

FAMILY COURT ARBITRATION UNIT
(The Family Court)

A Project Evaluation

Submitted to the
Adjudication Committee
of the
Delaware Criminal Justice Planning Commission

Susan C. Manasse
Division of Evaluation - DCJPC
January 1979

08585

TABLE OF CONTENTS

| | Page |
|---|------|
| PROJECT INFORMATION | ii |
| PROJECT SUMMARY | iv |
| <u>SECTION</u> | |
| I. Introduction | 1 |
| II. Project Operation | 2 |
| III. Findings and Conclusions | 6 |
| A. Relationship to Stated Objectives | 6 |
| B. Statewide Composite | 12 |
| C. Relationship to Goal Statement. | 12 |
| D. Profile of Project Caseload | 14 |
| E. Cost Per Case | 14 |
| F. Client Follow-Up. | 18 |
| G. Perceptions of Criminal Justice Personnel | 19 |
| IV. Comments and Observations | 23 |
| V. Recommendations | 24 |
| Appendix A - Detailed Flow Chart of the Arbitration | 25 |
| Appendix B - Follow-up Study on Clients Served. | 37 |

NCJRS

JUN 18 1979

ACQUISITIONS

PROJECT INFORMATION

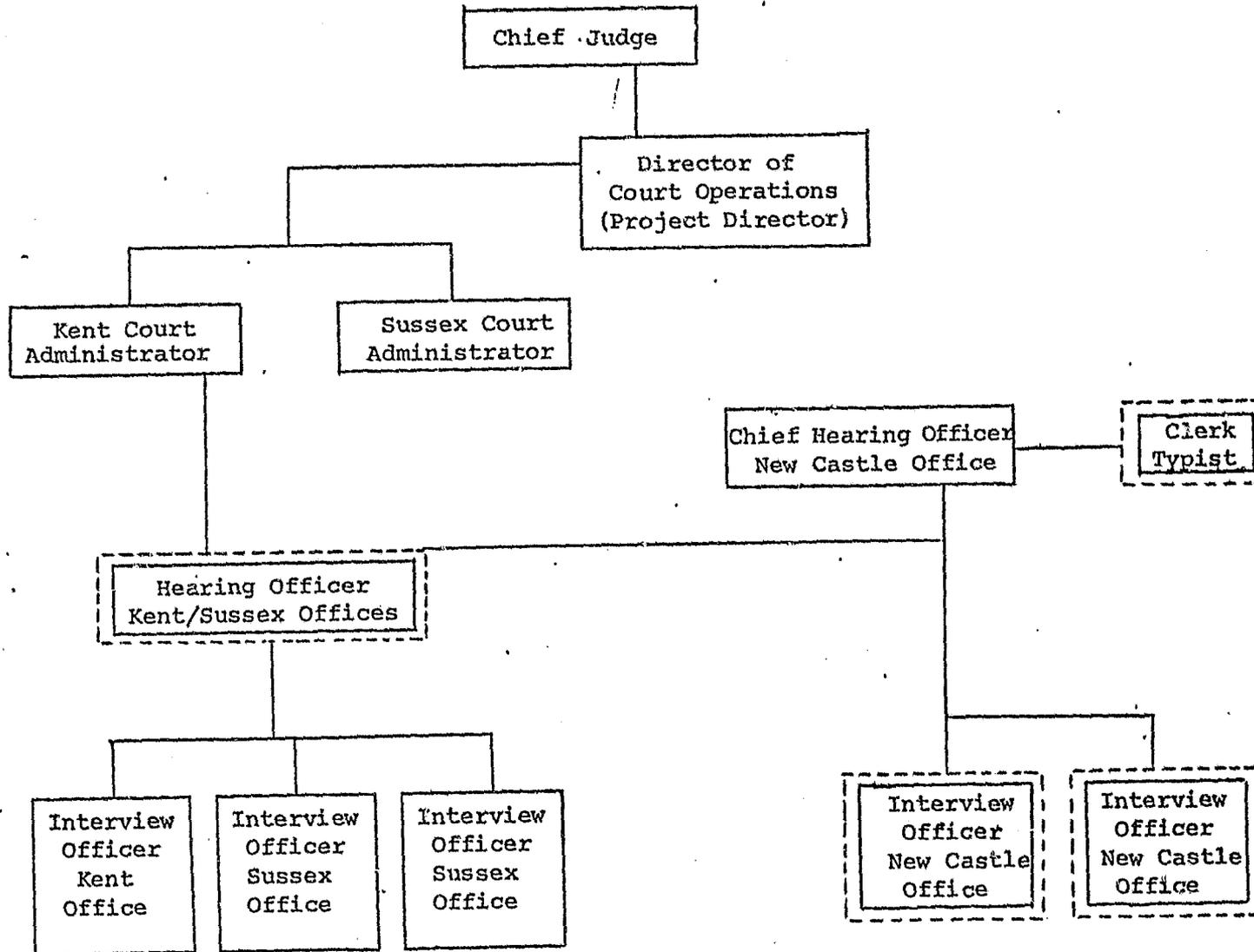
GENERAL:

Project Title: Family Court Arbitration Unit
Subgrant Number : 78c-009, 79c-013
Implementing Agency: The Family Court
Project Director : William Davies
Project Period: December 1, 1977 through
October 31, 1979

BUDGET:

| <u>category</u> | <u>federal</u> | <u>state</u> | <u>total</u> |
|-------------------------------|----------------|--------------|--------------|
| Personnel | \$71,400 | \$10,000 | \$81,400 |
| Profess- ional Services | 18,600 | - | 18,600 |
| Total | \$90,000 | \$10,000 | \$100,000 |

ORGANIZATION*



111

* ---- denotes grant funded position

PROJECT SUMMARY

Family Court Arbitration Unit
The Family Court
12/1/77-10/31/79
January 1978

78c-009
79c-013

(\$90,000)

A. Purposes:

1. to process 240-260 cases per month in the New Castle Office.
2. to process 40-60 cases per month in each of the Kent and Sussex County Offices.
3. to process 60 percent of all target cases (i.e. lesser misdemeanors) through the Arbitration Unit thereby reducing the number referred for judicial action by 20 percent.

B. Findings:

1. The project employed both state and federally funded personnel. The operation of the unit began in June 1977 with a totally state funded complement. In January 1978 federal funds were expended for two interview officers, a clerk-typist (in the New Castle Office) and for the professional services of a hearing officer who worked in both Kent and Sussex counties.
2. In the period from June 1977 through December 1978 the unit processed 5,771 cases.
 - a) An average of 236.3 cases per month were handled in the New Castle office.
 - b) An average of 51 cases per month were processed in the Kent County Office.
 - c) An average 43 cases per month were processed in the Sussex Office.
3. The juvenile to adult ratio of defendant cases arbitrated by the project was 3:1.
4. The average cost associated with processing a case through the Arbitration Unit was estimated to be \$18.72. The Family Court has estimated the cost of case processing through judicial avenues to be \$48.00.

Since cases processed by the Arbitration Unit would have been referred to the judiciary, if not for the existence of the project, the unit has been credited with a cost savings of \$168,975 (\$29.28 saved per case x 5,771 cases).

5. A follow up study conducted on November 15, 1978 of clients served in the period from June 1977 through December 1977 demonstrated an average 18% recidivism rate. (Recidivism was defined to mean that the defendant had either not successfully completed his/her arbitration obligations or was returned to the court on new charges and adjudicated delinquent.) In Kent and Sussex Counties, the recidivism rate was the smallest, two percent and four and five tenths percent respectively. The New Castle office received the bulk of recidivists with 27% being returned.
6. The Arbitration Unit was found to be a very effective and efficient approach to the processing of defendants and cases through the court. It afforded victims of crime the opportunity for input into the final disposition. Arbitration enabled the court to review the charges, determine the causal factors associated with them and to seek effective avenues for their resolution. It enabled defendants who successfully completed the program to not have a record indicating an adjudication of delinquency or a finding of guilt in that charges heard by the Unit were not formally prosecuted but remained in a suspended state (a sworn complaint) and then retired. Additionally, defendants were encouraged by Arbitration personnel to pursue a motion for destruction of indicia of arrest when their charges were retired so that there would not be any record of their arrest or court appearance.

C. Recommendations:

1. It was recommended that the project make application to LEAA for consideration as an exemplary project. Assistance in this endeavor should be provided by DCJPC staff.
2. It was recommended that project staff immediately place in writing the specific criteria utilized for determining whether a case is amenable to arbitration. Written criteria is of utmost importance for transferability of the project to other jurisdictions (a requirement for exemplary project status) and to ensure continuity and quality of amenability decisions in the event of staff turnover.

