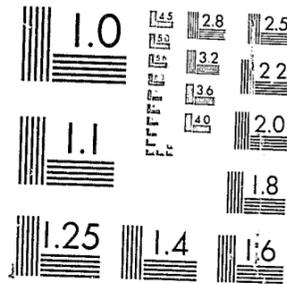


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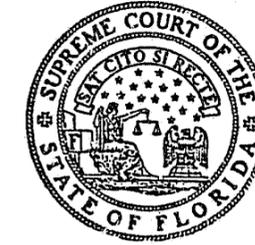
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A PROFILE AND REVIEW  
OF  
FLORIDA JUVENILE ARBITRATION  
AND  
MEDIATION PROGRAMS

Office of the State Courts Administrator  
Supreme Court of Florida  
Tallahassee, Florida

U.S. Department of Justice  
National Institute of Justice

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FLORIDA JUVENILE  
ARBITRATION/MEDIATION PROGRAMS

March 1, 1984

Robin St.Onge Kadlec  
Juvenile Arbitration/Mediation Research Evaluation  
Project Director

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Recognition and genuine thanks is extended to all of the Judges, Court Administrators, Assistant State Attorneys, Public Defenders and their Assistants, DHRS staff, law enforcement officers, JASP coordinators and service providers. Their contribution of time and opinions made this report possible.

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## Introduction

The Florida Juvenile Justice Act (Chapter 39.33-39.337, F.S.) authorizes the establishment of community juvenile arbitration programs. Arbitration has been defined in legislation proposed in 1983 as a "volunteer process in which a neutral, impartial party or panel listens to facts and arguments presented by the disputing parties and renders a binding, judicially enforceable decision which disposes of each issue submitted for decision." Mediation has been defined in legislation proposed in 1983 as, "A voluntary process in which a neutral, impartial party actively negotiates with other parties to assist them in clarifying issues." Such programs have generally been perceived as successful and popular alternatives to judicial processing. Given that juvenile arbitration/mediation programs enjoy such support, the question of why they were not available statewide was raised by many officials in Florida's juvenile justice system. In fact, there was no comprehensive catalog of the juvenile arbitration and mediation programs that existed in Florida.

The general interest in and curiosity expressed by a variety of juvenile justice officials about juvenile arbitration and mediation programs prompted the Office of the State Courts Administrator (OSCA) to apply for funding to do a statewide survey. An application for Juvenile Justice and Delinquency Prevention (JJDP) funds was submitted to the Bureau of Criminal Justice Assistance in the Spring of 1983. The grant award (\$62,050) was received in July, 1983. Project staff were employed in late August, 1983.

The grant objectives and the purpose of this report encompasses the following:

1. To summarize and present information which has been gathered through a systematic review of the various juvenile arbitration/mediation programs<sup>1</sup> in the state.
2. To assess the perceived impact of such programs on the child and the family, the victim, the system and the community.
3. To suggest, with the aid of system officials and other concerned groups, what statutory revisions should be made to effect a statewide program in Florida.
4. To project what public dollar savings would result if arbitration and/or mediation programs were mandated statewide.
5. To estimate the cost of a statewide mandatory program in Florida.

To accomplish the first three objectives, a survey instrument was developed and an itinerary prepared to cover all 20 judicial circuits. Beginning in mid-September, the project director interviewed key juvenile justice officials and service providers in each circuit to solicit their views on the operation and impact of the currently active programs, as well as their opinions with regard to the future of such programs throughout the State of Florida. By mid-December, 115 juvenile justice officials and service providers had responded either by mail or in personal interviews statewide. This figure represents 96 percent of those who were asked to participate in the survey. Additionally, in January, 1984, a two-day workshop was held in Tallahassee.

Twenty-four system officials, four legislative staff members, and Representative Helen Gordon Davis worked to consolidate and refine this information, and possible legislative changes.

To accomplish objectives four and five, funds were included in the grant to conduct a comprehensive cost comparison between juvenile arbitration/mediation and regular juvenile justice processing. Through a competitive bidding process, MGT of America, Inc., was selected to conduct the analysis. Their work began in November, 1983 and the executive summary of the final report is included in the appendices of this report. For purposes of their analysis, MGT has gathered comprehensive information from the juvenile arbitration/mediation programs in Broward, Duval, Escambia, and Seminole Counties. These sites were selected because it is believed that they are representative of the other programs around the state in terms of funding and administration. A complete report of their research and findings can be obtained through the Office of the State Courts Administrator.

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## Executive Summary

- Interviews were conducted with key individuals in the juvenile justice system and private service providers in each judicial circuit who had, or potentially have, input into the juvenile arbitration/mediation process.
- There are nineteen existing juvenile arbitration/mediation programs<sup>2</sup> throughout the State of Florida. Five circuits currently have no juvenile arbitration/mediation programs.
- Funding sources for the existing programs vary. The majority (eleven) receive state funds solely through Juvenile Alternative Service Program contracts, counties support four of the programs, and four programs operate on a mixture of state and county funds. Two of the programs still receive some Juvenile Justice and Delinquency Prevention (Federal) support.
- Local program administration varies throughout the state, with the Department of Health and Rehabilitative Services JASP contractors administering the largest number (fourteen or 74%). Ten of the JASP contractors are private non-profit service agencies, three are State Attorney's Offices, and one is a local Bar Association (subcontracted with the Human Services Planning Council of Orange County). The remaining programs are administered by local agencies such as Trial Court Administrator's Offices (four programs or 21%) and State Attorney's Offices (one program or 5%).
- There is variation across the programs in referral sources, types of referrals accepted, monthly case loads, and training procedures. The largest number of programs (eight or 42%) only

receive referrals which are recommended by the Department of Health and Rehabilitative Services (DHRS) and approved by the State Attorney. Another seven (37%) programs accept referrals from the juvenile court in addition to HRS and State Attorney. In three programs (16%) referrals are received from law enforcement directly, as well as from DHRS and the State Attorney.

- The majority of programs (twelve or 63%) accept only first time misdemeanants. Five programs (26%) also receive first time third degree felons, with prior approval from the State Attorney, as well as first time misdemeanants. Two programs (11%) also receive status offenders along with first time misdemeanants. In terms of contested (guilt not admitted) and non-contested cases (guilt admitted), twelve programs (63%) accept both contested and non-contested cases. Seven programs (37%) receive only cases of a non-contested nature.
- Monthly case loads range from a low of two cases to 280 cases in the programs. Thirteen (68%) of the nineteen active programs receive 52 or fewer referrals per month. Six (32%) of the operational programs receive 52 or more referrals monthly. The average monthly case load per arbitrator/mediator ranges between zero and sixteen, with a mean of two cases per month.
- Training for arbitration/mediation generally involves both classroom and in-field experience. The total classroom time involved ranges from six to 36 hours, the majority of the programs amounting to between six and eight hours. The in-field training generally requires the trainees to observe

as few as two or as many as 10 arbitration/mediation hearings prior to handling cases on their own.

- The perceptions of those interviewed regarding the impact of juvenile arbitration/mediation on clients and their families, victims, the juvenile system, and communities were solicited. In all of these areas, the respondents felt that the impacts were overwhelmingly positive.
- All of those interviewed were asked to respond to the question of whether arbitration/mediation programs for juveniles should be mandated on a statewide basis. Seventy-one percent of the State Attorneys who responded were in support of such legislation; eighty-two percent of the Public Defenders supported it; seventy-three percent of the DHRS personnel interviewed were supportive; eighty-eight percent of the service providers were supportive; and sixty-four percent of the Juvenile Judges favored mandating arbitration/mediation on a statewide basis.
- If the programs were to be mandated, several statutory revisions were recommended by a majority of the respondents, which they felt would enable juvenile arbitration/mediation to operate better on a statewide basis. These recommendations are presented in Chapter III of this report.

CHAPTER I  
SUMMARY OF EXISTING JUVENILE  
ARBITRATION/MEDIATION PROGRAMS

Chapter I  
SUMMARY OF FLORIDA JUVENILE  
ARBITRATION/MEDIATION PROGRAMS

1) Program Status

Within Florida's twenty judicial circuits, there are currently nineteen active arbitration and/or mediation programs, which operate in fifteen circuits. Table 7 on page fourteen displays each judicial circuit's status with regard to its associated Department of Health and Rehabilitative Services (DHRS) districts, funding sources utilized, administration and types of programs, types of referrals, and referral sources. These are all topics to be discussed at greater length in this section.

Arbitration is frequently included as a component with the Juvenile Alternative Services Program (JASP) contracts. All twenty judicial circuits receive JASP State funding through the eleven Health and Rehabilitative Services Department (DHRS) districts. JASP is designed to assist the Courts, DHRS Intake, and the State Attorney's Office in providing alternatives for juvenile offenders. It offers sanctions (such as work hours and restitution) and supportive services (such as family and individual counseling), which are designed to make youth accountable for delinquent activity and to assist them in redirecting their behavior.

Currently, fourteen (64%) of the twenty-two JASP contracts have arbitration/mediation expressly required in those contracts. Five judicial circuits do not have active

arbitration/mediation programs, as illustrated in Table 1. Juvenile justice officials in the circuits without arbitration/mediation maintain that such a program is not presently needed in their area. Therefore, these programs have not developed through JASP or any other funding source.

Table 1: Arbitration/Mediation Status as of December 22, 1983

| Status   | Active Arbitration/Mediation Programs   | No Arbitration/Mediation |
|----------|---|--------------------------|
| Circuits | 1,2,3,4,5,6,7*,8*,9*,10,12,13,17,18*,20 | 11**,14,15,16**,19       |

\* Circuits having two programs

\*\* Programs to be implemented before end of Fiscal Year, 1984.

2) Funding Sources

As Table 2 illustrates, nearly three-fifths of the existing arbitration/mediation programs are funded entirely by the State of Florida through the Juvenile Alternative Services Program contracts. The counties and a combination of state and county support are the next largest funding sources. As noted, there are two circuits (First and Thirteenth) that still receive some Federal assistance.

