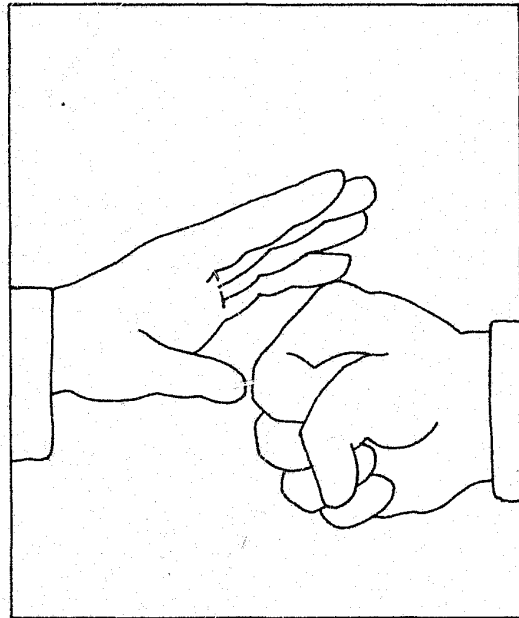
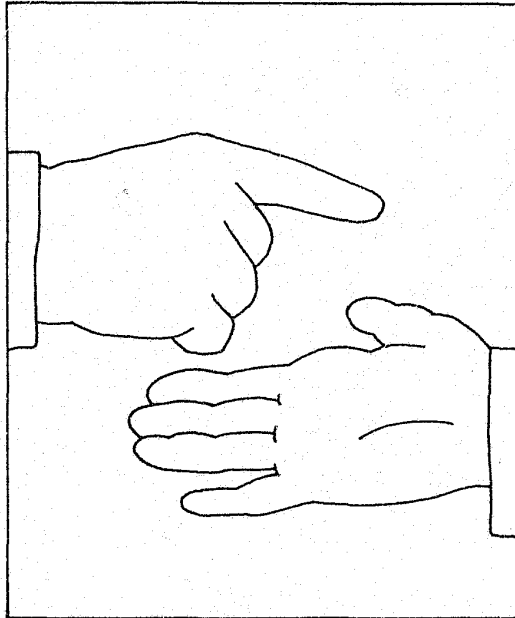
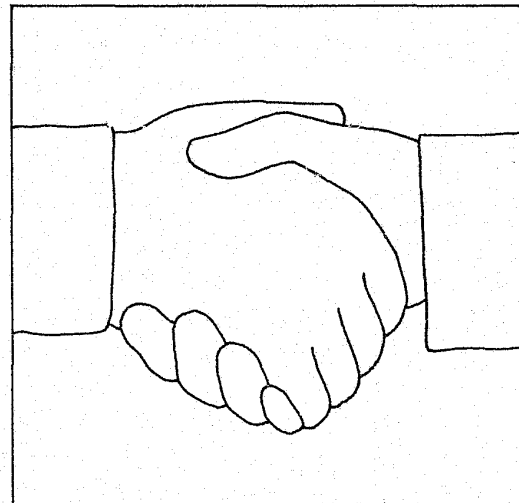


Exemplary Project



Citizen Dispute Settlement

Secutor
Lumbus, Ohio



Justice
Assistance Administration
of Law Enforcement and



15156

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AN EXEMPLARY PROJECT

CITIZEN DISPUTE SETTLEMENT

**The Night Prosecutor
Program of Columbus, Ohio**

**A Replication Manual
December, 1974**

U.S. Department of Justice
Law Enforcement Assistance Administration
National Institute of Law Enforcement and
Criminal Justice
Washington, D.C.

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FOREWORD

The Columbus Citizen Dispute Settlement Program offers a constructive answer to a troubling problem: how to provide better service to the public without further burdening an already overloaded system.

In Columbus, minor criminal cases arising from neighborhood and family disputes are screened by the local prosecutor's office and referred to trained hearing officers for mediation. For the convenience of the disputants, hearings are scheduled for evenings and weekends, normally within one week after the complaint is filed.

During the project's first year, criminal affidavits were filed in only 2 percent of the cases handled and the average cost of diverting each case was approximately \$20.

When compared to the time and expense involved in normal criminal processing of such cases, the economy of the Columbus approach is obvious. Equally important, persons involved in minor criminal conduct are spared the stigma of an arrest record.

The Law Enforcement Assistance Administration believes the Columbus approach to handling citizen disputes is one that can be successfully adopted by other communities.

This manual provides a detailed description of the Columbus program for use by jurisdictions interested in replication. A brief brochure is also available through the National Criminal Justice Reference Service, Washington, D.C. 20530.

CHARLES R. WORK
Deputy Administrator
for Administration

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PART I

THE CITIZEN DISPUTE SETTLEMENT PROGRAM MODEL

CHAPTER 1: PROGRAM SUMMARY

1.1 Abstract

Settlement of citizen disputes. In the past, the Justice of the Peace often did it when he warned two neighbors that their squabbles could end up with both of them in jail. Today, the police do it when they separate a husband and wife in the heat of an argument. Sometimes private citizens do it when they reach mutual agreement on settling their differences. So what is so special about a Citizen Dispute Settlement Program? It's not a new concept, but it is a simple, efficient, and workable way of systematically dealing with certain ordinance violations, misdemeanors and minor felonies without resorting to an already overburdened criminal justice system.

In its simplest form, a Citizen Dispute Settlement Program offers an alternative "hearing process," outside of the normal court hearing procedures, for disputing parties to reconcile their differences with the aim of producing a lasting solution. The purpose of this informal hearing process is not to determine right or wrong and to impose sanctions of the law. Rather, the fundamental goal of a Citizen Dispute Settlement Program is to assist the complainant and the "defendant," or respondent, in reaching a mutually satisfactory settlement which can be implemented, whether that settlement is restitution or a promise to discontinue the problem behavior.

In the case of a model Citizen Dispute Settlement Program in Columbus, Ohio, the hearings are conducted by law students from a nearby university. However, the "hearing officer" need not be a person with a legal background. The hearing officer serves as a catalyst in drawing the parties toward their agreement. In some instances, the hearing officer may also act as a facilitator or mediator in interpreting each party's point of view and in identifying the real basis of the conflict. By listening carefully, the hearing officer may be able to suggest possible resolutions in situations where the parties cannot reach their own conclusion. If the situation is particularly volatile or complicated, the hearing officer may also apprise the parties as to the possible legal sanction (as advised by an attorney supervisor) that might result from the continuation of their conflict. The Citizen Dispute Settlement Program hearing, therefore, gives the parties the opportunity to settle differences before an arrest takes place, a formal charge is lodged, and the case proceeds to the court-

room. This opportunity not only helps to isolate the real problems, but also affords the chance of reaching a more lasting agreement between disputing parties. Because the individuals are encouraged to reach their own conclusions about what should be done, the agreement is more mutually binding and satisfactory.