I. Introduction

The Family Court Arbitration Unit received its initial award from the Delaware Criminal Justice Planning Commission in November 1977. A total of \$46,667 in federal and \$4,667 state cash matching funds were allocated to the project. In November 1978, a continuation grant was awarded in the amount of \$48,000. Present funding will enable the project to operate through October 31, 1979.

Federal funds enabled the project to employ two Arbitration Unit interview officers, a hearing officer on a part-time basis and a clerk typist. The project also utilized state funds to employ four other interview officers (part-time) and two hearing officers.¹ Although the majority of monies used for this project came from state funds, the scope of this evaluation is not limited to the work of only federally funded employees. Rather a gestalt approach is taken.

The goal of the project, as stated in the 1978 funded application is to:

"reduce the number of cases referred to the judiciary by 20 percent and to process approximately 60 percent of all ... (target cases) (i.e. lesser misdemeanors) through the Arbitration Unit..."²

The Arbitration Unit operated on a statewide basis and began operation in June 1977 with state funded court personnel who

¹ In August, 1978, the number of state-funded hearing officers was reduced to one because the workload did not demand the services of two.

² Subgrant 78C-009, an application submitted to the Delaware Criminal Justice Planning Commission, October 28, 1977, pg. 13.

assumed responsibilities as interview/hearing officers. In January 1978, corresponding with the commencement of federal funding, the Court hired additional personnel to resume the activities of the state funded personnel that were transferred to the project.

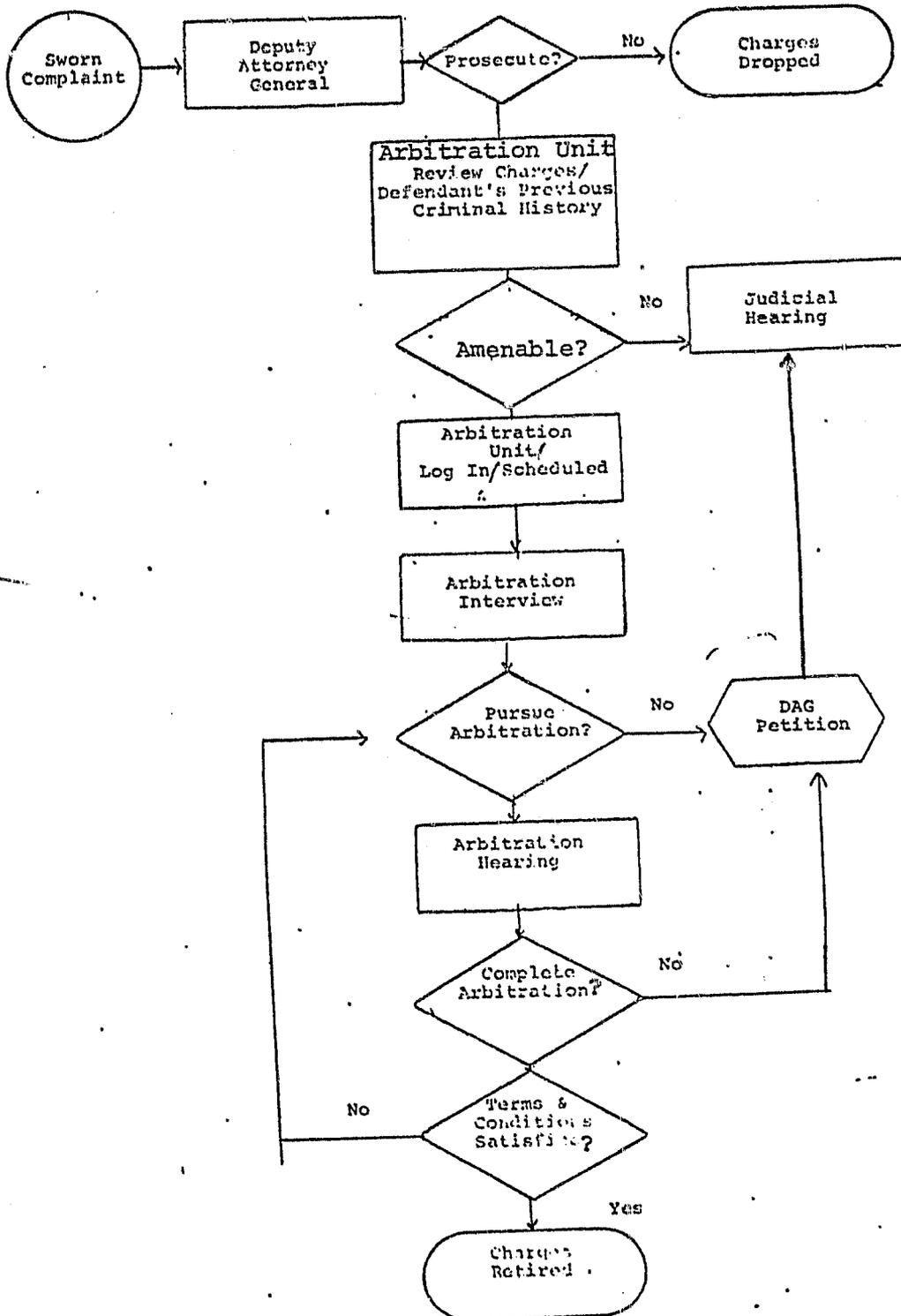
Information contained in this evaluation was obtained from DCJPC and Family Court files, interviews with project and Family Court personnel, discussions with community organization representatives, law enforcement and Department of Justice personnel. Arbitration interviews and hearings were observed.

It was interesting to note that there two different perceptions concerning the intent of the project. To certain individuals, the project's primary purpose was to divert youth from further juvenile justice system involvement. To others, the primary intent was to expedite the flow of cases through the court with minimal costs associated with processing. The evaluator felt that both elements, rehabilitation/diversion and increased case processing, were present in the project. Thus, this evaluation discusses both. However, due to the fact that the goal statement and most of the objectives contained in the 1978 application involve the case processing component of the project, this aspect is emphasized.

II. Project Operation

The flow chart contained on the following page describes the basic operation of the project vis-a-viz the flow of clients

Overview of
Family Court Arbitration Unit Process



through it (a more detailed flow chart is contained in Appendix A). Following receipt of a sworn complaint, the deputy attorney general assigned to the court reviewed it to determine if there was probable cause. If there was and if the complaint involved a target offense, i.e. misdemeanors, the case was referred to the Arbitration Unit. The Arbitration hearing officer reviewed the complaint and the defendant's previous court record, if one existed, and made the final determination concerning whether to attempt to arbitrate the case or to refer it for judicial action. The decision as to whether a case was amenable to the arbitration process was based on the severity of circumstances surrounding the charge(s) and whether the defendant had a substantial previous court record. There was no written criteria to determine project eligibility or ineligibility but rather the decision was made based upon the expertise of the hearing officer. If the case was to be arbitrated, the charges remained in the "complaint status" and a petition was not filed.

The Arbitration Unit scheduled the case for interview and final hearing which occurred on the same day. The time elapsed between receipt of the sworn complaint and interview/hearing ranged between three to four weeks during the eighteen month period evaluated, rather than the normal six to eight weeks taken to process a case through judicial means. The complaintant, respondent, and victim were notified to appear for arbitration. Interviews were scheduled for specific date and time to avoid

any inconvenience to the parties involved. Interviews were scheduled at intervals of 45 minutes starting at 8:45 AM and ending at 3:30 PM. Project personnel spent the remainder of the day completing paperwork, client referrals and other administrative tasks.

Arbitration began with the initial interview at which time the interview officer explained what arbitration is and the rights of the defendant to pursue a judicial hearing rather than to arbitrate. An arbitration agreement was signed by the defendant, his/her parents if applicable, and the interview officer. The agreement stated that the defendant understood the arbitration process and would abide by the terms and conditions that resulted from the negotiations. The overwhelming majority of defendants accepted arbitration because arbitration dispositions, while binding, were not punitive, e.g. fines, costs, incarceration could not be imposed. It was also pertinent to note that the interview officer could refuse to arbitrate if he/she felt the case, particularly the defendant, was not amenable to the process. *

As arbitration proceeded, the interview officer requested each party in turn, to describe the circumstances surrounding the offense. Background information was also sought and the underlying problem was brought out into the open. All interview officers were experienced counselors (social workers). Approaches to resolution of the underlying problem were explored and selected.

Immediately following the interview, all parties were brought before the Arbitration Unit hearing officer (a person with

legal training). The complaintant, defendant and interview officer presented their views of the problem and the approach to resolution to the hearing officer. The hearing officer then either approved or modified the proposed resolution. The disposition was signed by the hearing officer. The disposition listed conditions that the defendant must satisfy if the charge was to be retired.

Charges and arbitration conditions remain active for up to ninety days. If the defendant satisfied the disposition terms and was not returned to the court on new charges, his/her case was retired. Due to the fact that the charge(s) remained as a sworn complaint and not a petition, the retiring of charges meant that the defendant did not have a court record signifying an adjudication of delinquency or a finding of guilt. Additionally, the defendant was also encouraged to pursue a motion for the destruction of indicia of arrest as soon as their charges were retired. If such a motion was approved by a Superior Court judge, all records concerning the individual's arrest and court appearance were destroyed, thus the defendant could legally state on any application for school, employment, etc. that they did not have any arrest record. Thus, arbitration afforded an individual a second chance.

If a defendant did not satisfy, or violated the terms and conditions of arbitration, his/her case was returned to the project. Either of three actions were taken: 1) the terms and conditions were modified or changed because they were found to not

be suitable to the situation, 2) the terms and conditions could be sustained and the defendant given another chance to fulfill their respective obligations, or 3) the case could be referred for judicial hearing.

If a defendant was returned to the court as a result of a new charge(s), the deputy attorney general would review the charges and, if they were targeted offenses, would refer the case to the Unit. Upon review of the defendant's previous court history, the hearing officer would make a determination as to whether arbitration would be beneficial or the case would be more appropriately handled by the judiciary.

III. Findings and Conclusions

A. Relationship to Stated Performance Objectives

The following section reports the project's progress in attaining its stated objectives. It is noted that these objectives refer only to the federally funded positions of the project. While the data provided does assess the performance of the project in relationship to its stated objectives, it also reports on the total performance of the project, including its stated funded positions.

1. To process a total of 240 cases each month in the New Castle County Office.

Table I depicts the volume of activity in the New Castle County office from September 1977 through December 1978. The first three columns represent the number of cases referred to the Arbitration Unit by the Department of Justice on a monthly

TABLE I

Activity of the Arbitration Unit
in the New Castle County Family Court
July 1977 through December 1978

| Month | Number Referred to Arbitration | | | Number Pending at Beginning of Month | Total Workload During Month | Number Disposed of by Arbitration | Number Referred to Petition | Number Pending at end of Month |
|-------------------|--------------------------------|--------|--------|--------------------------------------|-----------------------------|-----------------------------------|-----------------------------|--------------------------------|
| | Juvenile | Adult | Total | | | | | |
| July 1977 | 183 | 86 | 269 | 189 | 450 | 271 | 34 | 153 |
| Aug. | 272 | 105 | 377 | 153 | 530 | 241 | 30 | 259 |
| Sept. | 181 | 73 | 254 | 250 | 513 | 275 | 25 | 213 |
| Oct. | 164 | 67 | 231 | 213 | 444 | 173 | 14 | 257 |
| Nov. | 213 | 51 | 264 | 257 | 521 | 213 | 22 | 286 |
| Dec. | 166 | 72 | 238 | 286 | 524 | 262 | 38 | 224 |
| Jan. 1978 | 116 | 37 | 153 | 224 | 376 | 201 | 30 | 146 |
| Feb. | 161 | 56 | 217 | 146 | 363 | 121 | 34 | 208 |
| March | 184 | 63 | 247 | 208 | 455 | 235 | 32 | 188 |
| April | 127 | 41 | 168 | 188 | 356 | 191 | 4 | 161 |
| May | 155 | 33 | 188 | 161 | 349 | 185 | 35 | 129 |
| June | 153 | 41 | 194 | 129 | 323 | 190 | 42 | 91 |
| July | 199 | 82 | 281 | 91 | 372 | 185 | 23 | 164 |
| Aug. | 182 | 56 | 238 | 164 | 402 | 225 | 35 | 142 |
| Sept. | 116 | 74 | 190 | 142 | 332 | 238 | 30 | 64 |
| Oct. | 213 | 76 | 289 | 64 | 353 | 293 | 22 | 38 |
| Nov. | 216 | 42 | 258 | 38 | 296 | 205 | 26 | 65 |
| Dec. | 122 | 75 | 197 | 65 | 262 | 158 | 22 | 82 |
| Total | 3123 | 1130 | 4253 | N/A | N/A | 3862 | 498 | N/A |
| Average per month | 173.5 | 62.8 | 236.3 | N/A | 401.6 | 214.6 | 27.7 | N/A |
| | Col. 1 | Col. 2 | Col. 3 | Col. 4 | Col. 5 | Col. 6 | Col. 7 | Col. 8 |

Compiled from Family Court's "Arbitration Unit Report"

basis. Over the 18 month period surveyed, a total of 4,253 cases or an average of 236.3 cases per month were referred. Each of these cases were logged in and scheduled for an interview. Twenty seven (27) percent of the cases referred involved adults charged with a misdemeanor offense(s), 73 percent involved juveniles charged with misdemeanor or, in some instances, felonies that were deemed by the deputy attorney general to be minor felonies. The average number of cases per month active with the unit was 401.6 (refer to column five).

In the period from July 1, 1977 through December 30, 1978, a total of 3,862 cases, or an average of 214.6 cases per month, were disposed of by the project (refer to column six). A case was considered disposed of if it proceeded through the interview and hearing phases of the project and a signed agreement between the court and defendant was reached.

The Arbitration Unit and/or the defendant maintained the right to refuse arbitration. In only nine percent of all cases referred (498), was arbitration denied and the case was referred to formal petition. The reasons for which arbitration was refused or denied generally included 1) that project staff believed that the defendant was not amenable to the process, 2) the defendant failed to appear, or 3) the defendant denied the allegations and requested a judicial hearing to absolve himself/herself of the implication of guilt.

2. To process 40-60 cases monthly in the Kent County Office

Table II describes the activity of the Arbitration Unit in the Kent County Office. The project in Kent and Sussex Counties began operation in August 1977, two months following its implementation in New Castle County.

During the 16 month period reviewed, a total of 816 cases were referred to the project. Juvenile cases comprised 77 percent. An average of 51 cases per month were processed. The project disposed of 729 or an average of 45.6 cases per month.

3. To process 40-60 cases per month in the Sussex County Office

Table III illustrates the project's accomplishments in the Sussex Office. In the period from September 1977 through December 1978, the office received a total of 702 referrals, or an average of 43 per month. The ratio of juvenile to adult referrals was three to one (3:1), characteristic of the Arbitration Unit caseload in the northern two offices. During this time, the project disposed of 656 cases, or an average of 41 per month.

B. Statewide Composite

Table IV depicts the total activity of the Family Court Arbitration Unit on a statewide basis. Since the project's inception, a total of 5,771 cases, or an average of 320.4 per month, have been referred for arbitration. The average total number of cases active during any given month was 557.4. The Arbitration Unit disposed of 5,247 or 91 percent of its caseload.

TABLE II

Activity of the Arbitration Unit
of the Kent County Office*
September 1977 through December 1978

| Month | Number Referred to Arbitration | | | Number Pending at Beginning of Month | Total Workload During Month | Number Disposed of by Arbitration | Number Referred to Petition | Number Pending at End of Month |
|-------------------|--------------------------------|-------|-------|--------------------------------------|-----------------------------|-----------------------------------|-----------------------------|--------------------------------|
| | Juvenile | Adult | Total | | | | | |
| Sept. 1977 | 48 | 19 | 67 | 30 | 97 | 49 | 4 | 44 |
| Oct. | 38 | 12 | 50 | 44 | 94 | 55 | 5 | 34 |
| Nov. | 41 | 10 | 51 | 34 | 85 | 30 | 4 | 51 |
| Dec. | 33 | 11 | 44 | 51 | 95 | 50 | 0 | 45 |
| Jan. 1978 | 26 | 5 | 31 | 45 | 76 | 46 | 1 | 29 |
| Feb. | 31 | 6 | 37 | 29 | 66 | 31 | 2 | 33 |
| March | 42 | 9 | 51 | 33 | 84 | 40 | 6 | 38 |
| April | 34 | 5 | 39 | 41 | 80 | 46 | 3 | 31 |
| May | 26 | 5 | 31 | 31 | 62 | 36 | 8 | 18 |
| June | 49 | 20 | 69 | 18 | 87 | 46 | 6 | 35 |
| July | 36 | 14 | 50 | 38 | 88 | 48 | 4 | 36 |
| Aug. | 48 | 8 | 56 | 36 | 92 | 41 | 6 | 45 |
| Sept. | 34 | 14 | 48 | 45 | 93 | 48 | 1 | 44 |
| Oct. | 52 | 20 | 72 | 44 | 116 | 58 | 5 | 53 |
| Nov. | 61 | 18 | 79 | 53 | 132 | 50 | 6 | 76 |
| Dec. | 30 | 11 | 41 | 76 | 117 | 55 | 2 | 60 |
| Total | 629 | 187 | 816 | N/A | N/A | 729 | 63 | N/A |
| Average Per Month | 39.3 | 11.7 | 51 | N/A | 91.5 | 45.6 | 3.9 | N/A |

Col. 1 Col. 2 Col. 3 Col. 4 Col. 5 Col. 6 Col. 7 Col. 8

*Compiled from Family Court's Arbitration Unit Report".

TABLE III

Activity of the Arbitration Unit
in the Sussex County Office*
September 1977 to December 1978

| Month | Number Referred to Arbitration | | | Number Pending at Beginning of Month | Total Workload During Month | Number Disposed of by Arbitration | Number Referred to Petition | Number Pending at End of Month |
|-------------------|--------------------------------|-------|-------|--------------------------------------|-----------------------------|-----------------------------------|-----------------------------|--------------------------------|
| | Juvenile | Adult | Total | | | | | |
| Sept. 1977 | 18 | 7 | 25 | 51 | 76 | 51 | 4 | 21 |
| Oct. | 34 | 22 | 56 | 21 | 77 | 36 | 3 | 38 |
| Nov. | 20 | 11 | 31 | 38 | 69 | 33 | 2 | 34 |
| Dec. | 44 | 7 | 51 | 34 | 85 | 49 | 6 | 30 |
| Jan. 1978 | 44 | 12 | 56 | 30 | 86 | 39 | 2 | 45 |
| Feb. | 14 | 7 | 21 | 45 | 66 | 44 | 2 | 20 |
| March | 24 | 19 | 43 | 20 | 63 | 41 | 2 | 20 |
| April | 41 | 15 | 56 | 20 | 76 | 37 | 3 | 36 |
| May | 65 | 12 | 77 | 36 | 113 | 45 | 3 | 65 |
| June | 41 | 15 | 56 | 65 | 121 | 76 | 3 | 42 |
| July** | 18 | 3 | 21 | 42 | 63 | 37 | 8 | 16 |
| Aug. | 39 | 7 | 46 | 16 | 62 | 34 | 5 | 23 |
| Sept. | 31 | 9 | 40 | 23 | 63 | 36 | 4 | 23 |
| Oct. | 26 | 2 | 28 | 23 | 51 | 41 | 1 | 9 |
| Nov. | 41 | 20 | 61 | 9 | 70 | 29 | 2 | 39 |
| Dec. | 26 | 8 | 34 | 39 | 73 | 28 | 4 | 41 |
| Total | 526 | 176 | 702 | N/A | N/A | 656 | 54 | N/A |
| Average Per Month | 32 | 11 | 43 | N/A | 75 | 41 | 3 | N/A |

Col. 1 Col. 2 Col. 3 Col. 4 Col. 5 Col. 6 Col. 7 Col. 8

*Compiled from Family Court's Arbitration Unit Report.

**Disposition of two cases unaccounted for.

TABLE IV

Composite

Arbitration Unit Caseload
 Statewide Totals*
 July 1977 through December 1978

| Month | Number Referred to Arbitration | | | Number Pending at Beginning of Month | Total Workload During Month | Number Disposed of by Arbitration | Number Referred to Petition | Number Pending at End of Month |
|----------------------|--------------------------------|--------|--------|--------------------------------------|-----------------------------|-----------------------------------|-----------------------------|--------------------------------|
| | Juvenile | Adult | Total | | | | | |
| July 1977 | 163 | 86 | 269 | 189 | 458 | 271 | 34 | 153 |
| Aug. | 272 | 105 | 377 | 153 | 530 | 241 | 30 | 259 |
| Sept. ** | 247 | 99 | 346 | 340 | 686 | 375 | 33 | 278 |
| Oct. | 236 | 101 | 337 | 278 | 615 | 264 | 22 | 329 |
| Nov. | 274 | 72 | 346 | 329 | 675 | 276 | 28 | 371 |
| Dec. | 243 | 90 | 333 | 371 | 704 | 361 | 44 | 299 |
| Jan. 1978 | 186 | 54 | 240 | 299 | 539 | 286 | 33 | 220 |
| Feb. | 206 | 69 | 275 | 220 | 495 | 196 | 38 | 261 |
| March | 250 | 91 | 341 | 261 | 602 | 316 | 37 | 249 |
| April | 202 | 61 | 263 | 249 | 512 | 274 | 10 | 228 |
| May | 246 | 50 | 296 | 228 | 524 | 266 | 46 | 212 |
| June | 243 | 76 | 319 | 212 | 531 | 312 | 51 | 168 |
| July | 253 | 99 | 352 | 169 | 521 | 270 | 35 | 216 |
| Aug. | 269 | 71 | 340 | 216 | 556 | 300 | 46 | 210 |
| Sept. | 181 | 97 | 278 | 210 | 488 | 322 | 35 | 131 |
| Oct. | 291 | 98 | 389 | 131 | 520 | 392 | 28 | 100 |
| Nov. | 318 | 80 | 398 | 100 | 498 | 284 | 34 | 180 |
| Dec. | 178 | 94 | 272 | 160 | 452 | 241 | 28 | 183 |
| Total | 4278 | 1493 | 5771 | N/A | N/A | 5247 | 612 | N/A |
| Average Per Month*** | 239.0 | 81.4 | 320.4 | N/A | 557.4 | 296.0 | 34.3 | N/A |
| | Col. 1 | Col. 2 | Col. 3 | Col. 4 | Col. 5 | Col. 6 | Col. 7 | Col. 8 |

* Compiled from Family Court's "Arbitration Unit Report".

** Project operationalized in Kent and Sussex Counties.

*** Calculated from September 1977 through December 1978.

The remaining nine percent were referred to petitions for judicial action.

C. Relationship to Goal Statement

The goal of this project, as stated in its funded application, was to reduce the number of cases referred to the judiciary by 20 percent and to process approximately 60 percent of all cases in this category (i.e., lesser misdemeanors) through the Arbitration Unit within one month of receipt.

During the period from July 1, 1977 through December 30, 1978, a total of 4,292 petitions (for misdemeanor offenses) involving juveniles was received by the court. The total number of sworn complaints handled by the Arbitration Unit during the same time period was 4,278 (juveniles only). Thus, a total of 8,570 juvenile offenses were received by the court in this eighteen month period. The Arbitration Unit processed 50 percent of all cases falling into the category of misdemeanors. The evaluator has attributed the slightly lower than anticipated percentage processed to the guesswork that is sometimes involved in developing measurable goals and objectives of a previously untried project and not to a failure on the part of the Arbitration Unit. It is suggested that the project revise its goal statement to reflect its past performance record.

D. Profile of Project Caseload

The data contained in Table V depicts the type of complaints arbitrated by the project. This data was collected to ascertain

whether the unit processed the types of cases it defined as its target cases.

Review of the table revealed that the project did in fact handle misdemeanor cases; e.g. shoplifting, offensive touching, assault in the third degree, criminal mischief, possession of drugs, harassment, theft and criminal trespassing. It should be noted that all charges brought against a defendant are listed so that in instances whereby a charge of uncontrolled (not a target case) is listed, it was often as a result of multiple charges being arbitrated at the same time. In other words, the uncontrolled charge was ancillary to the criminal complaint.

E. Cost Per Case

The average cost to process a case through judicial means in the Family Court was calculated by court management to be \$48.00. In order to calculate the cost to process a case through the Arbitration Unit, expenditures for salaries and benefits for all state and federally funded Arbitration Unit personnel were calculated. For personnel in Kent and Sussex Counties, interview officers' salaries and benefits were pro-rated by the proportion of time expended on project activities. Costs were calculated from July 1, 1977 through December 30, 1978 in New Castle County and from September 1, 1977 through December 30, 1978 in Kent and Sussex Counties. The total cost was estimated to be \$108,056.

The estimated average cost to process a case through the Arbitration Unit was \$18.72. As a result, the unit processed a case at an average cost that was \$29.28 less than it would have

TABLE V

Charges Handled by the Arbitration Unit
in Four Selected Months*
N=1183

| <u>Charges</u> | <u>Number</u> | <u>Percentage of Total</u> | <u>Cumulative</u> |
|-----------------------------------|---------------|--------------------------------|-------------------|
| Shoplifting | 197 | 16.65 | 16.65 |
| Offensive Touching | 127 | 10.74 | 27.39 |
| Assault 3rd | 110 | 9.30 | 36.69 |
| Criminal Mischief | 86 | 7.27 | 43.96 |
| Possession of drugs | 74 | 6.26 | 50.22 |
| Harassment | 67 | 5.66 | 55.88 |
| Theft | 61 | 5.16 | 61.04 |
| Criminal Trespass 3rd | 52 | 4.40 | 65.44 |
| Disorderly Conduct | 48 | 4.06 | 69.50 |
| Endangering Welfare of Child | 39 | 3.30 | 72.80 |
| Consumption Alcohol by a Minor | 39 | 3.30 | 76.10 |
| Terroristic Threatening | 36 | 3.04 | 79.14 |
| Conspiracy 3rd | 29 | 2.45 | 81.59 |
| Reckless Endangering | 29 | 2.45 | 84.04 |
| Criminal Trespass 2nd | 26 | 2.20 | 86.24 |
| Loitering | 23 | 1.94 | 88.18 |
| Resist Arrest | 17 | 1.44 | 89.62 |
| Menacing | 15 | 1.27 | 90.89 |
| Trespass County Park after dark | 13 | 1.10 | 91.99 |
| Unauthorized Use of Motor Vehicle | 10 | .85 | 92.84 |

(continued next page)

| | <u>Number</u> | <u>Percentage of Total</u> | <u>Cumulative</u> |
|-------------------------------------|---------------|--------------------------------|-------------------|
| Receiving Stolen Property | 8 | .67 | 93.51 |
| Breach of Peace | 8 | .67 | 94.18 |
| Uncontrolled | 7 | .59 | 94.77 |
| Hinder Prosecution | 7 | .59 | 95.36 |
| Loitering on School Property | 6 | .51 | 95.87 |
| Attempt to Commit a Crime | 5 | .42 | 96.29 |
| Falsely Report an Incident | 5 | .42 | 96.71 |
| Driving without a License | 4 | .34 | 97.05 |
| Miscellaneous Mini-bike offenses | 3 | .25 | 97.30 |
| Resisting Detention | 3 | .25 | 97.55 |
| Violation of Curfew | 2 | .16 | 97.71 |
| Escape 3rd | 2 | .16 | 97.87 |
| Criminal Trespass 1st | 2 | .16 | 98.03 |
| Night Prowling | 2 | .16 | 98.19 |
| Obstruction of Public Passage | 2 | .16 | 98.35 |
| Resist Police Officer/Other Officer | 2 | .16 | 98.51 |
| CCDW | 1 | .08 | 98.59 |
| Possession Fireworks | 1 | .08 | 98.67 |
| Burglary 3rd | 1 | .08 | 98.75 |
| Conspiracy 2nd | 1 | .08 | 98.83 |
| Interfere with Custody | 1 | .08 | 98.91 |
| No Insurance | 1 | .08 | 98.99 |
| Solicit a ride | 1 | .08 | 99.07 |
| Indecent Exposure | 1 | .08 | 99.15 |

(continued next page)

| | <u>Number</u> | <u>Percentage of Total</u> | <u>Cumulative</u> |
|----------------------------------|---------------|--------------------------------|-------------------|
| Walking in Street | 1 | .08 | 99.23 |
| Littering | 1 | .08 | 99.31 |
| Failure to Stop | 1 | .08 | 99.39 |
| Contempt of Court | 1 | .08 | 99.47 |
| Enters Package Store Under Age | 1 | .08 | 99.55 |
| Criminal Solicitation | 1 | .08 | 99.63 |
| Unauthorized Use of Fire Hydrant | 1 | .08 | 99.71 |
| Missile Throwing | 1 | .08 | 99.79 |
| Tamper with Motor Vehicle | 1 | .08 | 99.87** |
| TOTAL | 1183 | | |

* For the randomly selected months September 1977, February 1978, June 1978 and December 1978 in the New Castle Office only.

** Does not equal 100 due to the effects of rounding.

taken to process the case through judicial channels. A total \$168,975 (\$29.28 x 5,771 cases) in savings was attributed to the project's efforts as of December 30, 1978, since these cases would have been processed by the judiciary if the project did not exist. It should also be noted that this cost savings does not account for the reduction of Department of Justice time which would have been utilized to formally prosecute these cases.

F. Client Follow-up

In December 1978, a follow-up study of closed cases was conducted by Family Court staff to determine the affect of the Arbitration Unit on its clientele. A ten percent sample* was chosen and research was conducted to determine whether former Arbitration Unit clientele had subsequently been returned to court. It was noted that this study only referred to juveniles who were recidivists. Essentially, there were three categories of recidivists. The first category included those juveniles who had violated the terms and conditions of arbitration. The second category included those who had been brought before the court and were adjudicated on a new offense within six months after completion of Arbitration terms and conditions. The third category included those juveniles who were adjudicated on new charges six months or more after the completion of Arbitration disposition.

*In Sussex County, the total population was followed up.

Table V illustrates the outcome of the follow-up study. In New Castle County, a 27 percent recidivism rate was noted. In Kent County, a two percent recidivism rate was revealed, in Sussex, a 4.5 percent rate was demonstrated. The average statewide recidivism rate was 18 percent. Thus, for every one hundred cases arbitrated, only 18 returned to the Family Court.

The study concluded that:³

- (the) recidivism rate is more likely in New Castle than in Kent and Sussex. This coincides with the national trend of a higher juvenile delinquency rate in urban and suburban areas.
- Recidivism is more likely to take the form of a subsequent offense rather than be reflected in violation of Arbitration terms and conditions.
- Recidivism is more likely to occur within the first six months after the Arbitration hearing than six months after the hearing.

F. Perceptions of Criminal Justice Personnel.

Interviews were conducted with personnel in the Department of Justice, Family Court and various police agencies concerning the Arbitration Unit. With respect to the Department of Justice staff, the project was perceived to be an asset to court operations. Deputies stated that they only referred cases to the unit in which there was probable cause for prosecution, thus formal avenues to prosecution would have resulted.

³"Follow-up on Arbitration" submitted to the Delaware Criminal Justice Planning Commission by Francine Gritz, Emmet Partin, December 15, 1978, pg. 2.

TABLE V

Follow-up Study on Arbitration Unit
 Clients Served Between
 June 1, 1977 through December 31, 1977
 Juveniles Only*

| | New Castle | | Kent N=16 | | Sussex N=110 | | Total | |
|--|------------|----|-----------|---|--------------|---|-------|-----|
| | No. | % | No. | % | No. | % | No. | % |
| Violated terms and conditions of Arbitration | 5 | 9 | 3 | 5 | 3 | 5 | 11 | 19 |
| New Charge(s) within six months ** | 33 | 58 | 1 | 2 | - | - | 34 | 60 |
| New Charge(s) after six months ** | 9 | 16 | 1 | 2 | 2 | 3 | 12 | 21 |
| Total | 47 | 83 | 5 | 9 | 5 | 8 | 57 | 100 |

Ten percent Ten percent Total pop.
 sample sample N=110
 N=178 N=16

*Compiled from "Follow-up on Arbitration" Study (See Appendix B)

**Refers to those who had recidivated as of November 15, 1978.

Family Court personnel were extremely supportive of the project. Reasons for their enthusiasm ranged from the obvious need for a cost-effective and less time consuming way in which to process less serious cases; the fact that persons successfully completing their terms and conditions did not have a court record and thus, were afforded a second chance; its success as evidenced by its relatively low rate of recidivism, and its novel approach to court operations. (While there are similar programs in other jurisdictions, neither Family Court personnel nor the evaluator is aware of a family or juvenile court program that combines the voluntary nature, yet actual prosecution that the Arbitration Unit provides).

Interviews with law enforcement personnel revealed that generally they were supportive of the unit, although a few did not believe the Unit would be successful because it lacked the power to dispose of cases utilizing punitive sanctions. It was interesting to note that persons interviewed in Kent and Sussex Counties were generally much more pleased with the Unit than those in New Castle County. The evaluator attributed these mixed reactions to the urban/suburban vs. rural environments of the counties and to the different kinds of dispositions arbitrated in the counties.

In Kent and Sussex Counties, the terms and conditions were often more "severe" than in New Castle County. A juvenile whose case was arbitrated in the southern counties may have had to clean up a police station or pick up litter in a parking lot for

committing an act of vandalism or may have had to write an essay for the Arbitration Unit hearing officer before his/her terms and conditions were satisfied. In the New Castle office, terms and conditions were generally not followed up on as closely as those in Kent and Sussex Counties, primarily due to the much larger caseload and lack of "small town communication" that exists in the southern counties.

