

IMCR DISPUTE CENTER

FINAL REPORT

PREPARED BY

ANN WEISBROD

SANDI TAMID

50555

The following is the Final Report of the IMCR Dispute Center. The Center was established by the Institute for Mediation and Conflict Resolution, Inc. with a Law Enforcement Assistance Administration grant administered by the State Division of Criminal Justice Services and the Criminal Justice Coordinating Council. The grant covered a period of thirteen months from March 1, 1975 through March 31, 1976. The first three months were designated as a start-up period to plan program implementation. Actual program operations began June 1, 1975.

SUMMARY OF PROGRAM PROCEDURES:

I. Classification of Cases

Referral procedures were established for the following offenses which were considered to occur between people who knew each other and thus would be amenable to mediation:

Harassment	240.25 P.L.	(Violation)
Disorderly Conduct	240.20 P.L.	(Violation)
Reckless Endangerment 2nd degree	120.21 P.L.	(A Misdemeanor)
Menacing (no weapon)	120.15 P.L.	(B Misdemeanor)
Assault 3rd degree	120.00 P.L.	(A Misdemeanor)
Aggravated Harassment	240.30 P.L.	(A Misdemeanor)
Trespass	140.25 P.L.	(Violation)
Criminal Trespass 3rd degree	140.10 P.L.	(B Misdemeanor)
Criminal Trespass 2nd degree	140.15 P.L.	(A Misdemeanor)
Reckless Endangerment of Property	145.25 P.L.	(B Misdemeanor)

Misapplication of Property	165.00 P.L.	(A Misdemeanor)
Custodial Interference 2nd degree	135.45 P.L.	(A Misdemeanor)
Criminal Mischief 4th degree	145.00 P.L.	(A Misdemeanor)

II. TRAINING

Mediators

There were two training cycles. In total, fifty-three (53) community volunteers participated in an intensive four-week, 50-hour training course. Training included video-taped role play exercises of actual cases with an accompanying theoretical discussion and text of the concepts of mediation-arbitration.

Police

All superior officers and members of the service in all of the program's referral precincts (30th, 34th, 32nd, 28th, 25th and 26th) received training which consisted of an explanation of the types of cases amenable to the mediation-arbitration process (see above listed classification of cases) and the actual procedural method of the referral process. Continuous training and monitoring of referrals is conducted. The Police Department is preparing a training film to be shown to all officers in program precincts.

III. POLICE REFERRAL PROCEDURES

Referral procedures were established in June in the 30th and 34th precincts, in August in the 32nd precinct, and in October in the 28th, 26th and 25th precincts, and in November for all the Housing Authority Police of the above-mentioned precincts.

Non-Arrest Cases

In non-arrest cases, police officers responding to situations amenable to mediation, and falling within the program's specific categories, prepare a mediation referral form and give a copy to the complainant directing the complainant to appear at the Dispute Center within seventy-two (72) hours to initiate mediation proceedings. One copy of the referral form is forwarded to the Dispute Center and the remaining copy is retained by the referring precinct for internal records.

Arrest Cases (Desk Appearance Tickets)

All civilian complaint D.A.T.s in the referring precincts are given a minimum return court date of thirty (30) days and forwarded as per regular Department procedures to the Court Division, Manhattan Criminal Court Unit #1, Court Attendance Section. These cases are held out of the FAX System pending disposition by the Dispute Center. A name and fingerprint check is made by the Identification Section of the Police Department to determine if there is any prior record or outstanding warrant. All cases must then be approved by the Manhattan District Attorney's Office, Director of the Early Case Assessment Bureau.

Upon completion of the mediation-arbitration process, the complainant officially withdraws all charges and copies of fingerprints and photographs are returned to the respondent.

IV. SUMMONS COURT

In December 1975, the Summons Parts of Manhattan, the Bronx, Brooklyn and Queens were consolidated into one Part at 346 Broadway,

the Manhattan Summons Court. On January 5, 1976, the Dispute Center expanded its source of referral to include Summons Court cases from the Manhattan North area (previously mentioned precincts) and the Bronx. Individuals with complaints amenable to mediation from these areas are first issued a Request-to-Appear Notice from the interviewing Court Clerk and then directed to the Center's staff, located in Summons Court, where the alternative of mediation-arbitration is fully explained. In those cases which are resolved, the Court is notified and the cases are taken off the Court docket and dismissed.