The Columbus program model is predicated on the notion that this informal hearing procedure should be easily accessible to the parties in conflict. The hearings, therefore, are conducted on weekday evenings and on Saturdays to permit the working person to participate without a loss of wages or the fear of loss of employment. Hearings are scheduled quickly -- a week after the complaining party lodges a charge-- and at the convenience of the parties. Respondents are notified by mail that a charge has been made and that a hearing has been scheduled. Although the program "requests" the appearance of the respondent, formal legal sanction for non-appearance is discouraged. In some instances, however, the complainant may wish to file an affidavit if the charge is serious enough and the respondent continues to ignore the hearing notices. Experience has shown that when people are given the chance to work out their differences in an informal hearing setting, rather than in the more traditional courtroom, they tend to accept this opportunity.

The Citizen Dispute Settlement concept has additional benefits aside from those afforded the complaining and responding parties. Handling ordinance violations, misdemeanors and minor felony cases in a supervised setting outside of the traditional judicial system should alleviate the caseload pressure on the court and permit a higher degree of attention to serious crime. Moreover, hearings can be conducted at a substantially lower cost than courtroom proceedings, since it is not necessary for the police to serve warrants, to appear as witnesses, to impose detention or bonding procedures to incur court administrative expenses (particularly in cases that are dropped prior to trial), and to risk social and economic costs for the person arrested. The Columbus model also incorporates a link with the community social service agencies, providing a referral service to agencies designed to deal with specific problems that may require more long-term attention than a hearing can afford.

The true uniqueness of the Citizen Dispute Settlement Program, however, lies in its flexibility. Depending on location, staffing, and funding, the program concept can be expanded or altered to address a multitude of concerns and problems currently facing the criminal justice system. The program could focus on a limited number of ordinance violations and misdemeanors, or include some minor felonies. The program could deal exclusively with

adults, exclusively with juveniles, or deal with some reasonable mix of the two. The program could be formally linked with the police, with social service agencies, with judges in the courtroom, or could function on a more informal "as-needed" basis. The Columbus program has expanded its efforts to deal with bad check cases, shoplifting, and landlord-tenant disputes. The possibilities for settling citizen disputes quickly, fairly, and with a sensitivity responsive to the needs and goals of the criminal justice system are endless. Citizen Dispute Settlement is an old concept in a new environment. It is an effective contribution to making the criminal justice system responsive to the needs of the public and toward making "justice" a fair and lasting solution to common interpersonal disputes.

1.2 Goals of the Columbus Program

The pilot Citizen Dispute Settlement Program, known locally as the Night Prosecutor Program, was inaugurated in November, 1971, by a law professor, Mr. John Palmer, from Capital University Law School, Columbus, Ohio, and the City Attorney, Mr. James Hughes. The program is currently located in the Prosecutor's Office in the Central Police Station of Columbus. Information relating to the achievement of each of the project's goals provides insight into the fundamental premises on which the project was founded and currently operates. These goals have remained relatively unchanged since the project's inception.

- *To rapidly and fairly dispense justice to citizens of Columbus who become involved in minor criminal conduct.*

The founders of the project believe that in family and neighborhood disputes, the complaining witness is often the party who "wins the race to the police station." Since minor criminal conduct frequently stems from a history of misunderstandings or mutual harassments between the parties, the complainant and the respondent may be found to be equally culpable. At the core of the Citizen Dispute Settlement Program, therefore, is the belief that the underlying causes of these disputes can be alleviated or controlled if the parties are given the opportunity to confront one another and discuss their differences. To this end, the project conducts its hearings in a manner that seeks to maximize communication between the parties and minimize attention to guilt or innocence. Parties are able to present their own version of the incident without interruption from others. Once all perspectives are fully expressed, the parties are often able to reach mutual agreement on a method for terminating the dispute. In the final analysis, the Columbus project affords citizens a forum of "third party impartiality". The hearing officer

merely acts as a catalyst in moving the discussion toward reconciliation. Disputants are able to confront one another relatively soon after the incident, are able to explain the problem from their own perspectives, and can come to their own settlement -- a settlement which satisfies both parties.

- *To ease the burden on the criminal justice system by reducing the number of criminal cases which have caused a backlog in the courts.*

The City of Columbus, as a result of the success of the Night Prosecutor Program, has revised its administrative procedures for dealing with criminal complaints. Previously, all citizens desiring to file affidavits would be sent to the policeman on duty in the Clerk of Court's Office. If a complaint was justified, an affidavit would be accepted, a warrant issued, and a cruiser sent to apprehend the suspect. Under revised procedure, the police exercise discretion and accept affidavits only in cases of immediate danger; other complainants are sent to the Prosecutor's Office, where they are handled directly by the Day Duty Assistant Prosecutor, or are screened for participation in the Night Prosecutor evening Program. The advantage of this procedure is clearly in its ability to divert cases from normal court proceedings. The Program minimizes the necessity for filing affidavits in situations where the Citizen Dispute Settlement alternative is appropriate. Because there are no rigid criteria for determining eligibility, the program can successfully divert many ordinance violations, minor misdemeanors, technical felonies, and some civil cases which might have previously contributed to court docket congestion.

- *To ease community and interpersonal tensions by helping the parties involved arrive at an equitable solution to their problems without resorting to a criminal remedy.*

Project staff believe that many citizens go directly to the police because other alternatives for dealing with interpersonal problems are not available. Many parties are easily dissuaded from filing charges, and are relieved that it is not necessary, when another recourse is possible. The hearing process of the Columbus project permits parties the satisfaction of airing their grievances without having to resort to criminal proceedings. Once the problem is out in the open, the disputants often realize that they can solve the problem themselves. In situations where agreement is more difficult, potential criminal consequences are described; and the alternative of prosecution always remains open. However, most parties much prefer to avoid criminal prosecution and are willing to compromise in order to avoid judicial intervention.

- *To provide working people with a public agency forum during hours which will not interfere with their employment.*

One of the greatest advantages of the program is the fact that hearings are held at the convenience of the disputing parties. Hearings are held during evening hours five days a week and in the morning hours on Saturdays. Complainants are able to choose the day and hour most convenient for them. For those people who work at night and on Saturdays, the project's daytime coordinator is available to conduct hearings. The importance of not requiring complainants and respondents to miss work cannot be over-estimated. In many unskilled jobs, missing one day may provide grounds for dismissal.

The cooperation of the Prosecutor's Office is essential to the smooth operations of the Night Prosecutor Program. Approximately 40% of the cases heard in the night program are the result of interviews (walk-ins) handled by day staff attorneys. Without their cooperation, the program's effectiveness in screening would be dramatically reduced.

In some instances, the program day time coordinator will conduct hearings in the Prosecutor's Office. This function provides additional support by enabling participants who work evenings or on Saturdays to have a day hearing. Moreover, the program coordinator is in a unique position for screening cases that are identified by day prosecutor staff during the hours when there is no program clerk on duty. The coordinator can take the charge and schedule an evening hearing for those participants who walk into the Prosecutor's Office during the day. This eliminates the need to have participants return again in the evening to lodge their charge with the program clerk.

- *To remove the stigma of having an arrest record resulting from a minor interpersonal dispute.*

A primary goal of the program is to prevent individuals from inevitable entry into the "system." In officially processed cases in which a defendant is acquitted or charges are dropped, the initial arrest record may be both socially and economically damaging. The Night Prosecutor Program staff, and the City Prosecutor's Office, emphasize the use of alternatives to prosecution where realistically possible. The presence of the Citizen Dispute Settlement project makes this alternative a viable one. This is particularly true in cases taken from the court's Summons Docket.

If the matter can be settled in a CDS hearing, the prosecutor will recommend nol-pros and have the case removed from the docket. Because the charge is dropped before the date of the hearing, and because the summons procedure rather than the warrant procedure has been used, the party will not have an arrest record and the necessity of proceeding to court is eliminated.

- *To prepare a case summary for use by the Prosecuting Attorney, if the Night Prosecutor cannot resolve the problem.*

When cases taken from the Summons Docket* cannot be resolved, the hearing officer prepares a summary of the case for the Prosecutor's Office. This procedure relieves the Assistant Prosecutors of that duty and makes it possible to obtain statements from the complainant and any witnesses for the prosecution. The case summary is confidential and, beyond a statement of the charges, indicates only the result which was effected during the unsuccessful hearing.

NOTE: The degree to which a CDS program is able to accomplish its goals is critically linked to the support of the prosecutor's office, the police, and the courts. Without both formal administrative links with these branches of the criminal justice system and their informal "trust" in the ability of CDS staff to deal with its cases, the program would be unable to function efficiently and effectively. Links with the prosecutor's office insure the appropriate legal support. Links with the police assist in channeling appropriate cases to the program. Links with the courts accomplish both of the above aims; also affording the program additional leverage in its attempts to deal with summons cases prior to preliminary hearings, thereby reducing court congestion. Court support insures almost certain approval of recommendations to dismiss a case successfully handled by the project.

* In Columbus, the Summons Docket consists of all the cases which are scheduled to be heard by the court. More commonly, the court calendar.

1.3 Summary of Results

Preliminary evaluation results of the project highlight the kind of support a Citizen Dispute Settlement Program can lend to the criminal justice system. The Columbus project has found that, due to the advantages of participation, and the reluctance of prosecutors to authorize affidavits for many offenses handled by the project, close to 100% of the eligible complainants screened agree to a night hearing. Beyond the personal, social and economic benefits for clients attached to diverting certain "crimes" from normal criminal processing, the program has shown that:

- During the first ten operating months (November, 1971 through August, 1972), approximately 1,000 hearings were held and all but 20 disputes were resolved without resorting to formal criminal procedures.
- During the period of September 1, 1972 through September 1, 1973, hearings were scheduled for a total of 3,626 cases, representing about 8% of all 1972 criminal cases.
- Of the total hearings scheduled, 2,285 (63%) were actually conducted. The remaining complainants (37%) failed to show up for their scheduled hearing and presumably took no further formal action on the dispute. Only 84 criminal affidavits were filed, representing 3.6% of cases heard, or 2% of all cases scheduled. The average cost of diverting each case was approximately \$20.00. This compares favorably to the estimated \$100.00 per case involved in normal criminal processing.

The charges most commonly brought before the program include: assault and battery; menacing threats, malicious destruction of property; telephone harassment; improper language; and petty larceny. Most recently, the program has arbitrated in landlord-tenant disputes, has accepted complaints from the City regarding health code violations, and has accepted citizen environmental complaints against industries. The security departments of some of the large supermarket and department store chains in Columbus (which already use the bad check hearings) also allow the program to hear shoplifting cases. The following chart summarizes the project's success in dealing with cases from each of its principal components: (1) Direct cases referred by police, agencies, or self-referrals; (2) Summons Docket cases taken from the court's summons log; and (3) Bad Check Cases referred to the project from cooperating retail establishments.

NOTE: The bad check cases component of the Columbus Night Prosecutor Program is but one example of a variety of disputes that can be dealt with through this program model. Replicators may want to consider handling additional problems in a similar fashion. For example, shoplifting cases, violations of city housing and/or sanitation codes, consumer complaints, and other prevalent problems could be handled with modifications in the Columbus CDS model.

Figure 1.1
Summary of Results

DIRECT CASES 9/1/72-9/1/73	SUMMONS DOCKET 4/73-8/73	BAD CHECK CASES 7/73-8/73
Cases Scheduled 3226	Cases Heard 217	Cases Heard 461
Resolved with- out interven- tion (No-Shows) 1341	Affidavits Withdrawn (Nol-pros) 160	Full Resti- tution Made 290
Resolved Through Hearing 2201	Forward for Trial 57	Dropped or Promise to Pay 116
Affidavits Filed 84		Forward to Court *55

* Previous record-keeping practice did not account for deriving precise figures on disposition by individual categories in bad check cases. However, for estimating purposes, in October, 1973, the project has indicated that approximately 12% of the bad check cases heard were forwarded to court for future action.

CHAPTER 2: PROGRAM MANAGEMENT

2.1 Administration

As illustrated on the following page, the funding and administrative structure of the Night Prosecutor Program includes three spheres of influence: Federal funding and monitoring; operation through the courts and city government; and the professional supervision of clerks and hearing officers.

The project is funded through a block grant from the Federal Law Enforcement Assistance Administration to the Ohio State Planning Agency -- the Administration of Justice Division (AJD). AJD subgranted the funds to the City Attorney's Office through the Columbus-Franklin County Criminal Justice Coordinating Council (CJCC), which recommended the program and monitors its activities.

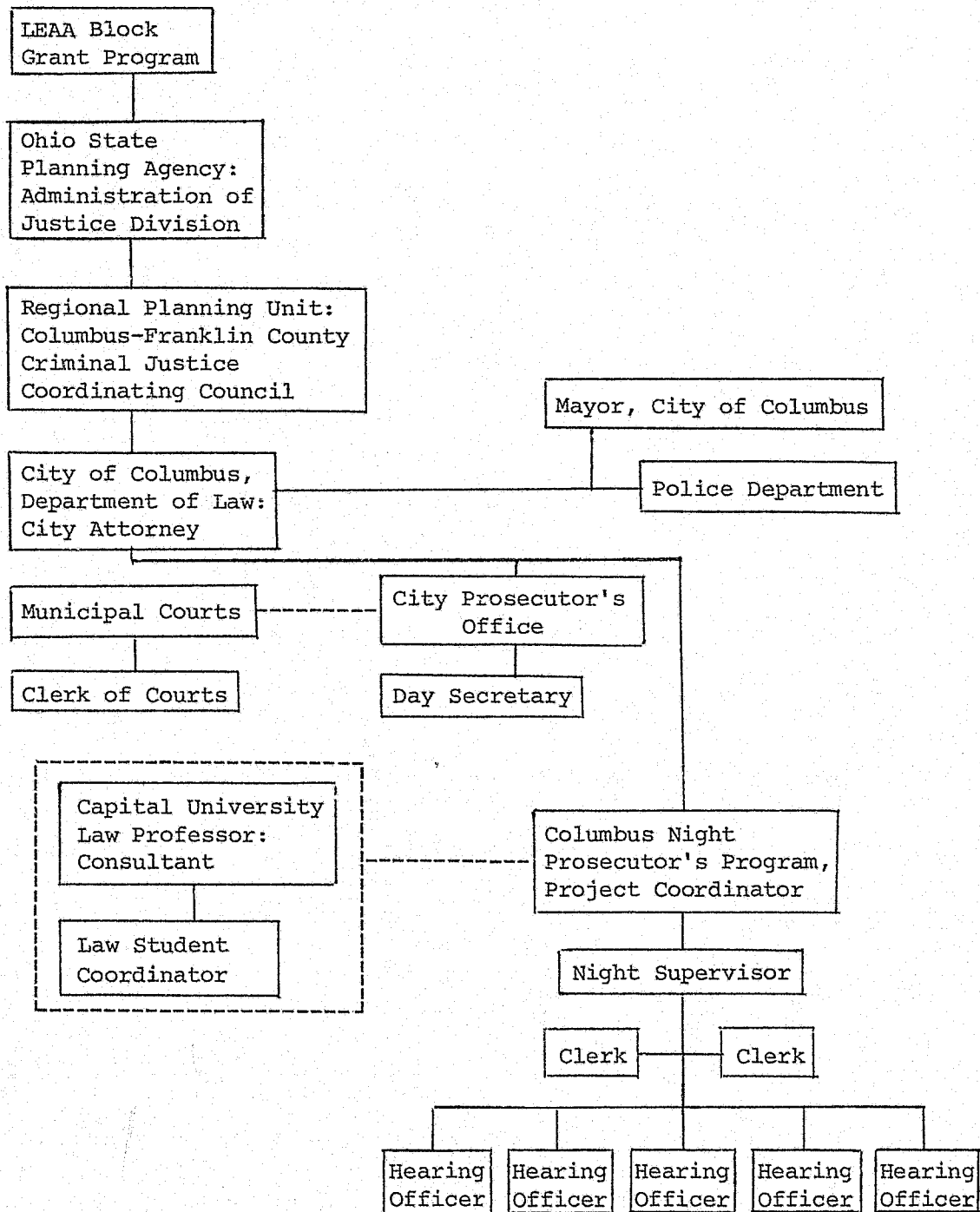
The Department of Law which acts as the implementing agency, is headed by the City Attorney, Mr. James Hughes, who is responsible for the Prosecutor's Office, as well as other civil departments. The City Attorney is the official Project Director of the Night Prosecutor Program, and as such, supervises the Night Prosecutor Program Coordinator, Mr. Paul Sopko. The project shares space, equipment and one secretary with the Prosecutor's Office, but is operationally independent.

The final area of supervision and support is the law school. A project consultant, Dr. John Palmer, a professor at Capital University Law School, serves as an informal advisor to the law students acting as clerks and hearing officers. In addition, one student serves as liaison between other students and the project, and is responsible for scheduling, payroll and student recruitment and training. The direct supervisor of the clerks and hearing officers is the Night Supervisor, Mr. Tom Vargo, an attorney who spends every evening overseeing, conducting, or monitoring hearings.

2.2 Staff Organization

The number of cases which the program is able to handle depends on two variables: (1) the amount of space assigned for hearings and (2) the number of hearing officers available each evening. Project staff currently include the coordinator and secretary (both of whom work during the day), two law student clerks who

Figure 2.1
Organization Chart



work from 4 p.m. until midnight, and five law student hearing officers and the night supervisor who work from 6 p.m. to 10 p.m. weekdays, and on Saturdays from 8 a.m. to 12 noon. This schedule allows a maximum of 32 half-hour hearings per evening.

The coordinator who manages the program for the City Attorney handles all administrative tasks and is responsible for making sure that the evening and Saturday hearings are scheduled, and the staff is well coordinated. Detailed descriptions of the responsibilities of each staff member are provided in the Appendix.

***NOTE:** The organizational structure selected for the program is defined primarily by the size of the citizen caseload and the number of staff. The Project Coordinator's role could be assumed by the Night Supervisor if the project were small enough to permit the supervisor easy access to the Day Prosecutor's staff or if the project were large enough to make the supervisor's role a full-time position, which would overlap with regular daytime working hours. The two most crucial organizational components are supervision of staff and operations and coordination with the prosecutor's office, police, and the courts. A variety of models could be developed to adapt to other funding, caseload, and administrative requirements.*

2.3 Staff Recruitment

The question of how and where to recruit staff was not a serious problem for the Columbus project. Because a law professor was instrumental in founding the project, ties with law students as staff were relatively easy to establish. However, those interested in a replication of the Columbus project may find it necessary to seek other resources for staffing; particularly in the absence of a local law school or university. The decision about what types of staff to recruit hinges on a careful definition of staff functions and responsibilities. The description of staff responsibilities for the Columbus project contained in the Appendix of this manual should provide a solid groundwork for developing more detailed specifications of staff roles, should modifications in program design be necessary.

Before exploring the potential sources for staff, careful thought should be given to the anticipated relationship between staff and the project. For example, is the staff to be totally volunteer,

totally paid, or a mix of volunteer and paid? The use of volunteer staff often implies a more informal relationship since accountability may be diminished by nature of the voluntary agreement. However, in many situations volunteer staff bring a high degree of commitment and enthusiasm to new efforts. A critical decision must be made about the number of staff to be hired and the number of volunteers to be used, since this variable will have a direct impact on the total operating budget. (For more detail on the effects of staffing on the total budget, see Section 4.3, Operating Costs.) The use of volunteer staff does not in any way diminish the importance of staffing training and supervision. Careful planning and staff management support must be provided in order to maintain a positive relationship between volunteer incentive and the accomplishment of program goals.*

Once the appropriate mix of paid and/or volunteer staff has been established, the staffing source of a law school or local graduate-level university should be explored. The Columbus project has had great success with its use of law students because they are committed to the CDS concept, because their schedules are flexible enough to accommodate project operating hours, and because the program experience is particularly relevant to their future goals as attorneys. However, it is not imperative that the project staff have any previous legal training. The principle goal in recruiting staff should be the need to identify a source of mature individuals who are able to exercise good judgment. The use of graduate-level students offers the advantage of a relatively inexpensive staff pool; much of the compensation for students lies in the working experience and exposure to an interesting and effective community service program. Although this type of program can serve as a useful intern program for students, it should never lose sight of the primary goal - to provide a service to the citizens of the community. Therefore, students are a reasonable alternative as a staffing source as long as the effort does not become solely a "training ground" for staff. The legal knowledge required of staff can be provided during the training program, so recruitment of student staff should not be limited to law schools.

In the absence of a local law school or graduate-level university, staff recruiters should consider the resources which lie within well organized community groups. For example, a local United

*An excellent description of the use of volunteers and the variety of volunteer programs in the criminal justice system can be found in Guidelines and Standards for the Use of Volunteers in Correctional Programs, U.S. Department of Justice, LEAA, Technical Assistance Division, August 1972.

Community Council, the League of Women Voters, Rotary Clubs, Social Service Organizations, and other active groups of community representatives might provide a basis for either paid or volunteer staff. The consideration in recruiting from these sources, however, is that no single group have a stronger representation than another. In staffing from a single source, the project may find that the community perceives the project as "an arm of the United Community Council." This perception will neutralize the program's implicit authority as part of the prosecutor's office. Most importantly, the close association with a single community or social service agency group will make it extremely difficult to convince citizens that CDS is a legitimate part of the criminal justice system. When recruiting staff from active groups within the community, care should be taken to select a healthy mix of individuals from two or more independent sources.

Once several sources for staff have been identified, recruiters should make every effort to provide a well-informed presentation on the goals of the project, the plan for operations, and individual staffing needs. A well organized staff recruitment effort should include a formal public relations and information dissemination phase, Newspaper advertisements, public speaking engagements, and personal inquiries at all potential sources for program staff will not only help publicize the program concept, but it will also be of great assistance in the identification of interested persons or groups. The optimal situation is one in which a greater number of potential staff have been identified than are needed. In this way, program recruiters will be able to more carefully select and screen for the best possible staff. Staff positions should be as specific as possible so that individuals interested in the program can make knowledgeable decisions about their own participation and the selection process can accurately match interests/skills with job functions.

Staff recruitment efforts should consider all of the best alternatives before making a commitment to any one staffing plan. The best staffing pattern (paid vs. volunteer, students vs. persons from the community) will only be effective if the resources are accessible and willing to participate. The goal of the recruitment effort should be to identify the best staff possible; this includes first disseminating the program concept and the anticipated needs for staff, identifying the sources, and then selecting the individuals within those sources. Once sufficient numbers of individuals have been identified, a careful screening and training program will insure that quality services will be provided to potential clients.

2.4 Screening

Because the Columbus project obtains its staff from the local Capital University law school, formal recruitment procedures were never instituted. The law student liaison, who works between the project and law school, maintains a list of second and third year students who are interested in the program. As positions become available, students are selected from the list on a "first come-first serve" basis and carefully observed during their first few hearings. This procedure has generally worked well: Program Administrators have not been required to terminate any hearing officer due to poor performance on the job, even though the supervisor argues some better choices could have been made.

One method for screening which could be implemented would involve monitoring staff performance more closely during the training program recommended in the following section. Because the skills required of the hearing officers and clerks are maturity, good judgment, and sensitivity for the client's needs, screening at the recruitment stage may prove too difficult. Initial recruitment procedures should attempt to focus more on previous work experience and personal presence during the interview, and less on trying to identify appropriate "specific" skills. The ability of staff to perform on-the-job will be more easily identified during role play, discussion groups, and other training exercises. For this reason, staff recruitment and training should be conceived of as inter-related functions, and commitments for hiring should probably not take place until some "performance" can be measured during training.

2.5 Training

The Citizen Dispute Settlement Program does not have an extensive training program. The principal approach to training is "on-the-job" observation. The Student Liaison has the main responsibility for orienting new law students. Because clerks and hearing officers sometimes substitute for one another, they are all given the same orientation. When a new group of students joins the project they are given an overview by the law student liaison who recruited them, and are informed of the payroll and scheduling procedures. Each new student spends an evening riding around in a police cruiser in order to observe the types of problems that arise and how they are generally handled.

New hearing officers sit in with either experienced hearing officers or the Night Supervisor for several evenings in order to observe the hearing process and to understand the types of interventions that

hearing officers make. Following this training orientation, the students are assigned their own cases. The Night Supervisor sits in with the new student during the first few evenings on the job and they confer as necessary. When the student is ready to hear cases alone, additional support is made available on an as-needed basis.

In addition, because the students see each other in classes as well as in the project, much informal discussion of cases and methods takes place. A monthly luncheon meeting is scheduled for the staff, at which a guest speaker (judge, police official, etc.) or a discussion topic, provides the basis for an informal training session. All staff are furnished with an Operating Procedures Manual, which fully explains the program, job functions, and procedures.

NOTE: If the staff members who are recruited do not have prior legal experience, a training seminar covering the most relevant points of law is recommended. The seminar should focus on common incidents the program will handle, the criminal penalties these incidents might carry, and the normal judicial process that might be followed. In addition, it is recommended that all staff be given an orientation to the criminal justice system and the roles, responsibilities, and authority of each of its components. All staff members, whether designated clerks or hearing officers, should receive the same training. This homogenization will permit tremendous flexibility in staff assignments and will smooth out operational roles and understanding. At a minimum, therefore, it is recommended that all staff receive training or supervision in the following areas:

- The program (goals, administration, organization, and operations)
- The criminal justice system (overview)
- The law (relevant ordinances and statutes, common cases, dispositions, penalties)
- Record-keeping, paper-flow, and program evaluation
- On-the-job observations
- On-going assessment, critique, and individual plans for growth.

CHAPTER 3: PROGRAM SERVICES

3.1 Screening

Participation in the Night Prosecutor's Program is available to any private citizen who has a grievance against another citizen that could result in a criminal complaint. The two parties might be relatives or neighbors, and the types of charges that generally arise from such disputes are ordinance violations and misdemeanors, such as malicious threats, conversion of trust, and minor assault. However, in certain cases, felonies and civil matters are handled by the Night Prosecutor. This is particularly true in cases taken from the Summons Docket. The Night Prosecutor's Program has agreements with a number of retail stores to conduct hearings regarding restitution for bad checks. A company representative serves as complainant. The respondents and the representative meet with a hearing officer to attempt to resolve the case without criminal prosecution.

A decision regarding eligibility is made by the referral source (usually the police) and by the clerk on duty in the prosecutor's office. The decision is based on the complainant's statement of the matter. The clerk tries to ascertain whether the dispute is amenable to the Night Prosecutor procedure, i.e., whether discussion and confrontation could resolve the matter more effectively than prosecution. The clerk also tries to assess whether the alleged offender is dangerous enough to require a warrant and immediate arrest, thereby eliminating the possibility of using the no-arrest Night Prosecutor procedure. If a warrant is to be issued, the complainant is referred to the Clerk of Courts. In addition, any criminal case on the Summons Docket may be eligible for a night hearing.

If the Night Prosecutor's Program clerk thinks that the case is appropriate for the program, the charge is taken.

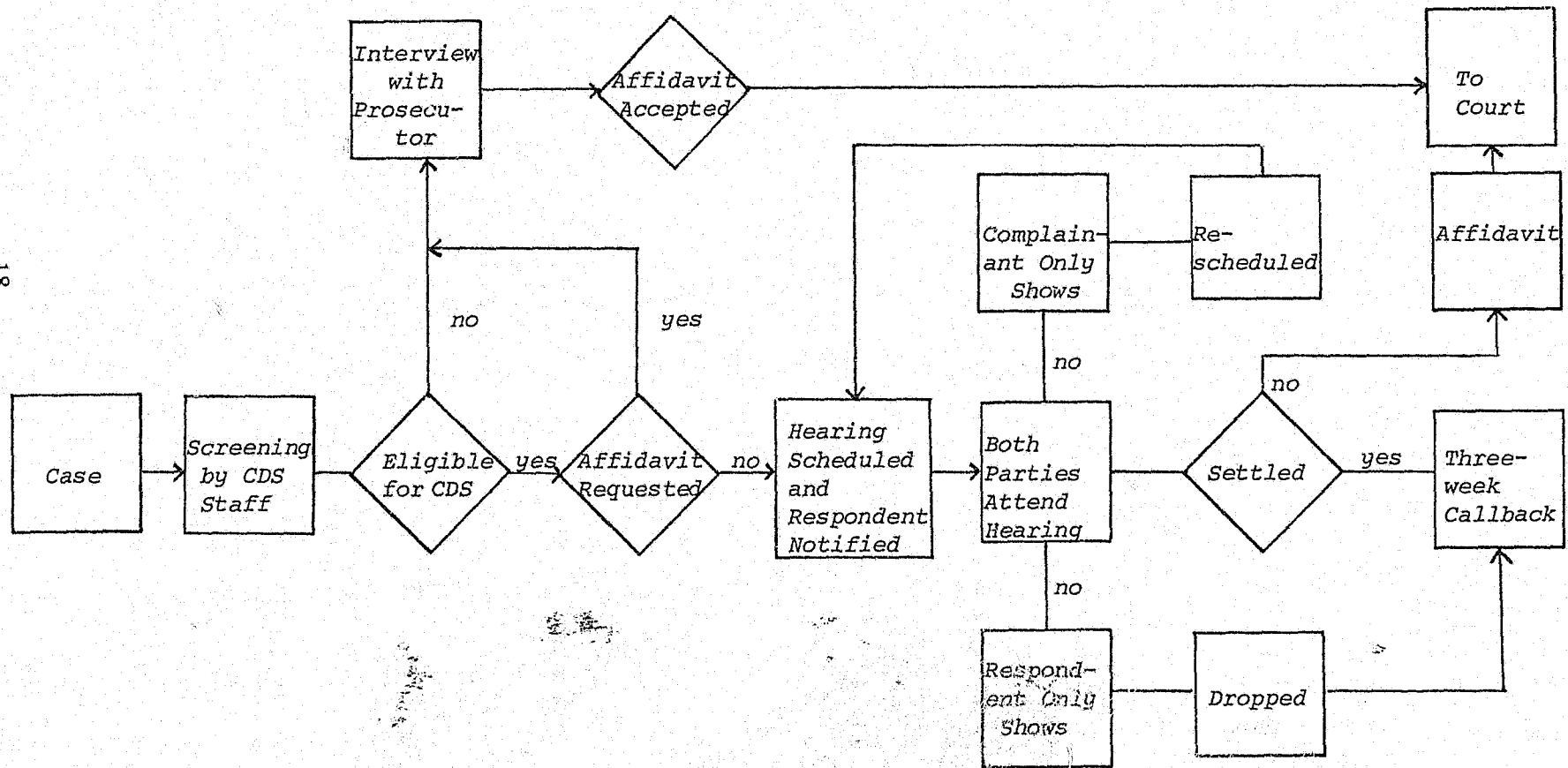
3.2 Overview of the Hearing Process

The chart on the following page shows an overview of the current procedures used in the CDS program. Once a case is declared eligible and a charge is taken, a hearing is scheduled and held. Each hearing is held at 30 minute intervals, since it has been the experience of the program that most disputes can be resolved within this time or a decision can be reached as to whether a re-scheduling will be necessary. However, because hearing officers can easily fill-in for each other when necessary, a hearing officer may extend a hearing beyond 30 minutes without radically affecting the evening schedule.

Each hearing officer calls out the names of the parties for the case assigned.* The officer introduces the parties and permits each party to explain their version of the dispute. Great care is taken to insure that neither party is interrupted in this initial presentation. Once each party has finished, the hearing officer will ask probing questions which explore differences in the two versions of the incident and which attempt to help the parties articulate their positions on what they believe would be an equitable solution to the problem. Often the parties will begin to argue with one another. These arguments are permitted as long as the hearing officer believes that they are relevant to the conflict. However, it is understood that the hearing officer has complete control of the proceedings and that he may terminate the conversation at any time.

*Due to Ohio's adoption of the new Rules of Criminal Procedure, effective July 1, 1973, various changes have taken place in basic criminal procedure. For example, the word "complaint" is now a technical term under the new Rules, replacing the word "affidavit," which was formerly used to denote the formal filing of a criminal charge. In addition, because the procedures of this Citizen Dispute Settlement Program fall outside of formal court and criminal justice proceedings, the word "complainant" serves to describe the individual bringing the charge (or complaint) and the word "respondent" serves to describe the person against whom the charge is being lodged (more traditionally, the "defendant"). Because the program utilizes the discretionary authority of the City Prosecutor, and operates during the evening hours, the persons conducting the hearings associated with the reconciliation of disputing parties are referred to as Night Prosecutors or "hearing officers."

Figure 3.1
Overview of CDS Procedures



If the two parties are unable to recommend their own solution, the hearing officer will offer a solution based on the details of the incident as described by both parties. In most instances, the parties will have reached their own agreement or will agree to the suggestion of the hearing officer. Prior to conclusion of the hearing, the hearing officer clearly restates the understanding the two parties have reached. If the agreement requires action on the part of the respondent or the complainant, the hearing officer will make this expectation clear and obtain the verbal promise of the parties that the agreement will be carried out.

In some instances, the hearing officer will use a procedure termed "Prosecutor's Probation," whereby the disputant is instructed to cease the objectionable behavior, is placed on "probation" for sixty days, and informed that a criminal affidavit may be authorized if the behavior continues during that period, and if the complainant desires to prosecute. It should be emphasized, however, that the hearing officer seldom imposes these instructions without total party agreement at the time of the hearing. Moreover, the threat of filing a criminal affidavit stands more on the merit of the "repeated offense" than on the violation of the "probation" agreement. Therefore, when parties are unable to reach their own solution, or appear reluctant to abide by the agreement, the hearing officer may refer them to the criminal sanctions which apply to the alleged offense. In some instances, the sudden awareness on the part of the disputants that the law could apply to their behavior is sufficient motivation for agreement and a deterrent to continued harassment.

3.3 Summary of Procedures

The center line of Figure 3.1 shows the procedure which results if the entire case proceeds smoothly. The other boxes represent the exigencies that occur throughout the process as a result of the non-appearance of either party or failure to achieve a resolution during the initial session. It should be noted that bad check cases and Summons Docket cases, unlike direct citizen complaints, are scheduled without an interview. A list of the bad check respondents is furnished by a participating company and the respondents are notified by the clerks. Summons Docket cases are taken directly from the court docket and both parties are notified.

If either citizen complaint or bad check cases remain unsettled, the case may go to the Summons Docket via the filing of an affidavit. If a Summons Docket case is not settled, it returns automatically to the Summons Docket as the night hearing is held prior to the scheduled court appearance. Additional detail on each of these operational steps is provided in Part Two: Chapter 7, The Program Process.

3.4 Supportive Services

Beyond the hearing process itself, one of the important roles performed by the Columbus Night Prosecutor Program is that of referral agent. This is an aspect of program activity which has developed out of a growing awareness that many program participants are in need of more specialized and professional social services. The Columbus program is another vehicle through which persons can be guided in the direction of services which are most appropriate to their needs and problems.

The referral process flows in two directions: people in need of the aid offered by the Night Prosecutor are referred to the program by social service agencies, police, judges and attorneys; the Columbus program, in turn, refers its disputants to appropriate social service resources for special problem assistance.

Hearing officers may find that the problems of disputants cannot be adequately dealt with by a single hearing session, or that more help is needed, despite the fact that a temporary compromise has been agreed upon. Marriage (family) counseling, which is a regular part of the program services, represents an important step in service development. Cases involving marital (family) disputes may be referred for counseling if the hearing officer believes that such counseling would be helpful. If the couple agrees, a clerk can immediately schedule an appointment with a seminarian counselor. This service is available two evenings each week, in cooperation with local seminarians.

The Columbus program maintains an updated list of agencies, including the names and phone numbers to contact to secure assistance. The program has attempted to advertise its capabilities and needs to the community so that appropriate problems may be channeled in the proper direction.

The list of the agencies which the Columbus program now uses includes family health and legal services, community vocational training and counseling programs, special emergency aid agencies and clinics, consumer and environmental protection agencies, children's services, and the Public Welfare Department. Over thirty referral sources have been identified and actively participate by offering services to Night Prosecutor program clients and their families.

NOTE: The importance of coordinating the CDS Program with additional community services cannot be overestimated. One of the major strengths of a program like the Columbus project would be the seriousness of the effort to refer participants to additional services which are designed to deal with special problems. Beyond the direct benefit to CDS program clients, this type of coordination effort often strengthens the community's social service program by increasing service utilization and by identifying service gaps.

3.5 Inter-Agency Development

The current network of referral services utilized by the Columbus project was informally established. As a need arose to send individual clients to specific service deliverers, the program established contact and requested a cooperative referral system. Although this system eventually led to a comprehensive list of services, a more formal approach early in program development will insure that the full range of services are available to participants immediately following problem identification.

One approach to establishing a more formal referral system is to conduct a survey of the services and resources which might be made available. In many communities there exist organizations whose sole purpose is the identification and listing of community resources. In the absence of this support, a systematic survey conducted by replicators should focus on two principle objectives: 1) identification of existing resources to which participants can be referred and isolation of potential service gaps in these support systems; 2) development of inter-agency relationships which will promote a system of smooth referral from the program to agency, and from agency to program. The reciprocal nature of the relationship should not be overlooked. Many agencies often find their clients are in need of additional services which they do not provide. The CDS program should be a participating member of the service network; not merely a referral source.

The survey of services can be conducted by mail, by phone, through planning meetings which invite officials from a broad range of private and public agencies, and by establishing a service coordination posture with each new agency identified. This posture implies a responsibility on the part of the program to assist agencies in developing their own inter-agency contacts.

After initial inter-agency contact and development, a series of more formal steps will help to insure that resources continue to be developed. The following summarizes the policies and procedures which may help to foster a more positive relationship among all agencies cooperating with the program.

1) In order to maximize the impact of the services rendered, each client should be prepared for referral. This suggests that the client must be fully informed about the type of services the agency provides, about the approach the agency will take in addressing the problem, and about the potential solutions which may result from the contact.

2) Beyond preparing a client for referral, each outside cooperating agency should be prepared for referral from the program. The initial survey of agencies should attempt to determine the qualifications of service providers, and which agency or program is best equipped to deal with specific problems. Once the agency has agreed that its caseload can accommodate additional referrals from the program, parameters should be set on the types of cases the agency can expect will be referred. Staff should meet with agency representatives to discuss the logistics for referral and agree upon a referral plan. In many cases, the agency will require a brief summary of the problem so that the client need not reiterate each detail of the situation once contact has been established.

3) After referral has been made, a system of careful monitoring should be established to track the referred client to insure that contact was made and services are being provided. By maintaining a regular system of information exchange on referrals, both the service agency and the program will have additional data on the appropriateness and effectiveness of referral and the need to create new services where service gaps become apparent. The system of monitoring and follow-up after referral has been made can foster mutual respect, and the basis for more collaborative services in the community.

The referral system established by the program should be one which requires the maintenance and regular update of all inter-agency contacts. The following information may be recorded to provide the program with a better assessment of its responsibility as a referral source:

- Name of agency and types of services provided, including the service approach;
- Name of client, date of referral, date of contact, and name of person contacted.

- Information on the services delivered by the agency, any resulting agreements between the agency and the client which are not confidential, and the agency's assessment of the success of the referral.
- The address and telephone number of the referred client and a follow-up procedure which will gather information on the client's perspective on the appropriateness of the referral and the usefulness of the agency's services.

The CDS program's role in the service delivery network may serve to support and enhance cooperation among other agencies, and may assist in opening access to services for those who may not have otherwise been identified.

CHAPTER 4: PROGRAM EVALUATION AND COSTS

4.1 Monitoring

For each of the three components of the project -- direct complaints, hearing from the Summons Docket, and bad check cases -- the number of hearings scheduled, hearings held, and affidavits filed are reported. The major source of information for monitoring purposes is taken from the permanent file of index cards, alphabetized by name of complainant and respondent, which indicates the charge, a brief account of the hearing, and the results. These statistics on hearings held and their dispositions are recorded daily and tabulated on a monthly basis. Summaries are submitted to the Chief Judges, the City Prosecutor, the Police Chief, and the Project Coordinator. Recent monthly reports have also included additional details on case disposition in order to track the type of agreements and problems which result from the hearings.

The project does not keep extensive records. Investigations of participant characteristics or the program's long-range deterrent effects have not yet been conducted. The clerks, however, are beginning to study the origins of the complaints by separating records by zip code. In this fashion, it will be possible to determine if a neighborhood branch of the program is justified.

The program maintains an information retrieval system which is organized around thirteen basic forms and files. Many of these forms are interrelated and function to centralize and consolidate daily transactions. The most important of these forms is the Charge Form, which names the parties, the particulars of the problem, and ultimately the disposition of the hearing. Copies of all forms used in the Columbus project are contained in the Appendix. Additional data gathering and monitoring procedures are recommended in the following Evaluation section.

4.2 Evaluation

This chapter describes a flexible and adaptable system of evaluation that could be implemented in a CDS program similar to the one outlined in this replication manual. The model suggested here relies in part on the experience of the Columbus Night Prosecutor Project, and in part on professional judgment regarding evaluation systems for this type of program. Each replication

effort, however, must consider the effects of modification or alternate program specifications as they relate to the requirements of evaluation.

Evaluation is distinguished by certain characteristics clarified in the following operational description: evaluation

- (1) assesses the effectiveness of an on-going program in achieving its objectives;
- (2) relies on the principles of research design only to distinguish a program's effects from those of other forces working in the environment; and
- (3) aims at program improvement through a modification of current operations.

Note that evaluation, as discussed here, is concerned more with the questions of program effectiveness than program efficiency. In this respect, it is goal oriented and focuses more on output than input or process. The function of evaluation is to provide feedback from results to decisions, and to generate information for the incremental upgrading of the program. In essence, this type of evaluation is a management tool.

When evaluation is a part of on-going operations, it relies on and defines -- in part -- the program's information system. In addition, it is linked closely to the monitoring function of program management and administration. Both of these elements -- reporting and monitoring -- should reflect the evaluation objectives which a program administrator chooses to address. In order to assist both the evaluator and the administrator, great care must be taken to state program goals in a fashion which is objective and measurable. In this sense, the goals of the project should be as specific as possible. For example, a program goal stated as "to reduce court congestion and backlog" might be better stated as "to reduce court congestion and backlog by 16%, or by 230 cases each month." The degree to which goals can be this specifically defined is, of course, restricted by the nature of the goal (i.e., is it countable?) and by the nature of the problem itself (i.e., just how much should court congestion be reduced, or just how much can we realistically expect to reduce it?).

Evaluation Objectives: As indicated in the preceding chapters of this manual, the CDS program model is highly adaptable; both in terms of specific goals and administrative/operational structure. The choice of evaluation objectives will necessarily reflect the goals of the program which a given community implements. The

evaluation objectives and reporting specifications described below are provided as a guideline. Although these objectives apply for the most part to the evaluation needs of the Columbus Night Prosecutor Project model, they are illustrative of the more critical evaluation issues associated with the CDS-type program model.

- (1) Assess the effectiveness of the CDS program in positively settling citizen dispute cases which are heard;
- (2) Assess the effectiveness of hearing officers and other staff in performance of assigned tasks;
- (3) Assess the effectiveness of administrative procedures utilized to screen, notify, and record information on clients;
- (4) Assess the effectiveness of the program in diverting cases from the criminal court;
- (5) Assess the effectiveness of referrals to other social agencies;
- (6) Conduct a cost-benefit analysis, particularly with respect to a comparison with normal court processing costs.

The CDS program does not have significant reporting requirements, and the project limits its record-keeping to data that allow statistical computation of case load, case type, and disposition. It is strongly recommended that record-keeping and data collection activities be kept at a minimum and that the prime criterion governing data collection be the utility for evaluative purposes and day-to-day operation, i.e. organization. The Appendix of this manual contains the data collection forms currently being used in the Columbus project.

The following description of each of the evaluation objectives stated above illustrates minimum data retrieval and monitoring procedures for programs based on the CDS model.

- (1) The assessment of the effectiveness of the program in resolving cases through the hearing process will depend, in part, on retrieval of the data contained in the following matrix.

Figure 4.1
Monthly Matrix of Total Case Dispositions

Total Number of Cases by Disposition		Total Number, by Types of Charges	No. of Cases Suf Ev*	Ins Ev
120	(E.G.)	20 Assault	10	10
	Settled (non-Summons Docket cases)	30 Harassment	5	25
		70 Domestic Dispute	30	40
		-- Etc.	--	--
	Nol-prossed (Summons Docket cases)			
	Referred			
	Dropped, because of _____			
	No-Shows			
	Issuance of warrant or court summons required			
Total				

* Sufficient Evidence (column 3), Insufficient Evidence (column 4). The question of sufficient evidence should indicate whether the case was strong enough to have proceeded through normal processing if the program had not intervened.

Effectiveness of the program, as measured in the percentage of cases settled, can be established through setting a standard (e.g. to "settle 60% of the cases"), which incorporates the judgment of the hearing officer and which precludes any measurement of absolute program effect; or, by eliciting information from program clients some time after the hearing (on a sample basis) to assess the degree of continuing settlement. This information could be complemented by recidivism measures. The Columbus project implemented a "call back" to the complainant by the hearing officer or clerk three weeks after the hearing to check on the results of the hearing.

A more comprehensive approach to measuring effectiveness in settling disputes would include a call-back procedure to respondents. The information gathered during these brief telephone interviews should be collated with call backs to complainants to examine the following questions:

- From client perspective (both complainant and respondent), what constitutes a "successful" hearing?
- Is there a significant difference in perspective from the points-of-view of complainants and respondents (note specific differences) with respect to disposition?
- Of what service was the referral agency (if appropriate)?
- For program recidivists, did the initial call-back indicate successful resolution of original problem (Which classification of disposition correlated most highly with recidivism?)

From an evaluation standpoint, it will be important to ascertain whether there is any correlation between successful resolution of a hearing and recidivism. Therefore, where program size is not prohibitively large, call-back should be implemented on a 100% sample basis. Where a true sampling procedure must be instituted, evaluators should be careful to include call-back to a random selection of clients associated with each possible type of case disposition.

The number of cases to be included in the sample is dependent on the precision required for estimates and the type of comparisons to be made. For the first set of questions listed above, let us assume that we are only interested in the frequency, and that a 5% error of measurement (with 95% confidence) is sufficient.

For the sake of the calculation, assume we are measuring a success rate whose true value is around 80%. (The appropriate sample size depends slightly on the number being measured.) From standard statistical formulas we can compute that 150 cases are enough to provide this precision if the sample is drawn from a very large population. (In this case, "very large" means anything over 500.) For a smaller population, the number may be reduced slightly without loss of precision. If there are only 200 cases processed by the entire project, a sample of 100 gives the same accuracy. For fewer than 100 cases, simply sample 100%.

If two or more subpopulations are to be compared in questions of the second type, the sample size needs to be increased. Again assuming we need to estimate the difference with 95% confidence to 5% accuracy, each subgroup needs to be about 70% as large as the total sample size for estimating a single proportion. Thus if we have the "large population" case above, and equal numbers of complainants and respondents, we need about 100 of each to estimate the difference between the two groups.

For questions of the third and fourth types a lower precision level may be satisfactory. If we relax our requirements to 90% confidence and less than 10% error, estimates can be made from samples as small as 50. