



National Institute of Justice

P r o g r a m F o c u s



Resolving Community Conflict:

The Dispute
Settlement Center
of Durham,
North
Carolina

Resolving Community Conflict: The Dispute Settlement Center of Durham, North Carolina

by Daniel McGillis

Every community experiences disputes among its members, ranging from arguments among neighbors and relatives, such as those about barking dogs and debts, to public policy controversies involving large segments of the community, such as economic development plans and the siting of facilities. Although conflict may be inevitable, strategies for responding to conflict vary greatly.

Common responses to conflict include accepting the problem, addressing the issue directly with the other party, and taking the other party to court. However, in recent years many communities across the United States have developed an additional approach for handling disputes by establishing community mediation programs that address a broad range of conflicts.

Community mediation programs train local volunteers in conflict resolution skills; these

volunteers then provide dispute resolution services to individual citizens and groups. Mediation sessions bring together the parties in a dispute with mediators who help them discuss the issues involved and work toward a mutually agreeable solution to the problem. When agreements are reached, the terms of the agreement are recorded in writing and signed by the disputants.

Community mediation programs were initially developed in the 1970s, in part to

respond to the delays, costs, and related problems that limit access to the courts and in part to devise a better process for dealing with conflicts.¹ Since then, research findings have indicated that disputants often prefer community mediation to the court process, not only because cases are handled rapidly and for little or no cost, but also because disputants feel that the mediation process is satisfying, fair, and understandable and resolves their conflicts.²

The Dispute Settlement Center of Durham, North Carolina, has been providing mediation services to the surrounding community since 1983. Originally accepting only minor criminal cases referred by the Durham County District Court, the Center now provides numerous other services, such as family and divorce mediation, school conflict resolution programs, and corporate workplace training.

A Brief History

The Dispute Settlement Center of Durham was formally established in 1983, but planning began 2 years earlier when the local League of Women Voters obtained a grant from the Mary Biddle Duke Founda-

Highlights

Established in 1983, the Dispute Settlement Center of Durham, North Carolina, has become a prominent, well-established community mediation program. The Center's experience reflects the broad range of issues that many mediation programs confront. Opened with private grant funding, the Center now obtains more than 65 percent of its funding through income from contracts and service fees. The Center handles an increasingly diverse number of conflicts and offers an array of services to the community. The major types of cases mediated and facilitated by the program include the following:

- Minor criminal case mediation.
- Minor civil mediation.
- Divorce and family mediation.

- Public policy problem solving.
- Workplace dispute resolution.
- School mediation.

A 1992 independent evaluation conducted by researchers at the University of North Carolina's Institute of Government found that 88 percent of interpersonal misdemeanor cases referred to the Center by the courts resulted in agreements between disputants. Additionally, the evaluation showed that between 85 percent and 95 percent of complainants and respondents were satisfied with both the procedures and outcomes of their mediation hearings, with the percentage depending on the questions asked.

PROGRAM FOCUS

tion for the development of a community mediation program in Durham. The program planners received assistance from several sources, including the following:

- The Orange County Dispute Settlement Center—the State’s first community mediation program—which serves Chapel Hill and surrounding areas.
- The Human Relations Commission of the City of Durham.
- Hassle House, a local drop-in center for youths.

Durham program planners explored a variety of approaches to program design, deciding that the program initially should focus on case referrals from the Durham County District Court. Many program procedures were modeled after the Orange County program. Planners used a \$20,000 grant from the Z. Smith Reynolds Foundation to train the program’s initial pool of mediators and begin operations. In November 1982, personnel from the Orange County program provided the first mediator training session to 18 volunteers. Funding for program startup was provided by a second \$20,000 grant from the Z. Smith Reynolds Foundation.

Michael Wendt was hired as executive director on a part-time basis in March 1983. (The position was converted to full-time status in 1988. Wendt retired in mid-1998. His successor is Milton Lewis.) His first task was to establish referral mechanisms with the district court and with the newly elected district attorney for Durham County. At about the same time, a board of directors representing the program’s major referral agencies and involving other community leaders was formed. The initial board included the State legislative representative for the area, who obtained State funding to supplement the foundation sup-

A Court-Referred Mediation Case Involving Juveniles

A clear lesson learned by many mediation centers is that relatively minor incidents can escalate into lethal conflicts. One Center case involving high school students illustrates the value of mediation in preventing serious violence among disputing parties. The case involved an escalating conflict that arose from a name-calling incident between two students. The student who delivered the initial verbal insult was subsequently beaten by friends of the student who was insulted. The friends of the beaten student, in turn, retaliated. Soon a series of fights escalated to the point that some of the students in one of the groups engaged in a drive-by shooting of a pedestrian.

Individuals on both sides of the argument swore out warrants, and the district attorney’s office prepared to charge the individuals involved in the drive-by with attempted murder. However, the police were unable to identify the gunman in the drive-by shooting, and the prosecutor feared that the case would have to be dropped for lack of evidence. As a result, the prosecutor and the court decided to refer the case to mediation to resolve the growing conflict.

Fifteen students and 30 parents agreed to participate in mediation. Student peer mediators en-

sured that everyone involved attended the hearing. Backgrounds of the students involved varied widely; some were from upper-middle-class families; others were from economically disadvantaged families in public housing. The two groups of students were able to air their concerns in the mediation session, which was held at a local church. After 1 hour, members of the two groups apologized to one another. Apparently, neither group had wanted the dispute to escalate to the extent that it did, but the students were unable to resolve the matter in a way that ended the conflict, while still allowing the students to maintain their reputations and self-respect. In light of the student apologies and the expressed interest of the youths to move past the conflict, the parents of 11 of the 13 students who had sworn out warrants agreed to have the cases dismissed. The parties signed forms requesting dismissals, and the court subsequently dismissed the 11 cases at the prosecutor’s recommendation. The parents of the other two students who had sworn out warrants were not ready to settle the dispute at mediation and decided to proceed to court. When they reached court, however, the two cases were dismissed by the judge because the two groups had reconciled after the mediation session.

port. This State support is now \$60,000 annually.