V. PROGRAM PROCEDURES

When a complainant comes into the Center (or in Summons Court, speaks to a Dispute Center staff), the process is explained and s/he is given the option of submitting to mediation-arbitration. Once s/he signs a Mediation-Arbitration Submission Form, the case is scheduled at his or her convenience within ten to fourteen days. A notice is then sent to the respondent requesting him or her to come to the Center within seventy-two (72) hours. When the respondent comes to the Center, the program is explained and s/he is given the option to submit. Once s/he signs a Mediation-Arbitration Submission Form, the mediators are scheduled and the case is mediated-arbitrated at the appointed time.

In D.A.T. cases, the same procedures are followed except that the complainant is referred by mail to the Dispute Center by the Manhattan District Attorney's Office.

VI. MEDIATION-ARBITRATION

Mediation panels usually consist of three mediators but may on occasion, consist of two or one mediator(s) depending upon the nature of the case, the ability and availability of the mediators(s), and the volume of cases.

All agreements, whether mediated or arbitrated are written up as Arbitration Awards. In this way, all agreements are covered by New York State Arbitration Law (Article 75 of the CPLR) and enforceable by the Civil Term of the Supreme Court.

VII. FOLLOW-UP

In all mediated-arbitrated cases, both parties to the dispute are contacted thirty to sixty days after the hearing by the Social Service Unit to assure compliance with the agreement and to ascertain if any further social service assistance is needed.

VIII. ENFORCEMENT PROCEDURES

An agreement was reached with the Assistant Administrative Judge, Civil Branch and the County Clerk, both of the New York County, as to a procedure for the confirmation of our arbitration awards in Supreme Court, Civil Term. Free Index Numbers are issued to the aggrieved party who must submit an affidavit attesting to the fact that the award has not been complied with. (A sample form was prepared by the Center which the party fills out with the assistance of program staff.) Thus, the Court enforcement procedures save the party both court and legal fees.

EXPANSION OF PROGRAM REFERRAL SOURCES:

In an effort to maximize the Dispute Center's impact on the criminal justice system, the Center is continually exploring ways of increasing the referral rate by expanding referral sources.

With the consolidation of Summons Court, the Dispute Center began to take referrals from the Borough of the Bronx as well as Manhattan North. Initial response from Bronx residents has been positive. Since the Dispute Center is conveniently located to and easily accessible from the Bronx, it is important not to limit the Center's Bronx referral source to Summons Court but to expand it to include both Police and District Attorney referrals.

I. Bronx District Attorney:

An agreement has been reached with the Bronx District Attorney's Office. Bureau Chief of the Criminal Court and the Attorney-In-Charge of the Complaint Room to institute a new referral procedure for custodial arrests. Those cases which are identified by the District Attorney as interpersonal in nature will be referred to a Dispute Center staff member located in the Complaint Room for diversion to mediation-arbitration. These referrals will include interpersonal felony arrest which are screened by the Early Case Assessment Bureau and reduced to misdemeanors.

II. Bronx Police Precincts:

An agreement has been reached with the Deputy Commissioner of Criminal Justice to expand the Center's referring precincts to include: the 40th, 42nd, 44th, 46th and 48th precincts. Training of police personnel will begin this summer.

III. Manhattan District Attorney:

An agreement has been reached with the Manhattan District Attorney's Office, Bureau Chief of the Criminal Court and Director of the Early Case Assessment Bureau to institute a new referral procedure for custodial arrests. Those cases which are identified by the District Attorney as interpersonal in nature will be referred to a Dispute Center staff member located in the Complaint Room for diversion to mediation-arbitration. Thoses referrals will include interpersonal felony arrests which were screened by the Early Cases Assessment Bureau and reduced to misdemeanors.

The experience of the IMCR Dispute Center in its first ten months of operation has demonstrated that mediation-arbitration is a valid alternative to arrest and criminal court. The Center received a total of 1,657 referrals during the reporting period, 1274 or 76.9 from the Police Department, 318 or 19.2 from the Summons Part of Criminal Court (this figure is based on three months operation), and 65 or 3.9 from other sources, such as the Manhattan and Bronx District Attorney's Offices, related agencies and local residents who knew about the Center.