Table 2: Funding Sources for Arbitration/Mediation Programs

| Funding Source | State    | County   | State/County | Total     |
|----------------|----------|----------|--------------|-----------|
| Number         | 11 (58%) | 4* (21%) | 4* (21%)     | 19 (100%) |

\* One program in both of these categories receives some Federal (JJDP) funds.

Precise budget figures are not available for all of the Arbitration/Mediation programs. This is primarily due to the fact that arbitration/mediation is often one among several of the components in a larger service delivery program.

3) Program Administration

Table 3 shows that almost half of the arbitration and/or mediation programs are administered by private non-profit JASP contractors. The next largest percentage of arbitration and/or mediation programs are administered by State Attorneys' Offices and the Trial Court Administrator's Office.

Table 3: Local Programs by Type of Administration

| Administrators   | Number    |
|--|-----------|
| Local Bar Association  | 1 (5%)    |
| State Attorney's Office                                      | 5 (26%)   |
| Trial Court Administrator's Office                           | 4 (21%)   |
| Non-profit Service Provider (i.e., current JASP contractor): | 9 (47%)   |
| a) Bay Area Youth Service                                    | 1         |
| b) Brevard Community College                                 | 1         |
| c) Child Guidance Clinic                                     | 1         |
| d) Osceola Youth Council                                     | 1         |
| e) University of West Florida                                | 5         |
| Total Programs   | 19 (*99%) |

\* rounding error

4) Referral Agencies

Table 4 illustrates that in the majority of the program sites, recommendations to the programs are initially made by DHRS, followed by either rejection or approval by the State Attorney's Office. Additionally, several sites also take referrals directly from law enforcement and from the juvenile court. The First and Fourth Circuits have systems set up whereby many of the first time misdemeanants are automatically "flagged" by the State Attorney's Office prior to or concurrent with DHRS's receipt and recommendation of the case. It should be noted that, in accordance with Section 39.04(2)(e), F. S., the State Attorney has final authority in all referrals prior to judicial handling.

Table 4: Sources of Client Referrals to Arbitration/Mediation

| Agencies                       | Number    |
|--------------------------------|-----------|
| LE/HRS recommend; SAO approves | 3 (16%)   |
| HRS recommends; SAO approves   | 8 (42%)   |
| HRS/SAO/Court recommends       | 7 (37%)   |
| SAO/Court recommends           | 1 (5%)    |
| Total                          | 19 (100%) |

5) Cases Handled

As indicated in Table 5a and 5b, all programs accept first time misdemeanants in accordance with Section 39.33, and 39.331(2), F. S., authorizing juvenile arbitration.

Certain variations have been added, such as addressing status offenders, in two (11%) of the programs. On the other end of the spectrum, four programs (21%) have chosen to accept certain third degree felony cases with prior approval of the State Attorney's Office. In most cases, felony arrest charges are reduced by the State Attorney's Office prior to referral.

Over three-fifths (63%) of the programs hear both contested (guilt not admitted) and non-contested (guilt is admitted) cases. The remainder (37%) hear only non-contested cases. The three reasons most commonly expressed for accepting contested cases were as follows. First, many of the clients did not believe that they were guilty of the specific charge filed against them. However, the accused child admitted some part in the overall scheme of the offense. Second, those officials interviewed expressed a belief that when an admission of guilt was required, some innocent children might be coerced by their parents to admit guilt and accept arbitration/mediation to avoid juvenile court with the possibility of a court record. Finally, the officials concluded that should there be any dissatisfied party at the conclusion of hearings involving contested cases, the appeal process through the formal system was available. It should be noted that the appeal process is also available to non-contested cases.

Table 5a: Types of Cases Accepted

| Types  | No. of Programs |
|--|-----------------|
| First time misdemeanants and status offenders  | 2 (11%)         |
| First time misdemeanants and first time third degree felons (with State Attorney's approval) | 4 (21%)         |
| First time misdemeanants only  | 13 (68%)        |
| Total  | 19 (100%)       |

Table 5b: Types of Cases Accepted

| Types                       | No. of Programs |
|-----------------------------|-----------------|
| Non-contested only          | 7 (37%)         |
| Contested and non-contested | 12 (63%)        |
| Total                       | 19 (100%)       |

6) Case loads

The figures shown in Table 6 are an average of the information received from the nineteen active programs. If examined individually, however, it is evident that some programs experience regular case loads as high as 280 per month, while others receive as few as two cases per month. Thirteen out of the nineteen programs (68%) receive 52 or fewer referrals per month and six (32%) of the programs receive 52 or more referrals monthly.

Table 6: Case load Information from Active Programs

| Approximate Monthly Case Load for Programs |         | Approximate Monthly Case Load for Arbitrators/Mediators |
|--|---------|---|
| Total                                      | 958     | 2   |
| Range                                      | 2 - 280 | 0 - 16  |
| Mean                                       | 52      |   |

7) Recruitment and Training of Arbitrators/Mediators

Thirteen (68%) of the nineteen active programs recruit their arbitrators/mediators primarily by "word of mouth" and through speaking engagements to local service and volunteer organizations. Public service announcements and newspaper articles are also frequently utilized. One program (5%) uses paid staff members; two programs (11%) pay community members (\$8.00 and \$10.00 per hour); one uses members of the local bar association; and two programs use interns and students from local colleges. The remaining thirteen programs (68%) utilize community volunteers.

The training programs are quite varied in terms of time involvement, although the content is much more consistent. Generally, after a person has expressed an interest and appears to be qualified as an arbitrator/mediator, he fills out an in-depth questionnaire/application. A police check is conducted on the applicant to assure that there are no outstanding charges against him. If none are found, a training session is scheduled.

Most of the training sessions are done on a small group, or one-to-one, basis by the project director or their designee. In thirteen (68%) of the programs, outside speakers such as those from DHRS, the State Attorney's Office, and possibly the court, are brought in to assist in the training. Six (32%) of the programs utilize a training film which, among other things, gives examples of mock hearings that the trainees and trainers then review and discuss.

The total classroom time involved in the training programs ranges from six to 36 hours, the majority of them being between six to eight hours. The typical in-field training requirement for the trainee is to observe between two and ten arbitration/mediation hearings. Two (11%) of the nineteen programs require trainees to co-arbitrate several cases, in addition to the observation of hearings, before they handle cases on their own.

8) Perceived Program Impact

Program impact may be measured in several ways. Among these are the strictly quantitative measures of restitution paid to victims and client recidivism rates. The qualitative responses, or beliefs and opinions of those involved with the programs, may also be considered. In this section, we present the impressions of key persons<sup>3</sup> in each circuit who are affiliated with arbitration/mediation programs. We have attempted to highlight the most common responses among those interviewed. When appropriate, specific quotations from respondents are provided for illustrative purposes.

A. On Clients and their Families:

Arbitration/Mediation "gives the child and family an opportunity to quickly resolve the consequences of the child's act, without the judicial impact of a record. It is a great alternative that works."

This statement, which was made by a Florida juvenile judge, typifies what was expressed repeatedly by those who responded to this section of the survey. In assessing the impact on clients and their families, officials in the system perceive arbitration/mediation to have a positive or favorable influence in a great majority of the cases which are referred to these programs.

Several reasons account for this overwhelmingly positive view regarding program impact. These reasons were stated repeatedly by respondents from all segments of the juvenile justice system. They can be summarized as follows:

1. Through this informal hearing, the child gains a sense of responsibility and accountability for his actions.
2. The client's family is genuinely grateful for having had this break or opportunity for their child to have gone through this route and, thus, to have avoided a damaging record.
3. Due to the fact that the clients and their families can have an active role in this process, it is a less traumatizing, embarrassing, and disruptive event in their lives.

The following comments were made, which reflected a perceived negative impact on clients and their families:

1. Some clients and families feel the sanctions imposed are too stiff, and that the expectations are too high.

2. A few system officials are concerned with the need for more safeguards for the accused child. Although the agreement worked out in the hearing is signed by both client and victim, the agreement's effectiveness is questioned, should the victim have a change of heart and seek additional remedies through judicial proceedings.

B. On the Victim:

The respondents who commented on this question perceive the impact on victims who participate in the arbitration/mediation process to be an extremely positive one. The most common reasons for this prevailing view are typified by the following paraphrases from respondents:

1. a. The victim largely wants just a "forum" in which to be heard, and arbitration provides an excellent means for this.
- b. This type of informal hearing allows the victim to have direct input into the discussion as well as into the disposition of the case in which he is involved.
2. a. Because the victim is allowed and encouraged to share his side of the story and to interact with the accused child "face to face," the situation becomes much more humanized.

b. All of the parties involved can start to view one another as people and, thus, hostilities are reduced.

c. In cases involving neighborhood disputes, "neighborhood harmony" or at least understanding can often be re-established through the arbitration/mediation process.

3. a. Another well-received aspect that contributes to the victims' satisfaction with arbitration and/or mediation, is the rate of restitution which is actually paid to them. Not all programs had figures readily available; however, among those which did, estimates, comparing the amount requested by victims to the amount actually received, were over 50 and up to 100 percent.

C. On the System:

The respondents who replied to the question of system impact felt it was totally positive. The reasons for their positive view are summarized in the following comments:

1. Arbitration and/or mediation has a quick referral system, good recidivism rates, and much greater cost efficiency than court proceedings.
2. Arbitration and/or mediation makes the court system more effective by keeping certain cases out of the system.

3. Arbitration and/or mediation preserves the dignity of the court for cases of a more serious nature.

4. Arbitration and/or mediation also helps to assist the court in terms of personnel and court space. In the Thirteenth Circuit, an Assistant State Attorney stated that the number of State Attorneys in their division has been reduced from nine to five in four years. The reduction of personnel was attributed at least in part to effective arbitration/mediation programs in this circuit.

In summary, the respondents feel that arbitration is a good up-front diversion, which has been instituted and monitored with good results.

A comment of concern about a possible negative system impact was expressed regarding "net-widening." Net-widening refers to the inclusion of cases that normally would not have been filed upon by the State Attorney's Office, had a diversionary alternative not existed. It is important to clarify and identify the target population so that this phenomenon will not occur.

D. On the Community:

As in the preceding assessment, the respondents were unanimously positive concerning the question of the perceived impact of arbitration/mediation on the community.

1. a. The comment that it is "citizen friendly" was repeatedly stated. The fact that there is

community involvement and participation involving people outside the juvenile justice system was noted as a positive factor. This, they felt, increases the awareness of the juvenile justice process and the problem of juvenile crime.

b. In addition to increasing the community's participation and awareness, arbitration/mediation was also perceived as conducive to meeting objectives that benefit all involved. It is a mutually appealing plan that decreases the long-term costs of delinquency.

2. a. Arbitration/mediation saves taxpayers' money, according to several of the officials in the system. Although not officially documented or determined, one Assistant State Attorney estimates a savings of one-fourth to one-fifth on the system and, thus, ultimately on the community itself.

CHAPTER II  
PROFILE OF JUDICIAL CIRCUITS

TABLE 1  
Profile of Florida Juvenile Arbitration/Mediation Programs  
as of December 22, 1983

| Circuit | District | Funding Sources Utilized               | Juvenile Arbitration/Mediation Program Administered By                        | Program** | Types of Referrals | Referral Sources                       |
|---------|----------|--|---|-----------|--------------------|--|
| 1st     | 1        | Federal (JJDP)/<br>State (JASP)/County | University of West Florida (UWF)  | A         | 1/2/B              | SAO/Court                              |
| 2nd     | 2        | State (JASP)                           | University of West Florida  | A         | 1/2/B              | DHRS/SAO                               |
| 3rd     | 2/3      | State (JASP)                           | University of West Florida  | A         | 1/B                | DHRS                                   |
| 4th     | 4        | State (JASP)                           | State Attorney's Office (SAO)   | M         | 1/A                | DHRS/SAO                               |
| 5th     | 3        | State (JASP)                           | University of West Florida  | A         | 1/2/A              | DHRS                                   |
| 6th     | 5        | County                                 | Trial Court Administrator's Office  | A         | 1/3/A              | LE/DHRS/SAO                            |
| 7th     | 3/4      | State (JASP)<br>State (JASP)/County    | State Attorney's Office<br>UWF subcontracts to the SAO                        | A<br>A    | 1/B<br>1/B         | DHRS/SAO/Court<br>DHRS/SAO             |
| 8th     | 3/4      | State (JASP)<br>State (JASP)           | University of West Florida<br>Child Guidance Clinic (Baker)                   | A<br>M    | 1/A<br>1/A         | DHRS/SAO/Court<br>DHRS/SAO/Court       |
| 9th     | 7        | State (JASP)<br>State (JASP)/County    | Local Bar Association<br>Osceola Youth Council                                | M<br>A    | 1/B<br>1/B         | DHRS/SAO<br>DHRS/SAO/Court             |
| 10th    | 6        | State (JASP)                           | State Attorney's Office   | M         | 1/B                | DHRS/SAO                               |
| 11th*   | 11       | N/A                                    | Not applicable (JASP contract held by<br>Dade-Miami Criminal Justice Council) | NP        | N/A                | N/A                                    |
| 12th    | 6        | State (JASP)                           | Bay Area Youth Services (BAYS)  | A         | 1/A                | DHRS/SAO/Court                         |
| 13th    | 6        | Federal (JJDP)/County                  | Trial Court Administrator's Office  | A         | 1/A                | DHRS/SAO                               |
| 14th    | 2        | N/A                                    | Not applicable<br>(JASP contract held by UWF)                                 | NP        | N/A                | N/A                                    |
| 15th    | 9        | N/A                                    | Not applicable (JASP contract held<br>by Juvenile Services Program)           | NP        | N/A                | N/A                                    |
| 16th*   | 11       | N/A                                    | Not applicable<br>(JASP contract held by PD)                                  | NP        | N/A                | N/A                                    |
| 17th    | 10       | State (JASP)/County                    | Trial Court Administrator's Office  | A         | 1/2/B              | DHRS/SAO/Court                         |
| 18th    | 7        | State (JASP)<br>County                 | Brevard Community College<br>State Attorney's Office                          | A/M<br>A  | 1/3/B<br>1/B       | LE/DHRS/SAO/Court<br>LE/DHRS/SAO/Court |
| 19th    | 9        | N/A                                    | Not applicable (JASP contract held by<br>Juvenile Services Program)           | NP        | N/A                | N/A                                    |
| 20th    | 8        | County                                 | Trial Court Administrator's Office  | A         | 1/B                | DHRS/SAO                               |

\*Programs to be implemented in 1984.

ESCAMBIA COUNTY  
 FIRST JUDICIAL CIRCUIT  
 PROGRAM PROFILE

Key to Abbreviations

Funding Sources

JJDP Juvenile Justice and Delinquency Prevention  
 (Federal funds)

JASP Juvenile Alternative Services Program  
 (State funds)

Programs\*\*

A Arbitration  
 M Mediation  
 NP No program

\*\* It is important to note that although a program may call itself "Arbitration" or "Mediation", it may in fact use a combination of both techniques.

Types of Referrals

1 First time misdemeanants  
 2 First time third degree felons  
 3 Status offenders  
 A Non-contested  
 B Contested and non-contested

Referral Sources

LE Law Enforcement  
 DHRS Department of Health and Rehabilitative  
 Services

Other

NA Not applicable

Type of Program - Arbitration

Arbitrators

Community Volunteers

Approximate Monthly Case loads

Program = 22 to 25 cases  
 Per Arbitrator = one to two cases

Training

Screening of application by staff and police check. Approximately six hours of classroom instruction: generally includes outside speakers, training film, role-playing, and an indepth review of Florida Statute, Chapter 39.33. In-field observation of two or more actual arbitration hearings.

Perceived Impact of Program

On clients and families : 100% positive  
 On victims : 100% positive  
 On the system : 100% positive  
 On the community : 100% positive

LEON COUNTY  
SECOND JUDICIAL CIRCUIT  
PROGRAM PROFILE

Type of Program - Arbitration

Arbitrators

Community Volunteers

Approximate Monthly Case loads

Program = three to five  
Per Arbitrator = zero to one

Training Procedures

Screening of application by staff and police check; approximately six hours of classroom instruction; generally includes outside speakers, training film, role-playing, and an indepth review of Florida Statute, Chapter 39.33. In-field observation of two or more actual arbitration hearings.

Perceived Impact of Program

On clients and family : 99 - 100% positive  
On victims : 99 - 100% positive  
On the system : 100% positive  
On the community : 100% positive

Managed by: University of West Florida  
Contact Persons: Charlie Levings  
Patricia Glass  
(904) 488-5821

COLUMBIA COUNTY  
THIRD JUDICIAL CIRCUIT  
PROGRAM PROFILE

Type of Program - Arbitration

Arbitrators

Community Volunteers and staff

Approximate Monthly Case loads

Program = two to three  
Per Arbitrator/Mediator = zero to one

Training Procedures

Screening of application by staff and police check; approximately six hours of classroom instruction; generally includes outside speakers, training film, role-playing, and an indepth review of Florida Statute, Chapter 39.33. In-field observation of two or more actual arbitration hearings.

Perceived Impact of Program

On client and family : 95 - 100% positive  
On victims : \*70 - 100% positive  
On the system : 100% positive  
On the community : \*\* very positive

\* Up to 100% positive for those who attend the hearings and participate in its outcome.

\*\* Difficult to accurately measure, as the community in general is not very aware of the program.

Managed by: University of West Florida  
Contact Person: Cathy Barwick  
(904) 755-2750

DUVAL COUNTY  
FOURTH JUDICIAL CIRCUIT  
PROGRAM PROFILE

Type of Program - Mediation

Mediators

Community Volunteers

Approximate Monthly Case loads

Program = 275 to 280  
Per Arbitrator/Mediator = two to three

Training Procedures

Screening of application by staff and police check;  
total of nine hours of training; includes the  
observations of mediation hearings prior to training  
and two observations after training.

Perceived Impact of Program

On clients and family : 99 - 100% positive  
On victims : 100% positive  
On the system : 100% positive  
On the community : 100% positive

Managed by: State Attorney's Office  
Contact Person: Bill Schneider  
(904) 633-5153

MARION COUNTY  
FIFTH JUDICIAL CIRCUIT  
PROGRAM PROFILE

Type of Program - Arbitration

Arbitrators

Community Volunteers

Approximate Monthly Case loads

Program = two  
Per Arbitrator/Mediator = zero to one

Training Procedures

Screening of application by staff and police check;  
approximately six hours of classroom instruction;  
generally includes outside speakers, training film,  
role-playing, and an in-depth review of Florida  
Statute, Chapter 39.33. In-field observation of one  
or more actual hearings.

Perceived Impact of Program

On clients and families : \*75 - 80% positive  
On victims : \*75 - 80% positive  
On the system : 100% positive  
On the community : 100% positive

Comment: \*Program Coordinator said these estimates are difficult  
to make, as their circuit has no waiver enforced.  
Therefore, there is nothing to enforce the child's  
completion of the disposition. If there were, however,  
she is confident that the impact would be 98-100%  
successful in all categories.

Managed by: University of West Florida  
Contact Person: Joella Keeten  
(904) 629-4821

PINELLAS COUNTY  
SIXTH JUDICIAL CIRCUIT  
PROGRAM PROFILE

Type of Program - Arbitration

Arbitrators

Paid volunteers (\$10.00 hourly)

Approximate Monthly Case loads

Program = 160  
Per Arbitrator/Mediator = 11 to 12

Training Procedures

Application; several weeks of observation of hearings; several co-mediations. Philosophy of program and pointers given, in addition to reading materials to be studied. Several small training schedules must be attended plus a major training session once a year.

Perceived Impact of Program

On clients and families : 90% positive  
On victims : 99% positive  
On the system : 100% positive  
On the community : 100% positive

Managed by: Trial Court Administrator's  
Office  
Contact Person: Ms. Una McCreary  
(813) 825-1796

VOLUSIA COUNTY  
SEVENTH JUDICIAL CIRCUIT  
PROGRAM PROFILE

Type of Program - Arbitration

Arbitrators

Community Volunteers

Approximate Monthly Case loads

Program = 30 to 40  
Per Arbitrator/Mediator = one to three

Training Procedures

Screening of application by staff and police check; interview with staff is conducted; eight hours of classroom training required, followed by two to three observations of actual hearings. Final approval by juvenile chief judge and State Attorney's Office.

Perceived Impact of Program

On clients and families : 98% positive  
On victims : 98% positive  
On the system : 99 - 100% positive  
On the community : 99 - 100% positive

Managed by: State Attorney's Office  
Contact Person: Ms. Irene Haig  
(904) 258-3500

PUTNAM COUNTY  
SEVENTH JUDICIAL CIRCUIT  
PROGRAM PROFILE

Type of Program - Arbitration

Arbitrators

Community Volunteers and staff

Approximate Monthly Case loads

Program = three to four  
Per Arbitrator/Mediator = zero to one

Training Procedures

Training conducted by State Attorney's Office.  
Manual reviewed, which includes legal materials,  
counseling and listening techniques, and  
dispositional alternatives.

Perceived Impact of Program

On clients and families : 90 - 95% positive  
On victims : 99% positive  
On the system : 100% positive  
On the community : \*very positive

\*Difficult to estimate more precisely.

Managed by: State Attorney's Office  
(subcontracted from UWF)  
Contact Person: Julian Browning  
(904) 328-4944

ALACHUA COUNTY  
EIGHTH JUDICIAL CIRCUIT  
PROGRAM PROFILE

Type of Program - Arbitration

Arbitrators

Community Volunteers

Approximate Monthly Case loads

Program = three to four  
Per Arbitrator/Mediator = one to two

Training Procedures

Screening of application by staff and police check;  
approximately six hours of classroom instruction;  
generally includes outside speakers, training film,  
role-playing, and an in-depth review of Florida  
Statute, Chapter 39.33. In-field observation of one  
or more actual hearings.

Perceived Impact of Program

On clients and families : 98 - 100% positive  
On victims : 100% positive  
On the system : 99 - 100% positive  
On the community : 100% positive

Managed by: University of West Florida  
Contact Person: Jan Albury  
(904) 337-3396

BAKER COUNTY  
EIGHTH JUDICIAL CIRCUIT  
PROGRAM PROFILE

Type of Program - Mediation

Mediators

Community Volunteers and staff

Approximate Monthly Case loads

Program = one to two  
Per Arbitrator/Mediator = zero to one

Training Procedures

Application reviewed by staff: on-going training twice a month, two hours each. Outside professionals assist in training, giving overview of system and techniques in counseling. Emphasis placed on therapy, and not on control and management of client.

Perceived Impact of Program

On clients and families : 100% positive  
On victims : 100% positive  
On the system : 100% positive  
On the community : 100% positive

Managed by: Child Guidance Clinic  
Contact Persons: Mr. Bob Hancock  
(904) 259-2308 or  
Dr. Al Baugh  
(904) 724-9211

ORANGE COUNTY  
NINTH JUDICIAL CIRCUIT  
PROGRAM PROFILE

Type of Program - Mediation

Mediators

Local Bar Association members  
Voluntary participation

Approximate Monthly Case loads

Program = five  
Per Arbitrator/Mediator = generally, once every six to eight months.

Training Procedures

Must be members of the local Bar Association. Brief orientation to juvenile mediation techniques. Generally, observe two or more hearings prior to mediating on their own.

Perceived Impact of Program

On clients and families : 98 - 100% positive  
On victims : 99 - 100% positive  
On the system : 100% positive  
On the community : 100% positive

Managed by: Local Bar Association  
(subcontracted from Human  
Services Planning Council  
of Orange County)  
Contact Person: David Schultz  
(305) 423-5732

OSCEOLA COUNTY  
NINTH JUDICIAL CIRCUIT  
PROGRAM PROFILE

Type of Program - Arbitration

Arbitrators

Community volunteers

Approximate Monthly Case loads

Program = fourteen  
Per Arbitrator/Mediator = two

Training Procedures

Interview with staff; ten hours of training; involving outside speakers such as county judges, state attorney, DHRS and community resource people; role-playing and review of procedures and dispositional alternatives. In-field observation of two or more hearings prior to arbitrating.

Perceived Impact of Program

On clients and families : 97% positive  
On victims : 95 - 98% positive  
On the system : 100% positive  
On the community : 100% positive

Managed by: Osceola Youth Council  
Contact Person: Valerie Bache  
(305) 847-5911

POLK COUNTY  
TENTH JUDICIAL CIRCUIT  
PROGRAM PROFILE

Type of Program - Mediation

Mediators

Paid staff members

Approximate Monthly Case loads

Program = nine to ten  
Per Arbitrator/Mediator = three

Training Procedures

Approximately six weeks of in-house training by the State Attorney's Office, familiarizing them with the procedures and the processing of cases. Includes in-field observation of two or more cases; co-mediating one or two times, with critique of their performance.

Perceived Impact of Program

On clients and families : 95 - 100% positive  
On victims : 98 - 100% positive  
On the system : 100% positive  
On the community : 100% positive

Managed by: State Attorney's Office  
Contact Person: Col. Ed McDonald, Ret.  
(813) 533-0731

DADE COUNTY  
ELEVENTH JUDICIAL CIRCUIT  
PROGRAM PROFILE

Type of Program - \*Mediation

Mediators

Plan to utilize (in 1984) the same paid staff members who are social workers in their other JASP components.

Approximate Monthly Case loads

Program = N/A  
Per Arbitrator/Mediator = N/A

Training Procedures

N/A

Perceived Impact of Program

On clients and families : N/A  
On victims : "  
On the system : "  
On the community : "

\* Program to be resumed, January, 1984

Managed by: Office of the Dade-Miami  
Criminal Justice Council's  
Juvenile Alternative  
Services Project (JASP)

Contact Person: Jack Marshall  
(305) 638-6894

MANATEE COUNTY  
TWELFTH JUDICIAL CIRCUIT  
PROGRAM PROFILE

Type of Program - Arbitration

Arbitrators

Community Volunteers

Approximate Monthly Case loads

Program = four  
Per Arbitrator/Mediator = zero to one

Training Procedures

Screening procedures include reference checks, interviews, and reviews by DHRS/State Attorney's Office and juvenile judge. Attend an eight-hour training session, which includes a system overview and hearing techniques.

Perceived Impact of Program

On clients and families : 95 - 100% positive  
On victims : 98 - 100% positive  
On the system : 100% positive  
On the community : 100% positive

Managed by: Bay Area Youth Services  
Contact Person: Bill Bowman  
(813) 239-3793 or (813) 746-7000

HILLSBOROUGH COUNTY  
THIRTEENTH JUDICIAL CIRCUIT  
PROGRAM PROFILE

Type of Program - Arbitration

Arbitrators

Paid Arbitrators (\$8.00 hourly)

Approximate Monthly Case loads

Program = 100 to 120  
Per Arbitrator/Mediator = 12 to 16

Training Procedures

Screening of application by staff and police check;  
interview with staff; approval by chief judge of circuit.  
Observe the arbitration hearings and co-arbitrate ten  
hearings. After observation and approval by staff,  
they are allowed to begin arbitrating cases.

Perceived Impact of Program

On clients and families : 85 - 90% positive  
On victims : 95% positive  
On the system : \*very positive  
On the community : \*very positive

\* Coordinator says that it is impossible to calculate  
the variables which affect this.

Managed by : Trial Court Administrator's  
Office  
Contact Person : Nancy Lopez  
(813) 272-5644

MONROE COUNTY  
SIXTEENTH JUDICIAL CIRCUIT  
PROGRAM PROFILE

Type of Program - \*Arbitration

Arbitrators

Will be community volunteers and staff

Approximate Monthly Case loads

Program = N/A  
Per Arbitrator/Mediator = N/A

Training Procedures

N/A

Perceived Impact of Program

On clients and families : N/A  
On victims : "  
On the system : "  
On the community : "

\* Program is specified in JASP contract and expects to be  
operating before the end of Fiscal Year, 1984.

Managed by: Public Defender's Office  
Contact Person: Gayle Martin  
(305) 294-2501

BROWARD COUNTY  
SEVENTEENTH JUDICIAL CIRCUIT  
PROGRAM PROFILE

Type of Program - Arbitration

Arbitrators

Community volunteers and paid staff.

Approximate Monthly Case loads

Program = 170 to 190  
Per Arbitrator/Mediator = three to five

Training Procedures

Application reviewed by staff, followed by interview.  
Written and oral information discussed in training  
workshop, role-playing and videotape included.  
In-field observations of three or more cases; co-arbitrate  
three to five cases.

Perceived Impact of Program

On clients and families : 99 - 100% positive  
On victims : 100% positive  
On the system : 100% positive  
On the community : 100% positive

Managed by: Trial Court Administrator's  
Office

Contact Person: Susan Dubow  
(305) 765-5724

BREVARD COUNTY  
EIGHTEENTH JUDICIAL CIRCUIT  
PROGRAM PROFILE

Type of Program - Arbitration (for delinquent offenders)  
and Mediation (for delinquent and status  
offenses)

Arbitrators/Mediators

Community volunteers

Approximate Monthly Case loads

Program = 50  
Per Arbitrator/Mediator = three to four

Training Procedures

Application reviewed by staff; interview by Coordinator  
and final approval by State Attorney's Office. Thirty-six  
hours of classroom training which includes speakers, such  
as the State Attorney, Judge, substance abuse experts,  
psychologists, etc. In-field training, which includes  
observing arbitration, mediation and juvenile court  
sessions.