After 2 years of planning and preparation, the Center held its first mediation session in April 1983. The Center was initially located in the educational wing of the Watts Street Baptist Church, along with several other nonprofit social services organizations. Centrally located in Durham, the church was easily accessible to disputants. In 1990, the program moved to its own office building.

The Center’s second mediation training session occurred in July 1983; 20 additional mediators were trained, for a total of 38 volunteers in the mediator pool. Mediators were selected to ensure that the mediator pool represented the gender, racial, and ethnic composition of the community. The

second training—conducted by the director of the American Bar Association’s Committee on Dispute Resolution—included participants from a sister program in Greensboro, North Carolina.

Disputes Handled and Services Provided

Minor criminal case mediation

Minor criminal cases referred by the Durham County District Court dominate the Center’s caseload. Typical minor criminal cases include harassment, assault, and related problems among relatives, neighbors, and acquaintances. Referrals come from a daily review of new warrants issued at the court clerk’s office. (See “A

PROGRAM FOCUS

Court-Referred Mediation Case Involving Juveniles.”) Incoming complaints at the district attorney’s office are also reviewed because warrants will not be issued in all cases, and some rejected cases may be highly suitable for mediation. Also, the police department occasionally refers disputes to the Center. The program has encouraged police referrals by making presentations to new officers and line personnel, but the traditional law enforcement focus of the department has limited the number of referrals received. However, a police official has been on the program’s board, and initiatives to increase police referrals are being considered. (See “Potential Benefits of Encouraging Police Referrals to Community Mediation.”)

In addition to handling routine interpersonal disputes referred from the courts, the Dispute Settlement Center also processes a large number of worthless-check cases filed in the courts. Such cases differ significantly from interpersonal dispute cases in which the parties typically have ongoing relationships and multiple issues to address. Processing worthless-check cases is more of an administrative matter, involving arrangements for a payment schedule by the checkwriter to the recipient of the worthless check. More than 2,000 worthless-check cases are handled annually, with court referrals occurring before a warrant is issued. The Chief Superior Court judge and Chief District Court judge have issued an administrative order mandating that mediation be attempted in every worthless-check case before a warrant is issued. Worthless-check mediation sessions are convened in a courtroom on the second and fourth Monday evenings of each month.

Since the program began processing worthless-check cases in 1988, about

17,200 cases involving more than \$1 million have been handled. Processing worthless-check cases provides a valuable service to courts, can be more efficient and less stressful than court proceedings for disputants, and may enhance courts’ willingness to provide referrals of interpersonal disputes to the Center.

The impact of the Center on the number of worthless-check case filings has been dramatic—by August 1994, 6 years after the program’s inception, the number of filings had been reduced to 1983 levels. In contrast, adjacent Wake County, which did not have a comparable program, experienced worthless-check filings in 1993 that were four times their 1983 level.

Divorce and family mediation

In recent years, the Center has begun to handle divorce and family mediation cases. Twelve volunteer mediators from the program have been specially trained to mediate these cases, providing assistance with the major issues arising in divorce, including child custody, visitation, and property division.

Divorce and family mediation typically requires several mediation sessions because of the complexity and importance of the issues involved. The initial mediation session lasts approximately 1 hour and allows the parties to present the general

Potential Benefits of Encouraging Police Referrals to Community Mediation

Ron Glensor and Alissa Stern provide a useful review of the potential benefits of enhancing links between mediation and community policing in their paper “Dispute Resolution and Policing: A Collaborative Approach Toward Effective Problem Solving,” published by the Police Executive Research Forum (PERF).^a They noted:

The police, unlike other professionals (e.g., medical professionals), do not have established protocols or training to handle the various ills they are expected to prevent.^b Research indicates that a majority of calls for service—such as those caused by landlord-tenant disputes, loud parties, rowdy teens, neighborhood disagreements, and traffic and parking complaints—do not require law enforcement intervention. Yet police have traditionally relied on law enforcement strategies such as rapid response, random patrol, and retrospective investigation to address these problems. Such incident-driven policing only addresses the symptoms of the problems, not the causes. As a result, these

calls for service are often repeated and increasingly involve violence, posing a threat to the parties directly involved in the conflict, as well as to the responding police officers.

Community mediation programs have developed effective methods for addressing the causes of conflicts and can provide valuable assistance to the police and disputants.

Notes

a. Washington, D.C.: Police Executive Research Forum, 1995.

b. Goldstein, Herman, *Problem-Oriented Policing*, New York, New York: McGraw-Hill, 1990. See also Schaffer, R., *Testimony Before the Pennsylvania House of Representatives Judiciary Committee*, September 29, 1994; and Shepherd, R., *Neighborhood Dispute Settlement: An Evaluation Report of the Neighborhood Dispute Settlement Center’s Program with the City of Harrisburg Bureau of Police*, 1995.

PROGRAM FOCUS

issues that need to be addressed. Parties are asked to bring relevant information to later mediation sessions to clarify issues in the conflict and enable them to deal with property, custody, and visitation matters. Subsequent mediation sessions typically require up to 2 hours each to enable the couple to address the specific issues. The parties in divorce and family mediation are asked to obtain legal counsel prior to signing the final agreement arising from mediation. All aspects of such hearings and agreements are confidential.

Divorce and family mediation is a relatively new area of practice for the Dispute Settlement Center, but results thus far have been positive. Twenty-two divorce and family mediation cases were processed in 1995, 20 cases in 1996, and 18 cases in 1997. Currently, the program is attempting to increase the number of referrals from the Family Court.

Public policy problem solving

The Dispute Settlement Center has also provided assistance in several important public policy conflicts in the Durham area. For example, when the State limited its school funding to one district per county, the Durham County Board of Commissioners was forced to order the merger of two existing school districts. This was the fourth attempt to merge the two districts since the 1920s. Each previous attempt had failed, dividing the community in the process. Local officials found that the issue was extremely complex and emotionally charged, in part due to demographic differences between the two districts representing the city and the county. The Dispute Settlement Center assisted with the merger; the County Board of Commissioners consequently

asked the Center to help the School Merger Task Force bring the many sides together to formulate a workable merger plan. A series of meetings and public forums were held during a 10-month period with representatives of 41 community groups. A total of 15 mediators from the Dispute Settlement Center served as facilitators at task force meetings, subcommittee meetings, public hearings, and steering committee meetings. Many observers report that the mediation program's efforts were key to the successful merger.

Workplace dispute resolution

The Center has worked extensively to develop workplace dispute resolution mechanisms by providing conflict resolution skills training to employees in many organizations and by helping various groups develop their own procedures for internal conflict resolution.

Conflict resolution skills training. The Center has provided conflict resolution skills training to several types of workplaces. For example, officials at Broad Band Technologies, a high-technology firm in Research Triangle Park, hired the staff of the Center to train engineers and other senior staff members in conflict management skills. Many of the employees work under intense deadline pressure and tend to suppress conflicts because of the relatively solitary nature of their tasks. The company's officials recognized that this pattern could affect productivity—endangering the company's success in a highly competitive industry. As a result, a pilot training program was conducted, materials were refined, and a full-day conflict resolution training session was held with 17 senior personnel. Interpersonal negotiation skills and mediation

techniques were discussed in the training, and participants engaged in role-playing exercises to improve their conflict resolution skills.

The Center has also conducted nearly a dozen conflict resolution workshops with about 125 housekeeping staff members at the University of North Carolina—Chapel Hill. Conflicts were common among employees involved in housekeeping duties and between housekeeping staff and other personnel at the university; the university had experienced walkouts by housekeeping staff because of these tensions. University personnel report that the training has had a very positive impact on the relationships among employees.

Similar conflict resolution workshops have been held for personnel of public-sector agencies. For example, the City of Durham Solid Waste Department sponsored a conflict management course for its 130 workers in response to recurring conflicts among department employees and between employees and management. City officials report that the training was effective and that they want to extend it to other city departments.

Workplace mediation program development. The Center uses three different approaches to developing workplace mediation mechanisms. The first approach is a mediation pool model that involves training a group of volunteer employees to serve as mediators in the workplace. The Center provides technical assistance to establish the internal mechanisms of the program and trains the mediators. Mediation is conducted before employees file formal complaints through the employer's grievance process. In-house mediation programs deal with a wide range of matters, including disputes

PROGRAM FOCUS

between employees and conflicts between employees and managers.

The second approach to workplace mediation is the staff mediation model in which staff members are trained in mediation skills and are paid, as opposed to volunteering, to provide mediation services as part of their jobs. Duke University Medical Center uses this approach, with eight human resources staff members who received mediation skills training serving as mediators when needed.

The third approach used is the contracted services model in which the Dispute Settlement Center provides workplace mediation services under contract to an institution. This model assures disputants of a high level of confidentiality in the handling of their disputes. UNC Hospitals has taken this approach—mediators from the Center hold mediation sessions at neutral settings near the hospital.

School mediation

The Dispute Settlement Center has been active in establishing school-based mediation in Durham public schools. During the 1993–94 school year, the last year for which statistics are available, the Center provided training to more than 250 student mediators, raising to 700 the total number of student mediators in 15 public elementary, middle, and high schools. These peer mediators hold mediation sessions with students involved in conflicts. According to program statistics, more than 1,200 students were involved in peer mediation hearings during the 1993–94 school year.

In addition to resolving disputes in formal mediation sessions, peer mediators are also active in resolving conflicts informally. The Center reports that peer mediators have prevented several potentially violent confrontations between groups by mediating settlements. Peer mediators successfully mediated a number of disputes that the students believed were based on racism. In these mediation sessions, the student volunteers seek to help students view one another as individuals, rather than simply as members of a group; this approach helps to resolve the underlying issues in the conflict.

The Center also helped schools provide every student with at least 5 hours of conflict resolution instruction. The goal of this

tee that developed a sequenced K–12 conflict resolution curriculum. The North Carolina Governor's office met with this committee so that some of the materials could be included in the Governor's Safe Schools Act.

The program's scope has varied through the years, depending on school budgetary conditions and the commitment level of school leaders. Funding constraints during the 1995–96 school year almost entirely terminated districtwide funding for the school mediation program. Some individual schools continued to operate in-house mediation programs, and the Center received funding from the school district to place a site coordinator at one middle school to ensure ongoing mediation program development there. Local school leadership, including the principal, worked to ensure the program's continuation. Center personnel have held workshops at several other schools and have provided crisis intervention services to several other schools in the district. Program administrators are hoping to reinstate the districtwide program, which has strong support from students, teachers, and parents groups.