Of these referrals, 662 or 40% were not processed to a hearing because the complainant chose not to carry the matter further. A random sample of these cases in the first three months of the Center's operations revealed that in each instance the incident had been resolved, with many complainants stating that the referral itself and the lack of further police or court action had given the parties time to resolve the dispute among themselves. Thus, these cases did not re-enter the criminal justice system.

In only 11% of the cases (182 in number) were the parties advised that they had to return to court. The Center could not accept 54 of these referrals even though the parties were willing to mediate the dispute. Thirty-six of the 54 involved Desk Appearance Tickets where either time constraints or the respondent's criminal history made acceptance impossible. The remaining 18 dealt with complex problems not amenable to mediate or situations where there was no prior relationship between the parties. In 82 of the 182 cases, the complainant preferred to return to Court and in 46 (2.8%) the

respondents made that choice. Another 238 respondents did not appear after the initial referral. However, it is not known whether or not those referred complainants found their way back into the system.

Mediated hearings were scheduled in 575 cases. In only 23 (4%) did the respondent fail to appear. Those 552 cases were all resolved: 27 by the Center's Social Service Unit through appropriate referral for the underlying problem, 146 by the parties prior to a scheduled hearing, and 379 through mediation-arbitration.

The average length of time from receipt of referral to resolution was 11 days.

The 552 cases reflect 60.6% of all cases where the complainant felt sufficiently concerned to come to the Center. If the random sample of the 662 cases in which the complainant did not appear is reasonably accurate, the Center diverted 1,214 cases or 73.3% of the total number of referrals from the criminal justice system.

Police Referrals

Of the 1274 cases referred to the Center by the Police Department, 342 (26.8%) were from the 30th Precinct and 184 (14.4%) from the 34th Precinct. Both of these precincts referred cases for the entire ten months of program operation. Three hundred ninety-one (30.7) referrals were received from the 32nd Precinct over a nine-month period. In the past five months, the program received 105 referrals (8.2%) from the 28th Precinct, 103 (8.1%) from the 26th Precinct, 149 (11.7%) from the 25th Precinct.

It should be noted here that 135 police referrals (10.6% of all cases referred by the police) concerned cases where a Desk Appearance Ticket had been issued to a defendant after arrest. The program had anticipated a significantly larger number of these types of cases in its initial planning stages. However, it was discovered that the vast majority of Desk Appearance Tickets are issued for theft of services, petit larceny, and other property-related offenses. In addition, potentially appropriate cases often were not held out of FAX system for program identification. Of the 135 referrals, 21.5% were mediated. Another 26.7 percent were refused by the Center because of insufficient time to contact the parties before the scheduled arraignment date, an active warrant for the defendant, or wrong address of one or both parties. In 16% of the cases, one or both of the parties refused the process.

When disputants are referred to the Center, they are asked by the referring agency to define their relationship with each other. Referrals have fallen into the following categories:

573	Married (including common-law)	34.6%
305	Neighbors	18.4%
266	Friends	16.0%
170	Relatives (excluding spouses)	10.3%
134	Landlords (or supers) vs. tenants	8.1%
132	Other (including co-workers, teachers and students, etc.)	8.0%
77	Strangers	4.6%

Similarly, the referring body provides the Center with the charge alleged by the complainant. Disputes referred to the Center have fallen within the following Penal Law Classifications:

696	Misdemeanors	42%
824	Violations	49.7%
137	Other (includes family disputes and civil complaints)	8.3%

The Dispute Center's experience in the first ten months of program operation is that the process of mediation-arbitration of interpersonal disputes works extremely well. All parties are contacted thirty to sixty days after the hearing to determine if the agreement had been complied with. Of the 379 cases mediated-arbitrated during this time period, only two (2) needed Court enforcement. In only 34 cases was there initial non-compliance with the awards and then it was only necessary for the Center's Social Service staff to intercede by phone, letter or appointment to encourage compliance. Furthermore, follow-up of the cases has indicated that both parties of our disputes have been extremely satisfied with both their treatment at the Center and the mediation process in general. To date, only 26 cases have been arbitrated which means that in the majority of cases, the parties have been able to reach their own agreement; and our experience has proven that when people reach their own agreements, they tend to adhere to them. In fact, only 7.9% of all mediated cases required intervention by the Center's Social Service staff, while 23.1% of all arbitrated cases required intervention by the Center's Social Service staff.

