or criminal courts, are being cheaply mediated (in most cases) or arbitrated (in appropriate cases) successfully, outside the courts, with minimal involvement by lawyers. 8

Given the many reports of neighborhood justice centers making justice more accessible while lessening burdens on overloaded courts, the Attorney General of the United States has actively endorsed the NJC idea. 9 Moreover, the Department of Justice, through the Law Enforcement Assistance Administration, is currently funding three pilot projects in Atlanta, Kansas City (Mo.), and Los Angeles. 10 The neighborhood justice center is an idea whose time has come to Chicago.

RECOMMENDATION 1: THE CHICAGO BAR ASSOCIATION SHOULD ENDORSE THE CONCEPT OF NEIGHBORHOOD JUSTICE CENTERS AS AN IMPORTANT ALTERNATIVE TO FORMAL ADJUDICATION OF MINOR CITIZEN DISPUTES.

III. THE COMMUNITY NEED: CHICAGO

Precise quantitative indicators of the unfulfilled demand for justice in Chicago or the caseload relief that may result from local neighborhood justice centers are presently unavailable. This is especially true with respect to purely civil matters. The number of filings in the Pro Se Branch of the Small Claims Court of the Cook County Circuit Court have declined during recent years from 6,501 in 1974-75 to 6,152 in 1976-77. In the last reported year, the number of cases terminated exceeded filings resulting in a decrease in the relatively small backlog at the end of the year. ¹¹

However, these figures do not measure the demand for civil justice. The efficient procedures of the Pro Se Court are simply unavailable to many disputing citizens. First, because the court's jurisdiction is limited to legal remedies, it cannot order parties to do or not do something (other than pay damages). Thus, youth harassment, over-the-fence arguments, parking disputes, messy garbage areas, and trespassing children are presently beyond the court's power to remedy. Secondly, the current jurisdictional amount of \$300 precludes from the courts many cases involving amounts too small to warrant the average citizen's paying a lawyer to take the case to Small Claims Court. ¹² Third, even when the case

might fit within the jurisdictional framework of the Pro Se Court, the practical deterrents to citizen use of this forum are high. How many citizens can afford to take the time off from work to appear in court in order to recover the small amounts involved? ¹³ How many members of Chicago's diverse ethnic population can surmount the linguistic, cultural and knowledge barriers surrounding formal legal institutions? Does the six percent decline in Pro Se Court filings over the last three years suggest a decrease in the social relevance of the procedure as presently constituted?

Other data are available concerning the demand for civil justice in Chicago. The number of filings in the Housing Court of the Chancery Division has shot up over 150% in the last three years from 12,103 in 1974-75 to 18,664 in 1976-77. During the same period, the backlog of housing cases has increased from 15,840 to 23,268. ¹⁴ While these figures undoubtedly reflect the deteriorating condition of Chicago's housing stock, they also suggest a growing demand for civil justice in the landlord-tenant area -- a demand not likely to be satisfied in the increasingly congested Housing Court.

Citywide needs for neighborhood justice are more clearly reflected in data on the criminal side. It strongly suggests that an inordinate proportion of resources, formally allocated to public safety, are actually consumed in a rather

fruitless effort to quiet private disputes that are not resolved elsewhere.

In 1976, the Chicago police made 288,415 arrests in non-traffic cases. Twenty percent of these arrests (56,580) were for serious offenses, i.e., crimes used by the FBI to compute an index of the crime rate - murder, rape, aggravated assault, robbery, burglary, theft and auto theft. The other 231,835 arrests were for less serious offenses, i.e., non-index crimes. ¹⁵ Of these, about 75% were for offenses, which because of their less serious nature, may form the pool of cases from which neighborhood justice centers might draw, based on the experience of projects in ten other cities. These cases are broken down by type in Table 1.

TABLE 1 *

Arrests For Minor Offenses In Chicago, 1976

Other assaults	17,251
Offenses against family and children	2,072
Disorderly conduct	129,401
Vandalism	6,735
Other	<u>17,222</u>
Total	172,681

* Source: Chicago Police Department, Statistical Summary (1976).

The category on Table 1 which probably would provide most cases ripe for resolution by neighborhood justice centers is disorderly conduct -- the catch-all of the criminal justice system. About 56% of all non-index crimes fall in this

category and about 45% of all arrests are for disorderly conduct. Of course, not all disorderly conduct arrests are necessarily within the jurisdiction of a center. Other criteria must be present. Arrest figures such as these, however, roughly indicate outer limits of the demand.

In the period December 1, 1976 - November 30, 1977, the Circuit Court of Cook County, Municipal District #1 (i.e., the City of Chicago), made final dispositions in 239,926 cases involving misdemeanors and ordinance violations (excluding traffic offenses). Only 14% of these (33,765) were guilty dispositions, while the remaining 86% were not-guilty dispositions (206,161).¹⁶ These figures vividly show that an inordinate proportion of the criminal justice system's resources are committed to problems about which it does little. Many misdemeanors brought to court and processed to a not-guilty disposition could be more efficiently and more satisfactorily resolved through the neighborhood justice mechanism. Moreover, many cases ending in a disposition of technical guilt also fall into this category. These observations are verified by Table 2 which analyzes dispositions of misdemeanors/ordinance violations. The table includes data for the city only.

TABLE 2 *

Judicial Dispositions Of Misdemeanors In Chicago, 1977
(Circuit Court of Cook County, District #1)

<u>Final Dispositions</u>		<u>(12/76-11/77)</u>
Guilty:		
Jailed	Fined	10,263
	8,302	
	Probation/Supervision	3,406
	Conditional Discharge	1,723
	Ordered To Pay	<u>10,071</u>
		33,765
Not-Guilty:		
	Discharged	14,544
	Leave To File Denied	61,138
	Stricken Off-Leave To Reinstate	55,124
	Non-Suit	45,939
	D.W.P	19,581
	Nolle Prosequi	4,173
	Supervision Terminated	3,434
	Other	<u>2,228</u>
		206,161

*Source: Clerk of the Circuit Court of Cook County, Statistical Report: 1974-1977

About 21% of the citywide dispositions were non-suited or disposed of through lack of prosecution. This indicates the large segment of the misdemeanor caseload which fails because of victim and/or witness unwillingness to press formal charges. The number of cases which are disposed of through supervision (an extra-legal disposition for sentencing a technical guilty defendant without ultimately imposing a guilty judgment, provided the defendant satisfies the terms of the supervision), conditional discharges and orders to pay

restitution, indicates the court's effort to cope with cases many of which might be more economically and satisfactorily handled through a neighborhood justice center. Satisfaction here refers to the extent to which the underlying dispute which leads to criminal proceedings is resolved.

These facts demonstrate a need throughout Chicago for new ways of dealing with minor civil and criminal disputes. The experience of other cities strongly suggests that the neighborhood justice center is a workable response to that need. A pilot project employing the concept will demonstrate how it can be applied to Chicago.

VI. A PILOT PROJECT FOR THE UPTOWN-EDGEWATER NEIGHBORHOOD

A. A Neighborhood Of Diversity.

The Uptown-Edgewater community in the city's far northeast corner is a good site for a pilot neighborhood justice center. It is microcosm of the city as suggested by the following data on the community. It is expected that from this heterogeneity a diverse range of disputes occur which is representative of those arising in other neighborhoods of the city. Such experience will be valuable in developing this program in other Chicago neighborhoods.

Uptown-Edgewater is a predominantly residential community built during the 1920's and 1930's apartment construction boom. The lakefront and Lincoln Park are its eastern border, Ravenswood Avenue and the Chicago and Northwestern Railroad tracks the western one, Irving Park Road the southern boundary and Devon Avenue the northern one.

Socio-economic diversity characterize the 136,436 residents of the community. Foreign born persons comprise 41% of the total population. People from Latin American and Asian countries form the majority of these residents, that is 14% and 8% respectively. ¹⁷ A comparison of 1971 with 1976 elementary school enrollment figures indicates that foreign-

born, particularly those from Latin America and Asia, increased numerically and proportionally in the community. 18 For many of these people, Uptown-Edgewater is the port of entry. This is reflected in the number of children who do not have fluency in English. 19 This rise in foreign born population has been complemented by a decrease of the white population. People of Appalachian heritage who have constituted a significant proportion of the total white population in the 1960's have declined in numbers. 20 This observation is based upon declining school figures. White enrollment dropped from 64% to 45% between 1971 and 1976. 21

The proportion of the population 65 and older has shifted upwards in recent years to 17% according to the 1970 census. This is substantially above the 10% reported for the city as a whole. 22 Beginning in the fall of 1969, state mental institutions returned elderly patients who were only receiving custodial care to community living. It is estimated between 10,000 and 15,000 of these people settled in the northeast communities. 23 Most likely they were not included in the 1970 census report since the state program was in its early stages in 1970. In addition, the construction of several senior citizen apartment buildings by the Chicago Housing Authority and the opening of nursing homes after 1970 may have brought more elderly persons into the community, an estimated 3,000 to 4,000.

The income of many residents places them in the middle or lower levels. The medium income was \$10,163 in 1970. Fifty percent had incomes over \$10,000 and 14% of the families had income below the \$4,000 level. ²⁴ The presence of day labor employment services both for profit and not-for-profit plus numerous second-hand clothing and furniture stores are unobtrusive measures of the significant number of persons in the lower income category. In 1976, 4,130 families were receiving AFDC support in the 60613 and 60640 zip code areas.²⁵ Former state mental patients as well as most elderly persons have limited income of which most comes from social security checks or public aid. ²⁶

The majority of the population live in multiple unit buildings and are renters. The 1970 census reported 90% of the dwelling units were rental and that most owners do not live in the buildings. ²⁷ Short term residency is the pattern. For example, 37% of the 1970 respondees had moved into their place of residency in 1969-1970. The housing stock with the exception of the lakefront high rise and low rise (4+1) apartment building, was built before 1939. A significant proportion of the older housing is in poor condition, particularly in the Uptown area. This problem dates to before 1960. In the Census of Housing for 1960, 8 of the 12 census tracts composing Uptown had more than 10% of the housing in substandard condition. ²⁸ Several tracts had as much as

60% of their housing identified in this category. 29 In Edgewater the housing deterioration is concentrated in the eastern section. In 1976-77 the Organization of the North East identified 27 abandoned buildings in both communities awaiting demolition. 30 Several hundred buildings in these communities have numerous violations of the city's building code and have been taken to Housing Court. In Edgewater alone during the past two years, the Edgewater Community Council's Safety Program followed up on 116 housing cases. 31 Some housing rehabilitation is beginning to occur by both resident and absentee owners. Housing preservation and maintenance is a high priority activity for most community organizations. More often the small unit buildings are involved than the large 25-unit plus structures.

B. The Unsatisfied Demand For Justice In Uptown-Edgewater.

Precise statistical indicators of the need for a neighborhood justice center in Uptown-Edgewater are presently unavailable. However, two kinds of data are reported here in order to suggest the parameters of the need. First, information about the number and kinds of misdemeanor arrests being made in the community and the disposition of cases in the misdemeanor court serving the area hints broadly at the magnitude of interpersonal conflict not being adequately

resolved through conventional adjudication. Second, data collected from agencies and organizations working in the community about disputes that come to their attention illustrate the nature of the controversies that may fall within the purview of a neighborhood justice center.

1. Misdemeanor data. In 1977, police in the 20th (Foster Avenue) and 23rd (Town Hall) Police Districts made 26,084 non-traffic arrests in response to radio calls. Seventy-one percent (18,440) were for index crimes, indicating the more serious nature of crime in Uptown-Edgewater in comparison to the city. The other 7,644 arrests were for non-index crimes. ³² On the assumption that about 75% of these cases were of the less serious nature (extrapolating from citywide data) which might form the pool from which a neighborhood justice center in that community would draw, 5,733 cases would have comprised that pool in 1977. Probably about 4,000 of these were for disorderly conduct (again projecting from citywide figures).

There is no way to determine the precise proportion of these cases which would be ripe for resolution through the neighborhood mechanism. That would depend on other jurisdictional criteria that might be applied. Twenty percent may be a reasonable estimate. This suggests a large pool of potential NJC cases and also illustrates the commitment of police resources to needs more effectively served in other ways.

These impressions are strongly confirmed by data about the processing of misdemeanor cases arising on the city's northside in Branch 29 of the Circuit Court. In early March, the proceedings of Branch 29 were observed on two days for a total of six and a half hours. The adverse conditions caused by a flood of cases about which the court can do little strongly suggests the need to develop alternatives to formal adjudication. The need is illustrated by the pattern of dispositions observed during that period and presented in Table 3.

TABLE 3

Judicial Dispositions Of Misdemeanors
 On Chicago's Northside, 1978
 (Circuit Court of Cook County, District #1, Branch 29)

<u>Dispositions</u>	<u>January, 1978*</u>	<u>Afternoons of March 2 and 3**</u>
Guilty:		
Fined	133	1
Jailed	33	1
Probation	3	0
Supervision	62	4
Conditional Discharge	<u>1</u>	<u>1</u>
	232	7
Not-Guilty:		
Discharged	37	8
Leave To File Denied (LFD)	258	12
Stricken With Leave To Reinstate	497	7
Non-Suit	480	40
DWP	263	0
Nolle Prosequi	1	0
Supervision	0	1
Other	<u>1</u>	<u>0</u>
	1,537	68

<u>Dispositions</u>	<u>January, 1978*</u>	<u>Afternoons of March 2 and 3**</u>
Pending Dispositions:		
Continuance	N/A	25
Bond Forfeiture Warrant	90	10
Other	0	3

*Source: Unpublished data filed at the Office of the Clerk of the Circuit Court of Cook County.

**Source: Personal observation in court on the dates indicated.

The figures reported are unofficial and may contain minor inaccuracies. While the physical conditions in Branch 29 are excellent and highly suitable for "court watching", and while the official demeanor of the personnel was orderly and consistent with due process, the flow of cases was at times so swift that the actual disposition occasionally could not be precisely determined by the observer. The pattern is repeated in official data, provided by the Clerk, for the month of January.

During the six and a half hours of observation, the court disposed of approximately 113 charges. Of these, only 7 charges or about 6% of the total resulted in adjudications of guilt. Moreover, as can be seen in the table, most guilty defendants were given court supervision or a conditional discharge which would probably result in the final entry of a not-guilty disposition. On the other hand, 68 charges or over 60% of the total were not-guilty dispositions. The overwhelming proportion of these were non-suited, stricken with

leave to reinstate, or denied on a motion to file. While a precise figure would be misleading, it was clear to the observers that most of these dispositions resulted from the failure of complaining witnesses to appear. Often, both defendant and complaining witness failed to answer the call, suggesting that the parties probably had mutually agreed not to show up. Most of the small proportion of cases that were formally discharged involved violations of dog licensing provisions of city ordinances. Discharges were granted upon defendants' proof of subsequent compliance.

The high no-show rate of complaining witnesses strongly hints at the ongoing relationship between victims and defendants which exists in many cases. Frequently, the defendant told the State's Attorney that the complaining witness was not coming to court. Many cases involved squabbles which led to a public disturbance and a technical criminal offense -- typically, feuds among neighbors, families, friends or tenants. While calming the immediate crisis may not signal any real resolution of the problem which produced the squabble, the thought of pressing a formal criminal complaint to its full conclusion is simply more than most "victims" are willing to do under the circumstances.

Even in cases where complainants appear, it frequently occurs that the case might be more appropriately resolved outside the court at a substantial savings in judicial

resources. Two such cases, of the small handful of those in which parties were present, occurred. They are classic illustrations of the need for informal alternatives to formal adjudication.

The first case involved a ruckus among the complainant, his in-laws and their neighbors, over the way the neighbors' car was parked too close to the complainant's. In the argument which ensued, the complainant received minor cuts on the wrist, leg and stomach. Apparently the complainant was himself a defendant in another case arising out of the same incident. After two and a half hours of court time, one defendant received a conditional discharge and \$100 fine on the battery charges arising out of the cutting. Another defendant received a one year court supervision for resisting arrest and failing to disperse. Because of the procedural and other role constraints on the court, it is doubtful whether the long-standing problem among these neighbors was adequately addressed by the court in spite of the heroic (and costly) efforts by the judge to resolve the case.

The second case involved a dispute between a landlord and former tenant who had been evicted in an earlier proceeding. Several other tenants were present to corroborate the landlord's charge that the defendant kept returning to the building to harass him and the other tenants. The case illustrates how some disputes escalate over time, the same parties returning to court again and again because the court is

unable to confront the underlying controversy at the outset. The proceedings consumed about half an hour of the court's time and resulted in defendant's being placed on a one year court supervision, on the condition that he stay away from the building.

In other words, nearly half the court's time was spent on two cases involving continuing disputes between persons known to each other, which probably could be resolved more effectively and efficiently outside the formal adjudication process. The cost to the system, which results from the need to adjudicate such cases and to process the numerous others to a non-suited conclusion, involves a resource drain away from the need to effectively deal with cases requiring forceful criminal prosecution. An example occurred during the court watching sessions.

A defendant was charged with disorderly conduct. The complaining witness, a young woman dressed in an Army uniform, testified that the defendant and another defendant, not present, had grabbed her in a stairwell of her apartment building late one evening. She broke away and hailed a patrol car. The judge lectured the State's Attorney that the case should have been charged as a battery and possibly an attempted rape, and that the charge was like "charging an attempted murderer with smoking on a bus." After continuing the case to allow the State's Attorney to determine if the case should be refiled under new charges, the judge and State's Attorney

conversed about the latter's dilemma of having to take the cases as they came to him at the hearing. If the court's calendar were not so clogged with "junk" cases, could resources now consumed by the latter be better spent on more serious matters?

2. Agency data. Insights into the nature of disputes occurring in the community were obtained by interviewing people who work in public and private organizations and agencies serving the residents. A survey of 34 agencies produced data about (1) the types of disputes that come to their attention either directly or indirectly and (2) the socio-economic profile of the disputants. The organizations and agencies contacted during February 1978 are representative of the social and economic diversity of the community (See Appendix A for a full list of those contacted). They included church organizations, agencies serving particular ethnic groups, community organizations and government programs.

Each organization was asked about disputes it processed, referred and felt existed in the community. Eight of the organizations and agencies contacted, due to the nature of their service and community interaction, had no knowledge of disputes. Many of the 28 organizations and agencies responding could give no exact numerical data on minor disputes. However, their descriptive responses help identify the range of disputes and their rank importance. The disputes grouped according to types of relationships between disputants are listed on Table 4

along with examples of the conflicts.

TABLE 4

Minor Disputes In Uptown-Edgewater
As Viewed By Community Organizations

<u>Types of Disputes</u>	<u>Number of Organizations "Processing" Such Disputes</u>	<u>Number of Organizations Referring Such Disputes</u>	<u>Number of Organizations Perceiving Such Disputes</u>	<u>Total Number of Organizations Mentioning Such Disputes</u>
Landlord v. tenants:				
Eviction/Lockout	1	3	1	
Security deposit	2	1		
Rent increase	2	2	1	
Building code violations	3	2	1	
Other	<u>1</u>	<u>11</u>	<u>12</u>	
Total	9	19	15	43
Family members v. family members:				
Marital problems	1	5	3	
Wife beating	1	2	1	
Child abuse & neglect	1	4	4	
Runaways	2			
Other	<u>1</u>			
Total	6	11	8	25
Youth v. residents:				
Gang activities	1	1	4	
Harassment	1	1	2	
Vandalism		2	3	
Other	<u>2</u>	<u>2</u>		
Total	4	6	9	19
Individual v. public agency:				
Social security		2	1	
Public aid	2	2	2	
Police		1	3	
Immigration	1	2		
Other	<u>1</u>	<u>1</u>		
Total	4	8	6	18

<u>Types of Disputes</u>	<u>Number of Organizations "Processing" Such Disputes</u>	<u>Number of Organizations Referring Such Disputes</u>	<u>Number of Organizations Perceiving Such Disputes</u>	<u>Total Number Organizations Mentioning Such Disputes</u>
Consumer v. business:				
Overcharging		1		
Breach of contract		1		
Bailments		1		
Bad checks	1			
Non-payment		1		
Shoplifting		1		
Other	3			
Total	4	5	0	9
Employee v. employer:				
Overtime payment		1		
Insurance payments		2	2	
Total	0	3	2	5
Friends (& neighbors) v. friends:				
Fist fights	2			
Dog soilage/barking			1	
Noise			1	
Auto accident		1		
Total	2	1	2	5

Thirteen organizations and agencies process disputes. This could include responding to a call for help by the Community Intervention Service Program, to assisting a person with a court suit by the Organization of the North East, to being a complainant in a case. The most frequently mentioned disputes processed occur between landlord-tenant, family members and youth and residents. A sense of their frequency of occurrence was obtained from several agencies able to supply statistics. These are given on Table 5. They do reflect the specialized nature of these agencies' work, such as Traveler's Aid and the large number of immigrant cases. Caution must be

used in projecting the frequency of occurrence of a given type of dispute for the community.

TABLE 5
 "Processed" Disputes: Types and Frequency

<u>Organization/Agency</u>	<u>Types of Disputes</u>	<u>No. Cases in 1977</u>	<u>% of Total</u>
Uptown People's Community Service Center	Divorce Consumer disputes	65/75 100	
Victim/Witness Advocacy Program	Serious violent personal crimes Battered wives		60 40
Community Intervention Service Program	Domestic violence Landlord-tenant fights Neighbors' brawling))11,000)	
Traveler's Aid of Metro. Chicago, Uptown Office	Immigration Illegal aliens Runaways)Several)hundred Over 100	
Organization of the North East	Criminal cases, i.e., murder, rape, youth harassment	10	
Edgewater-Uptown Safety Program	Housing code violations Evictions	800 30/40	

Twenty-three organizations and agencies make referrals to agencies which can offer help. Many of these agencies plug directly into the justice system. Numerical data on the frequency of disputes referred is scant. Interviewees more easily assigned verbal ratings, such as "rare", "sometime"

and "frequent". The organizations and agencies supplying this data are listed on Table 6.