The Center's training coordinator feels that the most successful method of institutionalizing peer mediation and conflict

resolution instruction in local schools is to have a team of administrators from each school trained in conflict resolution and mediation. This team can then train faculty members and students in peer mediation and conflict resolution skills. Faculty members can receive training during the regu-



A school administrator trained by the Dispute Settlement Center teaches two potential student mediators about basic conflict resolution skills.

instruction was to transmit conflict resolution skills to students so that they will deal directly with conflicts through negotiation. Teachers at participating schools also received training in negotiation and conflict resolution skills, as well as curriculum materials for in-class use. The school coordinator of the Center chaired the commit-

PROGRAM FOCUS

larly scheduled, half-day staff development periods or during the summer and can obtain continuing education credits for the training. Once the teachers have been trained to teach conflict resolution skills to others, the Dispute Settlement Center is prepared to provide ongoing consultation, as well as the assistance of volunteer community mediators, to help the teachers conduct and assess participant performance in the mediation role-plays that are an essential component of all mediation training sessions.

After peer mediation programs are in place, it is critical for school officials to assign a staff member with available time to administer the program. An extremely busy guidance counselor should not be expected to add mediation program responsibilities to an already overburdened schedule. Onsite coordinators need time to properly manage this important responsibility. In the past, the Center assigned personnel to serve in this capacity at some schools, but this approach is not sustainable over time because of inevitable cost considerations; therefore, in-house personnel should be assigned. The former executive director of the Center, Michael Wendt, feels that conflict resolution training also should be made available to parents to enhance their ability to resolve conflicts in their own lives and to enable them to serve as proper role models for their children in handling conflict.

In addition to working with the Durham County school system on school-based mediation, the Center also has provided conflict resolution training to area youths at recreation centers, neighborhood teen centers, and other community settings. In 1995, the Center reached approximately 3,500 youths through these conflict management seminars provided in collaboration

with the Durham Parks and Recreation Department and the Durham Housing Authority as part of the city's overall antiviolence initiative. These opportunities to reach young people outside of school have helped compensate for the decrease in in-school conflict resolution training.

Minor civil mediation

In 1995, the Chief District Court Judge for Durham County asked the Center to consider expanding the program to handle landlord-tenant cases and other minor civil cases. The court wanted to routinely refer these cases to mediation prior to court consideration. In the procedure that is currently being contemplated, small claims disputants will receive both a mediation date and a court date when they file their cases with the court clerk's office. If mediation succeeds, then the court date will be canceled. If a small claims referral mechanism is instituted, the Center will train the mediators handling these matters.

Mediator and facilitator training

The Dispute Settlement Center has been very active in training its own mediators, as well as other parties. The major types of training provided include the following:

- **Basic mediation training.** This course provides trainees with the skills to conduct mediation sessions.
- **Conflict resolution training.** This program has been adapted for specific organizations, such as schools and workplace training programs, and includes materials for adults and youths on the nature of conflict, communication and negotiation skills, and anger management.

- **Facilitation training.** This program teaches the skills needed to lead group discussions and to help group members diagnose problems, develop potential solutions, and generate a consensus for specific solutions.

- **Train-the-trainer programs.** The Center teaches individuals the skills necessary to become mediation and conflict resolution trainers and to establish their own programs.

Since the Center's inception, more than 1,500 mediators, facilitators, and trainers have received training from its personnel. Trainees have been affiliated with programs across the State, including those in Brunswick, Franklin, Granville, Iredell, Jones, Person, Richmond, and Wake Counties. Center trainers have also provided training for individuals in businesses, government agencies, universities, elementary and secondary schools, and other organizations. Training has been provided in other States as well, including Alabama, Connecticut, Georgia, South Carolina, and Virginia.

Referral, Intake, and Mediation

Referral sources

Numerous sources refer cases to the Dispute Settlement Center. The district attorney's office referred 225 criminal matters for mediation consideration in 1995; more than 50 percent resulted in mediation hearings. In the same year, the Durham County District Court referred more than 2,500 worthless-check cases. These cases typically resulted in brief conciliation hearings, although 65 proceeded to formal mediation sessions. In addition, the North Carolina attorney

PROGRAM FOCUS

general's office referred 12 cases to the program. Group facilitation referrals came from such sources as government agencies, nonprofit organizations, and businesses. Facilitation meetings typically involved relatively large numbers of participants; in 1995, 391 individuals participated in these meetings.

Excluding worthless-check cases, the types of cases referred by the justice system in 1995 included allegations of assault, vandalism or theft of property, threats, trespassing, and harassment. Civil case referrals received by the program in 1995 included 36 domestic relations cases, 10 landlord-tenant disputes, 9 breach-of-contract disputes, and 7 employer-employee matters.

Intake procedures

A Center staff member reviews all warrants that have been issued at both the Durham County District Court clerk's office and the district attorney's office to determine whether they are appropriate for mediation. Staff then check cases that appear to be appropriate by computer to determine if the defendant has been arrested for or convicted of violent or drug and alcohol offenses, in which case they are excluded from mediation. The staff member discusses the remaining eligible cases with an assistant district attorney—who must authorize all referrals—and requests that they be referred to mediation. Virtually all referral requests are approved.

Program officials consider several types of disputes as inappropriate for mediation. These include cases involving domestic violence, child abuse, alcohol and drug abuse, a marked imbalance of power between the parties, parties suffering from serious and untreated mental illness, and

the potential for setting significant legal precedents. Also excluded are shoplifting cases, as the district attorney's office mandates that all shoplifting offenses must be prosecuted.