Nature of Dispute Mediated-Arbitrated

Of the 379 cases which were mediated-arbitrated, the following is a breakdown by relationship:

132	Marriage (including common-law)	34.8%
100	Neighbors	26.4%
58	Friends	15.3%
35	Landlord/Super/Tenant	9.2%
23	Relatives	6.1%
31	Others/Strangers Co-workers/Employer/Employee	8.2%

Penal Law Classification of Mediated-Arbitrated Cases

202	Violations	53.3%
162	Misdemeanors	42.7%
15	Others/Family Disputes	4.0%

Nature of Arbitration Awards

All agreements whether mediated or arbitrated are written-up as Arbitration Awards. In the overwhelming majority of the 379 Awards issued, there were at least two of the following provisions including in each Award:

Structured Communication	130
Apology and Courtesy	167
Stay Away	121
No Physical Violence	72
Monetary and Non-Monetary Restitution	47

Separation and Property Division	39
Schedule Adjustments	60
Social Service Assistance	34
Custody and Visitation	38
Other/Division of Household Chores Specific Home Behavior	62

The mediation process focuses upon the relationship of the disputants, not the charge, and attempts to discover and resolve the underlying cause of the dispute. Since the majority of disputants live in close proximity to each other and therefore must maintain some kind of on-going relationship; it is often necessary to structure both the relationship and communication between the parties in order to avoid future conflict. The first step in building this new structure is often a mutual apology with the guarantee that each party will speak courteously to each other and observe specific guidelines in future relationships or encounters. For instance, in superintendent/tenant disputes, the parties will institute a grievance procedure which may include a third party neutral or other than face-to-face communication; in tenant/tenant disputes over noise, the parties will agree to schedule adjustments and establish a communication system; in marriage disputes (common-law included) the parties will agree not to use physical violence, to seek social service assistance, and to divide household chores; in neighbor disputes over children the parties agree to supervise their children and contact each other rather than the children when problems arise; in cases where the parties decide to separate and stay away from each other, there is often a division of property and/or payment for household goods; and in cases where there was property damage, there is payment of monetary damages or non-monetary restitution.

The Center is open from 9 a.m. to 9 p.m. and hearings are scheduled at the convenience of the complainant: 60% of the hearings were held after 5 p.m. and the remaining 40% were held during the day.

The majority of cases were resolved in one session. Only twenty-four cases required two sessions and only one case required three sessions. The average session lasted two hours.

In 315 cases, the mediation session was held entirely in English. In 47 cases, the mediation session was held entirely in Spanish. In 15 cases, the mediation session was held in both Spanish and English with the mediators serving as translators, in 2 cases the session was held entirely in Chinese with each party providing their own translators.

SOCIAL SERVICE UNIT

There was a total of 121 referrals to the Center's Social Service Unit including the 34 mediated cases which were referred for service assistance, the 27 intake diversion cases, and parties who requested assistance which was not part of their agreement. Of this total number of referrals, 75 were complainants and 55 were respondents. The following social services were rendered:

Personal, Family, Drug, Alcoholic Counseling	71
Information or Referral for Legal Assistance i.e. Housing, Immigration, Divorce	46
Welfare Assistance	16
Job Placement or Education Assistance	7
Other services i.e. Day Care, Health Care, etc.	33
Research and Information Gathering	31

The Social Service Unit also assisted 101 walk-in cases (individuals who lived in the community and knew about the Center) where the parties requested information or referral to an appropriate agency.

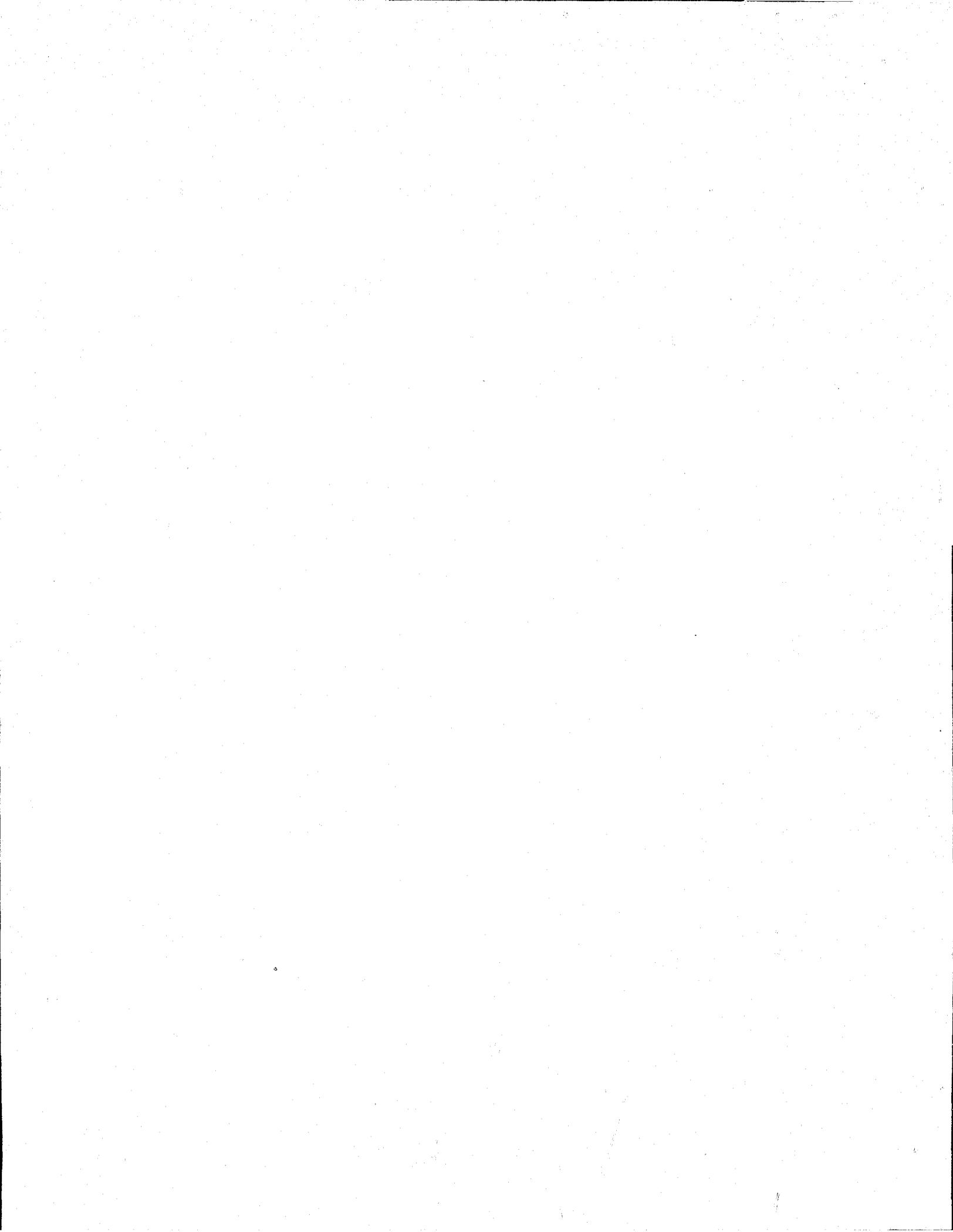
The Social Service staff also serves as the implementor of mediated agreements when one or both parties to a dispute are not complying with specific provisions of the Award. Of the 34 cases that needed enforcement, 15 were for monetary damages or restitution, 10 were for separation, stay away or property division, and the remaining 9 were for schedule adjustments, noise limitation, and social service referral.

In 20 cases, the complainant requested enforcement of the award; in 10 cases the respondent requested enforcement of the award; and in 4 cases both parties requested enforcement of the award.

TRENDS

With the addition of Summons Court referrals, the Center's volume of actual mediated-arbitrated cases has been substantially increased.

Prior to the establishment of a direct referral system in January for Summons Court cases, the Center was mediating an average of 29.3 cases per month. Since January, the Center has mediated an average of 59.7 cases per month. The Center feels that this trend will continue in the future and will be further impacted by the addition of new referral sources, such as the Bronx and Manhattan District Attorney's Offices, the Bronx Police Department and Bronx Desk Appearance Tickets.



END