TABLE 6

Referred Disputes: Types And Frequency
(A Sampling Of Responses)

<u>Organization/Agency</u>	<u>Types of Disputes</u>	<u>No. Cases in 1977</u>	<u>% of Total</u>
Christopher House Lakeside	Marital	Rare	
Edgewater-Uptown Community Safety Program	Security deposits Vandalism Eviction of tenant	Few Seldom Most	
Just Jobs	Landlord-tenant Employer-employee) 2/3 per) week	50% 50%
St. Gertrude Rectory	Family counseling	50/70	25%
St. Thomas of Canterbury	Child abuse	60/100	
United Charities - Geriatric	Landlord-tenant Social security) 3 cases) per week	
Uptown Five Guild	Eviction Housing complaints	Frequent Some	
Vietnamese Services	Landlord-tenant Housing disputes in general (other than landlord-tenant) Employer-employee	15/20 20/15 5/10	

Twenty-one organizations and agencies perceived many other disputes to be occurring in the community with varying

frequency. Some of those responding were biased by their more direct contact with disputes through processing or referrals. Although this answer does not expand our knowledge of types of disputes, it does suggest either the disputes identified occur more frequently than suspected by survey results or the interviewee's perception is colored. The truth may lie somewhere in between these extremes.

Although many of the clients of organizations/agencies surveyed have lower incomes, the disputes identified are not restricted to lower income residents. Complainants in housing related disputes could be property owners. Smaller, older apartment buildings with 2 to 10 units constitute a significant proportion of the community's housing stock. Owner occupancy is common which leads to careful selection of tenants. But, even then, problems can arise for landlords with their tenants who are likely to be working people with middle incomes. Both renters and owners of these building are troubled by vandalism and harassment by youth, particularly if the building is located near a school. Conflict between neighbors of all incomes can stem from noise and pets. Disputes in consumer-business cases are not correlated with given income level.

Lower income people are associates with housing disputes involving building code violations and/or the supply of basic services, such as heat or water. This association is not unexpected since their income restricts them to lower rent units in poorly maintained buildings. Money disputes arise in

families of lower income residents. They seek help from social service agencies. Marital problems, wife beating and child abuse may occur among middle income families but they probably go unreported or are dealt with quietly through private channels.

Disputes identified do not seem to be correlated with age either by type or frequency of occurrence. Employee-employer disputes do tend to be related with ethnicity and immigrant status regardless of the place of origin. Different cultural backgrounds could be one source of the problems but more likely they are language related. An inverse relationship probably exists between work related disputes and English fluency.

C. Community Receptivity To The Neighborhood Justice Center.

The survey enabled the Task Force to explore with these community organizations and agencies the concept of the neighborhood justice center. Overall most had positive reactions and felt the community would benefit from the establishment of the center. One indication of their positive response came from Captain David Dahlberg of the Salvation Army. He asked, "When do you open, so that I can send you some business." A willingness to refer cases was also expressed by other agencies. In addition, organizations and agencies indicated their cooperation in distributing literature to their clients and/or including a write-up in their publications, such

as newsletters. They felt that the community would be open and receptive to using the center; but how disputants may respond could be quite different.

People interviewed believe that many disputes go unresolved for a variety of reasons. Loss of time from the job is the usual reason given for unresolved landlord-tenant disputes over security deposits and for some consumer-merchant disputes. Confusion about how to use the judicial system hinders others. The majority of evictions and/or lockouts according to Jody Adler of the Edgewater-Uptown Safety Program are resolved outside of court. Societal attitudes against intervening in domestic squabbles keep these cases from being resolved within the court or through intervention by the police who are often called during the heat of the conflict. This explanation was given by an experienced agency employee working on such cases.

RECOMMENDATION 2: THE CHICAGO BAR ASSOCIATION SHOULD SPONSOR THE CREATION OF A NEIGHBORHOOD JUSTICE CENTER IN THE UPTOWN-EDGEWATER COMMUNITY AS A PILOT PROJECT TO PROVIDE DATA CONCERNING THE FEASIBILITY OF SUCH CENTERS IN CHICAGO.

V. ORGANIZATIONAL STRUCTURE OF NEIGHBORHOOD JUSTICE

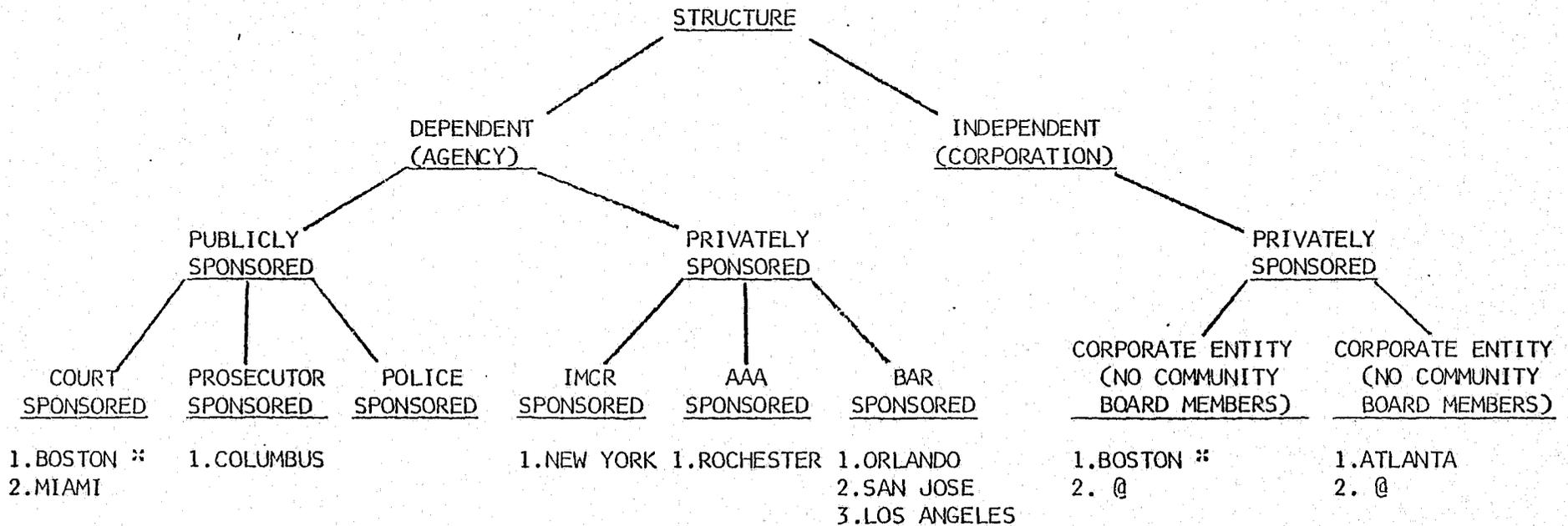
A. Experience Of Other Centers.

Neighborhood justice centers have taken various organizational forms. They may be classified as "dependent" and "independent" structures (see Figure 1).

A "dependent" structure is one in which the project is sponsored and operated as a branch or a sub-branch of an existing agency or institution. This category breaks down into those that are publicly sponsored and those that are privately sponsored. A publicly sponsored project is one which is sponsored by a governmental agency, usually a criminal justice agency. Examples include those sponsored by the courts, the prosecutor's office or the police. The Miami Citizen Dispute Settlement Center and the Boston Urban Court Project are both sponsored by the courts. The Columbus Night Prosecutor Program is sponsored by the City Attorney's Office of Columbus, Ohio.¹

In publicly sponsored "dependent" projects, policy decisions are usually made by a supervising officer of the sponsoring agency and the project director. There may or may not be community input into policy-making through a community advisory board or committee. The Boston project currently

FIGURE 1



NOTES:

** THE BOSTON PROJECT IS CURRENTLY UNDERGOING A TRANSFORMATION FROM A "DEPENDENT", PUBLICLY SPONSORED STRUCTURE TO AN "INDEPENDENT", PRIVATELY SPONSORED STRUCTURE.

@ AS OF THIS TIME WE HAVE NO DEFINITE INFORMATION AS TO THE INCLUSION OF COMMUNITY MEMBERS ON THE BOARD OF DIRECTORS OF THE SAN FRANCISCO PROJECT.

utilizes such a board, which is also a subcommittee of a larger Dorchester Court Community Advisory Board. It provides the residents of the target community with an opportunity to influence policy. The advisory subcommittee recommends policy to the project director who with the First Justice of the Court decides whether to accept the suggestions. The director might also submit policy proposals to the board for its recommendations. The committee's authority is only advisory. This is very different from community representation of a board of directors in a corporate structured project.

The criteria which the Boston Court uses in selecting people to serve on the board include: (1) residence in the community, (2) an ongoing concern for the well-being of the community, and (3) a willingness to become involved in community activities. It is important to note that the Boston project is currently in the process of changing to an "independent" corporate entity. The director explained that the new structure would be more effective in soliciting foundation funds. ² The changes that will be taking place in the Boston project will be discussed below.

The Miami and Columbus projects are examples of "dependent" public agency sponsored projects which do not have community advisory boards. As a result, there is no direct community involvement or input into policy-making. The policy in these two projects is formulated solely by the project

director and the sponsoring agency.

There are many advantages as well as disadvantages to public sponsorship. One significant advantage is that the case flow is largely controlled by the sponsoring agency. The sponsoring agency is the largest source of referrals, and because control is maintained by that agency, it has the power to assure an adequate supply of cases. This point has been demonstrated by the Columbus and Miami projects. 3

A further advantage of public sponsorship is the fact that respondents can be more easily persuaded or convinced that they should participate in mediation and arbitration processes. A request for a respondent to appear for a hearing is more effective when it comes from the prosecutor's office or the police department because a threat of formal charges or arrest can be used in the wording of the request. 4 However, a project need not always be directly sponsored by a public agency to take advantage of this effective method of requesting respondents to appear. The Rochester project uses Court Complaint Clerk stationery even though it is a privately sponsored project. 5 This results from a close working relationship between the two entities which falls short of actual sponsorship.

Disadvantages of public sponsorship include: (1) direct criminal justice agency involvement may create a presumption that the project is tilted in favor of

complainants; (2) close ties to the criminal justice system may stigmatize a losing party and further compound the problem underlying the dispute, and (3) the community is not as easily involved. ⁶ The third point is demonstrated by the lack of a Community Advisory Board in the Columbus and Miami projects. Many people feel that the disadvantages of the "dependent" publicly sponsored model outweigh the advantages and make it unsuitable for many communities.

Some projects use a "dependent" structure and yet are sponsored by private agencies or institutions. Examples of this type of sponsorship would include any projects sponsored by the American Arbitration Association ("AAA"), the Institute for Mediation and Conflict Resolution or local bar associations. The policy making structures in this type of project are very similar to those employed by the publicly sponsored projects just discussed, with the major exception that there is more community involvement. The Rochester Community Dispute Services project is an agency of the AAA. Policy is made primarily by the Director of Justice Center Projects (who is a vice president of the AAA) and the Rochester project director. There is, however, significant input from an Advisory Board which consists of 24 community members. Although this board does not act as a governing body, it does influence policy. This structure is similar to the New York Institute for Mediation and Conflict Resolution center which is

also sponsored by a private corporate entity, with the exception that there is no advisory board.

Examples of projects which have been set up by local bar associations include the Orlando Citizen Dispute Settlement Center and the San Jose Neighborhood Court. Decisions on policy in the Orlando project are made by an Executive Board of the Orange County Bar Association and the project director. The Executive Board is responsible primarily for formulating general policy and making decisions as to the long-term development of the project. The director of the project makes daily decisions and short-term planning.⁷ Unlike the San Jose project, the Orlando program does not use a citizen board.

In San Jose, the Citizens Advisory Committee "provides valuable assistance in developing detailed plans for implementing and running the project."⁸ The eleven member committee was appointed by the judge in the small claims division of the municipal court and is chaired by a former president of the Santa Clara County Bar Association. The final decisions on policy are made, however, by a committee within the Bar Association. One criterion for selection to the Advisory Committee is experience in the problems of small claims court users. The committee represents such community interests as housing, small businesses and community service agencies. This input is valuable in directing project policy toward the necessities of the target community.

The major advantages of private sponsorship include: (1) an image of neutrality to the public; (2) the reduction of stigmatization through separation from the criminal justice system, and (3) the ability to build upon a broad base of general support from the community (including support in the form of grants from institutions).⁹ These advantages derive from many of the disadvantages found in public sponsorship. Where the public projects are weak, the privately sponsored ones are strong. Conversely, the disadvantages of private sponsorship are akin to the positive points of public sponsorship. For instance, some privately sponsored projects have problems getting a sufficient caseload. In order to augment a small caseload, a project must develop relationships with criminal justice agencies from which it will receive referrals. A potential danger exists here because if the project becomes too dependent on the criminal justice system it can lose much of its autonomy. Another disadvantage of the privately sponsored projects comes in the form of a lack of long term funding. It is easier for publicly sponsored projects to become institutionalized, while private projects must continuously find new funds over the long term.¹⁰ Although there are some basic disadvantages to private sponsorship, many believe that it is more in keeping with the "community nature" of the programs.

An "independent" structure is autonomous from any other entity. The basic difference between this form and the "dependent" structure is that there is a Board of Directors which autonomously makes policy (especially financial decisions). The project director is usually directly responsible to the board which may be comprised wholly or in part of community residents. This is a critical differentiating point between "dependent" and "independent" structures. Depending on the number of community residents allowed to sit on the board, the target community has a direct governing role. If community representation within the board of directors is not sufficient, a community advisory board might still be employed to give residents some role in policy-making.

Two examples of a non-profit corporate structure are the Neighborhood Justice Center of Atlanta and the San Francisco Community Board project. The Boston project is also planning to become a non-profit corporation. 11 The Atlanta program is currently operating under a board comprised of twelve members, eight of whom represent the courts and the organized bar while the remaining four are influential business persons from the area. A selection process is currently being carried on which will result in the placing of six residents of the target community on the board. The project has asked eighteen interest groups and agencies in the target neighborhood to submit up to three names of community

residents they think worthy to serve on the board. The names submitted will then be reviewed by the existing board and the six additional board members will be chosen from this pool. The present director of the project has stated that the board will attempt to "choose six residents who will comprise a cross-section of the target community." 12 The citizens on this board will not act merely as advisors but rather as policy-makers. The structure employed by the San Francisco project is similar to that of the Atlanta project but at this time the extent of community participation is unknown.

The Boston project, in converting to a non-profit corporation, plans to have a board of directors comprised of twelve to fifteen members. For the most part these members will be influential persons from the local business community. According to the director these people are being recruited for their business expertise and abilities in raising the necessary funding for the project's continuation. At the present time it is planned that only one resident of the target community will be allowed to sit on the board. However, in order to remedy this apparent lack of representation, the current Urban Court Subcommittee will be given veto powers over any and all policy decisions. In this way the community will be even more effectively represented within the future structure than it has been in the past. The plan is attractive because it combines the expertise of professionals in the

business community and the interests of the target neighborhood within the policy-making apparatus.

The "independent" corporate structure retains most of the structural advantages of a privately sponsored "dependent" project outlined above. There are also several additional advantages, including the opportunity for even greater participation by the community in policy-making, and the absence of liabilities to sponsoring agencies. It is possible that a person may in the future bring suit against an NJC for damages resulting from a denial of due process or some other legal right. There is also the possibility of a lawsuit arising from physical injuries sustained on the premises of an NJC.

With respect to a lawsuit based on denial of due process it seems that most project directors (regardless of their project structure) feel that such a suit would be ineffective, because the participation in the process is voluntary, and because (in most cases) a statement to this effect is signed by the parties. It is also pointed out by more than one director that the participants are always free to take their dispute into the court system if they are dissatisfied with the results obtained from the NJC. It can be concluded, therefore, that in a case of a due process violation claim there may be no significant difference in liability between the project structures.

This is not the case however with suits arising from personal physical injuries, etc. In the case of a suit involving personal physical injuries the structure of the project has a significant impact on the liabilities involved. For instance, in the case of the Boston project a plaintiff could conceivably sue the city of Boston for such damages. Under the future structure of the Boston project, however, the city will have no liability. Any and all liability will be born by the project itself as a separate corporate entity. Such a suit could conceivably be brought against the bar associations sponsoring the San Jose and Orlando projects. These liabilities are eliminated through the formation of a corporate entity.

B. Structure Of The Uptown-Edgewater Neighborhood Justice Center.

As with the other centers, the decision to recommend an independent structure is influenced by initiator preferences, contact with and availability of a sponsoring agency, the types of cases to be heard, their relationship to the justice system, and the degree of official pressure desirable for the resolution process. Additionally, the advantages and disadvantages of an independent structure as experienced by the other projects were considered.

1. Not-for-profit corporation. A not-for-profit corporation would provide the most effective means for implementing the pilot project. The independence of this format is a major advantage because the center could service cases not presently being processed by established agencies. At the same time the structure would permit the Chicago Bar Association to integrate the program into the legal system.

Working relationships with established agencies are crucial. Their support is necessary for the credibility of the center. Moreover, the agencies will be an important source of referrals.

The Task Force has already begun to build cooperative relationships with public agencies within the community such as the district police stations, the community office of the State's Attorney, and Branch 29 of the Circuit Court, with public and private agencies serving the social needs of area residents, and with community organizations such as block clubs. Their favorable responses suggest a willingness to cooperate in referring individuals to the center and promoting its use.

Another advantage of the proposed structure is its perceived neutrality. Since Uptown-Edgewater is divided by the socio-economic diversity of its residents and tension about the community's future, the independent stance of the center would lessen questions about its alignment with any particular faction. 13

RECOMMENDATION 3: THE UPTOWN-EDGEWATER NEIGHBORHOOD JUSTICE CENTER SHOULD HAVE AN INDEPENDENT STRUCTURE AS A NOT-FOR-PROFIT CORPORATION.

2. An interim board of directors. A small number of directors, sufficient for incorporation purposes, could guide the Uptown-Edgewater project toward implementation. Their first objective would be to seek funding. Secondary objectives would include recruiting a staff, developing policies and operating procedures, and guiding the integration of the project with established justice agencies.

This interim board could be subject to approval by the Chicago Bar Association. While the board would be legally independent from the CBA, its activities would reflect the goals of the project as stated in this Report and elsewhere.

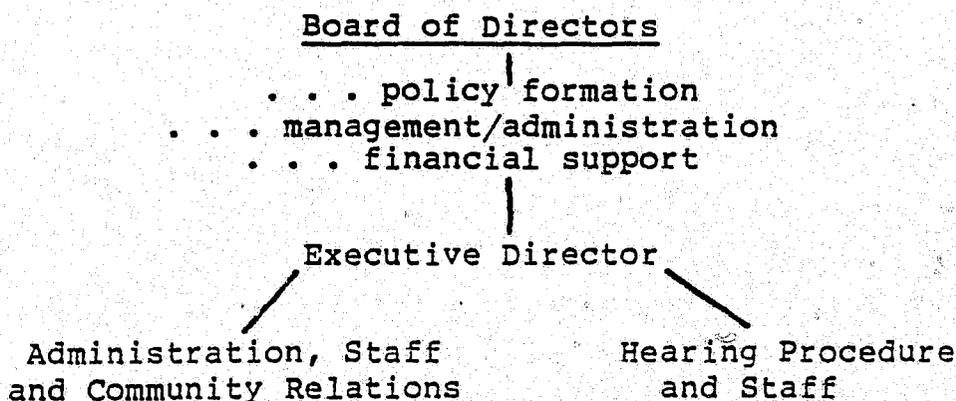
RECOMMENDATION 4: THE CHICAGO BAR ASSOCIATION SHOULD DESIGNATE INTERIM DIRECTORS WHO WILL INCORPORATE THE UPTOWN-EDGEWATER NEIGHBORHOOD JUSTICE CENTER AND DIRECT THE PROJECT TOWARD IMPLEMENTATION.

3. Long-run composition of board of directors. The broad involvement of community agencies is vital. During the implementation phase, input will be needed in developing procedures for the selection of a permanent board, identifying

sites for hearings, and recruiting hearing officers. Probably the most important role for the community is in promotion of the Center and the concept of mediation/ arbitration for resolving minor disputes. Since the participation of both disputants is voluntary as is compliance with the resolution reached, community pressure is one means for achieving both of these goals. Thus, community support for the Center must be obtained.

Over the long run, members of the Board of Directors should be selected on the basis of their professional expertise, involvement in the Uptown-Edgewater community, knowledge and familiarity with the justice system and commitment to the concept of neighborhood justice. As the Center becomes operational, the Board of Directors would have continuing responsibilities in the areas of policy formation, administration and financial support. Decisions would be implemented through an Executive Director (see Figure 2).

FIGURE 2



How strong should the community's representation on the board be? If, for example, one-third of the board seats were allocated to community residents, several goals would be furthered. It would clearly demonstrate to the community that a serious effort will be made to make the center truly responsive to the needs of the neighborhood. The failure of some public and private agencies to live up to their stated policy of community involvement has made many residents skeptical of such promises. This concern was repeatedly brought to the Task Force's attention during this preliminary investigation. Secondly, the diversity of community interests will be reflected on the board which will enhance the center's perceived neutrality. Thirdly, involvement in policy will stimulate participation in the center's operations and use of the mediation/arbitration processes.

The actual procedures for selecting community board members must be determined. The use of existing structures within the community should be thoroughly tested. For example, middle-class residents, often property owners, frequently express themselves through block clubs. Ethnic groups, such as Asians, American Indians and Hispanics, each have their own social service agency or cultural organization. The poor and the wealthy may be the least organized. The interests of the poor may be achieved by representation from the public and private agencies that serve them. Representation of the

wealthy is less critical since they compose a relatively small proportion of the total community residents and would be least likely to use the center, if their use of the Pro Se Court is any indication. 14

RECOMMENDATION 5: CAREFUL CONSIDERATION SHOULD BE GIVEN BY THE INTERIM BOARD TO INCORPORATING COMMUNITY REPRESENTATION ON THE PERMANENT BOARD OF DIRECTORS. THIS SHOULD INCLUDE RESIDENTS OF THE NEIGHBORHOOD AS WELL AS REPRESENTATIVES OF SIGNIFICANT OTHER INTERESTS IN THE CITY AND THE LEGAL SYSTEM.

VI. JURISDICTION

What kinds of cases should neighborhood justice centers intervene in? What cases should they avoid? The experience of other projects clearly suggests that a neat, legalistic approach to jurisdiction has been replaced by a more pragmatic and experimental approach. This is due in part to the fact that NJC's are viewed as a voluntary alternative to adjudication and as a response to the need to make justice more accessible to citizens. Tight jurisdictional limitations seem inappropriate when both parties voluntarily submit themselves to the NJC in contrast to compelled submission to formal legal institutions. Moreover, such limitations would contract rather than expand the accessibility of neighborhood justice.