The information available to the staff member screening cases can sometimes be sparse, involving only simple summaries of the offenses. As a result, not all cases that are inappropriate for mediation can be readily excluded at the screening stage. Mediators are taught to identify characteristics that would make a case unsuitable for mediation. For example, when a case involves a couple, mediators are instructed to look for signs of isolation in one or both parties, irrational jealousy, and evidence that one party is seeking total control of a partner's life. If mediators feel that a case is not suitable for mediation once sessions have begun, they are instructed to inform the parties that they must check with the Center's director before the mediation process can continue. Cases that are considered inappropriate for mediation are returned to the court.

The Center sometimes receives referrals directly from judges during court proceedings. Judges typically provide the parties with a 30-day continuance of the case when these referrals are made. The Center is informed of the referral and sends disputants letters suggesting a date and time for the mediation session. If these mediation sessions are successful, the Center sends a letter to the district attorney asking that the case be dismissed, in which case the parties are not required to return to the court. Cases that are not successfully mediated return to the court on the date specified by the judge in the continuance. The Center has received a number of felony cases on referral from the bench after judges con-

cluded that mediation was preferable to adjudication due to the nature of the conflict and the ongoing relationship between the parties.

Once a case is selected for referral to mediation, a form letter is sent to the disputants advising them that they have the option of engaging in mediation. The level of pressure applied to disputants to attend mediation sessions varies depending on the nature of the referral agency. The Consumer Protection Section of the North Carolina attorney general's office, for instance, sends a letter to parties informing them that they are being referred to mediation, but the letter's language applies relatively little pressure—disputants are told that the referral is voluntary but are urged to participate. For instance, the letter to businesses in consumer cases states, "Attorney General Michael F. Easley believes strongly in the ability of businesses and consumers using mediation to resolve disputes. We encourage you as a good business citizen of this State to take advantage of this opportunity to resolve this dispute."

Referral letters from the district attorney's office have a stronger tone and are sent by the Center on official stationery from the district attorney's office. Referrals are typically made after the district attorney has prepared a warrant for the respondent (defendant), who is informed that "A warrant has been sworn out against you by _____ alleging that you committed the criminal offense of _____. You can avoid having to appear in criminal court by submitting this matter to mediation." Respondents are provided with a specific hearing time and informed that they may reschedule if necessary, as long as the revised time occurs prior to the

PROGRAM FOCUS

court date set for the case. The letter closes by stating, "If you choose not to appear at the Dispute Settlement Center or mediation is not successful, you must be in Criminal Court at [specific time and place]."

The Center also uses form letters that can be sent when disputants contact the program directly to request mediation. The letter informs them that mediation services are free and confidential and that mediators are neutral and do not act as judges but, instead, seek to help the parties resolve their conflict. The letter indicates who has made a complaint and why the complaint was made and suggests a time for a mediation session. Mediation sessions are typically held at the Center, which has several conference rooms suitable for groups of different sizes. Sessions involving large groups are occasionally held at school buildings or churches.

Mediation techniques

At the Center, two mediators mediate each session. The parties are asked at the outset to sign an agreement indicating that all discussions during mediation are confidential and that the parties will not seek a subpoena to use information from the sessions in any legal action. To underscore the confidentiality of the mediation process, all written notes developed by the mediators and the parties are collected and destroyed at the end of the sessions.

The mediation procedure used by the Center is an approach common to many programs across the country. Mediators begin by establishing the ground rules for the mediation session—for instance, do not interrupt and be respectful when stating your concerns. Complainants are then asked to describe the problem from their

perspective. Respondents are asked to respond to complainants' comments and to indicate their views regarding the dispute. Mediators focus on having the parties clearly state their positions and on exploring common perspectives and areas of disagreement.

If a mediation session does not appear to be leading to a mutually agreed upon definition of the problem at hand and to a potential resolution to the conflict, mediators may then take several steps to further the process. For instance, the parties may be asked to meet separately with mediators to discuss their perceptions of issues and possible solutions. Such private caucuses may reveal issues that one party is hesitant to present in a session with the other party present. A caucus discussion may also reveal areas of potential agreement that can be pursued. Mediators also may ask the parties to consider future steps, which can disengage the parties from any dead-end discussions. In some cases, when a deadlock occurs, a second mediation session is scheduled to give the parties time to further consider the issues at hand, as well as future activities. In other instances, preparing an interim agreement that identifies the issues the parties agree on can be helpful and can illustrate that common ground exists.

If disputants arrive at an agreement, the terms are written down and signed by the parties. This written agreement, when signed by the parties, may have the same legal status as any other written contract. Approximately 90 percent of mediation sessions result in such agreements. If the case was originally referred by the district attorney's office, the parties also sign a letter to the district attorney stating, "As a result of mediation, an agreement has been

reached. We, the undersigned, request that all pending criminal charges in the above case be dismissed." The letter is signed by the complainant, the respondent, and the two mediators who handled the case.

Program Organization

Staff

Since opening, the Center has employed as many as seven staff members: an executive director, an assistant to the director, a training coordinator, a school coordinator, a school trainer (part-time position), a public policy coordinator, and an administrative assistant. The staff configuration varies depending upon the nature of the workload.

Community mediators

The Center's active volunteer community mediators are selected through the general training the Center offers to the public. These sessions take place every 4–6 weeks. Selection is based on such factors as good communication skills and the ability to see both sides of a problem. Once selected, these individuals receive more rigorous training at the Center. Mediation training involves a combination of discussions about conflict resolution strategies and hands-on experience through simulated mediation sessions, which are then critiqued by experienced staff members and mediators. In addition, new mediators observe a series of mediation sessions before mediating with an experienced mediator.