Perceived Impact of Program

On clients and families : 95 - 100% positive  
On victims : 95 - 100% positive  
On the system : 100% positive  
On the community : 100% positive

Managed by: Brevard Community College  
Contact Person: Ms. Catherine Evans  
(305) 632-1111, ext. 3730

SEMINOLE COUNTY  
EIGHTEENTH JUDICIAL CIRCUIT  
PROGRAM PROFILE

Type of Program - Arbitration

Arbitrators

Community Volunteers

Approximate Monthly Case loads

Program = 50  
Per Arbitrator/Mediator = one

Training Procedures

Eight-week training program incorporating 30 hours of classroom instruction. Includes juvenile justice philosophy, communication skills, criminal law, creative dispositions, hearing format and techniques, and program procedures.

Fee for training is \$20.00 and participants completing the training will earn continuing education units. Observation of one or more hearings.

Advanced training course available - 27 hours which includes a clarification of program purpose, legal update, community resources and roles of juvenile justice system officials.

Perceived Impact of Program

On clients and families : 95% positive  
On victims : 95 - 100% positive  
On the system : 95 - 100% positive  
On the community : 95 - 100% positive

Managed by: State Attorney's Office  
Contact Person: Adolph Voge  
(305) 323-4330, ext. 127 or 561

LEE COUNTY  
TWENTIETH JUDICIAL CIRCUIT  
PROGRAM PROFILE

Type of Program - Arbitration

Arbitrators

Community volunteers

Approximate Monthly Case loads

Program = thirty to forty  
Per Arbitrator/Mediator = three to four

Training Procedures

Screening of application by staff and by police check; interview by staff and approval by State Attorney's Office; eighteen hours of training, which includes the review of a manual, observations of hearings, review of procedures and processes, training film and discussion.

Perceived Impact of Program

On clients and families : 90% positive  
On victims : 95% positive  
On the system : 99 - 100% positive  
On the community : 100% positive

Managed by: Trial Court Administrator's Office  
Contact Person: Ed KulaKowski  
(813) 335-2884

CHAPTER III  
THE FUTURE OF JUVENILE  
ARBITRATION/MEDIATION PROGRAMS IN FLORIDA

Chapter III  
THE FUTURE OF JUVENILE  
ARBITRATION/MEDIATION PROGRAMS IN FLORIDA

Based on the strong positive response to the existing programs in Florida, arbitration/mediation could come to play an increasingly important role in the Florida Juvenile Justice system. In addressing the potential future of these programs, three issues need to be discussed:

- 1) Should arbitration/mediation be mandated on a statewide basis?
- 2) What are the hesitations regarding possible implementation?
- 3) What statutory revisions need to be made?

The following analysis is based on the survey responses received from juvenile justice personnel interviewed for this study and on input gathered from the arbitration/mediation workshop. In an effort to clearly reflect the respondents' attitudes and feelings, their responses are presented by occupational group.

- 1) Should Arbitration/Mediation be Mandated Statewide?

In all occupational categories interviewed within the juvenile justice system, there is clearly a preference to mandate arbitration/mediation on a statewide basis. In explanation of the response, concerns were expressed over lack of uniformity from circuit to circuit, the possible lack of support among agencies involved, and the fear that without a mandate, local government might not allocate adequate funds to

operate the program. Table 8 illustrates the breakdown of those who prefer mandating arbitration/mediation.

Table 8  
Opinions on Mandating Arbitration/Mediation Statewide  
By Occupational Group

|                    | SA        | PD        | HRS       | TCA       | NPSP      | JJ        | Total     |
|--------------------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|
|                    | No. %     |
| Yes                | 12 (71%)  | 9 (82%)   | 8 (73%)   | 9 (69%)   | 15 (88%)  | 14 (64%)  | 67 (73%)  |
| No                 | 4 (23%)   | 2 (18%)   | 3 (27%)   | 4 (31%)   | 1 (6%)    | 5 (23%)   | 20 (22%)  |
| Undecided          | 1 (6%)    | 0 (0%)    | 0 (0%)    | 0 (0%)    | 1 (6%)    | 3 (13%)   | 5 (5%)    |
| No. of Respondents | 17 (100%) | 11 (100%) | 11 (100%) | 13 (100%) | 17 (100%) | 22 (100%) | 92 (100%) |

During the Arbitration/Mediation workshop, which was held in Tallahassee on January 17-18, 1984, participants from various occupational groups in the juvenile justice field discussed this issue of mandating programs. (Please see Appendix B, List of Workshop Participants.) Rather than mandating the programs, this group felt it would be more beneficial to appropriate the funds in each judicial circuit and to provide for the availability of such programs. This would allow for decisions to be made locally in each judicial circuit.

2) What are the Hesitations Regarding Statewide Implementation?

In terms of the hesitations expressed by respondents, comments were remarkably similar across all segments of the system. The most common concerns were who or

which agency would administer the programs; whether there would be adequate support from the various agencies involved; the need for guidelines which will also allow for local flexibility; the political influences which might get involved; the possible occurrence of net-widening of the target population; the consistency of training for arbitrators and mediators; and, adequate funding if such programs are mandated. A breakdown by occupational groups of specific hesitations expressed by greater than 50 percent of the respondents, is presented in Appendix E.

3) What Statutory Revisions Need to be Made?

Part III of the survey dealt with the "change impact" or legislative changes which would best enable arbitration/mediation to serve effectively on a statewide basis.

The second day of the arbitration/mediation workshop also dealt specifically with the changes those in the field would recommend to Chapter 39, Florida Statutes. The following is a synopsis of the changes which were recommended.

- Section 39.33 PURPOSE

Presently, this Purpose section of the statute states that arbitration is a system provided "in an attempt to reduce the ever-increasing instances of juvenile crime." In light of the reduction in juvenile crime over the past two years, it was recommended that this wording be rewritten. In order to be results oriented, it was suggested that those desired objectives should be stated explicitly. The following language was suggested:

The purpose of this act is to provide an alternative to the formal judicial system by which children who commit certain offenses may be dealt with in a speedy and informal manner at the community or neighborhood level. The goals of this act include: (1) to involve the community in the resolution of disputes involving juveniles; (2) to allow the courts to devote more attention to cases which are more serious in nature; (3) improving the process for handling disputes by exploring underlying problems without strict court rules and time limitations; (4) increasing access to justice brought about by prompt hearings, reduction or elimination of legal costs, and by the availability of convenient locations and working hours.

- Section 39.331 PROGRAMS

In an effort to leave flexibility within the various arbitration programs, the majority of respondents recommended

that the present definition of arbitration be maintained in the statute. Some service providers were concerned that a definition which is too detailed would restrict what they termed and practiced as arbitration.

1. Presently, the statute states that any county may establish a community arbitration program designed to complement the juvenile intake process. System officials indicated a concern with allowing so much latitude among counties, as some locales would not encourage the development and utilization of these programs. However, there was a concurrent fear that mandating the programs statewide would take away local influence and choice.

It was agreed that perhaps the best approach would be to mandate the funds and the availability of such programs, and allow the judicial circuits who wished to take advantage of this allocation to do so.

2. Where more than one county exists within a judicial circuit, it was strongly suggested that the community arbitration programs in that circuit may be structured to service all counties within the circuit. This would eliminate the expressed concern regarding abolishment of programs where more than one existed per judicial circuit.

- Section 39.331(2)

Presently, this section states that certain offenses committed by children may be heard by the community juvenile arbitrator. This is limited to those involving misdemeanors and violations of local ordinances. However, the service providers, as well as many other juvenile system officials,

have experienced or witnessed success in hearing more serious crimes, i.e., some types of felonies. Therefore, they have recommended that the statutes be amended to allow the programs to accept and hear certain felonies, which have been agreed to by the local state attorney, the chief circuit judge, or their designees.

1. The majority of juvenile system officials agreed that arbitration programs should be independent of any one referral source, having the ability to accept referrals from a variety of sources. (If programs alienate possible referral sources, i.e., police, DHRS, they may find themselves without clients.) However, to maintain accurate records, it was recommended that all arbitration referrals first go to DHRS. The language could be written in the following manner:

All cases handled by the program under this section shall be referred through the state attorney or his designee, who shall first receive and consider recommendations from DHRS. (the Department)

• Section 39.332 COMMUNITY JUVENILE ARBITRATORS

This section provides that each community juvenile arbitrator shall be selected by the chief judge of the circuit, the senior court judge assigned to juvenile cases in the circuit, and DHRS. This procedure is very cumbersome and time-consuming for the chief and circuit judges. In an effort to expedite this process for all concerned, it was recommended that the phrase or his designee be inserted. This would allow for program directors to select the arbitrators, with final approval being retained by the chief judge.

1. In terms of those who are qualified to serve as arbitrators, it was agreed that a degree in law or the

behavioral social sciences is not always a necessity. Many people have the ability and the training in conflict resolution which would enable them to be excellent arbitrators. Therefore, it was agreed that such persons, who by the nature of their training and experience, are uniquely qualified to serve.

• Section 39.333 PROGRAM PROCEDURES

This section deals with procedures for initiating cases for arbitration. The statute presently states that the complaint report, which specifies the offense, shall be forwarded to the appropriate intake officer and the parent or legal guardian of the child. As the arbitrator must have more information than is given on the complaint report, it is recommended that the law enforcement officer also forward a copy of the complete arrest report. This would enable the intake officer to forward the same to the program director, who could expeditiously forward a copy to the arbitrator. Furthermore, it was also suggested that these reports should be forwarded to the state attorney or his designee in addition to the intake officer and the parent or legal guardian.

1. It was also recommended that this section should be amended to clearly state that the state attorney or assistant state attorney has the final authority to decide whether a particular case will be referred to the program, after considering the recommendations of the DHRS.

2. If a child's parent or legal guardian has rejected handling of the complaint through arbitration, the intake officer presently consults with the state attorney or

assistant state attorney for the possible filing of formal juvenile proceedings. It was recommended that the language be left more open in that the state attorney or his assistant shall proceed as is deemed appropriate. Moreover, some respondents raised the concern that the child should also have a say in whether to accept or reject the program.

3. It was strongly recommended that additional protection for the state attorney is needed from the time limitations of Florida Statute, Section 39.05 (speedy trial; 45 day rule). It should be noted that in most cases, the time limitations begin to run from the date the child is taken into custody. However, in a few of the cases which will be considered for the arbitration program, the child will never have been taken into custody, so that the time limitations will not apply in any event. For those cases where the time limitation is a concern, DHRS should secure in writing a waiver of speedy trial.

The language of the statute should further specify that arbitration cases would be exempt from the 45 day file rule. The changes would give the state attorney time to file the petition for delinquency, with adequate time to bring the case to trial.

4. The time limits in this section have been strongly challenged, as the system officials do not see them as realistic. Rather than 24 hours to provide copies of the complaint to the arbitrator, it was recommended that five (5) days be allowed. As for the hearing time and date, it was recommended that the current 7 day limit be expanded to 21 days.

- Section 39.334 ARBITRATION HEARINGS

The law enforcement officer or authorized person who issued the complaint need not appear at the scheduled hearings. However, it is recommended that prior to the hearing, a comprehensive report setting forth the facts and circumstances surrounding the allegation shall be filed with the arbitration program.

1. The presence of the victim or complaining witness is not currently required at the hearing. Most respondents did not feel it was appropriate to mandate their attendance. However, it was felt that for arbitration to work effectively, with community involvement, the presence of the complainant is highly desirable. To encourage this attendance and participation, it was suggested that the word "may" be changed to "should." It would then read, in part: "the complaining witness and any alleged victim should attend and participate. . ."

- Section 39.334(4) PRIVILEGED TESTIMONY

The apparent goal of this section is to facilitate honest, open discussion by the child and complaining witnesses during arbitration, without the fear that this testimony will be used against the declarant at a later court proceeding. This provision may be essential to the success of community arbitration programs. However, as presently written, this protection is only offered to the child, not to other witnesses or disputants. It was suggested that this subsection could be written so that such testimony could not be used as substantive evidence against the declarant (i.e., in the opponent's case-in-chief against the declarant) but

could be used as grounds for impeachment. This type of limited statutory protection would be useful in promoting free discussion of issues at the arbitration hearing, but would not be so broad as to condone or sanction out-right lying.<sup>4</sup>

- Section 39.337 FUNDING

In an attempt to encourage each judicial circuit to develop juvenile arbitration programs, the following was strongly recommended:

Funding. . . shall be provided through, but not be limited to, state appropriations, which will be determined by a formula basis.

APPENDICES

Appendix A

Juvenile Arbitration/Mediation Workshop

January 17-18, 1984

Report of Proceedings

Day One:

Registration began at 9:30 a.m. with coffee, orange juice and doughnuts served. The welcome, introductions and objectives opened the meeting at 10:15 a.m., conducted by Robin St. Onge Kadlec, Project Director, Donald D. Conn, State Courts Administrator, and Dr. Hugh Potter. Please see attached list for attending participants and their affiliations.

Mr. Conn explained why and how the Office of the State Courts Administrator (OSCA) is involved in this project. In doing so, he presented a projection of what Florida's Court System might look like in the year 2000. Staggering figures of cases, lawyers, circuit judges, and other court personnel were estimated. This led to the subsequent conclusion that the Court has no alternative but to examine alternatives. Ways to divert this possible outcome must be explored, and Juvenile Arbitration/Mediation is but one of the alternatives being explored by courts throughout the United States. Therefore, OSCA applied last Spring to the Bureau of Criminal Justice Assistance to engage in this project.

Dr. Potter discussed some of the objectives of the workshop. Included in these objectives were the opportunity to share information with others from around the state, to relay information on the cost evaluation being conducted through OSCA by MGT of America, Inc., to present historical background on the legislation of bills regarding Juvenile Arbitration/Mediation, and to derive input for future legislative changes.

The group was prompted by Ms. Kadlec to share the objectives which they wanted to see met during the two days. Several members responded. One Senate staff member said he came to be educated and informed so that he could better advise members of the legislature. A juvenile judge came to support statutory authority of a uniform nature, which he felt would help clarify the roles of personnel involved in the system throughout the various circuits. He stated that we, in the system, will have led children astray if all meaningful diversions have not been exhausted before a child

appears in court. A legislative analyst stated that she came in hopes that definitions and distinctions would be made between the terms arbitration and mediation. She hoped a consensus would be reached regarding whether the services would be operated together or separately, and whether the arbitrators/mediators should be volunteers or paid professionals.

From 11:00 a.m.-11:15 a.m. a Break was taken. The meeting resumed with a Report and Discussion on the Statewide Survey Findings, by Mrs. Kadlec. The Interim Report was examined and discussed, page by page. Comments on the findings were made. In a couple of instances, information gathered in the field was not exactly representative of specific programs. A plea was made by the Project Director, requesting that the participants help identify any other errors so that the final report would incorporate the information.

Lunch was taken from 12:15-1:15, after which the meeting resumed with the Cost Analysis Presentation by MGT of America, Inc. Dr. Tom Blomberg, Project Director, and three of his associates on this project, presented their approach to meeting the objectives of the Request For Proposal (RFP) awarded by OSCA. He gave an overview of what they plan to accomplish in this project, what they are not trying to accomplish in it, and requested input from the participants on hidden costs and hidden cost-savings which they may experience in their programs.

In presenting their plan, he briefly reviewed the methodology they plan to utilize (Transitional Probabilities) for reasonable projections of data, and the site selections (Broward, Duval, Escambia and Seminole) to be visited and comprehensively studied. Their efforts will address whether the programs have diverted or not; and, if they have diverted, if they have saved or can save the taxpayers' money. They stressed that MGT will not be addressing whether or not the programs are effective from a client behavioral change standpoint.

There was some question and discussion from participants as to how MGT would project statewide implementation costs in terms of administration types. MGT stated that they would analyze cases and would project costs under current administration in each of the sites to be studied, as funding sources and administration in those sites were fairly representative of all the programs.

A Break was taken from 2:45-3:00 p.m. At 3:00 p.m., a presentation was given by Representative Helen Gordon Davis. She introduced legislative staff from the Senate and House HRS, Senate Judiciary-Criminal, and a legislative analyst for the House Criminal Justice Committee. Representative Davis began with a Historical Overview of Juvenile

Arbitration/Mediation bills and programs in Maryland, which was drafted in 1973 and in Florida, which was first drafted in 1977. She articulated the intent of HB 640, lest there was any confusion. It was not, she stated, to standardize programs statewide, which would eliminate the beauty of local influence. Rather, some type of coordination throughout the state is needed for information sharing and for amplifying what is good in other programs. Further, it was an attempt to assure that people would have enough money to run the programs that they wanted to.

From this point, the discussion took various directions. Each group discussed the potential impact that such a bill might have upon them, both positively and negatively. The possible mechanisms through which to implement and accomplish the goals intended in HB 640 or in subsequent legislation were discussed. Statewide administration received a lengthy debate. The pros and cons of HRS's continued administration vs. the possible statewide administration by OSCA was explored. HRS took the position that they favored whatever would be best for the youth and for the state. OSCA stated they would be a willing participant to administer such programs, if that is how the decision went.

Finally, definitions of the terms Arbitration and Mediation were discussed in relationship to what constitutes an existing arbitration and/or mediation program.

End Day One 4:45 p.m.

#### Day Two:

Day Two began at 8:15 a.m. with coffee and doughnuts. Analysis and discussion of proposed legislation started at 8:45 a.m. Participants questioned and debated the need for using the specific terms "arbitration" and "mediation," rather than the broader terms of "JASP" and "Diversion." Representative Davis reviewed the historical development of JASP in that it was an outgrowth from the Community Arbitration Statute.

It was decided that the term "Arbitration" would continue to be utilized and that the present Chapter 39, Florida Statutes, definition would be the one adhered to.

Throughout the day, additional changes to the present statute and changes to HB 640 were recommended. (Please see attached.)

A vote was requested by participants regarding three major issues: 1) whether or not to mandate Juvenile Arbitration on a statewide basis; 2) the statewide administration of the project; and, 3) whether or not to separate Arbitration from JASP.

Appendix B

Attendance Record of the January 17 and 18, 1984,  
Juvenile Arbitration/Mediation Workshop

It was recommended by a majority to "mandate funds and availability of the programs," rather than mandating the programs themselves.

In terms of statewide administration, the question and vote were expressed two ways.

If Arbitration is considered as a totally separate program from other diversions, such as JASP:

DHRS = 5                      Abstentions = 4  
OSCA = 8

If Arbitration is treated as a component of a general diversion program, such as JASP:

DHRS = 6                      Abstentions = 3  
OSCA = 8

Should Arbitration be separated from JASP?

Yes = 1  
No = 7

| <u>Workshop Moderators</u>               | <u>Circuit</u>                          |
|--|---|
| Robin St.Onge Kadlec                     |   |
| Roberto Hugh Potter                      |   |
| <br><u>Representative</u>                |   |
| Honorable Helen Gordon Davis             | 13, 64th District                       |
| <br><u>Juvenile Judge</u>                |   |
| Honorable Vernon Douglas                 | 3                                       |
| <br><u>State Courts Administrator</u>    |   |
| Donald D. Conn                           |   |
| <br><u>Trial Court Administrator</u>     |   |
| Carol Ortman                             | 17                                      |
| <br><u>State Attorneys</u>               |   |
| Marvin Clegg                             | 7                                       |
| Daniel Dawson                            | 9                                       |
| Kurt Erlenbach                           | 18                                      |
| Robert Graham                            | 1                                       |
| Arthur Johnston                          | 4                                       |
| Ben Poitevent                            | 2                                       |
| <br><u>Public Defenders</u>              |   |
| John Keane                               | 16                                      |
| Steve Levine                             | 11                                      |
| <br><u>HRS</u>                           |   |
| <u>State Program Office</u>              |   |
| Lee Stapp                                | 2                                       |
| John Perry                               | 2                                       |
| <br><u>JASP and/or Provider Agencies</u> |   |
| Jan Albury                               | 5, 8                                    |
| Bill Bowman                              | 12                                      |
| Cay Evans                                | 18                                      |
| Chris Gilmore                            | 1, 3, 5, 7, 8, 14                       |
| Jim Trent                                | 1                                       |
| Jack Marshall                            | 11                                      |
| Pete Parrado                             | 6, 15, 19                               |
| Bill Schneider                           | 4 (through the State Attorney's Office) |

Circuit

Legislative Analysts

Joy Causseaux  
Judy Justice  
Paul Liepshutz  
Marie Mattox

2 Senate HRS  
2 House HRS  
2 Senate Judiciary-Criminal  
2 Legislative Analyst

Refreshments, Audio, Registration

Nora St.Onge  
Harold St.Onge  
Karen Bush

Attorney General's Office

Ann Laslie

Consultants

MGT of America, Inc.

Tom Blomberg  
Sandra Quesada  
Gary R. Heald  
Jeffrey E. Lickson

Bureau of Criminal Justice  
Assistance

Marvin Floyd

Present Programs in Operation:

1. What Juvenile Diversionary Programs do you have presently in operation?

By whom is it being administered?

Referral process?

2. What is the total caseload before referrals are made? (per month)

What is your approximate caseload per month?

Caseload per Counselor?

3. What do you feel are the program's strong points and benefits?

Limitations and problems?

4. What do you consider to be its benefits to the community?

5. Impacts on families?

On Law Enforcement?

6. What procedures and /or programs do you have in operation for status offenders?

(cont.)

II. Operational Arbitration/Mediation Programs:

1. Do you have Arbitration and/or Mediation?
2. Who/what agency administers the program?  
  
Referral process?
3. By what means is it being funded?  
  
Please give a breakdown:  
Salaries  
Travel  
Office space and equipment  
Supplies  
Telephone  
Fringe benefits  
Misc.
4. What do you consider to be the major benefits resulting to your community from Arbitration/Mediation? (Has the program assisted with community problems?)
5. How do the parties involved perceive the program? (Complaints? Positive Impact  
Victims-  
Accused child and family-  
How has Law Enforcement received it?

(cont.)

6. What is the total caseload before referrals are made? (per month)  
  
What is your approximate caseload per month?  
  
Caseload per Counselor?
7. Who/what agency administers Community Control Programs to which juveniles may be referred?  
  
Referring Agencies? (Police Department, HRS, Judge, State Attorney, etc.)
8. Do you utilize Arbitration/Mediation for status offenders as well as for delinquencies?  
  
For what kinds of offenses?
9. What Community Services do the juveniles perform? (Where?)  
  
What cost savings is realized or amount is earned for the agencies assisted?
10. What are the minimum standards for the training of Arbitrators/Mediators?  
  
What does the training cost?  
Who does it? Where?  
  
Are the trainers paid? By whom?

(cont.)

11. How does your program recruit Arbitrators/Mediators?

Any Publicity for Program? (Give examples)

What are the screening procedures?

12. What are the minimum standards for case processing?

Maximum caseload per month for Counselors?

For Arbitrators/Mediators?

What records are kept/files maintained? Who has access to them?

How is speedy trial rule waived?

Are certain cases already agreed upon automatically by the State Attorney?  
( Which types of offenses?)

13. Do your Arbitrators/Mediators volunteer or are they paid? How much?

Are they covered by Insurance? Who pays?

Are the clients covered by Insurance? Who pays?

Where are Hearings typically held?

(cont.)

14. In cases involving restitution, what amount have you collected to date as a result of Arbitration/Mediation dispositions?

Approximately, what percentage is this of the total amounts requested by the victims? (Example: If over the year (x) no# cases have involved \$8,000 requested by victims and the actual amount required to be paid by the accused child was \$4,000, the percentage would be equal to 50%.)

15. Do clients ever work for the victims? What kinds of jobs?

16. How do you define recidivism? (Time period?)

If any recidivism rates for Arbitration/Mediation cases have been gathered to date, please state the results of those findings. (If no such study has been 'officially' done, please take an 'educated guess' as to the approximate recidivism rate your cases have indicated.)

17. What cost savings have you documented resulting from Arbitration/Mediation?

Judges transferred?

State Attorneys transferred?

Public Defenders moved?

Court reporting costs reduced?

Process costs of services reduced?

Transportation of juveniles reduced?

Court room space now available?

Bailiffs/Clerks reduced?

Restitutions recovered?

(cont.)

III. Change Impact:

1. Do you want to see Arbitration/Mediation available on a statewide basis?  
Explain.
2. What hesitations, if any, do you have regarding its possible implementation in your county/circuit?
3. Who/what agency do you think would most effectively administer the program?
  - (a) HRS
  - (b) HRS through a non-profit Service Provider (i.e., JASP, CDS)
  - (c) State Attorney's Office
  - (d) Local Government
  - (e) Circuit Court Administrator's Office
  - (f) Local Bar Association
  - (g) Other
 Explain.
4. Do you think such programs would be effective in your circuit?  
Explain.
5. What do you foresee could limit its effectiveness?  
Explain.

(cont.)

6. Who should the referring agencies be? (i.e., State attorney, HRS, Law Enforcement, Schools, etc.)
7. Do you think direct referrals should be made in certain cases from these agencies?  
  
For what types of cases?
8. Would you accept contested cases? (Do you think juveniles should have to admit guilt before they are referred?)
9. Please discuss what statutory revisions you believe would enable Arbitration/Mediation to serve best on a statewide basis in Florida.

Appendix D

Survey

I Present Programs in Operation:

1. What Juvenile Diversionary Programs do you have presently in operation?

By whom is it being administered?

Referral process?

2. What do you feel are the program's strong points and benefits?

To the Community?

Impacts on families involved?

Impact on Law Enforcement?

3. What do you feel are the program's limitations and problems?

4. What procedures and/or programs do you have in operation for status offenders?

II Operational Arbitration/Mediation Programs:

1. Do you have Arbitration and/or Mediation?

2. Who/What agency administers the program?

Referral process?

Survey

(cont.)

3. What do you consider to be the major benefits resulting to your community from Arbitration/Mediation? (Has the program assisted with community problems?)

4. How do the parties involved perceive the program? (Complaints? Positive Impact?)

Victims-

Accused child and family-

How has Law Enforcement received it?

5. Do you utilize Arbitration/Mediation for status offenders as well as for delinquencies?

For what kinds of offenses?

6. What Community Services do the juveniles perform? (Where?)

What cost savings is realized or amount is earned for the agencies assisted?

7. What are the minimum standards for the training of Arbitrators/Mediators?

What does the training cost?

Who does it? Where?

Are the trainers paid? By whom?

Survey

(cont.)

What would you do, if anything, to enhance this training?

8. How does your program recruit Arbitrators/Mediators?  
(How should they?)

Is there any Publicity for Programs? (Give examples)  
(should there be?)

What are the screening procedures?

9. How is speedy trial rule waived?

Are certain cases already agreed upon automatically by the  
State Attorney? (Which types of offenses?)

10. Do your Arbitrators/Mediators volunteer or are they paid? How  
much?

Are they covered by Insurance? Who pays?

Are the clients covered by Insurance? Who pays?

Where are Hearings typically held?

11. How do you define recidivism? (Time period?)

Survey

(cont.)

What cost savings have you heard of or documented resulting  
from Arbitration/Mediation?

Judges transferred?  
State Attorneys transferred?  
Public Defenders moved?  
Court reporting costs reduced?  
Process costs of services reduced?  
Transportation of juveniles reduced?  
Court room space now available?  
Bailiffs/Clerks reduced?  
  
Restitutions recovered?

I. Change Impact:

1. Do you want to see Arbitration/Mediation available on a statewide  
basis? Explain.

2. What hesitations, if any, do you have regarding its possible im-  
plementation in the county/circuit/state of Florida?

3. Who/what agency do you think would most effectively administer the  
program?

- (a) HRS
- (b) HRS through a non-profit Service Provider (i.e., JASP, CDS)
- (c) State Attorney's Office
- (d) Local Government
- (e) Circuit Court Administrator's Office
- (f) Local Bar Association
- (g) Other

Explain.

4. Do you think such programs would be effective in your circuit?  
Explain.

Survey

(cont.)

5. What do you foresee could limit its effectiveness? Explain.
6. Who should the referring agencies be? (i.e., State attorney, HRS, Law Enforcement, Schools, etc.)
7. Do you think direct referrals should be made in certain cases from these agencies? (Direct referrals are those made from Law Enforcement, Schools, etc...directly to Arbitration component, generally without official charges being filed and bypassing HRS Intake.)

For what types of cases?

8. Would you accept contested cases? (Do you think juveniles should have to admit guilt before they are referred?)
9. Please discuss what statutory revisions you believe would enable Arbitration/Mediation to serve best on a statewide basis in Florida.

Appendix E

Hesitations Regarding Statewide Implementation:

HRS's concerns

1. Who will administer the program;
2. How the bill is written; political influences involved;
3. Possibility of programs appearing to be a threat to HRS;
4. Net-widening; proper targeting of cases;
5. Consistency of dispositions among arbitrators/mediators;
6. Need for state guidelines but local flexibility;
7. Adequate funding.

Service Providers' Concerns

1. Too many agencies involved; possible lack of coordination or support by Public Defender, State Attorney, Law Enforcement, Juvenile Judge;
2. Turf-fighting with possibly too much HRS involvement;
3. Need for standards but not too rigid too much state interference and too many policies;
4. Net-widening and possibly too broad of a criteria for clientele;
5. Consideration for local needs and resources;
6. Politics involved;
7. Adequate funding.

State Attorneys' Concerns

1. The 45 day file rule in relation to arbitration/mediation;
2. Possible quota requirements being set on referrals; they

do not want to be told the number or percentage of cases which must be sent to arbitration/mediation;

3. Local flexibility;
4. Stability in administration of arbitration/mediation programs; proper set-up of program; training provided and qualifications of arbitrators/mediators;
5. Power limitation of and standards within which arbitrators/mediators can operate;
6. Referral of cases: Possible turf-fighting among agencies; possible problems with HRS; net-widening; proper use of program as a diversion and not as a disposition.
7. Proper and adequate funding of programs.

#### Public Defenders' Concerns

1. Referral process and possible lack of support by the State Attorney's office and other involved agencies;
2. Programs are possibly too detached from juvenile justice system;
3. Administrator should be a neutral party;
4. Skill of arbitrator and possible lack of authority compared to judges;
5. Admission of guilt should not be required;
6. Bureaucracy and lack of uniformity;
7. Mandating without properly funding.

#### Trial Court Administrators' Concerns

1. The need for a central agency to administer program with proper personnel;

2. Setting up another system is costly;
3. The state is so diverse that guidelines may not be suited for all areas;
4. Net-widening; i.e., program should not become a dumping ground for the State Attorney's office or HRS;
5. Cooperation and/or restraints by other involved agencies;
6. Too much State Attorney's control;
7. Appropriate funding.

#### Juvenile Judges' Concerns

1. Skills, training and authority of arbitrators/mediators; i.e., non-judge delivering a judicial opinion;
2. Administration and set up of program; must not be done arbitrarily; must have willing and good personnel;
3. Support from other involved agencies;
4. Too prosecutorily oriented; sometimes programs are no less formal than court;
5. Too much bureaucracy, paper work, politics, and state control;
6. Straight-jacketing the programs which need local flexibility; perhaps even lack of need for programs in some counties;
7. Adequate funding.

JUVENILE ARBITRATION PROGRAMS  
IN FLORIDA  
AN EVALUATION OF COST SAVINGS

EXECUTIVE SUMMARY

Note

The following Executive Summary was included in a detailed evaluation prepared by MGT of America, Inc. For a copy of the complete report, please contact the Office of the State Courts Administrator.

Purpose

The purpose of this study is to determine feasible cost savings associated with statewide implementation of juvenile arbitration programs in Florida. Currently, there are nineteen programs located across the state. During 1983, these programs processed an estimated 11,664 juvenile cases that could have been processed by the formal juvenile justice's system without the availability of existing arbitration programs.

Major Work Tasks and Methods

• Identification of Juvenile Arbitration Client Targets

To specify the client targets of arbitration programs specific client information was drawn from the case files of four programs across the state. The four programs were located in Escambia, Duval, Seminole, and Broward Counties. These sites were selected following consultation with the State Courts Administrator's Office, Legislature, and various arbitration program personnel to insure representation of arbitration programming across the state. The information collected from the case files for 1983 included referral source, charge(s), male-female and disposition(s). This information was coded and frequency runs were made to specify the categories

of juvenile cases referred and the frequency of these referral categories. A final frequency run was made to collapse the four programs' cases into one client target grouping.

- Projection of the number of juvenile referrals to come into contact with Florida's formal justice system suitable for statewide arbitration

In calculating various numerical projections, transitional probabilities were used. A transitional probability is a mean of the proportion of Florida's youth population referred yearly to HRS. Actual projections were made by multiplying the transitional probability by Florida's youth population 10-17 for 1983-84. Additional calculations enabled delineation between projected first time misdemeanors and felonies from total delinquent referrals projected. Calculations based on the actual proportion of misdemeanors to felonies in the four program sites studied, enabled specification of a total number of juvenile referrals suitable for arbitration in 1984. This projected number, less the estimated number of cases to be handled by the existing 19 arbitration programs during 1984, provided the projection of cases that could be diverted from the formal justice system if statewide arbitration became available.

- Estimation of case costs of formal justice system processing of juveniles suitable for arbitration versus arbitration processing

In estimating formal system case costs contact was made with court administration, juvenile arbitration and budget staff members from the four program sites. Formal system processing cost estimates included only personnel costs associated with judges, state attorneys, public defenders, court clerks, and bailiffs. Statewide and district level officials with HRS were also contacted to determine their costs of processing juveniles through the formal justice system. Law enforcement costs associated with arrests and formal reports were considered constant whether juveniles were formally processed or diverted into arbitration.

In determining an estimation of arbitration case processing costs, various arbitration program staff and budget personnel were asked to provide detailed financial information concerning both operational and personnel costs. These various cost data were requested to provide base line measures for arbitration case processing costs.

- Estimation of cost savings associated with statewide implementation of juvenile arbitration

In arriving at an estimation of cost savings associated with statewide arbitration, the following considerations were included

in the calculation:

- The actual arbitration client targets and the proportion of first time felony and misdemeanor cases handled by the four programs studied.
- The statewide projection of delinquent referrals for FY 1983-84 and proportion of first time felony and misdemeanors.
- The costs of processing projected arbitration client targets through the formal system (i.e., minimum penetrations).
- The costs of processing projected arbitration client targets through arbitration given varying degrees of net-widening and percentages of cases returned for formal processing.

#### Summary of Findings Associated with Major Work Tasks

- The client target identification revealed that 88.6 percent of the program clients were first time misdemeanants and the remaining 11.4 percent were first time felons.
- The projection calculation of delinquent referrals suitable for arbitration was: 28,632 total cases, less the estimated 11,664 cases to be processed by existing arbitration programs resulting in 16,968 projected cases.
- The estimated costs of formal system processing versus arbitration processing were reported in a minimum and average cost range. Per case costs of formal juvenile justice system processing was \$270.58 at a minimum and \$381.58 at an average. Per case costs of arbitration processing was \$44.28 at a minimum and \$69.78 at an average. The estimated per case cost savings based upon these figures assuming no net-widening and no arbitration cases returned to the formal system for processing are \$165.04 at a minimum and \$311.80 at an average.
- In arriving at statewide cost savings estimates, costs associated with various degrees of net-widening and percentages of arbitration cases returned for formal processing on the basis of actual program practices of the four programs studied were calculated. Statewide cost savings estimates were \$1,553,716 at a minimum and \$3,018,032 at an average.

**CONTINUED**

**1 OF 2**

### Concluding Comments

A fair amount of caution is normally prudent when assessing the strengths and weaknesses of various evaluation studies of the justice system. This is particularly the case in cost studies of the justice system. One of the most fundamental concerns that warrants this caution relates to the quality and extent of justice system data regarding not only expenditures but client handling practices as well. Specifically, these data are often non-existent, fragmented, uneven, and discontinuous. Consequently, evaluators must make assumptions and estimates that shape and even determine study outcomes. Therefore, it is crucial that evaluators alert their audience to the assumptions and estimations they have made in the course of their evaluation efforts. For example, throughout the present study various juvenile justice client handling and expenditure related assumptions and estimations were made and employed subsequently in various projections and calculations. Each of these assumptions and estimations were identified and discussed and it is of major importance that the audience of this study be alert to these assumptions and estimations. In so being, this study's audience can judge for themselves the relative strengths and weaknesses of the study's findings.

Another issue that warrants caution in assessing feasible cost savings associated with diversionary arbitration concerns how the formal juvenile justice system adapts to a shrinking clientele. Specifically, the juvenile justice system should be understood as essentially inelastic in that it operates with

fixed costs. These fixed costs include facilities whose major costs do not fluctuate with shrinking client numbers and government appointed and career service employees who are not easily removed from their positions. In effect, the formal juvenile justice system cannot easily control its fixed costs in relation to declining client numbers and organizational demands. Therefore, to the extent that the formal juvenile justice system does not adjust its personnel and facility expenditures to reflect changing client demands, the feasible cost savings of arbitration will be constrained accordingly.

The issue of net-widening warrants particular caution in assessing arbitration's potential to produce cost savings. In this study the net-widening practices of the four programs studied were used in the cost-savings calculations. However, it is important to recognize that across the four programs net-widening practices ranged from a low of 10 percent to a high of 50 percent. Therefore, it must be understood that if arbitration is to realize its full cost savings potential it must serve a client population that would otherwise have received formal system processing. There is documentation that diversion programs throughout the nation have tended to select the majority of their clients from youth groups previously not subject to formal justice system processing. Clearly, this is a diversion program tendency that should be considered in the planning and implementation of Florida's statewide network of arbitration

programs. To the extent that precise client targets can be articulated and employed by the arbitration programs, net-widening can be minimized and potential cost savings realized.

A final note of caution relates to the question of arbitration's capacity to positively influence the subsequent behavior of juveniles. This is a complex question and the present study does not address this question. Nonetheless, it must be recognized that the ultimate cost savings potential of arbitration depends upon its ability to effectively modify the misbehavior tendencies of juveniles. Thus, it is essential that Florida systematically evaluate its implementation of arbitration programs statewide to determine what these programs can and cannot do and for whom. Only by conclusively answering these questions can Florida be assured that juvenile arbitration does indeed fulfill its cost savings potential.

#### FOOTNOTES

1 For purposes of this report, and to reflect the program as accurately as possible, an arbitration and/or mediation program/component is defined as the following:

Any program or program component which follows the hearing procedures as stated in Florida Statutes, Chapter 39.334 and in Black's Law Dictionary, and which abide by the Florida Community Arbitration Program Guide, which was developed by DHR's Youth Services Program Office. These references state the following common points:

1. An actual hearing shall be held at which both/all involved parties have an opportunity to be heard. (preferably on week day evenings, according to the DHR's Guide);
2. In all cases, notice of the hearing will be given to both/all involved parties informing them of the date, time and location of hearing. (DHR's Guide recommends that the notice to victims be sent by certified mail, with a return receipt requested);
3. Any complaining witness and any alleged victim may be present during the entire course of the proceedings.

2 For the purpose of this report, an existing juvenile arbitration/mediation program is defined as:

Any program site which has trained arbitrators/mediators, has received one or more referrals, and has held one or more hearings up to December 22, 1983.

3 The reduced number of total responses regarding impact can be attributed to two factors. In most instances, time constraints on the parts of those interviewed prohibited responses to the entire survey. Part III of the survey dealing with future "Change Impact" was administered first, due to the great interest regarding its outcome. Whatever time was left following the completion of Part III was then spent on the other two parts of the survey.

In a few instances, the respondents preferred not to answer or had no information to comment on the questions at hand. Thus, only those who responded on these items were counted.

4

The language in this comment reflects excerpts of comments submitted by the Chief Assistant Juvenile Public Defender of the Eleventh Judicial Circuit, Steven D. Levine, Esquire.

**END**