Not only have legalistic jurisdictional limitations been avoided but the focus of jurisdictional concerns has been on the nature of the parties rather than the subject matter of the dispute. This stems from the use of mediation, and to a lesser extent, arbitration, rather than adjudication of disputes. There is a widespread, although empirically undemonstrated assumption, that the success of mediation and arbitration in the voluntary setting of neighborhood justice centers depends generally on the relationship between the parties. 1

A. The Threshold Requirement: An Ongoing, Personal Relationship Between Disputants.

There is an overwhelming consensus that the parties involved should have some sort of ongoing personal relationship with one another, whether that relationship be one of family, friends, neighbors, employer-employee, or some other type of continuous or frequent contact. In the ten centers researched, disputes involving ongoing relationships made up from 40% to 100% of the total caseloads. The New York Institute for Mediation and Conflict Resolution Dispute Center reported that resolutions in 1975-76 involved strangers only 4% of the time.² The Center maintains a screening process which eliminated 182 of the 1,657 referrals it received during this period due to the lack of a prior relationship between the complainant and respondent or due to the defendant's criminal history.³ About half of the centers have a formal screening process and the others maintain some sort of informal screening procedure.

The rationale put forth for the decision to require an ongoing relationship between the parties is that such cases are more amenable to mediation. Spokesmen for several projects agree that the present criminal justice system is not an adequate forum for solving the problems which give rise to many criminal disputes. It is also asserted that Small Claims Courts are not suitable for solving the problems which give

rise to the civil matters being adjudicated. There are many instances where a criminal action is nothing more than a manifestation of an underlying conflict which surfaced as a dispute requiring police intervention. Many times both the complainant and the respondent contribute to the actions which result in formal criminal charges. Because the court is limited by certain procedural rules and the fact that the conflict must be narrowed to the issue of criminal liability, it is almost impossible for the judge to confront the roots of the conflict. Often the case is merely the tip of an iceberg of human conflict, the legal disposition of which does not begin to solve the real problems.

The process of mediation dispenses with the formalities and procedures of the courtroom. The mediator is free to probe the causes of the dispute before him, unhindered by rules of relevancy or admissibility. Statistical data confirms the belief that the mediation process is more suitable to the disposition of these types of cases.

The Citizen Dispute Settlement Program of Orlando Florida found that both criminal and civil cases involving ongoing relationships were handled very effectively through mediation (see Table 7). In cases of property damage (which included both criminal and civil cases), 80% of the complainants and 70% of the respondents were "satisfied" with their hearing. More important was the fact that 70% of both

the complainants and the respondents thought it "likely" that the problems underlying the dispute had been settled. 4

TABLE 7

Citizen Satisfaction With Informal Dispute Resolution Processes Controlling For Type Of Dispute (Orlando, Florida)*

<u>Type of Dispute</u>	<u>Percentage of Parties "Satisfied" with Hearing</u>		<u>Percentage of Parties Perceiving a Solution to be "Likely" Outcome</u>	
	<u>Complainant</u>	<u>Respondent</u>	<u>Complainant</u>	<u>Respondent</u>
Harassment	60%	74%	50%	60%
Simple Assault	42%	67%	40%	67%
Neighbor Dispute	78%	67%	50%	50%
Property Damage	80%	70%	70%	70%
Petit Theft	70%	70%	70%	60%

*Source: R. Conner and R. Surette, The Citizen Dispute Settlement Program (1977).

Finally, there is indication that an ongoing relationship is more important in criminal cases than in civil. The projects surveyed appear to accept disputes between strangers more readily when the controversy has not yet escalated to criminal proportions. Considerable flexibility is evident in the approach of several projects.

RECOMMENDATION 6: THE UPTOWN-EDGEWATER NEIGHBORHOOD JUSTICE CENTER SHOULD FOCUS ON DISPUTES BETWEEN PARTIES WITH AN ONGOING, PERSONAL RELATIONSHIP. THIS SHOULD BE A NECESSARY

CRITERION IN CRIMINAL CASES, AT LEAST DURING THE FIRST YEAR OF THE CENTER'S OPERATION. IT SHOULD BE OF LESSER IMPORTANCE IN PURELY CIVIL MATTERS. THE CENTER SHOULD EXPERIMENT WITH THE RESOLUTION OF CIVIL DISPUTES BETWEEN STRANGERS AND DEVELOP GUIDELINES FOR THE ACCEPTANCE OF SUCH CASES.

The rationale for adopting a party focus stems from the high success rate of the projects surveyed. The theoretical basis for this focus seems especially persuasive in criminal cases. If an assault or battery occurs between strangers, there is no apparant underlying dispute to mediate. The victim's and society's concern is justifiably centered on the criminality of the defendant's conduct and the applicability of the retributive and deterrent basis for the criminal sanction. Such concerns fade, however, when an underlying dispute, which led to criminal conduct, can be mediated to a just resolution.

The importance of the nature of the parties' relationship diminishes in civil cases. The dispute which brings the parties to the center is on the surface, and the disputants are voluntarily there seeking assistance in arriving at some resolution. The fact that they are strangers should not necessarily preclude them from mediation or arbitration. The incentives to seek a resolution through these alternatives

apparently arise from factors beyond their relationship to each other. However, it is still a plausible working assumption that a successful mediation is more likely to occur between personally related individuals and, hence, in order to allocate resources most effectively, that factor ought not be completely waived in civil cases until workable guidelines can be built into the screening process based on further research and experience.

The feasibility of the above recommendations depend primarily on the sources of referrals and the case volume of the center. It is more likely that a formal screening process could be set up if the referrals come from structured sources (i.e., police department, state's attorney's office, etc.). If the center relies primarily on walk-ins and referrals from informal sources, it will have less control over the cases coming to it. A small initial caseload might also force the center to accept cases it ordinarily would avoid, given a larger caseload.

B. Exceptions To The General Rule Of An Ongoing, Personal Relationship.

1. Bad Check Cases. Even with screening techniques, virtually all projects process some cases which involve parties who do not have an ongoing relationship. Exceptions are made, for example, in bad check cases. Some centers actively recruit

these cases while others merely allow them to be processed. The actual number of bad check cases processed range from 0% to about 60% of total caseloads. The latter percentage was reported by the Columbus Night Prosecutor Project for 1976. 5 With regard to the bad check cases, the prevailing rationale for accepting them is that although they are "structurally different" from other cases, they still lend themselves to the mediation process. The Columbus Project points out that, "[i]ssues which arise in bad check cases tend to relate to interpretations of fact rather than to the emotional complexities observed in actual ongoing interpersonal relationships." 6 Although such cases are processed by most centers, there is a minority opinion, exemplified best by the Boston Project (which processes a small amount of such cases through its disposition program), that bad check cases do not lend themselves to the mediation process.

While the experience of other centers suggests that the format for handling these cases is different than other disputes, the prevailing view indicates that they can be mediated or arbitrated cheaply and efficiently, to the satisfaction of the parties, regardless of the impersonal nature of the relationship between the disputants.

2. Institutional and corporate parties. Centers vary with respect to allowing institutions or corporate entities to participate as parties to mediation. For the most part, the degree to which institutions participate depends on the number of bad check cases that a center processes. Most of these cases do not involve individuals with longstanding relationships. In most cases a store or some other economic entity is involved and a representative of the store serves as the complainant. 7

The prevailing rationale behind the acceptance of cases involving institutions is that there is often an ongoing relationship involved even though the relationship is not a personal one. It has been shown that mediation can take place effectively between an individual and a representative of the institution, especially in bad check cases. These cases are handled speedily without taxing the center's resources. There is a minority opinion that cases involving institutions are not properly handled by the center. This viewpoint is explained by the Boston Project: "Large institutional consumer complaints are not considered amendable to mediation due to the imbalance of power between the disputants". 8

RECOMMENDATION 7: THE UPTOWN-EDGEWATER NEIGHBORHOOD JUSTICE CENTER SHOULD ACCEPT DISPUTES BETWEEN INDIVIDUALS AND CORPORATIONS OR INSTITUTIONAL PARTIES WHERE APPROPRIATE.

3. Group conflict. Two projects report experience concerning group conflict. Both the Boston and Rochester projects have intervened in community conflicts involving neighborhood factions or gangs. In fact, part of the stimulus for the creation of the Rochester project was the existence of broad community strife triggered by the refusal of city schools to undertake a desegregation program.⁹ The extent to which the Rochester program continues to involve itself in large scale disputes is unclear.

The Boston project reports a withdrawal from this kind of activity. Its reason for doing so appears not to be lack of success in mediating these conflicts. Rather, available resources were stretched too thin. The larger the conflict, the more staff resources required for effective intervention; and such resources were not available. There is no available data on the success rate of neighborhood justice center intervention in group disputes.

RECOMMENDATION 8: THE UPTOWN-EDGEWATER NEIGHBORHOOD JUSTICE CENTER GENERALLY SHOULD NOT ATTEMPT TO MEDIATE BROAD COMMUNITY CONTROVERSIES INVOLVING MANY INDIVIDUALS. SIMILARLY, DISPUTES INVOLVING MANY DIFFUSE ISSUES AND MANY LOOSELY RELATED PARTIES SHOULD BE AVOIDED.

The resources required for effective mediation of broad community controversies will probably not be available to the center. However, merely because several individuals have an interest in the outcome of a dispute, e.g., a tenants' organization disputing with the landlord over building maintenance, should not be reason for excluding the controversy. Nor should such cases be artificially broken down into many separate disputes when the same narrow issues are common to all. In other words, the center should be open to the neighborhood version of class action suits, provided the class is clearly defined and truly represented in the mediation process.

C. Jurisdictional Limits On The Seriousness Of Criminal Matters

The degree of seriousness of conduct which is the subject matter of disputes in other projects is indicated in Table 8. The most serious matters regularly processed in Boston involve assault and battery with a dangerous weapon. Not reported in the table is the fact that a few rape cases, involving unusual circumstances, have apparently been successfully mediated in New York; and the project is beginning to take cases involving robbery, burglary, kidnapping and grand larceny. ¹⁰ Most of the projects surveyed do not take cases involving crimes against persons more serious than simple

assault and battery. There appears to be greater variation in cases involving crimes against property. This is probably due in part to greater variety in local charging practices and legal definitions of property offenses.

TABLE 8

Seriousness Of Disputes Processed By Neighborhood Justice Centers
In Three Cities

	% of Reported Cases		
	<u>Boston*</u>	<u>Rochester*</u>	<u>Orlando**</u>
Assault & Battery with Dangerous Weapon	26		
Simple Assault/Battery	26	16	20
Larceny/Petit Theft/Property Dispute	5	8	6
Malicious Destruction/Property Damage	10		6
Trespass/Breaking & Entering	4	1	2
Threats/Harassment	16	50	28
Contributing to Delinquency of Minor	4		
Bad Checks		5	1
Annoying Phone Calls	4		
Animals	1		2
Criminal Mischief/Breach-Peace/Disorderly	1	4	4
Other	<u>3</u>	<u>16</u>	<u>31</u>
	100%	100%	100%
Reporting period:	<u>March, 1977</u>	<u>1975</u>	<u>Jan.-Oct. 1976</u>
Number of cases:	90	427	306

*Source: D. McGillis, Neighborhood Justice Centers (1977)

**Source: R. Conner & R. Surette, The Citizen Dispute Settlement Program (1977)

The prevailing rationale in the selection of criminal cases focuses on the extent of the personal relationship between the parties rather than on the elements of the offense

charged. This results from an awareness that frequently the difference between degrees of an offense are determined by circumstances other than whether the controversy can be resolved to the victim's and society's satisfaction through mediation. The degree of assault charged depends more on the accuracy of the defendant's aim than on whether victim and defendant are willing to work out the difficulty that gave rise to the assault.

A minority view concerning the nature of the offenses taken by neighborhood justice centers has begun to emerge. It seems to dispense with the need for an ongoing, personal relationship and takes a more pragmatic view that any cases which can be informally resolved to society's and the victim's satisfaction should be considered fair game. There is little theoretical guidance as to the upper limit but a greater willingness to experiment. ¹¹ This is illustrated in the San Francisco project's willingness to process "victimless" offenses such as gambling, prostitution, and public drunkenness. It is unclear how these cases will be processed since mediation and arbitration obviously do not apply. ¹²

All of the projects reviewed reported high success rates in mediating the criminal cases they took. For example, the Boston project, which appears to have regularly accepted the most serious matters, in an eighteen month period from 1975 into 1977, took 458 cases. Twenty-nine percent were not

mediated either through failure of the parties to appear or to consent to mediation. Of the remaining 302 cases, 89% were settled through mediation. Of these, the resolution broke down in only 15% of the cases, i.e., one or both parties reported that they were dissatisfied with the progress of the settlement a month after the mediation sessions. ¹³ The Boston project does not analyze success rates according to the seriousness of the offense, but there is no apparant relationship between seriousness and success. Where some control is made for the seriousness of the offense, no correlation between seriousness and success rates appear. ¹⁴

The impact on court caseloads resulting from the Boston project's taking criminal cases is reflected in the local presiding judge's estimate of savings in court time of approximately 3 days per week, not including additional time for processing cases by court related personnel.¹⁵ While such estimates of resource savings are only impressionistic, they are testimony of the beneficial effects, from the public's viewpoint, that may result from diverting some criminal cases to neighborhood justice alternatives.

RECOMMENDATION 9: ASSUMING APPROPRIATE RELATIONSHIPS WITH CRIMINAL JUSTICE AGENCIES, THE UPTOWN-EDGEWATER NEIGHBORHOOD JUSTICE CENTER SHOULD HAVE JURISDICTION TO HEAR CASES INVOLVING THE FOLLOWING CRIMINAL OFFENSES:

ASSAULT, BATTERY, THEFT, DAMAGE TO PROPERTY, TRESPASS, AND LESS SERIOUS OFFENSES. DURING THE FIRST SIX MONTHS OF THE CENTER'S OPERATION, IT SHOULD DECLINE CASES INVOLVING OFFENSES TOWARD THE MORE SERIOUS LIMITS OF ITS JURISDICTION AND CONFINE ITSELF TO LESS SERIOUS MATTERS WITHIN THE RANGE. AFTER THE FIRST YEAR OF THE CENTER'S OPERATION, IT SHOULD GIVE SERIOUS CONSIDERATION TO REDEFINING ITS JURISDICTIONAL LIMITS WITH A VIEW TO BROADENING THEM TO INCLUDE MORE SERIOUS OFFENSES AND SO-CALLED "VICTIMLESS" OFFENSES.

These recommendations are based upon their successful application in practically all of the projects surveyed. Interpersonal crimes as serious as aggravated assault and battery are mediated elsewhere to the victim's satisfaction and the public's benefit. There are no apparent factors in the target neighborhood which suggests that the experience of other urban areas would not be duplicated. In fact, the economic and cultural milieu of the neighborhood coupled with the impressions registered in the survey of community agencies 16 strongly suggests that many such crimes may be occurring between those who, because of their relationship, would be amendable to Center processes. This judgment applies with even

greater force to less serious offenses falling within the recommended jurisdictional range.

The recommendations advise confining the exercise of jurisdiction to the less serious matters within the range during the early months of the Center's operation. Presumably, the more serious the offense, the more challenging the obstacles to a successful mediation. A party who feels more seriously threatened by the defendant's conduct will be justifiably more defensive in the mediation confrontation. More highly developed mediation skills may be called for and they are likely to come with experience. ¹⁷ Six months should be sufficient time for such skills to emerge.

The Task Force advises a somewhat open-ended approach to jurisdictional limitations. At least two of the projects surveyed (San Francisco and New York) are experimenting with cases involving offenses beyond the jurisdictional range indicated. And a third (Atlanta) plans to take any and all cases that are presented during the first six months to gather empirical evidence as to what kinds of cases can be successfully handled. ¹⁸ As the evidence from these innovative efforts becomes available, and as local experience with the neighborhood concept accumulates, serious attention should be focused on the possibility of broader case criteria. The feasibility of these recommendations largely depends upon the relationships that can be established with personnel of the

police department, state's attorney's office, and the criminal courts.

D. Special Considerations Pertaining To Civil Matters.

1. Limitations derived from the jurisdiction of the Pro Se Court. Only one of the ten projects surveyed had jurisdictional limitations paralleling those of the local small claims court. The San Jose Neighborhood Court permits filings where the maximum claim is \$750. 19 The reason for mirroring the small claims court jurisdiction seems to be that the San Jose project is directly related to the court and primarily concerned with civil cases. 20

RECOMMENDATION 10: THE UPTOWN-EDGEWATER NEIGHBORHOOD JUSTICE CENTER SHOULD NOT ACCEPT FOR ARBITRATION CASES IN WHICH THE SUBJECT MATTER OR THE PARTIES WOULD MAKE ANY AWARD NOT ENFORCEABLE IN THE PRO SE BRANCH OF THE SMALL CLAIMS COURT OF THE COOK COUNTY CIRCUIT COURT. THIS WOULD NOT APPLY TO CASES ACCEPTED FOR MEDIATION ONLY. ANY EXPANSION OF THE CENTER'S ARBITRATION JURISDICTION SHOULD BE COORDINATED WITH THE CIRCUIT COURT.

The distinction between arbitration and mediation rests on the different functions served by these two components. Mediation is a means for disputants to work out, with the help of a neutral third party, a non-binding resolution that will be adhered to because it is mutually acceptable. Arbitration is a means for submitting the dispute to a neutral third party who will impose a binding resolution that will be adhered to because it is legally enforceable. Parties who seek a mediated resolution do so out of a desire to avoid formal legal processes. Parties who seek an arbitrated resolution rely on the eventuality of litigation to enforce the award.

The neighborhood justice center aims to make informal dispute resolution processes accessible to average citizens for whom the courts are not readily accessible. If the Center declined to accept for mediation all cases outside the jurisdiction of the Pro Se Court, it would exclude large numbers of cases already excluded from formal adjudication and successfully resolved in most of the projects surveyed, e.g., disputes over possessory interests in personal property, behavior, and dollar amounts in excess of \$300 but still too small to warrant retention of an attorney. At the other extreme, if the Center accepted for arbitration all matters falling within the jurisdiction of some court somewhere, it may be opening its doors too widely to disputants who could utilize

the courts or other established surrogates for litigation including the Chicago Bar Association Voluntary Arbitration Plan. 21

2. Domestic disputes. Most of the projects surveyed process cases in which the controversy is domestic in nature. In fact, family disputes were ranked among the most common type by many centers. The Boston project reported that 36% of its caseload involved family disputes of various kinds. 22 Although both criminal and civil cases of this type were processed, the former far out-numbered the latter. Many of the assaults involved spouses in the process of divorcing. 23 The Miami project has been very active in efforts to mediate assaults between spouses; and the Family Court there has expressed its interest in cooperating with the project. 24 The New York project is most deeply involved in inter-spousal and other domestic disputes. While it cannot arbitrate Family Court matters, it does attempt to intervene through mediation. If an agreement is not reached through mediation, the disputants must take their case to Family Court. The project has expressed a willingness to arbitrate these cases if given the authority and additional resources needed. 25

The rationale put forth by the projects in supporting their practice of accepting domestic cases is that these cases are "well suited" to the mediation and arbitration processes. When given the authority to do so, the projects have had a

great deal of success with these cases, especially with less serious domestic problems, including custody and child support.

RECOMMENDATION 11: THE UPTOWN-EDGEWATER NEIGHBORHOOD JUSTICE CENTER SHOULD NOT ACCEPT CASES INVOLVING DOMESTIC AND INTER-SPOUSAL DISPUTES IF (1) THE DISPUTE REQUIRES RESOLVING AN ISSUE, JURISDICTION OVER WHICH IS EXCLUSIVELY VESTED IN A COURT, SUCH AS MARITAL STATUS, AND (2) THE NATURE OF THE DISPUTE IS SUCH THAT IT IS LIKELY TO CONTINUE BEYOND A MEDIATED RESOLUTION.

It would be inappropriate for the Center to intervene in controversies over marital status, support rights, and child custody in Illinois. Public policy mandates that such issues be decided by courts of competent jurisdiction. Moreover, some inter-spousal controversies not requiring the resolution of these legal issues may nonetheless require resources beyond the context of mediation, e.g., counseling of spouses engaged in continued physical violence, or counseling of parents who repeatedly brutalize children. ²⁶ Such cases would be outside the capabilities of the neighborhood justice center.

VII. INTAKE PROCESSES

A. Criminal Cases

The manner in which criminal cases come to the attention of neighborhood justice centers varies widely. On one hand, a center could rely primarily on complaints being made at the center on the initiative of the alleged victim of the crime. On the other hand, the center might wait to intervene until a court formally refers the matter, while retaining jurisdiction should the informal resolution process fail. Other referral sources in between these extremes may include community organizations, the police, the public prosecutor or some combination of these.