IV. Comments and Observations

1. The project conforms to the 80-20 philosophy of certain Family Court staff. The "80-20 rule" essentially states that 80 percent of those coming before the court will do so only once, therefore, there is no need to expend valuable resources, e.g. judicial time, formal prosecution, on those cases. Rather a more efficient and less costly approach should be utilized. The Arbitration Unit does just that.

2. While the Unit is an informal approach to case processing, it is not to be taken lightly. Failure to abide by its sanctions can and has resulted in more punitive measures being taken against the defendant.

3. The arbitration procedure affords victims the opportunity for their input into the final disposition. A defendant appearing before the interview/hearing officer is in direct communication with the victim; he/she must listen to their side of the story, the hardships they may have endured, etc., rather than appearing before a judge who must hear legal arguments and defense. Arbitration is a personal rather than impersonal forum

whereby both plaintiff and defendant have more input into the final determination of the case.

4. The project enables a more speedy disposition. Hearings are scheduled within three to four weeks and cases are rarely continued. Cases are heard on a specified date and at a specific time, thus, victims and witnesses do not have the more traditional frustrations of waiting in court, possibly all day, only to find out that their case has been continued.

5. The Arbitration Unit project addressed program area 7-2B in the 1978 Comprehensive Plan. The stated objectives of that program area were:

- a) to establish the Arbitration Unit consisting of five Arbitration Hearing Officers, and
- b) to adjust (resolve) disputes with the consent of the parties and the approval of a judge, between the alleged offender and the victims in juvenile delinquency and adult criminal cases.

With respect to objective "a", federal funding only provided enough monies for one part-time hearing officer. State funds employed a second. Concerning objective "b", approval of resolutions were actually performed by legally trained hearing officers of the court. The objectives were easily met by the project, particularly since they were not quantifiable nor did they address anything more than implementation and performance of the project.

V. Recommendations

1. It is recommended that the project make application to LEAA for consideration as an exemplary project. Assistance in this endeavor should be provided by DCJPC staff.

2. It is recommended that project staff immediately place in writing the specific criteria utilized for determining whether a case is amenable to arbitration. Written criteria is of utmost importance for transferability of the project to other jurisdictions (a requirement for exemplary project status) and to ensure continuity and quality of amenability decisions in the event of staff turnover.

APPENDIX A

Detailed Flowchart of the Arbitration Unit

ARBITRATION

AN ALTERNATIVE CASE PROCESSING CONCEPT
WITHIN
THE FAMILY COURT OF THE STATE OF DELAWARE

● WHAT IS ARBITRATION?

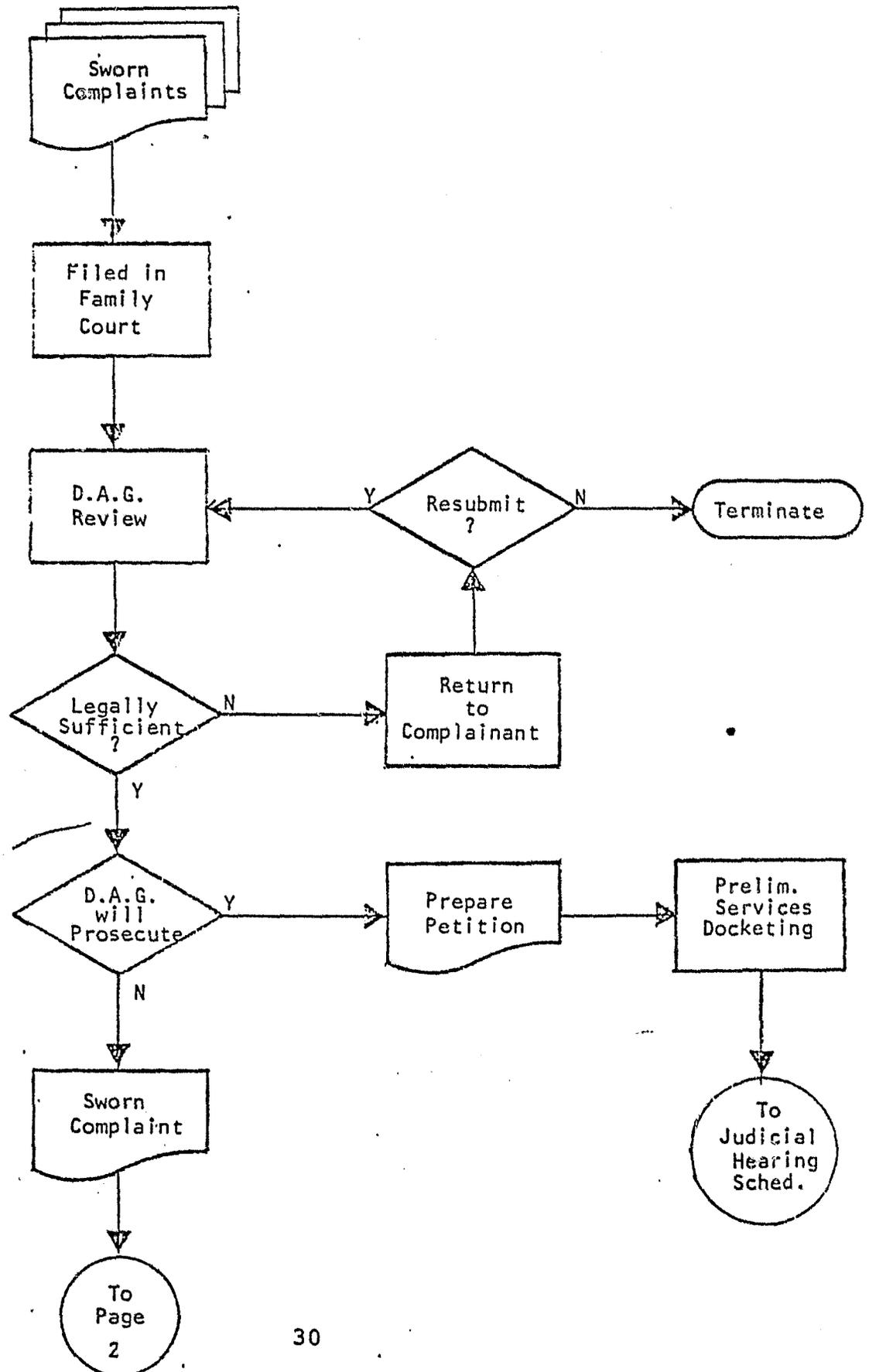
- The processing of a sworn complaint, in an adult criminal or juvenile delinquency case (except status offense complaints), wherein:
 - A. The Deputy Attorney General has elected not to prosecute.
 - B. The Deputy Attorney General has decided not to enter a Nolle Prosequi.
 - C. The Deputy Attorney General has decided that a legally sufficient complaint has been filed.
 - D. The defendant does not have a significant record of prior adjudications in the Family Court.
- An informal, yet disciplined and business-like, process - non-judicial in nature - wherein:
 - A. The defendant, complainant and/or victim have a voice in case outcome.
 - B. A sworn complaint may be "retired"* if:
 - 1. The Arbitration Hearing Officer finds it appropriate.
 - 2. Conditions imposed upon the defendant are met.