When the Center conducts its basic mediation course, it usually encourages a number of local public officials to participate without any obligation to serve as mediators or as members of the program's board

The Mediation Network of North Carolina

The Mediation Network of North Carolina was established in 1985 and serves the 24 community dispute settlement centers in the State. The network receives funding from a number of sources, including individual and program membership dues, grants from the North Carolina Bar Plan for Interest on Lawyers' Trust Accounts (IOLTA), and private foundation grants.

North Carolina's mediation programs are very active; approximately 16,000 interpersonal disputes are referred to the State's mediation programs annually. (Around 50 percent are referred by the district courts.) In addition, the programs deal with victim-offender mediation, school mediation, family mediation, public dispute resolution, group facilitation, and related areas.

The network provides a wide range of services to North Carolina programs. It has vigorously sought funding support from the North Carolina legislature, preparing detailed briefing books for legislators that present the accomplishments of programs across the State and meeting with legislators. The network has achieved strong bipartisan support for program funding, and more than \$800,000 was appropriated for community mediation programs in the State's 1995-97 budget. To qualify for State funds, centers need to certify that at least 60 percent of their total funding is obtained from non-State sources.

The network also provides technical assistance to existing centers and to persons who are developing new programs, offering training courses, and linking interested parties to training offered by individual programs.

of directors. This approach provides the officials with valuable information and insights about the mediation program and sometimes leads to later collaboration between officials and the Center. In the past, the Center has provided training to three members of the Durham City Council, two members of the Durham County Board of Commissioners, and two members of the local school board. This approach has proven valuable to the program. For instance, because of enhanced understanding of the program's capacities that resulted from participation in training sessions, the Durham City Council has contracted with the Center to handle complex disputes confronting the council, such as controversial zoning disputes.

Volunteer mediators are evaluated through three different mechanisms. First, media-

tors hold a debriefing meeting at the end of each mediation to discuss the session and any problems or issues associated with it. Second, the Center's mediation coordinator receives complaints from clients and mediators regarding performance of the mediators. Finally, during followup interviews conducted with clients, questions are asked about the mediators' performance. Complaints are addressed by the mediator coordinator, and appropriate actions are taken.

In addition, the Center also abides by the mediator standards of the Mediation Network of North Carolina, of which the Center is a member. (See "The Mediation Network of North Carolina.") In 1994, the network's board of directors adopted qualifications and standards for certifying member centers' mediators, sponsoring a voluntary certification process. Certifica-

tion represents achievement beyond the standard 20- to 30-hour initial training program. To be certified, mediators must complete a basic mediation training course, observe mediation sessions, mediate at least 10 mediation sessions with another mediator, complete 10 hours of approved certification training beyond the basic mediation course, be certified proficient in the mediation of interpersonal disputes by a program director, agree to abide by the terms of the network's certification standards and ethical guidelines, agree not to discriminate in providing services, and agree to attend regular inservice training programs approved by the network. Certification must be renewed every 2 years.

Mediators play a variety of roles in the Center's daily operations. Volunteer mediators contributed the following service hours to the Center, according to the 1995 report to the Administrative Office of the Courts:

- Serving on the Center's board—460 hours.
- Mediating disputes—450 hours.
- Performing clerical and other support functions—132 hours.
- Facilitating groups—83 hours.
- Conducting training sessions—65 hours.
- Fundraising—40 hours.
- Engaging in community outreach—10 hours.

PROGRAM FOCUS

Board of directors

Members of the Center's board of directors are elected annually for 3-year terms by the volunteer mediators and facilitators. The board is composed of representatives of major justice system agencies (such as police, the prosecutor's office, and courts), the private sector (including experts on marketing, public relations, and the media), and volunteer community mediators. There are a total of 17 board positions, with several vacancies at any given time. The board meets monthly and reviews program developments and issues to be addressed. At each meeting, the Center's executive director provides the board with a detailed summary of sources of program revenue, plans for new contracts, and related fiscal issues.

Budget and funding sources

The Center's 1996 budget was \$260,000, covering staff salary expenses, mortgage costs for the Center's building, and routine operating expenses (telephone, postage, travel, etc.). Not surprisingly, personnel expenses made up much of the budget (76 percent of the program's budget). Volunteer mediator development was 7 percent of the budget, and the remaining 17 percent was devoted to mortgage costs and other expenses associated with facility maintenance.

Compared to the average budget of other mediation programs in North Carolina (\$112,000) the Durham program's budget is fairly large. Only 2 of North Carolina's 24 programs—the Orange County and Pitt County mediation programs—have comparable budgets, and only one mediation program—the Buncombe County

(Asheville) program—has a considerably larger budget (\$383,000) than Durham's.

The Durham budget also is relatively large compared to programs nationally. The National Association for Community Mediation's 1996 survey of programs indicated that 78 percent of programs have annual budgets of less than \$150,000. Twelve percent of programs have budgets in the \$150,000–300,000 range, and only 10 percent have budgets above \$300,000. (See "National Association for Community Mediation.")

The Center receives its funding support from a variety of sources. State government appropriations distributed by the Administrative Office of the Courts provide 26 percent of the Center's revenue. State funds are used for general program support and to help the program provide services to the Durham County District Court and the local district attorney's office.

Contracts with the City of Durham provide 13 percent of funding. Forty percent is from other contracts and fees for such services as technical assistance, training, and program development. The remaining 21 percent of the program's budget is derived from grants, Interest on Lawyers' Trust Accounts (IOLTA) funds, donations, and related sources.

Initially, the courts provided most of the Center's funding. The court system was overloaded with cases, and judges and administrators were willing to recommend mediation to alleviate some of the burden. Yet, program officials knew that other sources of income were necessary to sustain the program and to ensure that the Center would not close if State budget money was eliminated.

Mediation centers often founder for lack of funding, which is frequently a result of the relatively low profile these centers maintain within the community. To address this concern, the executive director and other staff members marketed the Center's services to government, nonprofit organizations, and private industry. Meetings and telephone calls informed potential clients about Center services that would be useful to their businesses and organizations. Staff members educated the public about mediation services through brochures and the local media. The Center's approach created a high profile in the community and generated income from service fees paid by businesses and government agencies.

Program Impacts and Costs

Detailed independent research about the Center's accomplishments in dealing with school-based mediation, workplace dispute resolution, public policy dispute processing, and family and divorce mediation is unavailable, but internal program records provide promising information. For example, the program reports that 93 percent of the 384 peer mediation sessions held in the Durham public schools during the 1993–94 school year resulted in written agreements. Similarly, a survey of conflict resolution trainees at one company indicated that participants believed the training to be very effective. (The session was rated 4.53 on a 5-point scale.)

Independent evaluation data are available regarding the program's effectiveness in processing misdemeanor criminal matters referred by local courts. Researchers at the University of North Carolina's Institute of Government conducted a study of the Center in 1992 as part of research on three

National Association for Community Mediation

Community mediation programs have been developed in hundreds of communities across the Nation during the past 25 years. The National Association for Community Mediation (NAFCM), established in 1994, supports these programs and the citizen volunteers who participate in them. The aim of the organization is to “support the maintenance and growth of community-based mediation programs and processes and encourage the development and sharing of resources.” The Hewlett Foundation, the Surdna Foundation, and other groups provide funding to enable NAFCM to conduct its work. Today, the association has a contract with the National Service Corporation so that local community mediation programs can train AmeriCorps members in conflict resolution skills. The association also pursues funding from other Federal sources to support the mediation activities of its member centers.

As of spring 1996, NAFCM’s membership included more than 200 programs represent-

ing approximately 10,000 volunteer mediators from more than 40 States. NAFCM publishes a newsletter, the *NAFCM News*, that reports on the work of the association.

In a recent article, NAFCM cochairs Scott Bradley and Melinda Smith noted that NAFCM seeks to encourage several activities associated with community mediation, including using well-trained community volunteer mediators who represent the diverse community and are not restricted by academic or professional credentials; encouraging the transformative, relational dimension of mediation; and using conflict resolution skills to facilitate “community dialogue and decisionmaking around issues of resource use and social and community needs.”

For more information, call NAFCM at 202-467-6226 or send an e-mail to nafcm@nafcm.org.

community mediation programs in North Carolina.³ The study focused on interpersonal misdemeanor cases referred to mediation by the courts, and the researchers investigated the proportion of mediation sessions resulting in agreements, disputant perceptions of case processing, the stability of agreements over time, and other issues. The data showed that 88 percent of those mediation sessions resulted in agreements between the disputants. Since the Center was first opened, more than 3,000 criminal warrants have been dismissed prior to the first court date as a result of mediation agreements.

Additionally, disputants were found to be very satisfied with both the procedures

and outcomes of mediation hearings. The proportion of satisfied complainants and respondents ranged between 85 and 95 percent, depending on the questions asked. The researchers reported that positive perceptions were widespread among disputants and that “characteristics of the complainants and their case[s] had little impact on satisfaction with either outcome or procedure.”⁴

Given the high degree of mediation’s success in resolving misdemeanor cases outside the courts, the researchers noted that programs should maximize the probability that cases will proceed to mediation after referral. The Institute of Government researchers found that 37 percent of cases

referred to mediation from the Durham courts in a 1990 sample resulted in mediation sessions. The significant rate resulted primarily from difficulties in reaching disputants following warrant documentation reviews and from the refusal of some parties to participate in mediation sessions. Some other mediation programs have staff members attend disputants’ initial court appearances and, at the recommendation of the judge, arrange mediation referrals directly with them. These procedures sometimes increase the percentage of cases that go to mediation.⁵

Although the Center has been unable to use this approach, the proportion of cases proceeding to mediation has increased since the Institute of Government study; in 1995, 53 percent of cases referred by the courts resulted in mediation sessions. The increased rate of referrals appears largely due to the fact that judges and the district attorney’s office now have a better understanding of the mediation process and refer cases directly to the Center. (In the early years of the Center’s operation, its staff screened cases and made referral recommendations to judges and to the district attorney’s office.)

In addition, a Duke University professor conducted an evaluation of the Center in 1985 to compare court costs with dispute resolution program costs per case. He reported that the average per-case cost to the city, county, and State to process a case of the type handled by the Center through disposition was \$186. In comparison, cases handled by the Center cost \$72 per case, and the researcher argued that this cost would decrease further with an increase in case referrals, because of economies of scale. Given the program’s caseload at the time of the evaluation, the researcher estimated that it “represents a

potential savings of \$71,726 to the Durham justice system.”⁶ This estimate is based on the assumption that the cases handled by the program would have proceeded through the court to disposition.

Summary and Conclusions

In Durham and in other community mediation programs across the Nation, the vast majority of cases that proceed to mediation—in schools, businesses, public policy arenas, etc.—result in settlements between disputing parties. Michael Wendt, former executive director of the Center, feels that the core reasons for such a high rate of successful settlements involving these programs are simple and straightforward. Mediation provides disputants with the opportunity to communicate face to face, enables disputants to see each other as human beings rather than abstract opponents, and provides opportunities to identify common ground that can lead to the resolution of conflict.

Mediation is clearly not an option in all cases, and a variety of types of cases are excluded by the Center from mediation, such as those involving domestic violence, alcohol and drug abuse, significant mental impairment of one of the parties, and severe power disparities between parties. However, if mediation is appropriate, the process can have a very positive impact.

The Center illustrates how an energetic and creative mediation program can provide a wide range of services to the community. As American society becomes increasingly diverse and complex, and as conflicts of all sorts—from interpersonal disputes to conflicts between groups and organizations—

Dispute Settlement Center of Durham

For further information and sample letters and forms, contact:

Milton Lewis
Executive Director
Dispute Settlement Center of Durham
1813 Chapel Hill Road
Durham, NC 27707
Telephone: 919-490-6777
Fax: 919-490-6463

grow, the work of programs such as the Center can be of great assistance in helping citizens address and resolve troubling and potentially escalating conflicts.

Notes

1. See McGillis, Daniel, *Community Mediation Programs: Developments and Challenges*, Issues and Practices, Washington, D.C.: National Institute of Justice, U.S. Department of Justice, 1997, NCJ 165698, for a detailed discussion of the history of the dispute resolution movement and national developments in the community mediation field.
2. Cook, R., J. Roehl, and D. Sheppard, *Neighborhood Justice Centers Field Test: Final Evaluation Report*, Washington, D.C.: U.S. Government Printing Office, 1980; Bridenback, M., *The Citizen Dispute Settlement Process in Florida: A Study of Five Programs*, Tallahassee, Florida: Florida Supreme Court, Office of the State Courts Administrator, 1979; Felstiner, W.,

and L. Williams, “Mediation as an Alternative to Criminal Prosecution,” *Law and Human Behavior* 223 (1978); and Davis, R., M. Tichane, and D. Grayson, *Mediation and Arbitration as Alternatives to Criminal Prosecution in Felony Arrest Cases: An Evaluation of the Brooklyn Dispute Resolution Center (First Year)*, New York, New York: Vera Institute of Justice, 1980.

3. Clarke, Stevens H., Ernest Valente, and Robyn Mace, *Mediation of Interpersonal Disputes: An Evaluation of North Carolina's Programs*, Chapel Hill, North Carolina: Institute of Government, University of North Carolina, 1992.
4. Ibid.
5. In addition to problems with disputants being difficult to reach or not attending hearings, the Institute of Government researchers found that only a relatively low percentage of cases that were technically eligible for mediation were referred to mediation at the outset in all three jurisdictions studied. They noted that programs need to improve the thoroughness of intake procedures so that all eligible cases are referred.
6. Sheppard, B., *Report to Durham Dispute Settlement Center on the Comparative Costs of Going to Court vs. Mediation*, Durham, North Carolina: Duke University, 1985.

PROGRAM FOCUS

About This Study

This Program Focus was written by the late Daniel McGillis, Ph.D., senior research associate at Abt Associates Inc. During the course of research for this study, he met at length with Michael Wendt, former executive director of the Dispute Settlement Center of Durham, staff members, and representatives of the program's referral sources and clients. He also met with Scott Bradley, executive director of the Mediation Network of North Carolina. The assistance of all of these individuals is deeply appreciated.

During his 20-year tenure with Abt Associates, Dr. McGillis developed a special interest in alternative dispute resolution (ADR), including mediation, and became a well-known spokesperson for the reform movement, helping to draft Federal legislation and participating in the development of standards still in use as benchmarks by ADR practitioners. This report is one of the last documents that Dr. McGillis prepared before his death on April 23, 1998.

Findings and conclusions of the research reported here are those of the author and do not necessarily represent the official position or policies of the U.S. Department of Justice.

All photos by Dave Kaphingst, Aid Association for Lutherans.

On the cover: Participants and facilitators discuss an issue during a mediation session at the Dispute Settlement Center of Durham, North Carolina.

The National Institute of Justice is a component of the Office of Justice Programs, which also includes the Bureau of Justice Assistance, the Bureau of Justice Statistics, the Office of Juvenile Justice and Delinquency Prevention, and the Office for Victims of Crime.

NCJ 172203

September 1998

Quick Access to NIJ Publication News

For news about NIJ's most recent publications, including solicitations for grant applications, subscribe to JUSTINFO, the bimonthly newsletter sent to you via e-mail. Here's how:

- Send an e-mail to listproc@ncjrs.org
- Leave the subject line blank
- Type **subscribe justinfo your name** (e.g., **subscribe justinfo Jane Doe**) in the body of the message

Or check out the "Publications and Products" section at the NIJ home page: <http://www.ojp.usdoj.gov/nij>
or the "New This Week" section at the Justice Information Center home page:
<http://www.ncjrs.org>

JUSTINFO — the online newsletter of the National Criminal Justice Reference Service

Important news from the Office of National Drug Control Policy and the Office of Justice Programs — National Institute of Justice • Office of Juvenile Justice and Delinquency Prevention • Office for Victims of Crime • Bureau of Justice Statistics • Bureau of Justice Assistance

- ★ Grants and solicitations
— Where, when, and how to apply
- ★ Recent publications
— Content summaries and ordering information
- ★ Upcoming conferences
— Themes, speakers, and registration information
- ★ Other information you need to do your job well
— Distributed on the 1st and 15th of every month

Get the latest
JUSTice
INFORMATION
JUST when you need it!



★ **Subscribing is easy:**

- ★ Send an e-mail to listproc@ncjrs.org.
- ★ Leave the subject line blank.
- ★ In the body of the message, type *subscribe justinfo your name*
For example
subscribe justinfo Jane Smith

Or read JUSTINFO online at
<http://www.ncjrs.org/justinfo/>

No online access?

Call 800-851-3420 to request the current issue via Fax-on-Demand.