The focus of the intake process of projects surveyed for the Report varies along this spectrum of possibilities. The newly organized San Francisco neighborhood justice center plans to take most of its referrals from the community and the police. It is unclear what proportion of the anticipated caseload will involve walk-in complainants who seek help from the center before notifying the police. The extent to which the San Francisco project succeeds in generating a walk-in caseload will depend primarily upon the effectiveness of its extensive efforts to involve neighborhood residents in the program. 1

The rationale for this early intervention focus derives from the project's commitment to two goals: delivery of social services at the "front end" of the criminal justice process rather than after an adjudication of guilt or innocence has been rendered, and stimulation of citizen involvement in neighborhood problems that could develop into law violations, so that formal criminal justice resources can be diverted to problems which citizens cannot effectively confront without police assistance. In other words, this highly "preventive" intervention strategy attempts to maximize citizen access to justice processes and at the same time maximize savings accruing to the legal system. 2

The full commitment to the early intervention strategy of the San Francisco program has not been replicated elsewhere in the projects surveyed. Walk-ins and referrals from community organizations comprise only a small proportion of the caseload in Miami and New York, for example. 3 A major exception to this generalization is the "bad check" component of the Columbus project, where over 100 companies regularly file bad check complaints and maintain records on the success of the project in such cases. It is likely that the advantages of a cheap and speedy process for collecting on routine bad checks has stimulated this demand. 4

At least three projects have made serious efforts to develop a caseload primarily dependent on referrals from the

police. Two types of referrals have been contemplated, pre-arrest and post-arrest. Pre-arrest referrals are likely to occur in situations where the police have been called to the scene but are reluctant to make an arrest even though, technically, a crime has occurred. This frequently is the case in domestic conflicts but often happens in other cases. The police themselves may attempt to mediate the dispute. ⁵ In New York, if no arrest is made, the police prepare a mediation referral form, give a copy to the complainant telling him to report to the center, forward a copy to the center, and keep a copy on file at the precinct stationhouse. ⁶

The rationale for pre-arrest police referrals is that savings in police time are maximized, including time spent on record processing and court appearances by police personnel. Paradoxically, the cost savings advantages of pre-arrest referral are the source of the greatest difficulty in obtaining the full cooperation of the police. In Boston the Patrolman's Association rejected arrangements with the neighborhood justice project because referral in lieu of arrest would reduce overtime benefits associated with court appearances by officers. ⁷ In New York, referral instead of arrest brings no "collar credit" to officers and no substitute incentives have been built into the police structure. ⁸ It appears that the factors impeding full cooperation by the police in Orlando are more associated with doubts by the police about the

responsiveness of the center to their referrals than with lack of adequate incentives. The Orlando program now informs referring officers about the disposition of cases at the center to establish a working relationship with the force and stimulate confidence in the program. ⁹ Where police have received special training in dealing with "problem" cases in non-traditional ways, a greater willingness to cooperate appears. The Miami project receives most of its police referrals from the police crisis intervention unit. ¹⁰

The only clear example of post-arrest referrals initiated by the police occurs in New York. Apparently the police can initiate a procedure for a "stationhouse release" with personnel at the criminal court. If the case seems appropriate for mediation, a member of the project's staff, working out of the criminal court, seeks permission for the referral from the District Attorney's office. ¹¹ The infrequency of post-arrest referrals by the police probably is due to the relatively routine and passive role of the police in the processing of cases after arrest. The initiative shifts to the prosecutor and other court personnel.

Three projects receive referrals from the public prosecutor, and for at least two of these, a large part of the caseload is from this source. The Miami project relies on paralegals in the state's attorney's office who review misdemeanor cases with complainants. In appropriate cases they

are referred to project intake counselors in the same building, who review the case for acceptance into the program. 12 In Columbus, an even closer relationship with the public prosecutor exists. The project stations "legal interns" in the prosecutor's office where they review cases referred by police and prosecutorial staff. After reviewing the matter with the complainant, the intern schedules a mediating session as appropriate. 13 The Boston program also receives cases from the prosecutor's office at the district court. 14 It is unclear to what extent the district attorney in New York initiates post-arrest referrals to the project, but his permission is necessary in individual cases. 15

Three of the programs take most cases from the criminal court, although the extent of direct judicial involvement varies. The clerk of the city court in Rochester holds a "pre-warrant" hearing, a few weeks after a misdemeanor is reported. Both complainant and defendant are requested to appear at this hearing. If appropriate, the clerk refers the case to the neighborhood justice center at this point; other, formal charges are processed by the clerk. Arrangements have been made for a project intake worker assigned to the clerk's office to refer certain kinds of cases, on his own initiative, before the pre-warrant hearing. 16 The Boston program also relies on referrals from the clerk's office -- about one-third of its caseload coming from that source. However the clerk in

Boston apparently also does a good deal of informal mediating on his own and in many more difficult cases prefers to leave the referral decision up to the judge. 17 About 57% of Boston's caseload is from the bench (with the consent of the district attorney) at the arraignment or other hearing. The presiding judge believes that justice center intervention at this stage lends the weight of the court to the referral and provides greater incentives for a successful resolution. The referral is made to a project staff member stationed in the court, and the case is continued on the docket pending the outcome of mediation. 18 At the outset the New York program depended largely upon referrals from the clerk in the Summons Part of the Criminal Court, which holds initial hearings in misdemeanors. Between the time a complaint was filed and the time of the initial hearing, the clerk referred appropriate cases for mediation. If resolved, the failure of the complainant to appear before the Summons Part resulted in the dismissal of the case. The court has recently sped up the processing of cases so that there is insufficient time for a hearing between the filing of the complaint and the Summons Part hearing. As a consequence, court-based referrals have dropped off dramatically and the project now depends upon referral from the judge presiding at the hearing. Referral at this point requires the concurrence of the assistant district attorney and the legal aid attorney assigned to the case, as

well as the parties. 19

Data which would permit a meaningful comparative assessment of these different intake procedures simply has not yet been developed. Evaluation is therefore purely speculative. It seems that the earlier intervention occurs, the greater are the direct savings to the criminal justice system. Early intervention means less official processing and fewer resources being diverted away from more important criminal justice matters. At least four additional factors must be considered in evaluating the extent of the savings accruing from early intervention.

First, many cases mediated in an early intervention project would probably have been filtered out of the criminal justice system anyway through official discretion or private choice, e.g., the refusal of the police to arrest, the failure of the complaining witness to appear, the unwillingness of the prosecutor to press charges or of the court to adjudicate the matter. Discounting the apparent savings from this factor may produce a substantially smaller real savings to the system. 20

Secondly, since early intervention means greater citizen accessibility to justice processes, the threshold cost to citizens is decreased and the incentive to bring disputes is increased. This may be especially true in criminal cases where the threat of labeling defendants with the stigma of criminality is removed and the discomfort of dealing with

law enforcement authorities is eliminated. The result may be an increase in caseloads. One commentator notes that the price of an improved scheme of dispute processing may well be a vast increase in the number of disputes being processed." 21 Net increases in caseloads will require additional resources that would otherwise be saved.

Thirdly, the downward adjustments in apparent savings suggested by these two factors may be offset somewhat by additional subtle but real gains that may result from early intervention. Impressionistic evidence strongly suggests that disputes which are filtered out of the criminal justice system, or which are not brought to the attention of the system because of citizen disincentives frequently escalate into more serious matters. Minor disputes unresolved in misdemeanor court may return to the system as felonies. To the extent that early intervention minimizes such escalation, it produces a "preventive bonus." 22

Finally, even though the real savings to the system may be smaller than the apparent savings, the rationale for neighborhood justice is not predicated exclusively on efficiency. The other, and perhaps primary, purpose of NJCs is to make justice more readily available to average citizens. Losses in apparent savings to the system associated with early intervention strategies arise precisely because early intervention makes justice more accessible, in that it processes

some cases that might have been otherwise ignored by the system. "Whether that will be good (in terms of supplying a constructive outlet for suppressed anger and frustration) or whether it will simply waste scarce societal resources (by validating grievances that might have otherwise have remained dormant)" is an open issue. 23

RECOMMENDATION 12: THE UPTOWN-EDGEWATER NEIGHBORHOOD JUSTICE CENTER SHOULD ATTEMPT TO RECEIVE REFERRALS FROM A BROAD RANGE OF POINTS WITHIN AND OUTSIDE OF THE CRIMINAL JUSTICE SYSTEM. EFFORTS SHOULD BE AIMED AT INDUCING REFERRALS EARLY IN THE PROCESSING OF CRIMINAL CASES WHILE AT THE SAME TIME AVOIDING EXCESSIVE TRIVIALIZATION OF THE CASELOAD. THE FEASIBILITY OF ASSIGNING CENTER INTAKE CLERKS AT STRATEGIC POINTS FOR IMMEDIATE PROCESSING OF REFERRALS SHOULD BE STUDIED. SUCH POINTS MAY INCLUDE COMMUNITY ORGANIZATIONS AND THE OFFICES OF THE DESK SERGEANTS AND BOOKING OFFICERS AT THE RELEVANT POLICE DISTRICT STATIONS, THE WARRANT OFFICER FOR POLICE AREA 6 ASSIGNED TO BRANCH 29 OF THE CIRCUIT COURT, AND THE CLERKS OF BRANCH 29 OF THE CIRCUIT COURT.

PROPER COORDINATION WITH THE POLICE
DEPARTMENT, THE STATE'S ATTORNEY FOR COOK
COUNTY AND THE CIRCUIT COURT SHOULD BE
ACHIEVED.

Lack of general data concerning the most effective intake strategy to employ coupled with local variations in criminal justice procedures cautions against a narrow intake approach for a pilot program. Even most well established programs do not rely exclusively on one source of cases. A focus on referrals permitting early intervention is justified on the assumption of its superior cost effectiveness and greater accessibility to citizens. Since early intervention increases the probability of many cases being mediated which would otherwise be ignored, it also increases the risks of trivial cases clogging the Center. Screening procedures which aim to eliminate wholly insignificant cases and those for which mediation would be a waste of resources, e.g., where one party is plainly mentally disturbed, should be devised to avoid excessive trivialization of the caseload.

To some extent, the intake process can rely on field referrals by officials and private persons. For example, if the police ranks in the relevant districts are adequately informed of the Center and its functions, many cases are likely to be referred by officers at the scene of disturbances where

no arrest is made. However, the intake process will be facilitated greatly if intake clerks are stationed at strategic points within and outside of the system -- points through which complainants pass in their search for justice. If intake clerks are present at that point, the complainant can receive immediate attention including an on the spot determination of whether that particular dispute would fall within the jurisdiction of the Center. The processing of the dispute could go forward quickly from that point. The impression would not be given that complainant was being given a run around, or otherwise ignored, as might be the case if he were simply referred elsewhere.

Several such points may be appropriate with respect to the processing of criminal complainants in the Uptown-Edgewater neighborhood. Some agencies and organizations working in the community become aware of disputes as they unfold but before they have reached a stage demanding attention by authorities. While the volume of cases coming to the attention of any single organization might be insufficient to justify assigning an intake clerk, it might become an information source that would be useful for a clerk assigned to field intake activities or it could serve as a post on a "circuit" covered by a clerk on a regular basis. Screening interviews might be held with prospective complainants at the offices of such agencies.

Another intake point may be the desk sergeants and

booking officers at the stations in police districts 20 and 23. When an arrest is made, the defendant and signed complaint are processed by these officials. If the complainant is present, in appropriate cases the intake clerk could interview both complainant and defendant to determine if they were both willing to submit their dispute to the Center. If so, the hearing could be promptly scheduled. If the complainant were not present at this point, the intake clerk might on his own initiative contact the complainant to determine if he/she wished to proceed to mediation.

A point in the system likely to yield many referrals is the warrant officer's desk for Police Area 6 at Branch 29 of the Circuit Court. In cases where no arrest is made by the police, the complainant is referred to the warrant officer who completes the complaint and fills out the warrant or summons forms. The complainant then appears before the judge in Branch 29 in order to verify the complaint. The court then issues the warrant or summons as appropriate. The volume of cases coming to Branch 29 in this way is large -- over 800 in the first three months of 1978. An intake clerk stationed near the warrant officer's desk would be able to interview complainants in appropriate cases and process the case promptly.

Other possible referral points in the criminal justice system include the clerk's office at Branch 29, the Uptown community office of the state's attorney, and the misdemeanor

court itself. Often, by the time cases proceed this far into the system, the cost savings resulting from referral decreases considerably. However, there are many instances where referral at this level may still shed significant benefits to the system and the parties, e.g., multi-party disputes frequently involve numerous continuances and eventual dismissal because the court's patience is exhausted.

All efforts to develop referral relationships with criminal justice agencies should be carefully coordinated with the appropriate police, state's attorney, and court officials. Their confidence and cooperation is essential to the operation of the referral system recommended.

B. Civil Cases.

Very little data is provided by the projects surveyed concerning the referral system for civil cases. This is partly a result of the fact that civil cases make up a very small part of the caseload of most centers. The only project in which this is not true is the San Jose Neighborhood Small Claims Court. Its jurisdiction is confined to civil matters exclusively. Most litigants who use its processes hear about the court through the mass media or through posters and pamphlets widely distributed in the community. ²⁴ That appears to be typical for most other projects as well, although

occasionally it is reported that the local small claims court refers cases to a center. 25

RECOMMENDATION 13: THE UPTOWN-EDGEWATER NEIGHBORHOOD JUSTICE CENTER SHOULD WIDELY PUBLICIZE ITSELF IN THE NEIGHBORHOOD THROUGH THE MEDIA AND COMMUNITY ORGANIZATIONS. THIS SHOULD BE THE PRIMARY METHOD OF STIMULATING REFERRALS OF CIVIL CASES TO THE CENTER. THE FEASIBILITY OF A REFERRAL RELATIONSHIP WITH THE PRO SE BRANCH OF THE SMALL CLAIMS COURT OF THE CIRCUIT COURT SHOULD BE STUDIED, AS WELL AS OTHER OFFICIAL AGENCIES PROCESSING CIVIL DISPUTES.

The Pro Se Court is a highly efficient forum for adjudicating civil claims that come before it. 26 Once a case has been filed there, the benefits of referring the matter to the Center would be marginal, except in the occasional instance where the judge believes the dispute to be such that mediation/arbitration will provide a more appropriate resolution. The benefits of referral in these cases may justify the effort needed to establish the working relationship. The feasibility of similar arrangements with the Housing Court, the Complaint Division of the Department of Human Services, the Community Intervention Services of the Department of Human

Services, and other similar agencies might also be studied.

C. Pressure On Defendants/Respondents.

If defendants/respondents refuse to participate in neighborhood justice center processes the project fails in two respects. It cannot provide a successful resolution for the dispute and does not relieve the caseload of the courts. The problem of "no shows" is to find which pressures will spark participation while at the same time preserving voluntariness.

To remedy the "no show" problem in criminal cases, Columbus, ²⁷ Rochester, ²⁸ San Jose, ²⁹ Boston ³⁰ and others use official-looking letters from criminal justice agencies reminding defendants that the alternative to participation in mediation is prosecution (see Appendix C). The San Francisco project, still in the planning stage, suggests a hard sell approach by staff personnel to encourage participation. ³¹ In pure civil cases, there is no evidence of pressure of any kind on respondents.

The original success of the Columbus Night Prosecutor project in using official letters to stimulate defendant participation probably accounts for their widespread use. Many other cities closely followed. Variations arose as centers were modeled to meet needs and conditions of the area. An example is the San Francisco project. Mr. Shonoholtz, a

clinical associate of the law faculty at the University of San Francisco, felt the criminal process "thwarted the development of active citizen involvement and preventive-oriented social services." 32 Therefore, the project avoiding using official pressure.

Attempted solutions of the "no show" problem are not easy to evaluate. Long term research to determine if a heavy reliance on voluntary compliance produces low cooperation is needed. Undoubtedly, factors besides voluntary or forced pressure are at play.

RECOMMENDATION 14: THE UPTOWN-EDGEWATER NEIGHBORHOOD JUSTICE CENTER SHOULD BE INTEGRATED INTO THE CRIMINAL JUSTICE SYSTEM IN SUCH A WAY THAT THE ACCUSED'S RIGHTS ARE PROTECTED. PRESSURE TO PARTICIPATE SHOULD BE LIMITED BY THE NEED TO PRESERVE VOLUNTARINESS.

D. Screening The Parties For Seriousness.

Threshold indications of seriousness may be desirable to weed out cases brought simply to harass respondents. At the same time threshold barriers should discourage serious participation by excessive bureaucracy and formalism. Filing fees and general consent forms, which would express a serious commitment to resolve a dispute by mediation, may achieve these objectives.

Information about the use of filing fees and consent forms is limited. The Boston, ³⁴ Rochester, ³⁵ and New York ³⁶ projects use consent forms that are signed by both complainant and respondent. The use of a filing fee is only found in the San Jose project. ³⁷ A fee of \$4.00 is charged -- \$2.00 for sending the complaint to the respondent by certified mail and another \$2.00 as a filing fee.

The rationale for different projects' use of filing fees and consent forms is not clearly apparent. Boston takes 57.4% of its referrals from the bench, while Rochester and New York receive 52% and 70% of their cases from court clerks.³⁸ The consent forms appear as documents of agreement between the complainant and respondent to settle their dispute outside of the court. Moreover, both New York and Rochester cases go to arbitration if mediation fails, so that the forms fulfill the legal requirements for a binding arbitration. ³⁹ Besides covering the cost of certified mail, San Jose's filing fee reflects the fee of the formal small claims court there. The certified mail fee may enhance complainant participation, minimize bureaucratic alienation, and discourage harassment.

Further research should focus on these questions: Should fees be charged in the Uptown-Edgewater project? Under what circumstances would the fee be waivable or refundable? Consideration of both fees and consent forms as causes of alienation is needed. Finally, the legal and structural component of a waiver should be explored.

VIII. RESOLUTION PROCESSES

The characteristics of the processes employed to resolve disputes in neighborhood justice centers vary widely. Both mediation and arbitration are employed. A threshold issue, however, is whether the processes should include a cooling off period in order to create a more satisfactory climate for dispute resolution.

A. Cooling Off The Disputants.

The theory of a cooling off period is that the emotionally charged atmosphere surrounding many minor disputes impedes successful resolution efforts. By allowing the parties to wait until their feelings subside, resolution is more likely.

None of the neighborhood justice centers surveyed employs a cooling off period, per se. However, the simple mechanics of processing cases results in minor delays between the filing of complaints and actual hearings, which may serve as the functional equivalent of a cooling off period. Most projects hold hearings 7 - 10 days after the complaint is filed. 1 Consequently, they do not act in the manner of crisis intervention programs which focus on alleviating

immediate tensions rather than finding longer term solutions. The Miami project seems to have the shortest lag time. Hearings are scheduled three days after complaints are received. ² Even this is sufficient time for the immediate crisis to pass.

In Rochester, the court clerk attempts to mediate cases in a pre-warrant hearing prior to referral to the neighborhood justice center. ³ The clerk allows a three week cooling off period to run before the hearing. This results in a high rate of complaint withdrawals and "no shows". Over 60% of all complainants fail to pursue the matter to the hearing. ⁴ What is unknown is whether these disputes have been successfully resolved by the parties or whether the delay in holding a hearing simply reinforces preconceptions that the legal bureaucracy is ineffective. ⁵

RECOMMENDATION 15: THE UPTOWN-EDGEWATER NEIGHBORHOOD JUSTICE PROJECT SHOULD HEAR CASES WITHIN ONE WEEK AFTER THE COMPLAINT IS FILED, WHENEVER FEASIBLE. THE CENTER SHOULD NOT INTERVENE IN IMMEDIATE, ONGOING DISPUTES UNTIL THE PARTIES' EMOTIONS HAVE SUBSIDED TO A POINT WHERE RATIONAL COMMUNICATION IS POSSIBLE.

The uncertain advantages of an extended cooling off period may not outweigh the clear disadvantage -- the loss of

a speedy resolution of the controversy. The uncertainty of the advantages is increased when the nature of many disputes coming to the center is kept in mind. Many are the result of long standing feuds. While the impetus to file a complaint may arise from a "last straw", resentments that have smoldered over time will not dissipate during a cooling off period. In fact, they may intensify.

However, the center should not intervene in the heat of ongoing arguments. The skills relevant to a successful crisis intervention program are probably different from those associated with mediation and, certainly, with arbitration. Mediation and arbitration should proceed only after the immediate crisis has passed and the situation has stabilized.

B. Mediation, Arbitration, Or A Mixed Model?

Mediation and arbitration are distinct processes. Mediation employs a third party neutral to find a solution that is mutually acceptable to the disputants. Arbitration employs a third party neutral to impose a solution on the disputants. The mediator is more heavily influenced by the human dynamics and legally irrelevant considerations of the situation. The arbitrator is more strongly influenced by the legally relevant issues defined by the parties and the facts pertinent to those precise issues.

While the processes are distinct, there is some overlap. A mediator intent on finding not only an acceptable but also a just resolution must be somewhat cognizant of the legal rights of the parties. An arbitrator's award should not only be legally correct but should also be equitable if it is to be obeyed by the parties without further litigation, especially in the special context of a neighborhood justice center. Which of these processes should be stressed in this context?

1. A preference for mediation. All of the projects surveyed rely on mediation as the primary method for resolving disputes, while several retain an arbitration option only when efforts to reach a mediated solution fail. Four projects rely exclusively on mediation (Boston, Columbus, Miami and Orlando). Six use a mixed mediation/arbitration model requiring a serious mediation attempt first (Atlanta, Rochester, San Jose, New York, San Francisco and the American Arbitration Association's planned 4-A project in the South Shore community of Chicago).

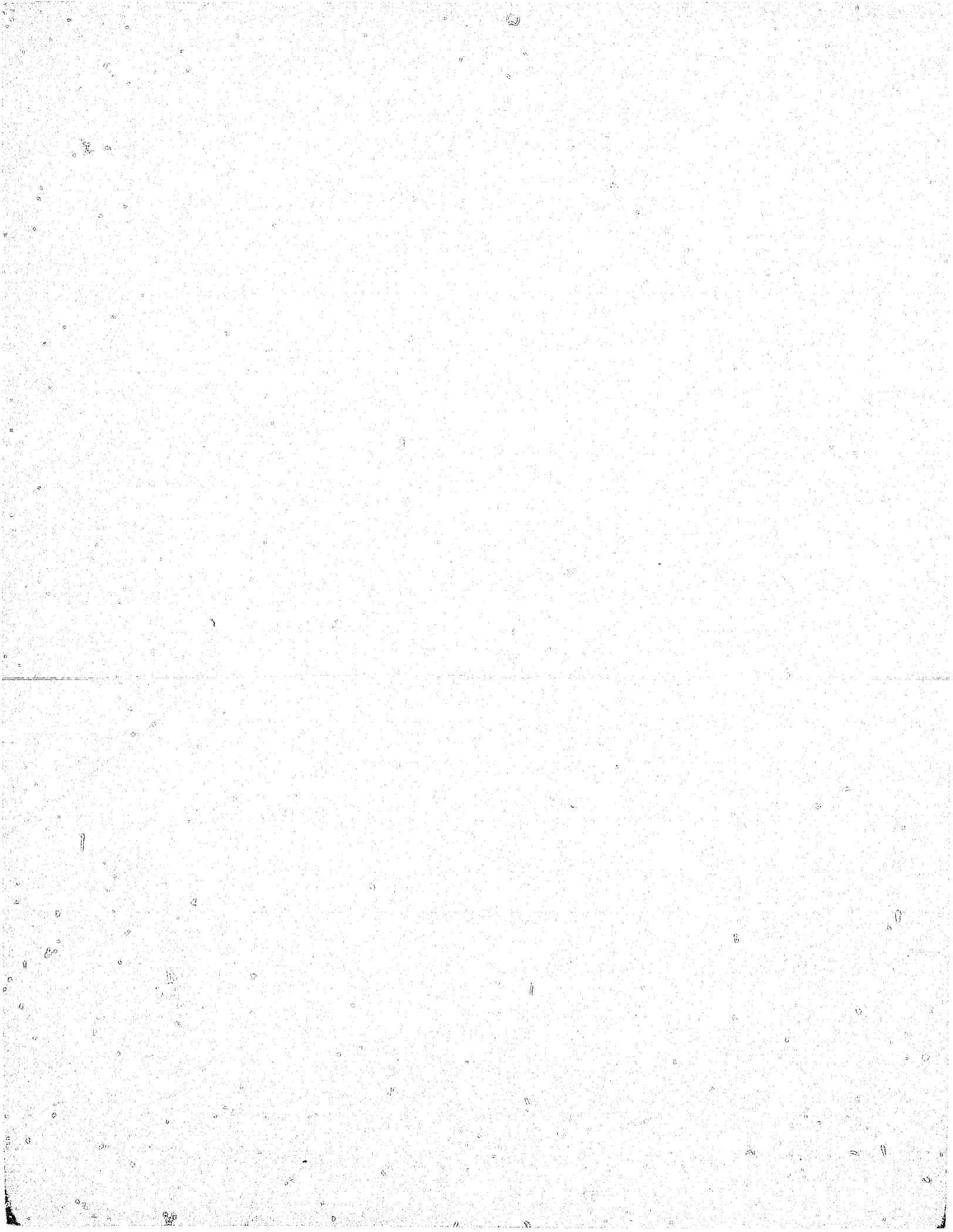
The preference for mediation is based on the assumption that the underlying nature of most disputes coming to neighborhood justice centers is such that the parties are capable of reaching a permanent resolution. Their capability arises out of several factors: the personal nature of these disputes, the ongoing nature of the parties' relationships,

the probability that both disputants have engaged in mutually offending conduct, and the likelihood that the power relationships between the disputants are not lopsided. The nature of the disputes also suggests that an imposed award has a lesser chance of permanently resolving the problem than one which the parties believe they have both helped formulate.

The Miami program, which uses only mediation, illustrates the process. ⁶ At the mediation session, the complainant airs his view of the dispute first, followed by the respondent. The mediator listens without trying to narrow the issues right away but rather listening for what appears to be the underlying roots of the conflict. At the same time the mediator gives assurances to both sides, encouraging them both to open up. The emphasis is not on therapeutic counseling but rather on getting the parties to talk through their dispute, and to grasp the reality of the other side's position. After a full airing of views, which may be facilitated by separate caucuses with the individual parties, the mediator encourages the disputants to identify possible solutions to their problem. The Atlanta program distinguishes between "conciliation" and "mediation", the difference being the extent to which the mediator takes the initiative in defining possible solutions for the parties' consideration. ⁷

As there is no program which relies exclusively on arbitration, there is no data available which permits direct, comparative evaluation of mediation and arbitration in the neighborhood justice setting. However, in those projects using both processes, the data suggests that mediation works most of the time so that arbitration is infrequently used. For example, in San Jose, during the first six months of operation, 67% of the cases were resolved at the mediation stage, while only 15% went to arbitration. ⁸ An even more extreme pattern is evident in New York where only 5% of the cases were arbitrated.⁹

The New York experience sheds additional light on the relative merits of mediation and arbitration. New York's aggressive follow-up program allows the center to re-intervene in cases where one or both parties are not adhering to the resolution. Intervention was required less often in mediated cases (8%) than in arbitrated cases (23%). While this suggests that mediated agreements are more enduring than arbitration awards, important qualifications must be stated. The data is based on a small number of arbitrated cases (26). More importantly, arbitrated disputes tend to be the most aggravated controversies with the lowest chances for satisfactory settlement anyway. ¹⁰ Further study of the comparative advantages of mediation and arbitration is necessary.



CONTINUED

1 OF 2

RECOMMENDATION 16: THE UPTOWN-EDGEWATER NEIGHBORHOOD JUSTICE CENTER SHOULD RELY PRIMARILY UPON MEDIATION PROCESSES TO RESOLVE DISPUTES.

As the caseload projected for the Uptown-Edgewater project is similar to that carried in most other centers, the applicability of mediation is apparent. Its utility is enhanced in view of the Report's recommendation to limit arbitration to cases within the jurisdiction of the Pro Se Branch of the Small Claims Court. 11 The primary reliance on mediation will open the Center to many cases that are effectively foreclosed from the court system while at the same time not preempting the functions of formal adjudication where it is available and appropriate.

2. Preserving an arbitration option. While mediation provides an effective resolution technique in most minor disputes, there are some in which the more structured and legally enforceable processes of arbitration are necessary. However, a problem arises in the context of neighborhood justice centers of utilizing both processes while retaining the integrity of each. The problem emerges in two forms. When persons consent to submit their dispute to the jurisdiction of a neighborhood justice center, do they only agree to undertake a serious effort to mediate the dispute or do they also agree to binding arbitration, at the moment of submission, in the

event mediation fails? Is the role of mediator and arbitrator combined in the same person?

(a) Special submission to arbitration. Of the six operating or planned programs that utilize both mediation and arbitration (referred to as the "med-arb model") surveyed for this Report, three require the parties to submit to arbitration at the outset (New York, Rochester and the proposed South Shore 4-A program). The parties file a general submission, agreeing to mediate the dispute and be bound by an arbitrator's award if necessary. In New York, for example, the parties sign mediation/arbitration submission forms. ¹² Similar dual purpose forms are used in Rochester ¹³ and contemplated in the South Shore project. ¹⁴

In all three cases, the general submission procedure may be tied to the objective of producing a resolution that is enforceable in the courts, regardless of whether the resolution was arrived at through mediation or arbitration. Under Article 75 of the New York Civil Practice and Rules in the Civil Term of the Supreme Court, mediation agreements written up as Arbitration Awards are judicially enforceable as if they were the result of arbitration. ¹⁵ Both the Rochester and New York City programs are geared to take advantage of this provision. The American Arbitration Association proposes an analogous result in its South Shore project. Mediation agreements will be written in the form of arbitrator's awards

("consent awards") which can be converted to a judgment. 16

It is unclear at this writing which provisions of Illinois law or procedure sustain the enforceability of consent awards.

Two projects using the med-arb model separate the submission to arbitration from the submission to mediation. In San Jose, if the mediation effort fails, the mediator tries to persuade the parties to arbitrate. If they consent, they sign an arbitration agreement. 17 San Francisco will use non-binding arbitration after an unsuccessful mediation but a special submission to the process will still be required. 18 Atlanta will use the med-arb model but it is unclear whether a general or special submission will be used. 19

RECOMMENDATION 17: THE UPTOWN-EDGEWATER NEIGHBORHOOD JUSTICE CENTER SHOULD USE A SPECIAL SUBMISSION TO ARBITRATION DISTINCT FROM THE PARTIES' CONSENT TO MEDIATION. FURTHER STUDY SHOULD BE GIVEN TO THE USE OF A GENERAL SUBMISSION TO MEDIATION AND ARBITRATION IN APPROPRIATE CASES.

Assuming that a general submission will result in judicially enforceable "consent awards" and arbitrator's awards in Illinois, there may be definite advantage to the procedure. The effect of the general submission may be an incentive to the

parties to make every effort to mediate their dispute. If they fail to mediate successfully, they know an award will be imposed by the arbitrator. This advantage depends on the extent to which they perceive a mediated outcome as preferable. There may also be disadvantages. A threshold requirement to be legally bound to the outcome may frighten persons from participating who might otherwise reach a mutually acceptable resolution through non-binding mediation. Moreover, in cases where one party perceives the law to be on his side of the case, the effect of a general submission would be a disincentive to seriously mediate in the hope that a more favorable outcome might be expected from arbitration.

Data is lacking as to the reality of these potential advantages and disadvantages. It seems initially that there is more to lose than gain from a general submission. Moreover, a general submission would conflict with this Report's recommendation that binding resolutions through arbitration be confined to those cases falling within the jurisdiction of the Pro Se Branch of the Small Claims Court. 20 A special submission to arbitration should be made available only in those cases within the Pro Se jurisdiction after mediation has failed.

(b) Distinguishing the mediator and arbitrator roles. The med-arb model poses a difficult theoretical problem when it combines the roles of mediator and arbitrator in the

same third party neutral. One commentator notes: 21

"There is an obvious difficulty if the mediator-arbitrator is unsuccessful in his mediational role and then seeks to assume the role of impartial judge. For effective mediation may require gaining confidential information from the parties which they may be reluctant to give if they know that it may be used against them in the adjudicatory phase. And even if they do give it, it may then jeopardize the arbitrator's sense of objectivity. In addition, it will be difficult for him to take a disinterested view of the case -- and even more so to appear to do so -- after he has once expressed his views concerning a reasonable settlement."

In spite of these difficulties, all of the projects following the med-arb model combine the mediator and arbitrator roles in the same third party neutrals. The Rochester program attempts to minimize the difficulties by cautioning the hearing officers about potential pitfalls. For example, an arbitrator, having learned facts or heard allegations from one party in the one-party caucuses, which are frequently utilized in the mediation process, cannot base an award on those facts or allegations without giving the other party an opportunity to respond. 22 This, of course, fails to address the problems of perceived and actual neutrality which the commentator above raises. But the Rochester program perceives benefits which outweigh these disadvantages. An arbitrator with confidential knowledge shared by the parties in individual caucuses is in a better position to frame an award which has a reasonable chance for acceptance. Moreover, a mediator who may turn into an arbitrator is thought to have greater influence in encouraging the parties to seriously mediate. 23

RECOMMENDATION 18: THE UPTOWN-EDGEWATER NEIGHBORHOOD JUSTICE CENTER SHOULD USE DIFFERENT PERSONS AS THIRD PARTY NEUTRALS WHEN MEDIATION AND ARBITRATION ARE EMPLOYED IN THE SAME CASE.

Few cases are envisioned coming to the Uptown-Edgewater Neighborhood Justice Center in which the med-arb model would be employed. Consequently the burden of calling in a different third party neutral to arbitrate may be relatively slight. This burden can be eased by scheduling such cases periodically on occasions when an extra hearing officer is at hand. The disadvantages of not separating these roles may be especially pronounced in the early stages of the pilot project when the hearing officer staff is relatively inexperienced and not adept at maintaining both roles simultaneously.

C. Follow-Up.

Most of the projects surveyed engaged in some follow-up activities after the formal resolution processes. Their objectives varied. For example, in Orlando the primary purpose is to collect data about the parties' satisfaction with the resolution a few weeks after the hearing. Random inquiries are conducted and the data is used for evaluating the effectiveness of the program. ²⁴ Miami, ²⁵ New York ²⁶

and Boston ²⁷ employ follow-up inquiries in order to identify resolutions in need of reinforcement and to bring about greater compliance through further hearings or social services. In those centers employing arbitration, follow-up is frequently geared to assisting parties obtain a judicial confirmation of the award.

RECOMMENDATION 19: THE UPTOWN-EDGEWATER NEIGHBORHOOD JUSTICE CENTER SHOULD DEVELOP FOLLOW-UP ACTIVITIES THAT WILL YIELD DATA SUITABLE FOR PROJECT EVALUATION, FACILITATE POST-HEARING COMPLIANCE, AND ASSIST PARTIES IN OBTAINING JUDICIAL CONFIRMATION OF ARBITRATION AWARDS.

IX. HEARING OFFICERS

Who should serve as mediators and/or arbitrators? What training is necessary to prepare individuals to function effectively in this position? Eight operating and two planned neighborhood justice centers exemplify models - lay persons, law students, professionals and lawyers (see Table 9). The experiences of these centers in terms of the rationale behind developing a particular model, specific characteristics of persons selected within the framework of the model and drawbacks and limitations of each model offer guidance for developing the Uptown-Edgewater neighborhood justice center's hearing staff.

A. Qualifications Of Hearing Officers.

The majority of the centers have employed lay persons. In each case the goal of educating citizens to the judicial process prompted the decision to use this model. Of equal importance was the feeling that citizen involvement was germane to the concept of the neighborhood justice center. This rationale outweighed the time and cost incurred to recruit lay persons and train them in the mediation process. 1

TABLE 9

Hearing Staff Models

<u>Lay People From Community</u>	<u>Law Students</u>	<u>Professionals</u>	<u>Lawyers</u>
Boston	Columbus, Ohio	Miami	Orlando, Fla.
New York City			San Jose, Cal.
Rochester, New York			
San Francisco *			
Atlanta, Georgia *			

*Program is in planning stages or initial phase of operation; therefore no data is available for the purpose of this report.

The San Francisco project illustrates the disadvantages of this model. The recruitment of a core group of 15 residents to plan and develop the program took over 12 meetings in addition to the time spent fostering contacts with local agencies and educating citizens to the issues related to the program's development. Eight months passed between the time the community was first contacted and the opening of the center.² In contrast the Columbus Night Prosecutor Program, which uses law students, took about half the time to implement.³

Recruitment strategies in the lay person model include tapping the sponsoring agency's contacts in the community, advertising in local newspapers and passing the announcement

to local organizations. ⁴ Once notified of the program citizens respond. The processing of applications has involved time in order to assure that the hearing staff is representative of the community's demographic and socio-economic composition. ⁵ Staff heterogeneity allows centers to better serve the community and the disputants. In some instances, although not always, similarity between mediator and the disputing parties facilitates resolution of cases. ⁶

Training lay persons in mediation/arbitration skills requires more time and money than the other models. The Boston project's training program takes 40 hours over a three-week period. In the Rochester project, the hearing staff receive a total of 50 hours of preparation. ⁷ Training law students for mediation in the Columbus program totals about 12 hours, since the participating law school incorporates preparation into its curriculum. ⁸

Other benefits of the law student model are those derived by students. Experience to complement their textbook learning stimulates high student involvement. The opportunity to work in the Columbus prosecutor's office is also prized by students. However, students' immaturity and insensitivity to the community and peoples' life conditions is a disadvantage of this model. Advocacy skills learned by students were often contrary to human relation skills needed in mediation. To

remedy this situation a training program was developed by the Educational and Psychological Development Corporation of Columbus. 9

Although the Miami project was modeled after the Columbus program, professionals were selected as hearing officers. The sponsoring agency, the Administrative Office of the Court, felt that professionals (lawyers, psychologists, social workers, etc.) would bring greater skills to the program. The most serious drawback is the conflict arising from individual professional responsibilities. 10 This disadvantage has apparently not caused Miami to alter its hearing staff model.

This problem has not occurred for the Neighborhood Court project administered by the Santa Clara Bar Association, in San Jose, California or for the Orlando, Florida program sponsored by the Orange County Bar Association. Lawyers volunteer to serve as mediators/arbitrators. Their response has been enthusiastic. In Orlando, Florida, 45 are on the waiting list which is about equal to the number serving. 11 Over 35 lawyers applied for the 6 positions in the San Jose project. 12 Certainly the support and involvement of the respective bar associations explain this response. Both associations perceived the projects as an opportunity for public service and public relations for the profession. 13 In addition, the Orange County Bar Association seeks research findings on the resolution of interpersonal disputes. 14

Interestingly, the fundamental goal of effectively dealing with disputes has been demonstrated for each model. For instance, at the New York center where lay persons serve as mediators, resolutions were reached in almost all mediated cases. Thirty to 60 days afterwards the parties still were satisfied with the resolution according to follow-up results.¹⁵ In Boston, where lay persons act as hearing officers, 89% of the mediated cases reached an accord. In the follow-up inquiry, 85% of these resolutions were upheld by the parties.¹⁶ Similarly, participants in the Columbus program, employing law students, were sampled about their satisfaction with the resolution. Ninety percent answered in the affirmative.¹⁷ Hearings conducted by professionals in Orlando also had high positive results. Sixty-eight percent of the complainants and 78.6% of the respondents were satisfied with the resolution at the close of the hearing. A sampling of the disputants were surveyed three weeks later and most remained satisfied with their hearings.¹⁸

What factors account for the success of these centers in getting disputants to resolve their conflict to each party's satisfaction? The evaluation results suggest that it is other than "hearing officer" types. Several factors seem to be at work. They include: hearing staff commitment to mediation of the conflict resolution; extensive training in mediation skills

and techniques; education in human relations' dynamics; sensitivity to the community and its needs, its people, and the maturity of the mediator.

1. Community residency. Fundamental to the neighborhood justice concept is community involvement. This is particularly important since the Uptown-Edgewater center will serve one neighborhood. With the goal of improving the life of the community and its residents, their input is essential if the program is to adequately serve them.

Extensive contacts have been made with community leaders, residents and employees during the preparation of this Report. A good working relationship has been established and community support generated. Therefore the main drawback of the citizen model, that of time to cultivate community interest and commitment, has been tackled. Organizations and agencies have expressed a willingness to assist in the planning phase of the center's development. This is already demonstrated by their generosity to date. They have given time for interviews, provided documents, read drafts of the proposal and offered suggestions. This reflects the community's appreciation for the opportunity to contribute to the project. 19 That residents of the neighborhood are anxious to be involved in

programs affecting community justice is reflected in the variety of projects which have been initiated by community organizations in recent years. These include the Edgewater-Uptown Community Safety Program, the Justice Actions of the Organization of the North East, and the citizen crime prevention program nationally known as WHISTLE STOP. 20

The effective operation of the neighborhood justice centers regardless of the hearing staff model used is the element of the hearing officer's sensitivity to human relationships and to people's life situations. The Uptown-Edgewater neighborhood is a diverse community with its own distinctive issues and internal struggles. The project's hearing staff should be sensitive to these issues.

Brooks Miller, Director of the Uptown Hull House, lists this as one of the primary qualifications of a "good lawyer" for the legal assistance program which has operated out of the Uptown Hull House for the past 10 years. 21 Individuals most likely to have such a sensitivity are residents of the community.

RECOMMENDATION 20: THE UPTOWN-EDGEWATER NEIGHBORHOOD JUSTICE CENTER SHOULD RECRUIT ITS HEARING STAFF FROM THE COMMUNITY TO THE EXTENT POSSIBLE.

2. Lawyers. Lawyers who live in the community and/or have an office there are receptive to the project and to participating in it. This observation is based upon a mail survey of these lawyers in February, 1978. The membership list of the Chicago Bar Association and the listings in the telephone book were used to identify these lawyers. A problem of duplication may have occurred for the small number of lawyers who both live and work in the community. The amount of error stemming from these factors is probably small.

Of the 177 lawyers contacted, 36 (or 20.3%) took the time to return the enclosed postcard questionnaire. Those living in the community constituted 80.6% of the returns. Fifty-five percent of the returns expressed a willingness to serve regularly and the remainder checked occasionally.

While several lawyers living/working in the neighborhood expressed a willingness to serve as hearing officers, the question arises as to whether there are sufficient numbers to carry the load. The Task Force estimates the need for a hearing staff of about 40. This estimate is based upon expected caseload, a considerate scheduling policy and community involvement. On the basis of police data for the area analyzed earlier in this report, and assuming that about 20% of the projected number of disorderly conduct arrests were referred to the center, its caseload would be about 840 per year. 22 The experience of other centers shows that a

proportion of referrals end up being settled outside the center. The percent of mediated cases ranges widely (see Table 10).

TABLE 10

Caseload And Hearing Staff *

<u>Center</u>	<u>Total No. Referrals</u>	<u>Proportion Mediated</u>	<u>Total No. Hearing Staff</u>	<u>Staff Per Hearing</u>
Boston	350	89%	50 approx.	2-3
New York	5,150	19%	50 approx.	1-3
Rochester	663 (1976)	98.6%	70 approx.	1
Miami	4,149	98.5%	20 approx.	1
Columbus	6,429 (1976) (ex. bad check cases)	54%	30 approx.	1
Orlando	306	63%	55	1

*Source: McGillis, et al., Neighborhood Justice Centers: An Analysis of Potential Models (1977).

R. Conner and R. Surette, The Citizen Dispute Settlement Program, 8 (1977).

Assuming that the Uptown-Edgewater center actually mediates 50% of the referred cases, then 40 mediators would hear 425 cases. Each mediator then would hear a case every 5 or 6 weeks, assuming one mediator per case.

Given the fact that a little under half of the lawyers responding to the survey indicated a willingness to serve only occasionally, and given the likelihood that professional and

personal obligations will keep many attorneys from serving regularly in spite of their expressed good intentions, it would seem that lawyers in the neighborhood may not be a sufficient resource base for a hearing staff. Perhaps the actual number available on a fairly regular basis will be about 20. Therefore, it is recommended that the center recruit other professionals and lay persons to fill the remaining positions. Selection criteria should go beyond socio-economic and demographic considerations. Applicants should be involved in the community, have the support of community organizations, have a personal commitment to the neighborhood justice concept and have a suitable temperament and personality.

Community leaders and experienced agency employees surveyed felt lawyers and non-lawyers would both be received by the community. When presented the various models used in the other United States centers, consensus was divided on hearing staff composition. The use of lay persons was questioned by Mr. Thomas J. Hibino, Director of the Japanese American Citizens League. He believed that nothing would be achieved by them.²³

Brooks Miller of Uptown Hull House favored lawyers over other professionals and non-professionals but based upon other reasoning. With over 75 community organizations and agencies within the boundaries of Uptown-Edgewater, social service personnel abound but lawyers are scarce. Twenty-nine private

law offices are located in the community. Three legal assistance programs operate one or two nights a week and the Legal Assistance Foundation operates an office with a staff of 8. These limited resources for 136,436 people means low contact with lawyers. People wish to have the opinion of a specialist on legal matters. The opportunity for positive association with lawyers regardless of their age or specialization Miller felt would benefit the community and enhance the mediation process. He did not oppose the use of other community members as mediators/arbitrators. ²⁴ Tim Kelly, Director of the Uptown's People's Community Service Center, shares Mary Jane Eubell's view that disputants were primarily concerned about receiving justice in a hearing and not about who conducted the hearing.²⁵

RECOMMENDATION 21: THE UPTOWN-EDGEWATER NEIGHBORHOOD JUSTICE CENTER SHOULD RECRUIT LAWYERS WHO LIVE IN THE COMMUNITY. IF FEWER LAWYERS ARE WILLING TO SERVE THAN THE NUMBER NECESSARY, OTHER PROFESSIONALS AND COMPETENT LAY PERSONS SHOULD BE RECRUITED FROM THE COMMUNITY.

3. Ethnic and linguistic diversity. The high proportion of foreign born people residing in Uptown-Edgewater -- especially those from Latin America and Asia -- has already been noted. ²⁶ There are 60 Latino and 32 Asian-American

lawyers in Chicago according to informed sources. 27 Most likely they do not reside in the Uptown-Edgewater community. The majority of those lawyers who do live here are of European heritage and probably do not have fluency in a second language. The alternatives for meeting the community's needs are to select lay members of these ethnic groups from community residents for some hearing staff positions or to have a translator available as occasion arises. The former is preferable since direct communication in one's language could facilitate the mediator's task, put the disputants at ease, free them to express themselves, permit all present in the hearing to speak directly to each other and enhance the overall atmosphere of the session. If the mediator were not only fluent in the language of the disputants but also a member of either or both parties' ethnic group, the cultural aspects involved in the relationship between disputants and underlying the issues of the dispute are more likely to be identified and brought to the fore by the mediator.

RECOMMENDATION 22: THE UPTOWN-EDGEWATER NEIGHBORHOOD JUSTICE CENTER SHOULD RECRUIT HEARING STAFF MEMBERS FROM ALL ETHNIC GROUPS IN THE COMMUNITY. PARTICULAR ATTENTION SHOULD BE GIVEN TO THE LATINO AND ASIAN GROUPS. SOME HEARING OFFICERS SHOULD BE FLUENT IN A SECOND

LANGUAGE, ESPECIALLY SPANISH OR ASIAN
LANGUAGES.

B. Training Of Hearing Officers.

Some individuals selected as hearing officers may have knowledge of and practice in the mediation process and related fields, such as, counseling. It is likely that most will not have such background. The experience of other centers suggests that training should include discussion of the theoretical aspects of mediation, material on the dynamics of human relations and presentation of mediation techniques. In addition, it is felt that some information on the cultural patterns of ethnic groups living in Uptown-Edgewater should be given. Everyone living in the community recognizes the ethnic distinctiveness of the population but few may have an understanding of these cultures and their problems. The community's ethnic organizations as well as those organizations with a citywide focus could be tapped for this input.

The training program will achieve education objectives but this experience will help develop their commitment to the program and sense of being part of it through this shared learning experience. This is important since the hearing staff members will most likely differ in terms of age, sex, income,

education, employment, ethnic heritage and general life experiences.

RECOMMENDATION 23: ALL MEMBERS OF THE HEARING STAFF MUST BE TRAINED IN MEDIATION AND ARBITRATION TECHNIQUES AND BE CERTIFIED. A TRAINING PROGRAM SHOULD BE COORDINATED THROUGH SOME COMPETENT AGENCY SUCH AS THE AMERICAN ARBITRATION ASSOCIATION.

The American Arbitration Association has considerable experience in the neighborhood justice field. The AAA has operated centers in several cities and has provided training services for many others. The pending establishment of a Mid-West training center at the Chicago regional offices of the AAA makes readily available to the Uptown-Edgewater project a useful resource. 28

X. DUE PROCESS

The effect of constitutional guarantees of due process and equal protection on informal alternatives to civil and criminal adjudication is yet untested. However, consideration should be given to the issues which may arise in the context of neighborhood justice centers.

With respect to civil cases, it is hard to conceive of constitutional issues that may arise. The voluntary nature of participation in the process and the availability of the formal legal process as an alternative make due process and equal protection issues implausible, even if a center is an official or quasi-official state agency.

Current directors of several projects concur in this belief. In fact, they believe that even in criminal matters there is little chance of a center being held liable for denial of due process.

The extent to which due process and equal protection affect criminal cases depends partly on whether the case is referred before or after the respondent has been arrested. Pre-arrest referral may in fact defer arrest until a later time. Consequently, a constitutional issue may arise as in United States v. Marion.¹ The Supreme Court held that prejudicial delays in making arrests or filing indictments may violate the Fifth and Fourteenth Amendments. A regular police

practice of delaying arrest may be constitutionally questioned if it later proves prejudicial to the defendant in formal legal proceedings.

In the event of post-arrest referrals by the police, the constitutional question of a speedy trial may arise. Although the Supreme Court has found that "pre-accusation" delay does not violate a person's right to a speedy trial, an arrest has the effect of triggering the "post-accusation" stage of the proceedings. ² Because of this, a defendant who was not cooperative and/or whose case was not settled during mediation or arbitration may claim that his right to a speedy trial was violated if formal criminal proceedings are subsequently brought against him. Cases coming from the state's attorney's office present a different legal issue, not clearly related to due process. To what extent does the prosecutor have power to divert cases away from the court once formal proceedings have begun? Court referred cases may give rise to other problems. To what extent does the court have the power to dismiss cases in the absence of legal grounds for dismissal? The seriousness of all these concerns diminishes to the extent that defendants and complaining witnesses voluntarily consent to the diversion.

With respect to equal protection, it is conceivable that the selection criteria used to screen the cases to be processed by a neighborhood justice center would be questioned

as to their constitutionality. Access to the services provided by the center must be made on reasonable grounds. It is perfectly legal to incorporate "reasoned discrimination" into a project for the sake of workability, but it is a violation of the Constitution to use intake practices which are "irrational" or "insufficiently justified". 4 It should be noted that because the equal protection clause only protects against irrational or unnecessary discrimination, and because the programs are experimental, some commentators believe that the courts would strain not to find a violation. 5

Another instance in which a legal challenge might come up is under the claim that a participant's confidentiality was violated. The question arises as to whether a person's words or deeds occurring within the mediation/arbitration process can be submitted as evidence in a court of law. A problem might also arise in a case in which the mediator or arbitrator is asked to testify against a participant he or she was involved with at a center.

Two other problems may arise with respect to the use of pressure or coercion on potential participants and the use of consent waivers in a center's operations. The degrees of pressure used by the projects surveyed varies widely. It is possible that someone may claim that he or she was pressured to such an extent that participation was not voluntary. With regards to waivers, it may be that some rights simply cannot be waived.

RECOMMENDATION 24: IT IS RECOMMENDED THAT RESEARCH BE CONDUCTED ON THE LEGAL AND CONSITUTIONAL IMPLICATIONS OF THE UPTOWN-EDGEWATER NEIGHBORHOOD JUSTICE CENTER AND THAT THE OPERATIONS OF THE CENTER BE CONDUCTED IN SUCH A WAY AS TO AVOID THESE ISSUES.

XI. EVALUATION

The evaluation of the Uptown-Edgewater Neighborhood Justice Center should be considered an integral and essential component of the project. Benefits are directly related to its everyday operations and its impact upon the community. In addition, the analyses can illuminate larger research questions germane to the development of the neighborhood justice center as an alternative to litigation.

A. Assessment Of Operating Procedures.

The data base for this assessment will be obtained during the intake processing (see Appendix B for a sample form). Socio-economic data on the disputants, information on the nature of the dispute, notation of the referral source will be recorded with the intention of examining such questions as the following ones. Who is using the center? How do users learn about it? What are the referral sources? What types of disputes are being referred and by what sources? What types of disputes end in mediation/arbitration? The data will be cross tabulated in order to identify other relationships between the disputants, types of disputes, the resolution and the contact with the justice system. Monthly and quarterly reports will be

made to the Board of Directors and the Director with the findings on these questions and any other significant points uncovered. These analyses should be useful in identifying any gaps in the expected and actual clients, referral sources, caseload, and types of disputes. Modifications of policies, procedures and public relations work are possible outcomes from this evaluation.

Included in this part of the evaluation will be an investigation of the mediation/arbitration results. A questionnaire, similar to the one used in the Orlando, Florida program, will be administered at the hearing session to the disputants. (A sample of the rating form is given in Appendix B.) A follow-up telephone survey three weeks later will provide data from both parties on the permanence and satisfaction of the resolution reached. A similar method is employed by New York City, Columbus, Boston and other projects. ¹ A sample of the disputants are called anywhere from three weeks to six months after the hearing. Some centers include questions on attitudes toward the center and satisfaction with the center's procedures. ² The Orlando, Florida project adds an interesting dimension by surveying the mediators/arbitrators on their expectations about the resolution reached and its durability. ³

Testing hypotheses is not the purpose of the evaluation; however, the findings from other centers suggest that some patterns and relationships will be repeated in the Uptown-Edgewater Neighborhood Justice Center's operation. The salient points are:

- members of many different ethnic groups will bring disputes to the center;
- the majority of the disputants will have low or middle incomes;
- slightly more women than men are expected to be complainants;
- most referrals are expected to come from agencies of the justice system, such as the police and court, rather than from other sources;
- by the very nature of the case criteria most cases will involve persons with an ongoing interpersonal relationship;
- a significant proportion of all cases referred will not reach the mediation stage. Attrition will result from defendants not responding or appearing, from disputes resolved during the waiting period for a hearing and from the rejection of inappropriate cases;
- social service referrals will be made for some cases during the intake process instead of a hearing as well as being a condition of some dispute settlements;
- the majority of the disputes will be resolved through mediation rather than arbitration;
- the majority of the resolutions reached during the hearing will be satisfactory to both parties;
- the majority of mediated settlements will be durable over time; and
- lawyers and non-lawyers alike act as effective mediators/arbitrators.

B. Assessment Of Project Impact.

Impact upon the community will be viewed in terms of the Center's ability to make justice more accessible to the community, the Center's effectiveness in educating residents about procedures for resolving conflict and the Center's impact upon reducing the caseload of official justice agencies like the police, courts and the state's attorney's office.

Beside the Center's geographic convenience offered residents, the Center is expected to make justice more accessible by savings in cost and time. A recent study of the Pro Se Court with data on procedures, time involved and citizen response provides an opportunity to do a comparative study of cases appropriate for resolution in the Pro Se Court but which are handled by the Uptown-Edgewater Neighborhood Justice Center. The findings will help in evaluating this goal. The inquiry into the mediation/arbitration proceedings will include a question or two on disputants' satisfaction with procedures and the Center's handling of their disputes.

Insights into the Center's effectiveness in educating residents about proedures for resolving conflict can be probed by several methods. During the intake processing several questions can be asked about complainant's previous use of justice agencies like the Pro Se Court, the Small Claims Court and so on. In addition a question on their awareness of the

Center's operation will be asked in order to ascertain the impact of the Center's publicity campaigns within the community. A related issue is the response of individuals to social service and community organizations' referrals to the Center. Do individuals follow this recommendation? If not, are there explanations and are they similar to the reasons for disputants not appearing for scheduled mediation sessions? A more elaborate project would be a survey of residents on their awareness and attitudes toward the Center, on perceived differences from other means of justice and on recognized benefits to the community. The implementation of this recommendation would come twelve to eighteen months after the Center has been opened which would allow sufficient time for residents to learn and/or use the Center.

An evaluation of the Center's impact upon the justice system is a more difficult task. Other centers' treatment of this topic offer no clear methodology for measuring this impact. ⁴ One of the difficulties lies in predicting the probability that an individual would have taken the dispute to court or to another justice agency. In the Uptown-Edgewater project this difficulty is increased since it is not affiliated with an existing justice agency. For those centers which are, this outcome can be more easily investigated and projections made.

Since the caseload is expected to be relatively small

during the first six months or longer, the immediate impact will be small. This has been the experience of the Boston and Rochester centers. ⁵ Once the Uptown-Edgewater Neighborhood Justice Center builds a substantial caseload then this topic might be examined in terms of justice agencies in the community. Savings in dollars and personnel costs arising from case processing by a given agency can be analyzed. Although a control group research design is desirable for this type of evaluation, it is not practical or feasible for this situation. Again the recent study of the Pro Se Court may offer an alternative which will produce relatively solid evidence on the Center's impact upon the community and its potential benefits as an alternative to litigation. ⁶

C. Attention To Central Research Questions.

Should the neighborhood justice center and the concept of mediation/arbitration become a recognized instrument for administering the law in cases of minor disputes? The demonstrated success of the existing pilot projects throughout the United States suggests a positive answer to this question. The proposed Uptown-Edgewater Neighborhood Justice Center will play a role in this decision-making process. Specifically, it can add to the body of knowledge on the issues of community involvement, neighborhood perception of the Center, the

education of residents to procedures available for settling disputes, the place of lawyers in the hearing staff and the use of students in other roles in the Center's operation. 6

This contribution can be facilitated by gathering comparable data and using the same or similar methodologies and instruments for data collection. Consistency and continuity are fundamental for developing a body of knowledge on this concept and its application. This is the principle reason for the recommendations given above for employing, in the Uptown-Edgewater⁸ evaluation, questionnaires and procedures followed by other centers in their evaluation work. With the accumulation of comparable data, comparative studies of other neighborhood justice centers can be undertaken by the Center's staff and outside researchers. The evaluation should not overlook carrying out investigations of unstudied issues. Building a data base will come first. Then will come new designs for other research probes. In the meantime, greater attention will be directed to internal monitoring to maximize the Center's performance and service to the Uptown-Edgewater community and the larger Chicago community.

RECOMMENDATION 25: THE UPTOWN-EDGEWATER NEIGHBORHOOD JUSTICE CENTER SHOULD INCORPORATE AN EVALUATION PROGRAM INTO ITS OPERATIONS WITH ATTENTION GIVEN TO (A) ASSESSING ITS POLICIES AND PROCEDURES, (B) ASSESSING ITS IMPACT UPON THE COMMUNITY AND (C) RESEARCHING CENTRAL THEORETICAL QUESTIONS.

XII. FUNDING

The Law Enforcement Assistant Administration (LEAA), has been a primary federal funding source for neighborhood justice centers in operation and being planned. Therefore, this agency is viewed as a strong possibility for funding the Uptown-Edgewater program. An inquiry sent to the Illinois agency dispensing federal money, the Illinois Law Enforcement Commission (ILEC) brought a favorable response.

Similarly, letters of inquiry were sent to several private foundations. The Chicago Community Trust expressed an interest in receiving a proposal as did the Amoco Foundation, Inc. These inquiries do not exhaust the possibilities but they demonstrate the likelihood that outside funding can be obtained.

RECOMMENDATION 26: THE UPTOWN-EDGEWATER NEIGHBORHOOD JUSTICE CENTER, WITH THE ASSISTANCE OF THE CHICAGO BAR ASSOCIATION, SHOULD SEEK FUNDING FROM GOVERNMENT AND PRIVATE SOURCES TO COVER COSTS FOR ITS DEVELOPMENT AND OPERATION.

A. First Year Cost Estimates.

Annual costs for the three model centers vary widely. Rochester handled 663 referred cases at a cost of \$98 each or for a total of \$65,000. The Boston center responded to 350 cases at \$300 per case or for a total of \$105,268. The New York City center, with the largest caseload, 3,433, had a budget of \$270,000. Its cost per referred case was \$78.00. 1

The costs for each case actually heard are higher since not all referred cases are heard due to "no shows", resolution by the parties before the hearing, and the rejection of inappropriate cases. Again, costs vary. Rochester had a low of \$142 due to the high proportion of referred cases heard (69%). Boston's cost per hearing was \$372 and New York's was \$416 (with a 19% hearing rate). 2

Using the costs per referral and per hearing, high, medium and low budgets are projected for the Uptown-Edgewater project in Table 11. A caseload of 840 referrals is based upon police arrests in the target area for minor misconduct during 1977, the assumption being that 20% may be appropriate for referral to the Center. 3 Referrals from other community organizations and agencies also will be solicited; but those from the police will probably constitute a significant proportion of the Center's total caseload.

TABLE 11

Budget Estimations For The Uptown-Edgewater
Neighborhood Justice Center

	<u>Budget Based On</u>		<u>Budget Based On</u>	
	<u>Cost per Referral</u>	<u>Total</u>	<u>Cost per Hearing</u>	<u>Total</u>
HIGH (Boston)	\$300/840	\$250,000	\$372/596	\$221,912
MEDIUM (New York City)	\$79/840	\$ 82,320	\$416/160	\$ 66,560
LOW (Rochester)	\$98/840	\$ 74,762	\$142/580	\$ 82,360

Costs appear to decline with time. In New York City they dropped from \$416 to \$270. Boston's total budget was reduced from its original figure of \$125,000 to \$105,000 during its third year of operation. This cut stems from savings related to the training program, research, and the elimination of positions. Fewer staff have been able to handle more cases.⁴ This budget reduction and the increase in number of cases referred is reflected in a lowering of the costs per referral, but Boston's costs remain relatively high.

The budget for the Uptown-Edgewater pilot program is expected to be in the lower range of Table 11. A ballpark estimate of \$75,000 is projected for the development of the program as described in this Report. This is a modest budget in comparison with other centers, especially the recently funded programs in Kansas City, Atlanta and Los Angeles. Each

has a budget totalling a quarter of a million dollars and an additional \$350,000 will be spent to evaluate them. 5

B. Long Range Projections.

Funding for the initial years of operation of the Uptown-Edgewater project are expected to be obtained from a public agency or private foundation. Long range funding of the Center poses more difficult problems. The experiences of those centers which have been operating for several years serves as a warning. For example, the Boston program is returning to its original status as a not-for-profit corporation in order to facilitate funding. It faces the task of finding new funds when its LEAA grant terminates. In New York the neighborhood justice center is contacting local foundations and law firms as well as HUD, since local government cannot assume its costs. 6

Study should be given to this problem early in the development of the Uptown-Edgewater project. Establishing an economically efficient project will have the long range advantage of a smaller financial need. Thus, attention should be given to developing procedures which minimize costs. Alternative funding sources should be explored now. It is not expected that the universal problem of what to do when the grants are exhausted can be solved, but at least steps should be taken to actively grapple with this issue.

RECOMMENDATION 27: THE UPTOWN-EDGEWATER NEIGHBORHOOD JUSTICE CENTER SHOULD BE A SELF-SUSTAINING OPERATION OVER THE LONG RUN. MEANS TO ACHIEVE THIS GOAL SHOULD BE STUDIED EARLY IN THE DEVELOPMENT OF THE CENTER.

XIII. IMPLEMENTATION

RECOMMENDATION 28: THE CHICAGO BAR ASSOCIATION SHOULD FACILITATE THE CREATION OF A NOT-FOR-PROFIT CORPORATION THAT WILL IMPLEMENT THE UPTOWN NEIGHBORHOOD JUSTICE CENTER AS A PILOT PROJECT.

The major milestones in the implementation of the project are suggested in Table 12. It suggests among other things that the time between funding and operation may be as long as three months.

TABLE 12
TIMETABLE

	<u>START</u>	<u>END</u>
Formation of NJC as a non-profit corporation) Apply for grants) Funding)	Day 0	
Appointment of Executive Director	Day 1	Day 17
Hiring of regular staff	Day 18	Day 25
Establish office facilities	Day 18	Day 36
Staff orientation including budget control	Day 26	Day 36
Development of mediator/arbitrator training plan	Day 37	Day 51

TIMETABLE

	<u>START</u>	<u>END</u>
Development of community and justice agencies' liason	Day 37	Ongoing
Establish referral agency relationships	Day 37	Day 58
Working policy manual developed	Day 58	Day 78
Forms developed and reproduced	Day 70	Day 78
Mediators/arbitrators recruited and trained	Day 79	Day 95
Public information campaign including development and implementation of a media plan	Day 85	Ongoing
Open for business	Day 110	

XIV. CONCLUSION

The average citizen's need for alternatives to formal litigation is clear. Neighborhood justice centers will serve that need. A pilot project in the Uptown-Edgewater community will demonstrate the utility and feasibility of neighborhood justice in Chicago, a city of neighborhoods. The Chicago Bar Association can and should demonstrate its commitment to the city and the public interest by supporting this undertaking.

NOTES FOR PARTS I - IV

1. J. Barton, Behind the Legal Explosion, 24 Stanford L. Rev. 567 (1975).
2. F. Sander, Varieties of Dispute Processing, 70 F.R.D. 111 (1976).
3. W. Burger, Remarks to the National Conference on the Causes of Popular Dissatisfaction with the Administration of Justice, April, 1976, 70 F.R.D. 93 (1976).
4. D. Aaronson, et al., The New Justice: Alternatives to Conventional Adjudication (1977).
5. D. McGillis, et al., Neighborhood Justice Centers: An Analysis of Potential Models 68 (1977).
6. Ibid.
7. American Bar Association, Report of the Pound Conference Follow-up Task Force (1976).
8. McGillis, supra.
9. Press Release, U.S. Department of Justice, July 28, 1977.
10. Ibid., 2
11. Clerk of the Circuit Court of Cook County, Statistical Report (1977), 10.
12. T. Eovaldi and P. Meyers, The Pro Se Small Claims Court in Chicago: Justice for the "Little Guy?", Unpublished, (1978), 101.
13. In a recent study of the Pro Se Court, 59% of the plaintiffs filing claims had to take time off work to use the court. Ibid., 42.
14. Clerk of the Circuit Court, Statistical Report, 3.
15. Chicago Police Department, Statistical Summary (1976).

16. Clerk of the Court, Statistical Report, 12.
17. Chicago Association of Commerce and Industry, Community Area Data Book for the City of Chicago: 1970 Census Data by 75 Community Areas, vi, 17, 24 (1970).
18. Jane E. Ratcliffe, A Community In Transition: The Edgewater Community in Chicago, (Chicago, IL: Loyola University, Political Science Department Center for Research in Urban Government 1978), ch. 3.
19. Interviews with: Dr. Gerald Heine, Chicago Public Schools, Superintendent District 2 and 24, on August 1, 1978; George Richter, Chicago Public Schools, Administrative Assistant, District 2 and 24, on December 6, 1977; and Marline Fisher, resident and active in Pierce School affairs, on July 16, 1977.
20. Interview with Brooks Miller, Director, Uptown Center Hull House, October 4, 1977.
21. Ratcliffe, supra.
22. Chicago Association of Commerce and Industry, Community Area Data Book for the City of Chicago: 1970 Census Data by 75 Community Areas, supra at vi.
23. Interview with Marion Volini, President of the Edgewater Community Council, on January 10, 1978.
24. Chicago Association of Commerce and Industry, Community Area Data Book for the City of Chicago: 1970 Census Data by 75 Community Areas, supra at vi.
25. Organization of the North East, unpublished materials, "Basic Proposal for Funding Purposes 1977-1978", 48.
26. City of Chicago, Chicago's Elderly Population: Progress and Goals (Chicago, IL: Department of Development and Planning, City of Chicago, 1974), 17-28.
27. Chicago Association of Commerce and Industry, Community Area Data Book for the City of Chicago: 1970 Census Data by 75 Community Areas, supra at 17.

28. Evelyn M. Kitagawa and Karl E. Taeuber, editors, Local Community Fact Book Chicago Metropolitan Area 1960 (Chicago, IL: Chicago Community Inventory, University of Chicago, 1963), 21.
29. Ibid.
30. Organization of the North East, supra at 70.
31. Edgewater Community Council's Safety Program, unpublished report prepared by Fabio Rancon, January 1978.
32. Chicago Police Department, "Police Period Crime Summary: Incidence of Crime -- Analysis by District " (unpublished 1977).

NOTES FOR PART V

1. D. McGillis, et al., Neighborhood Justice Centers: An Analysis Of Potential Models, 5.
2. James Marchetti, conversation of March 23, 1978.
3. McGillis, supra at 17-18.
4. Ibid., 15.
5. Ibid.
6. Ibid.
7. R. Conner and R. Surette, The Citizen Dispute Settlement Program, 13 (1977).
8. R. Beresford and J. Cooper, A Neighborhood Court For Neighborhood Suits, 61 Judicature 185, 187 (1977).
9. McGillis, supra at 13.
10. Ibid., 14.
11. Supra, p. 32, n. 2.

12. David Crockett, conversation of March 27, 1978.
13. For example, the community is divided between those who favor massive re-development for middle-class housing and those who favor retention of the working class character of the community. Other divisions also exist.
14. Eovaldi and Meyers, The Pro Se Small Claims Court, 30-31 (Unpublished).

NOTES FOR PART VI

1. D. Aaronson, et al., The New Justice: Alternatives to Conventional Adjudication 19 (1977).
2. D. McGillis, et al., Neighborhood Justice Centers: An Analysis of Potential Models 101 (1977).
3. Ibid., 92.
4. R. Conner & R. Surette, The Citizen Dispute Settlement Program 19 (1977).
5. McGillis, supra, at 70.
6. Ibid.
7. Ibid.
8. Ibid., 59.
9. Ibid., 104.
10. Ibid., 94.
11. Aaronson, supra at 18.
12. McGillis, supra at 119.
13. Ibid., 64.
14. See, Table 7, p. 49, supra.
15. McGillis, supra at 65.

16. See, pp. 12-29, supra.
17. McGillis, supra at 22.
18. Neighborhood Justice Centers of Atlanta, Inc., Program Narrative (1977).
19. R. Beresford & J. Cooper, A Neighborhood Court for Neighborhood Suits, 61 Judicature 185, 188 (1977).
20. Ibid., 190.
21. Chicago Bar Association, Rules of the Chicago Bar Association Voluntary Arbitration Plan (1972).
22. McGillis, supra at 58.
23. Ibid., 24.
24. Ibid.
25. Ibid., 94.
26. D. Aaronson, et al., The New Justice: Alternatives to Conventional Adjudication 19 (1977).

NOTES FOR PART VII

1. D. McGillis, et al., Neighborhood Justice Centers: An Analysis Of Potential Models, 119 (1977).
2. Ibid., 115-16.
3. Ibid., 85, 96.
4. Ibid., 72.
5. R. Conner and R. Surette, The Citizen Dispute Settlement Program, 24 (1977).
6. McGillis, supra at 95.
7. Ibid., 60.
8. Ibid., 103.
9. Conner and Surette, supra at 24.
10. McGillis, supra at 84.

11. Ibid., 95.
12. Ibid., 84.
13. Ibid., 72.
14. Ibid., 60.
15. Ibid., 95.
16. Ibid., 108.
17. Ibid., 60.
18. Ibid.
19. Ibid., 96.
20. Ibid., 26.
21. Sander, Varieties of Dispute Processing, 70 F.R.D. 79, 114 (1976).
22. D. McGillis, et al., Neighborhood Justice Centers: An Analysis Of Potential Models, 27 (1977).
23. 70 F.R.D. at 113.
24. R. Beresford and J. Cooper, A Neighborhood Court For Neighborhood Suits, 61 Judicature 185, 190 (1977).
25. McGillis, supra at 59.
26. Eovaldi and Meyers, The Pro Se Small Claims Court In Chicago: Justice For The Little Guy.
27. McGillis, supra at 29.
28. Ibid., 29.
29. Beresford and Cooper, supra at 185.
30. McGillis, supra at 29.
31. Ibid., 29
32. Ibid., 29.

33. Neighborhood Justice Centers of Atlanta, Inc., Program Narrative, 5 (1977).
34. McGillis, supra at 60.
35. Ibid., 109.
36. Ibid., 17.
37. Beresford and Cooper, supra at 188.
38. McGillis, supra at 6.
39. Ibid., 7(a).

NOTES FOR PART VIII

1. D. McGillis, et al., Neighborhood Justice Centers: An Analysis Of Potential Models, 29 (1977).
2. F. Dellapa, Citizen Dispute Settlement: A New Look at an Old Method, 51 Fla. B. J. 516, 519 (1977).
3. McGillis, supra at 108.
4. Ibid., 30.
5. Ibid., 30.
6. Dellapa, supra at 520.
7. Neighborhood Justice Centers of Atlanta, Inc., Program Narrative, 11.
8. R. Beresford and J. Cooper, A Neighborhood Court For Neighborhood Suits, 61 Judicature 185, 190 (1977).
9. McGillis, supra at 101.
10. Ibid., 101.
11. See, p. 61, supra.
12. McGillis, supra at 97.

13. Stulberg, A Civil Alternative to Criminal Prosecution, 39 Albany L. Rev. 359, 367 (1975).
14. Am. Arb. A., Proposal for a South Shore 4A Pilot Program, 4 (1978).
15. McGillis, supra at 97.
16. Charles H. Bridge, Jr., Chicago Regional Director, American Arbitration Association, conversation of April 5, 1978.
17. Beresford and Cooper, supra at 187.
18. D. McGillis, et al., Neighborhood Justice Centers: An Analysis Of Potential Models, 120 (1977).
19. Neighborhood Justice Centers of Atlanta, Inc., Program Narrative, 12.
20. Supra, p. 61
21. Sander, Varieties of Dispute Processing, 70 F.R.D. 79, 122 (1976).
22. Stulberg, A Civil Alternative to Criminal Prosecution, 39 Albany L. Rev. 359, 368 (1975).
23. Ibid., 368.
24. R. Conner and R. Surette, The Citizen Dispute Settlement Program, 4 (1977).
25. Dellapa, Citizen Dispute Settlement: A New Look at an Old Method, 51 Fla. B. J. 516, 520 (1977).
26. McGillis, supra at 98.
27. Boston Urban Court, Program Description, 4 (1977).

NOTES FOR PART IX

1. D. McGillis, et al., Neighborhood Justice Centers: An Analysis Of Potential Models, 37-39, 63-65, 104, 115-15, 120 (1977).
2. Ibid., 118.

3. Ibid., 67-68.
4. Ibid., 63, 98, 105, 116-17.
5. Ibid., 62-3, 92, 110.
6. J. Stulberg, A Civil Alternative To Criminal Prosecution, 39 Albany L. Rev. 3 (1975).
7. McGillis, supra, at 64, 111-12.
8. Ibid., 69, 76.
9. Ibid., 38-9.
10. Ibid.
11. R. Conner and R. Surette, The Citizen Dispute Settlement Program, xvi (1977).
12. R. Beresford and J. Cooper, A Neighborhood Court For Neighborhood Suits, 61 Judicature 185, 186 (1977).
13. Conner and Surette, supra at 29.
14. Ibid., 29.
15. McGillis, supra at 112-13.
16. Ibid., 64-5.
17. Ibid., 78.
18. R. Conner and R. Surette, supra at 11, 15.
19. Interviews with Brooks Miller, Director Uptown Hull House, March 7, 1978; Tim Kelly, Director Uptown People's Community Service Center, March 15, 1978; Mary Jane Eubell, Staff Member, Organization of the North East, March 16, 1978.
20. L. A. Gibbs, et al., Fourth Power In The Balance: Citizen Efforts To address Criminal Justice Problems In Cook County, Illinois, 89-91 (1977).
21. Interview with Brooks Miller, Director Uptown Hull House, March 7, 1978.

22. Supra, p. 16.
23. Interview with Thomas J. Hibino, Director of the Japanese American Citizen League, March, 1978.
24. Interview with Brooks Miller, Director Uptown Hull House, March 7, 1978.
25. Interview with Tim Kelly, Director Uptown People's Community Service Center, March 15, 1978.
26. Supra, p. 12.
27. Interview with Mr. Thomas Masuda and Mr. Ray Rodriguez, President of Latin American Bar Association, March 15, 1978.
28. Interview with Charles H. Bridge, Jr., Chicago Regional Director, American Arbitration Association, March 14, 1978.

NOTES FOR PART X

1. United States v. Marion, 404 U.S. 307 (1971).
2. D. Aaronson, et al., Alternatives to Conventional Criminal Adjudication, 29 (1977).
3. Ibid., 30.
4. D. Aaronson, et al., The New Justice, 26 (1977).
5. Ibid., 26.

NOTES FOR PART XI

1. D. McGillis, et al., Neighborhood Justice Centers: An Analysis Of Potential Models, 29 (1977).
2. R. Connor and R. Surette, The Citizen Dispute Settlement Program, 15 (1977).

3. Ibid., at 14-15.
4. McGillis, supra at 77, 88, 89, 102, 113.
5. Ibid., 57, 106.
6. Eovaldi and Meyers, The Pro Se Small Claims Court in Chicago.
7. McGillis, supra at 48-9.

NOTES FOR PART XII

1. D. McGillis, et al., Neighborhood Justice Centers: An Analysis Of Potential Models, 7b (1977).
2. Ibid., 7b, 8a.
3. Supra, p. 16.
4. McGillis, supra at 57.
5. 63 A.B.A.J.1062 (1977).
6. McGillis, supra at 103.

APPENDIX A: UPTOWN-EDGEWATER ORGANIZATIONS/AGENCIES
CONTACTED, FEBRUARY 1978

Aid to Alcoholics

Admiral-Old People's Home for the City of Chicago

Christopher House Lakeside

Community Intervention Service Program
Department of Human Service, City of Chicago

Edgewater Covenant Church

Edgewater Uptown Community Safety Program

Granville Avenue United Methodist Church

Immanuel Lutheran Church

Harry M. Fisher Senior Citizen Residence

Housing Complaint Bureau of Housing Unit
Department of Human Services, City of Chicago

Just Jobs

Lakeview Learning Center, Chicago Association
for Retarded Citizens

Latin American Services

Model Cities, Chicago Committee on Urban

Organization of the North East

Prologue School

Salvation Army

Self Help Home for Aged

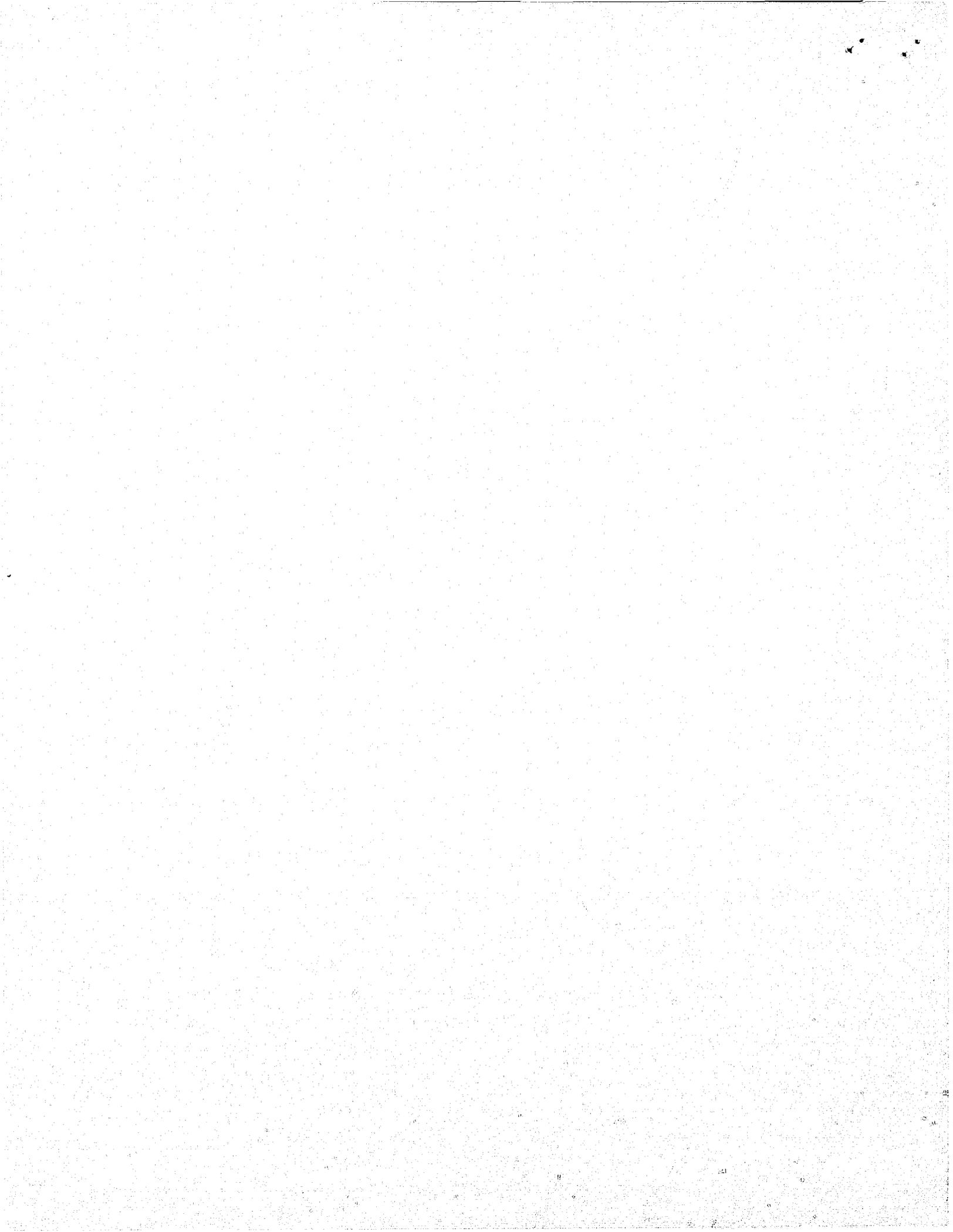
Southern School

St. Augustine's Center for American Indians
St. Gertrude's Rectory
St. Mary's Community Center
St. Thomas of Canterbury
Traveler's Aid of Metropolitan Chicago - Uptown Office
United Charities of Chicago - Geriatric Services
Uptown Chamber of Commerce
Uptown Chicago Commission
Uptown Community Clinic
Uptown Five Guild
Uptown Neighborhood Food Coop
Uptown People's Community Service Center
Vietnamese Services
Victim/Witness Advocacy Project, Department
of Human Services, City of Chicago
Voice of the People
YMCA Ravenswood
YMCA Uptown Model Cities Day Care Center

APPENDIX B: SAMPLE RESEARCH INSTRUMENTS



APPENDIX C: SAMPLE FORMS USED BY SOME EXISTING NEIGHBORHOOD
JUSTICE CENTERS.





CITIZEN DISPUTE SETTLEMENT CENTER
 ELEVENTH JUDICIAL CIRCUIT OF FLORIDA
 METRO JUSTICE BUILDING
 1351 N.W. 12th STREET
 MIAMI, FLORIDA 33125

GRADY L. CRAWFORD
 Chief Judge

WILBUR S. McDUFF
 Executive Officer

FRED M. DELLAPA
 Director

PHONE (305) 547-7062

Dear:

After a careful examination of the complaint which was filed against you with the Office of the State Attorney, that office has determined that the matter might best be resolved by referral to the Citizen Dispute Settlement Program of the Eleventh Judicial Circuit of Florida. This program makes possible a much speedier hearing than would be available if the case were placed on the County Court calendar, in which case it would be approximately three or more months before any attempt were made to deal with your problem.

Citizens Dispute Settlement will provide a hearing on your case before a trained mediator skilled in conflict resolution. This mediator will attempt to reach a lasting resolution in your case, and if this attempt at resolution is not successful, the case will be returned to the State Attorney who may then take further action by commencing a criminal proceeding.

Accompanying this letter is a notice to appear giving you the date, time and place at which your hearing will be held in your case. Please be prompt in arriving for the hearing, and please bring with you any witnesses whom you feel would be crucial in the resolution of the conflict. If you have any question regarding the hearing, please contact me at 547-7062.

Sincerely,


 FRED M. DELLAPA, DIRECTOR
 Citizen Dispute Settlement
 Eleventh Judicial Circuit

Travis Tobey
 Operations Administrator

825-47-5

UJC to R
 C.R.

NOTICE TO APPEAR

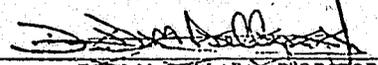
ELEVENTH JUDICIAL CIRCUIT OF FLORIDA
 METROPOLITAN DADE COUNTY
 CITIZEN DISPUTE SETTLEMENT PROGRAM
 1351 N.W. 12th STREET
 MIAMI, FLORIDA 33125

MIAMI, FLORIDA _____
 CALL 547-7062 AFTER 9:00 A.M.
 IF YOU HAVE ANY QUESTIONS
 CONCERNING THIS NOTICE: REFER
 TO FILE NO. CDS _____

TO _____

PLEASE BE ADVISED THAT A HEARING FOR _____
 HAS BEEN MADE FOR YOU BY _____
 YOU ARE HEREBY NOTIFIED TO BE AT THE METROPOLITAN JUSTICE BUILDING, 1351 N.W. 12th STREET,
 MIAMI, FLORIDA, ON THE _____ DAY OF _____, 19__ AT _____ O'CLOCK P.M.
 PLEASE REPORT TO THE FIFTH FLOOR INFORMATION BOOTH FOR YOUR HEARING ROOM ASSIGNMENT.
 A HEARING WILL BE CONDUCTED ON THE ABOVE DATE AND TIME. PLEASE PRESENT YOURSELF
 PROMPTLY. FAILURE TO APPEAR MAY RESULT IN THE AGGRAVATION OF THE SITUATION AND MAY
 LEAD TO FURTHER LEGAL ACTION. NO EXCUSE OF APPEARANCE WILL BE PERMITTED WITHOUT 48
 HOURS ADVANCE NOTICE.

CITIZEN DISPUTE SETTLEMENT CENTER
 ELEVENTH JUDICIAL CIRCUIT

BY 
 FB FRED M. DELLAPA, DIRECTOR

Travis Tobey
 Operations Administrator

825-47-7

C.R.



STATE ATTORNEY
 ELEVENTH JUDICIAL CIRCUIT OF FLORIDA
 METROPOLITAN DADE COUNTY JUSTICE BUILDING
 SIXTH FLOOR
 1351 N.W. 12th STREET
 MIAMI, FLORIDA 33125

PHONE 324-4800

RICHARD E. GERSTEIN
 STATE ATTORNEY

RE: _____

Dear _____:

A complaint has been filed in our office regarding the above.

A representative from the Citizen's Dispute Settlement Center has informed us that they are willing to try and resolve this complaint without criminal charges being filed if they can schedule a hearing with you and _____ being present. CDS also informed us that you have had ample opportunity to express your version of the incident, but you failed to make an appearance.

Our office is going to afford you a final opportunity to make an appearance before CDS for a hearing which is scheduled for _____. (See enclosed Notice of Hearing)

Should you fail to appear for this hearing, the matter will be referred back to the State Attorney's Office for appropriate action.

Sincerely,

RICHARD E. GERSTEIN
 STATE ATTORNEY

BY: _____

encl.

NOTICE TO APPEAR

ELEVENTH JUDICIAL CIRCUIT OF FLORIDA
 METROPOLITAN DADE COUNTY
 CITIZEN DISPUTE SETTLEMENT PROGRAM
 METROPOLITAN DADE COUNTY
 1351 N.W. 12th STREET
 MIAMI, FLORIDA 33125

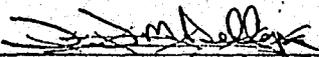
MIAMI, FLORIDA _____
 CALL 547-7062 AFTER
 9:00AM IF YOU HAVE ANY QUESTIONS
 CONCERNING THIS NOTICE: REFER TO
 FILE NO.

CDS _____

TO _____

PLEASE BE ADVISED THAT A COMPLAINT OF _____
 HAS BEEN MADE AGAINST YOU BY _____
 YOU ARE HEREBY NOTIFIED TO BE AT THE METROPOLITAN JUSTICE BUILDING, 1351 N.W. 12th
 STREET, MIAMI, FLORIDA, ON THE _____ DAY OF _____, 19 _____ AT _____
 O'CLOCK P.M. PLEASE REPORT TO THE FIFTH FLOOR INFORMATION BOOTH FOR YOUR HEARING
 ROOM ASSIGNMENT. A HEARING ON THE COMPLAINT WILL BE CONDUCTED ON THE ABOVE DATE
 AND TIME. PLEASE PRESENT YOURSELF PROMPTLY. FAILURE TO APPEAR MAY RESULT IN THE
 FILING OF CRIMINAL CHARGES BASED UPON THE ABOVE COMPLAINT. NO EXCUSE OF APPEARANCE
 WILL BE PERMITTED WITHOUT 48 HOURS ADVANCE NOTICE.

RICHARD E. GERSTEIN
 STATE ATTORNEY
 ELEVENTH JUDICIAL CIRCUIT

By: 
FRED M. DELLAPA, DIRECTOR

Operations Administrator

Respondent Notification-Of-Hearing Form

CITIZEN DISPUTE SETTLEMENT
 55 EAST WASHINGTON STREET
 ORLANDO, FLORIDA 32801
 Phone: 422-6402

_____ 19_____
 CALL BETWEEN THE HOURS OF
 10:00 A.M. and 6:00 P.M.
 if you have any questions concerning
 this notice.

To: _____
 Please be advised that a complaint of _____
 has been made against you by _____ and
 has been brought to the attention of this office. A hearing has been scheduled at the
 hearing offices of the Citizen Dispute Settlement Program, located at 115 East
 Central, Orlando, Florida on the _____ day of _____
 19_____, at _____ o'clock A.M./P.M.

FAILURE TO APPEAR MAY RESULT IN FURTHER LEGAL ACTION

By: _____

CDS NO. _____

LAST NAME _____ FIRST _____ MID. INIT. _____

ADDRESS NO. _____ STREET _____ APT. _____ CITY _____ ZIP 33 _____

PHONE _____ VS _____

HEARING DATE _____ MONTH _____ DAY _____ 197____ CHARGE: AB SA L O

REHEARING _____ 197____ ; HEARING OFFICER ; _____

WITHDREW HEARING HELD - RESOLVED REFERRED TO SAO
 FAIL TO APPEAR 7 HEARING HELD - UNRESOLVED OTHER (DESCRIBE)
 FAIL TO APPEAR Δ UNRESOLVED - CLOSED RESET

REMARKS : _____

CDS NO. _____

LAST NAME _____ FIRST _____ MID. INIT. _____

ADDRESS NO. _____ STREET _____ APT. _____ CITY _____ ZIP 33 _____

PHONE _____ VS _____

HEARING DATE _____ MONTH _____ DAY _____ 197____ CHARGE: AB SA L O

REHEARING _____ 197____ ; HEARING OFFICER ; _____

WITHDREW HEARING HELD - RESOLVED REFERRED TO SAO
 FAIL TO APPEAR 7 HEARING HELD - UNRESOLVED OTHER (DESCRIBE)
 FAIL TO APPEAR Δ UNRESOLVED - CLOSED RESET

REMARKS : _____

CDS NO. _____

COMMUNITY MEDIATION CENTER

356 Middle Country Road
Coram, New York 11727

Director:
Robert Saperstein, Esq.
Training Coordinator:
Ernie Odom

Telephone: (516) 736-2626

July 6, 1977

On July 6, 1977, Mr. and Mrs. Z agree to drop the charges of harassment and vandalism against Mr. and Mrs. P. Mr. and Mrs. Z agree that there will be no verbal harassment or going on their property except as said below. Mr. Z agrees to further repair the wooden fence that fell. Mr. and Mrs. Z agree to put up their own wooden fence taking the place of Mr. Z's fiberglass fence by September 1, 1977. The P's also agree to put up a wire fence over the wire fence already on the pool deck to keep the balls from going over the pool into the Z's yard. The P's children will not play with their ball in their back yard. The F's agree to no further verbal harassment, or going on the property of the Z's. Both parties agree to ask permission before going on the other's property to repair fences or hedges. The P's also agree to plug up the holes in the wooden fence.

If there are any further problems, please feel free to revert this case back to the Community Mediation Center.

Ernie Z

Matter P

Ernie Z

Lillian P

COMMUNITY MEDIATION CENTER

356 Middle Country Road
Coram, New York 11727

Director:
Robert Saperstein, Esq.
Training Coordinator:
Ernie Odom

Telephone: (516) 736-2626

This agreement between Christine S. and Raymond S. is entered into on July 18, 1977.

The parties to this agreement do hereby withdraw all criminal charges brought against one another prior to this date. The parties agree to release one another, and the County of Suffolk from any liability resulting from the filing of the complaint(s).

The parties agree that in the event that they have future difficulties with this agreement, or with one another, they will contact the Community Mediation Center before filing any criminal complaints.

Mr. and Mrs. S. agree to attend marriage counseling sessions and will make arrangements through the mediation center.

Mr. S. agrees to open a joint checking account and Mrs. S. agrees to consult Mr. S. before any check is written.

Mr. S. agrees to take his wife to his brother-in law, who is his accountant, so that he can explain the financial situation to her about Mr. S.'s new business.

Mrs. S. does want Mr. S. to teach her son ~~to~~ with love and understanding.

Christine S.
Christine S., complainant

Raymond S.
Raymond S., respondent

356 Middle Country Road
Coram, New York 11727

Director:
Robert Saperstein, Esq.
Training Coordinator:
Ernie Odjom

Telephone: (516) 736-2626

This agreement between Ruth E. [redacted]
and Joel E. [redacted] is entered into
on August 19, 1977

The parties to this agreement do hereby withdraw all criminal charges brought against one another prior to this date. The parties agree to release one another, and the County of Suffolk from any liability resulting from the filing of the complaint(s).

The parties agree that in the event that they have future difficulties with this agreement, or with one another, they will contact the Community Mediation Center before filing any criminal complaints.

Ruth E. [redacted] will return home August 19, 1977.

Mr. & Mrs. Joel E. [redacted] will contact the Y.M.C.A. Outreach for ongoing family counseling.

Mr. Joel E. [redacted] will pay all current and past bills incurred with his consent except grocery, drugs, clothes, gasoline and personal expenses of wife and children for which she will receive net \$85.00 from Joel E. [redacted].

Ruth E. [redacted] will be free to go to work but she must meet her domestic obligations particularly regarding foster children.

Ruth E. [redacted] will drop all charges including, but not limited to dropping Family Court and Separation or Divorce proceedings brought as of this date August 19, 1977.

Joel E. [redacted] will purchase for Ruth E. [redacted] a car within 60 days.

Ruth E. [redacted] Joel E. [redacted]

Witnessed By: [Signature]

[Signature]
[Signature]

COMMUNITY MEDIATION CENTER

356 Middle Country Road
Coram, New York 11727

Director:
Robert Saperstein, Esq.
Training Coordinator:
Ernie Odjom

Telephone: (516) 736-3

June 29, 1977

Mr. M. [redacted] states that he has or will pay in installments all outstanding bills as listed below:

5-27-77	Lilco	\$63.60
Oct. thru June 1977	Selden Sanitation	56.18
6-20-77	Marran Oil Co.	84.00
6-17-77	N. Y. Telephone Co.	185.44
5-27-77	Suffolk County Water	28.44
6-10-77	Master Charge	32.92
6-22-77	Brookhaven Cable	52.91
5-20-77	Aetna Life	42.90
5-27-77	Nassau County Medical Center	25.00

He also agrees to pay \$350.00 each month in addition to the \$200.00 a month support specified in the separation papers. The total monthly payment will be made in two installments on the 15th and 30th of each month. The \$350 is in lieu of all other items specified in separation papers. Bimonthly payments will be made directly to Mrs. M. [redacted]'s account in Bank of North America, Selden branch by money order. He also agrees to pay the basic phone charges until the youngest child is in school full time.

Mrs. M. [redacted] will return all charge cards. She will make no phone calls to Mr. M. [redacted]'s office unless a bonafide emergency for children arises. In the event that medical bills, not covered by Mr. M. [redacted]'s insurance are indicated, Mr. M. [redacted] will be notified prior to authorization: this does not include emergency medical care.

[Signature]
[Signature]
Donald R. [redacted]

DAILY INDIVIDUAL CASE SUMMARY

DATE: _____, 197____ START TIME: _____ END TIME: _____

C.D.S. No. _____

_____ -v- _____

MEDIATOR _____ TEAM _____

COMPLAINT: _____

COMPLAINANT: _____

RESPONDENT: _____

WITNESSES: _____

RESOLVED: _____

RETURNED: _____

REFERRED: _____

RESCHEDULED: _____

SUPERVISOR: _____

11th JUDICIAL CIRCUIT OF FLORIDA
CITIZENS DISPUTE SETTLEMENT CENTER

CDS NO. _____

THE MATTER OF _____ AND _____

WAS HEARD THIS _____ DAY OF _____, 19____, BEFORE _____

MEDIATOR. THE PARTIES HAVE AGREED TO THE FOLLOWING:

THE PARTIES AGREE THAT THIS AGREEMENT SHALL CONSTITUTE A FAIR, JUST AND
EQUITABLE SETTLEMENT BETWEEN THEM AND SHALL ABIDE BY THE FINDINGS, TERMS
AND CONDITIONS HEREIN ABOVE SETFORTH.

SIGNED THIS _____ DAY OF _____, 19____

MEDIATOR

SUPERVISOR

APPENDIX D: EXCERPT FROM NEIGHBORHOOD JUSTICE CENTERS (1977)
-- "MAJOR CHARACTERISTICS OF SIX SAMPLED DISPUTE
PROCESSING PROJECTS".

Table 1

Major Characteristics of the Six Sampled Dispute Processing Projects

FEATURES \ CITIES	Boston	Columbus	Miami	New York City	Rochester	San Francisco
Project Name	Boston Urban Court Project	Columbus Night Prosecutor Program	Miami Citizen Dispute Settlement Program	Institute for Mediation & Conflict Resolution Dispute Center	Rochester Community Dispute Services Project	Community Board Program
Start-up Date	9/75	11/71	5/75	6/75	7/73	In planning stages
Community Served Name	Dorchester District, Boston, Massachusetts	Franklin County, Ohio	Dade County, Florida	Manhattan and Bronx, New York	Monroe County, New York	Selected Sections of San Francisco
Population	Dorchester: 225,000	County: 833,249 Columbus: 540,025	County: 1,267,792 Miami: 334,859	Manhattan: 1,539,233 Bronx: 1,471,701 Total: 3,010,934	County: 711,917 City of Rochester: 296,233	San Francisco: 715,674
Sponsoring Agency Name	Justice Resources Institute (non-profit)	City Attorney's Office, Columbus, Ohio (Contractor: Capital University Law School)	Administrative Office of the Courts	Institute for Mediation & Conflict Resolution (non-profit)	Rochester Regional Office of the American Arbitration Association (non-profit)	Community Board Program (non-profit)
Source of Funds	Law Enforcement Assistance Administration	Originally Law Enforcement Assistance Administration. Now city funded	Law Enforcement Assistance Administration	Law Enforcement Assistance Administration	Law Enforcement Assistance Administration	Foundation Funds
Location	Private storefront near the court	Prosecutor's office	Government building which also houses court & district attorney	Office building in Harlem, not near court	Downtown office building near the court	Likely to have offices in the neighborhoods
Case Criteria General Rationale	Generally ongoing relationships among disputants	Generally ongoing relationships among disputants and bad checks	Generally ongoing relationships among disputants	Generally ongoing relationships among disputants	Generally ongoing relationships among disputants	Generally ongoing relationships among disputants

Table 1 (continued)

Major Characteristics of the Six Sampled Dispute Processing Projects

FEATURES \ CITIES	Boston	Columbus	Miami	New York City	Rochester	San Francisco
Case Criteria (continued)						
Types of Cases	36% family disputes; 20% neighbor; 17% friends; 10% landlord/tenant; 17% miscellaneous	39% interpersonal disputes, 61% bad checks	Statistical data are not currently available. Many assaults, harassments, neighborhood problems, domestic problems	Statistical data are not currently available. Cases include both misdemeanors and felonies	Approximately 2/3 are interpersonal criminal matters, 14% city regulations, 5% bad checks & miscellaneous. May begin to process family court cases	Not Applicable
Referral Sources						
Walk-ins	See Other	(to prosecutor)	20% approximately	6%	1975 14% 1976 18%	(likely to be high)
Police	22%		20% approximately	42%	—	1% (likely to be high)
Prosecutor	See Bench	Most cases received through this office	80% approximately		6%	11%
Clerk	33.4%			52%	66%	70%
Bench	57.4% (including district attorney)	10-15% approx.			11%	
Community Organizations	See Other				—	—
Other	7%				2%	0%
Screening/Intake Procedures	Staff member attends morning arraignment sessions; staff also answer calls from bench. Interviews conducted at court or project office	Staff members of district attorney's office & intake staff of project refer disputants to project. Respondents are requested to appear at hearing or face possible charges	Intake staff are located at the project office & interview clients referred to the project from other criminal justice agencies	Cases are received from intake workers at summons court, criminal court, & police desk of district attorney's office	The project intake worker screens and refers cases at the clerk's office. Walk-in cases are screened at the project's office	Not Applicable

FEATURES	CITIES					
	Boston	Columbus	Miami	New York City	Rochester	San Francisco
<i>Resolution Techniques</i> Type	Mediation	Mediation	Mediation	Mediation followed by imposed arbitration if mediation is unsuccessful. Only 5% of cases have required imposed arbitration	Mediation followed by imposed arbitration if necessary. In 1976 40% of cases heard required an imposed arbitration award	Mediation
Enforceability of Resolutions	Court cases continued pending follow-up after mediation	Disputants are informed that case charges will be filed if case is not satisfactorily resolved. Respondents are occasionally placed on prosecutorial probation	Disputants are informed that case charges may be filed if case is not satisfactorily resolved	Arbitration agreements are prepared at the end of all hearings & are enforceable in the civil court	Arbitration agreements are prepared at the end of all hearings & are enforceable in the civil court	Peer pressure
Time Per Hearing	2 hours	30 minutes	30 minutes	2 hours	One hour and 45 minutes	Not Applicable
Availability of Repeat Hearings	Rarely more than two	Rarely used	Very rare	Most cases are completed in 1 session. Small number require two	Rarely used	Not Applicable
Use of Written Resolutions	Yes	Rarely used	Yes	Yes. Resolutions are binding	Yes. Resolutions are binding	Yes (unsigned ones are planned)
<i>Hearing Staff Qualifications and Training</i> Type	Diverse group of community members	Law students	Professional mediators	Diverse group of community members	Diverse group of community members	Diverse group of community members
Form of Recruitment	Widespread advertising, group contact	Contacted by staff at Capital University Law School	Through community contacts	Contacts with community groups and agencies	Contacts with organizations	Widespread effort to contact. Community meetings
Number Used Per Session	2-3	1	1	1-3	1	5
Rate of Payment	\$7.50 per night	\$3.75 per hour	\$8-10 per hour	\$10 per session	\$25 per case	Not Applicable (may be same as jurors)

Table 1 (continued)
Major Characteristics of the Six Sampled Dispute Processing Projects

FEATURES	CITIES					
	Boston	Columbus	Miami	New York City	Rochester	San Francisco
<i>Hearing Staff Qualifications and Training (continued)</i> Training	40 hour training cycles originally conducted by IMCR, and now by local staff	12 hours of training conducted by the Educational and Psychological Development Corporation	Discussions and co-mediation with experienced mediators	50 hours of training conducted by IMCR	40 hours of training conducted by AAA	2 day training cycles are planned
<i>Follow-up Techniques</i> Appeal/Rehearing Availability	Yes, but rare	Rarely used. Disputants can return on new charges	Yes, but rare	Only if both parties agree. Parties can appeal under state law if they feel award was arrived at fraudulently	Yes, if both parties agree	Probably appeal to new board
Follow-up Contacts	Disputants are contacted two weeks after hearing and again three months later	Disputants are contacted 30 days after hearing to see if resolution is being maintained	No. Project plans follow-up in summer of 1977	Yes. 30-60 days post hearing to see if resolution is being maintained	Assist in maintaining resolution if contacted. No systematic re-contact	Some follow-up planned
Case Preparation for District Attorney/Court	No	Yes. Charging material is prepared and filed if necessary	Court is contacted regarding outcomes	No	No	No
<i>Overall Costs and Unit Costs</i> Annual Operating Budget	\$105,268****	\$43,000	\$150,000	\$270,000	\$65,000*	\$187,500
Total Annual Referrals	350	6,429** (1976)	4,149 (1976)	3,433***	683 (1976)	Not Applicable
Cost/Referral	\$300	\$6.69 plus in kind costs	\$36.15	\$78.65	\$98.03	Not Applicable
Total Annual Hearings	283	3,478 (1976)	2,168 (1976)	649***	457 (1976)	Not Applicable
Cost/Hearing	\$372	\$12.38 plus in kind costs, approximately \$20	\$69.25	\$416 (recently \$270)	\$142	Not Applicable

Table 1 (continued)
Major Characteristics of the Six Sampled Dispute Processing Projects

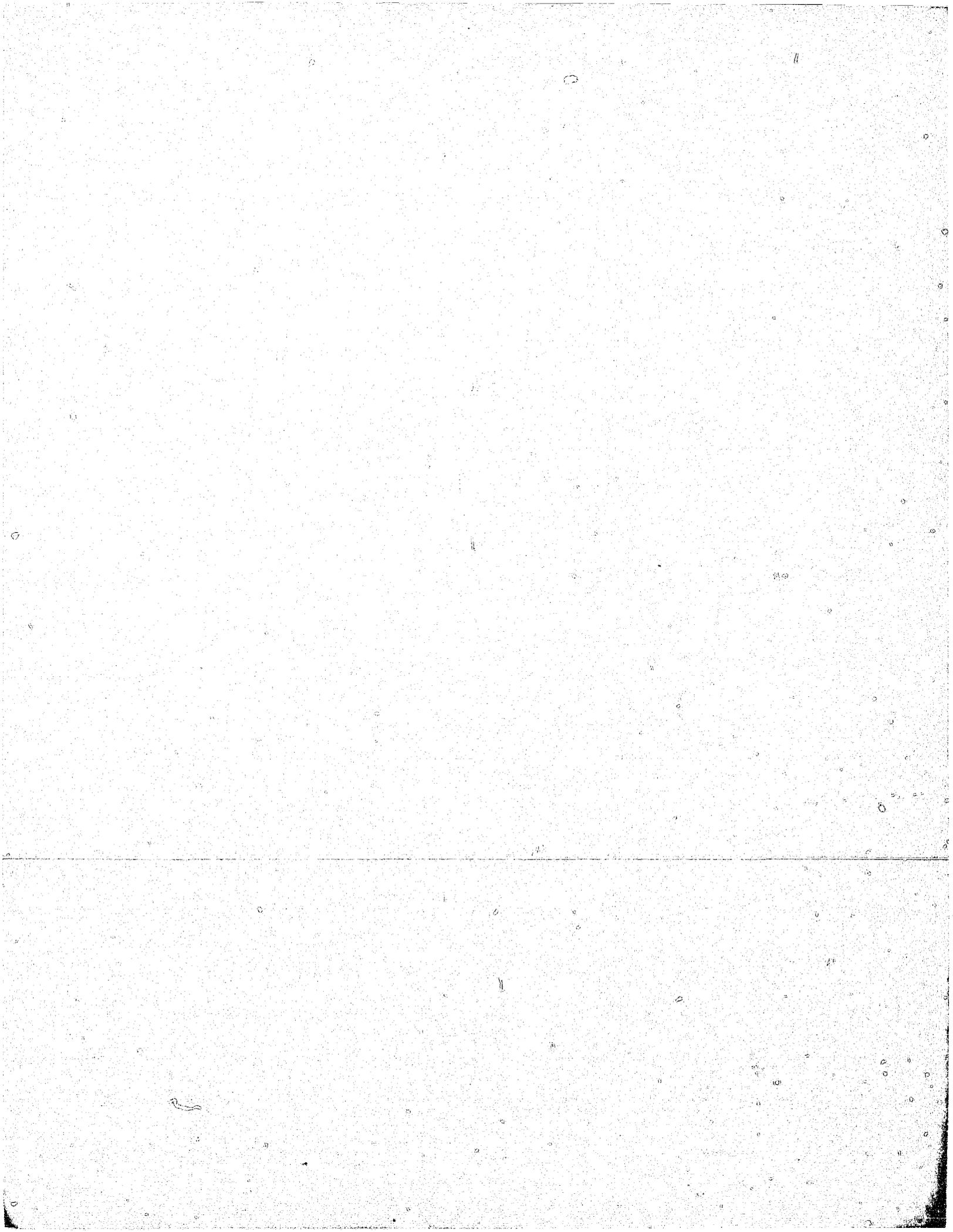
FEATURES	CITIES					
	Boston	Columbus	Miami	New York City	Rochester	San Francisco
Goal Achievement						
Total Annual Referrals	350	6,429 interpersonal disputes in 1976; 10,146 bad checks; total - 16,575	4,149 (1976)	3,433 extrapolated from 15-18 months through November, 1976	663 (in 1976)	Not Applicable
Percentage Having Hearing	71%	54% of interpersonal disputes	54%	48% hearing scheduled, 19% held due to clients resolving disputes	69% (in 1976)	Not Applicable
Percentage of Hearings Resulting in Resolutions	89% (i.e., written agreement)	Not Applicable	Project reports 97%	100%: 95% mediated, 5% arbitrated	100% due to arbitration provision, 60% mediated agreement; 40% arbitrated agreement	Not Applicable
Percentage of Failures to Uphold Resolutions	15%	10% (survey of 892 1976 cases)	Not Available	9% according to a follow-up	Unknown	Not Applicable
Percentage of "Resolved" Cases Returning to Court	Unknown	2.2%	Not available	Less than 1%	5% seek enforced agreement	Not Applicable
Project Organization						
Total Number of Project Staff	4	Approximately 5 full-time equivalents	8	10	6	5%
Administrative	Supervisor	Coordinator, Director	Program Director, Administrative Officer	Executive Director, Center Director, Summons Court Supervisor, fiscal officer	Project Director, Coordinator, Tribunal Administrator	Project Director, Program Manager
Intake	2 case coordinators	6 senior clerks, 6 clerks	3 intake counselors	Intake Coordinator, Intake Worker, Police Liaison	Intake Worker (partly by Tribunal Administrator)	2% organizers
Social Service	Case coordinators provide referrals	6 social work graduate students	Social worker	Social worker		

Table 1 (continued)
Major Characteristics of the Six Sampled Dispute Processing Projects

FEATURES	CITIES					
	Boston	Columbus	Miami	New York City	Rochester	San Francisco
Project Organization (continued)						
Mediation	Approximately 50	Approximately 30	Approximately 20	Approximately 50	Approximately 70	Will train approximately 50
Clerical	Administrative Assistant	None	1 secretary, 1 receptionist	Receptionist, Administrative Assistant	Administrative Assistant, Receptionist	Evaluator
Project Models	IMCR Dispute Center		Columbus Project, Rochester Project	Rochester Project, Columbus Project, Jewish Conciliation Boards, Bronx Youth Project	Philadelphia Arbitration As An Alternative Project	Danzig's model of Community moots
Additional Services Provided	Disposition program/victim service component	Problem drinker's group, battered wives' group			Community Group Dispute Resolution, training programs	Community Group Dispute Resolution

NOTES:

- * Total budget is \$126,723, including additional components (community group dispute resolution and community organizational training).
- ** Interpersonal disputes only - bad check cases add an additional 10,196 referrals but involve very little project case processing time.
- *** Extrapolated from aggregated data on initial 18 months of referrals through November 30, 1976.
- **** Based on portion of larger Urban Court budget attributed to the mediation component; case figures are estimates for the corresponding years (6/77 - 6/78).



END