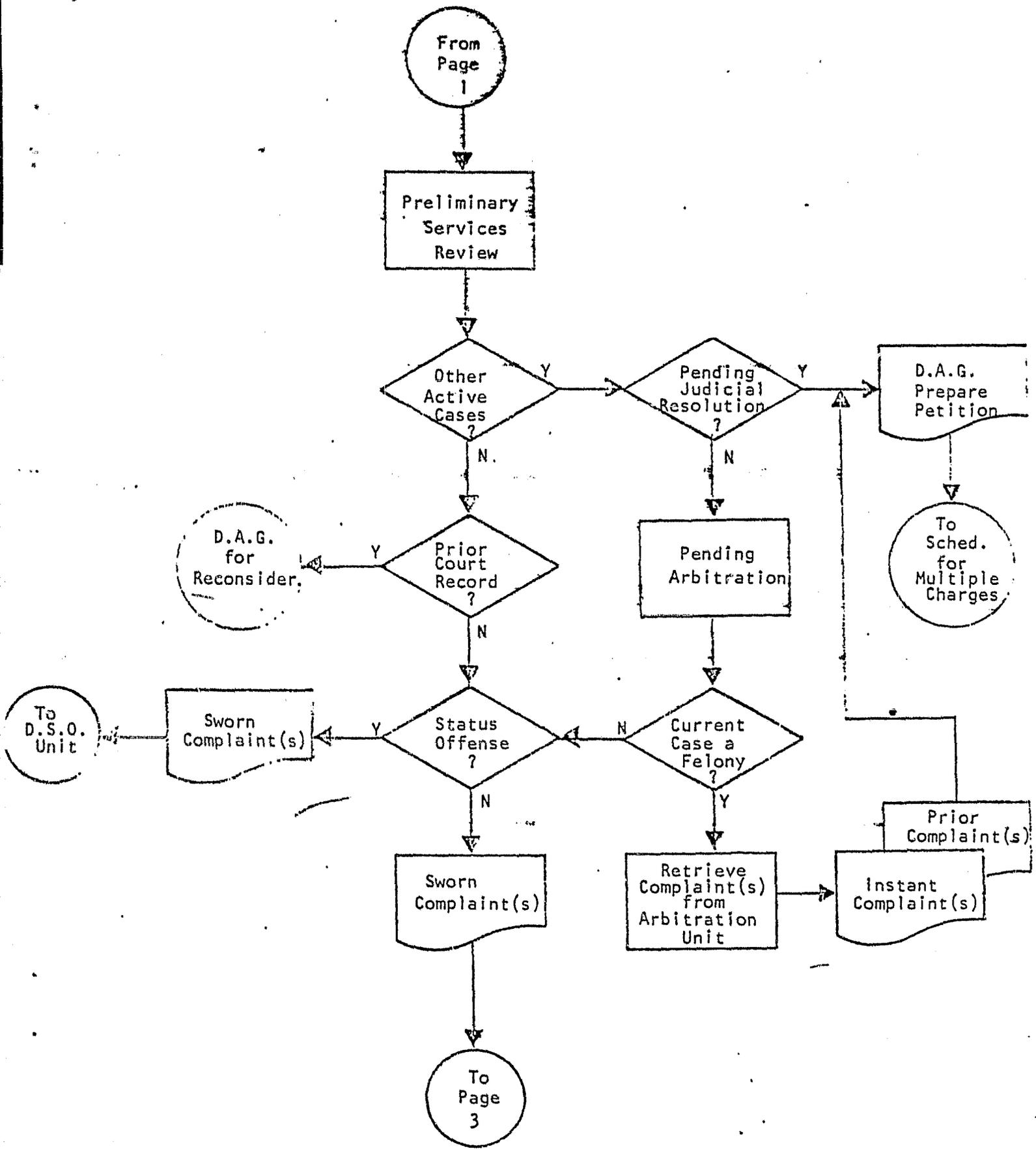
* Retired - There is no adjudication of guilt, in an adult criminal case, and no adjudication of juvenile delinquency, in a case of that nature. Yet, the complaint is officially disposed. The defendant has no public record.

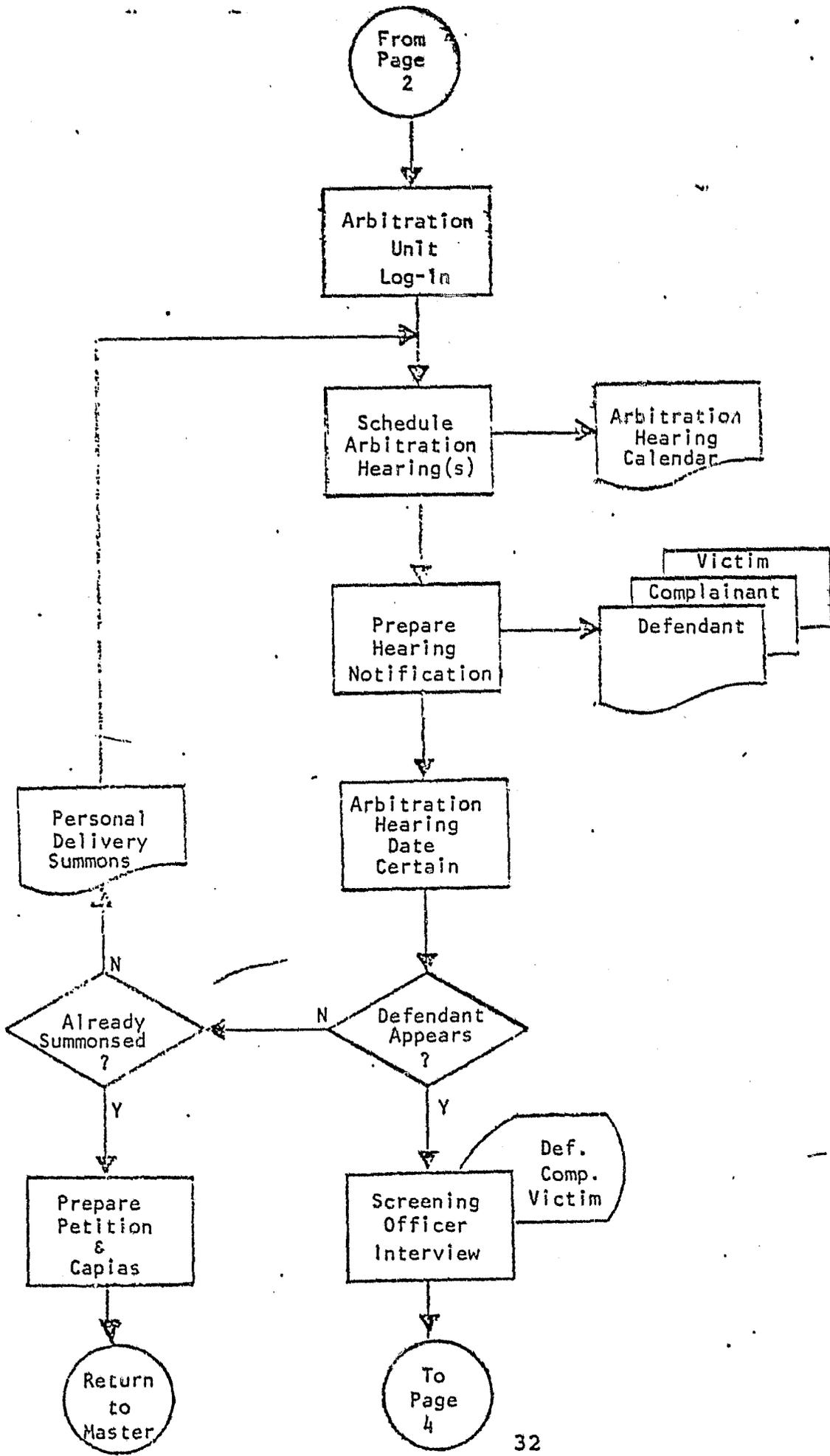
● WHY ARBITRATION?

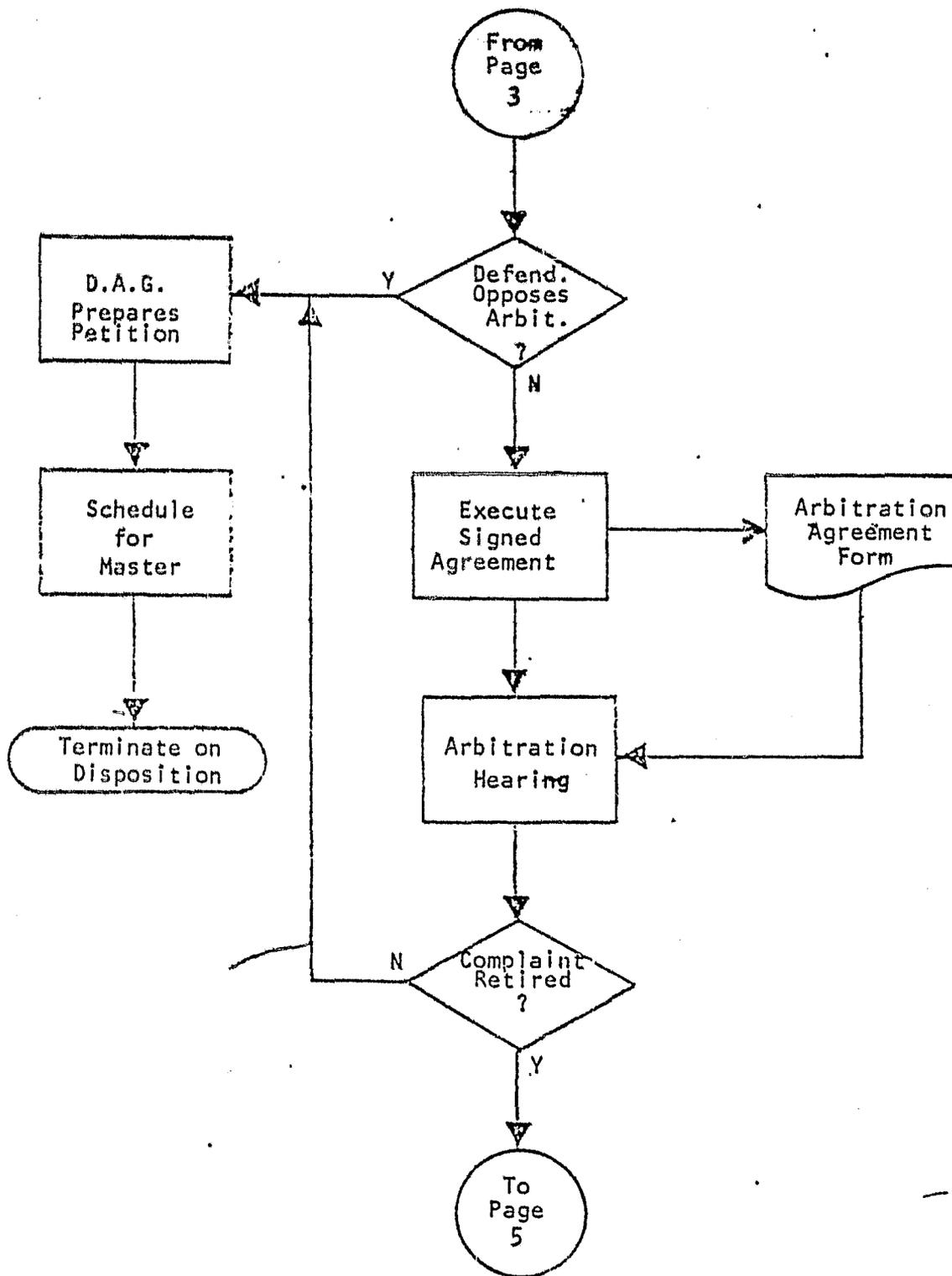
- With a rising caseload in civil, adult criminal, and juvenile delinquency matters, judicial resources are not adequate to keep pace. Arbitration removes a significant workload from the judiciary, enabling them to do a more effective job with the more serious and complex cases.
- When the Attorney General declines to prosecute a case for lack of resources, and the matter is referred to the judiciary, judges are placed in the untenable position of being both judge and prosecutor. Arbitration removes that possibility.
- Many juveniles - the vast majority - enter the Court system but once, but one adjudication of juvenile delinquency may potentially stigmatize him/her for life. Arbitration offers the opportunity to prevent a public record from ever being established - removing that stigma.
- The views of the complainant and/or victim may be overlooked and they, themselves, unduly inconvenienced in a crowded Court with a significant backlog, and case delays. Arbitration provides a specialized forum for reducing delay and for actively soliciting those views. The opportunity for enhancing the appearance of justice, as well as the pursuit thereof, is provided.
- Police Officers can spend fewer hours in Court and more on the street, while also removing them from the position of being prosecutor in the Court.
- "Speedy Trial" objectives can be more readily achieved.

HOW ARBITRATION?









From Page 4

Retirement Conditional ?

Complaint Retired

Terminate

Max. 90 Day File

Tickler Card
Speedy Trial Waiver

Establish Tickler

Report of Non-comp. or New Charge ?

Non-compliance Review (Hearing Off.)

Non-compliance Established ?

Prepare Petition

To Scheduling

Master Hearing

Terminate on Disposition

THE FAMILY COURT OF THE STATE OF DELAWARE

FOR NEW CASTLE COUNTY

The attached cases, in which your agency has an interest, have been scheduled for Arbitration Hearings on the date(s) and times stated.

Arbitration is a Court proceeding, which can result in retirement of the complaints filed in these cases. Therefore, you are encouraged to appear to present any information that will assist the Court in arriving at a just resolution of the matters at hand.

Your non-appearance will not prevent the Court from arriving at a prompt disposition in any or all of the cases listed.

DATE: _____

CLERK OF THE FAMILY COURT

THE FAMILY COURT OF THE STATE OF DELAWARE
FOR NEW CASTLE COUNTY

Complainant

* BRING THIS NOTICE WITH YOU WHEN *
* APPEARING AT THE COURT *

Respondent or Defendant

File # _____

Complaint(s) (SEE ATTACHED PAGES)

The above-referenced complaint(s) have been filed with the Family Court of the State of Delaware. Allegations have been made that the named individual has committed an act of Juvenile Delinquency or an Adult Criminal Act.

Accordingly, you are directed to appear before this Court at 600 Market Street, Wilmington, Delaware 19801, at _____, ____ m., on _____, 19____. (You are to bring with you the named juvenile.)

An Arbitration Hearing will be conducted and an attempt made to settle these matters informally. Successful arbitration can result in retirement of the attached complaints.

You have the right to be represented by an attorney in any proceeding before this Court. If you cannot afford an attorney, and feel that you need one, you are advised to contact the Office of the Public Defender at 200 Odd Fellows Building, 10th and King Streets, Wilmington, Delaware 19801, (302) 571-3230.

Your failure to appear at the Court on the date and time indicated will result in a personal Summons being issued to command appearance.

DATE: _____

CLERK OF THE FAMILY COURT

THE FAMILY COURT OF THE STATE OF DELAWARE

FOR NEW CASTLE COUNTY

* BRING THIS NOTICE WITH YOU WHEN *
* APPEARING AT THE COURT *

Attached is notice of a scheduled Arbitration Hearing to take place at the Family Court.

This proceeding involves allegations made in a case wherein you have an interest.

You are encouraged to attend this proceeding, where you will have the opportunity to bring to the Court's attention any information you have concerning the case and to express your views with regard to the case outcome.

Your non-appearance will not prevent the Court from arriving at a prompt disposition.

DATE: _____

CLERK OF THE FAMILY COURT

Attachment: (Copy of Notice to Defendant/Parents)

APPENDIX B

Follow-up on Clients Served
June 1977 through December 1977

FOLLOW-UP ON ARBITRATION
June 1, 1977 to December 31, 1977

Introduction

Using random sampling, one of every ten juvenile cases in New Castle and Kent heard by the Arbitration Unit was selected for the period June 1, 1977 to December 31, 1977. In New Castle, the sample included 178 cases; in Kent, 16. In Sussex, no random sample was used. Rather, the total juvenile population was served.

The Arbitration log was examined to ascertain which juveniles had violated the dispositional terms.

The control cards of the sample cases were examined to ascertain on which cases new charges had been brought since the Arbitration hearing. If the control card revealed new charges, the Court record of the juvenile was examined.

In New Castle, 130 of the 178 cases in the sample had no new charges as of November 15, 1978. In Kent, 13 out of 16 had no new charges; and in Sussex, 5 out of 110 had new charges.

Findings

New Castle

48 or 27% had violated dispositional terms or had new charges after the completion of the dispositional terms.

The following represents a breakdown of the recidivist categories.

- I. 48 or 27% of the juveniles were recidivists.
 - A. 5 or 2.8% violated terms and conditions of the Arbitration disposition.
 - B. 33 or 18.5% were brought before the Court on a new offense within six months after the completion of the Arbitration terms and conditions.
 1. 26 or 14.5% committed new law violations.
 - a. 18 or 10% of these were scheduled for a formal Court hearing and found delinquent.
 - b. 8 or 4.5% were heard by Arbitration.
 2. 6 or 3.3% committed status offenses.*
 3. 2 or 1.1% committed motor vehicle offenses.
 - C. 9 or 5% had new offenses 6 months after the retirement of the Arbitration disposition.
 1. 5 or 2.8% committed law violations.
 - a. 2 or 1.1% were sent to Court and adjudicated delinquent.
 - b. 3 or 1.7% were referred back.

*These obviously occurred before the removal of status offenses from the Family Court's jurisdiction.

2. 2 or 1.1% committed status offenses.
3. 2 or 1.1% committed motor vehicle violations.

Kent

Total population 152; 16 sample.

- I. 3 or 2% violated the terms and conditions of Arbitration or had new offenses.
 - A. 1 violated the dispositional terms.
 - B. 1 had a new charge within 6 months.
 - C. 1 had a new charge after 6 months.

Sussex

Total population 110; no sample.

- I. 5 or 4.5% were recidivists.
 - A. 3 or 2.7% violated the terms of Arbitration
 - B. 2 or 1.8% had new charges after 6 months.

Summary and Conclusions

- Recidivism rate is more likely in New Castle than in Kent and Sussex. This coincides with the national trend of a higher juvenile delinquency rate in urban and suburban areas.
- Recidivism is more likely to take the form of a subsequent offense rather than be reflected in violation of Arbitration terms and conditions.
- Recidivism is more likely to occur within the first six months after the Arbitration hearing than six months after the hearing.

END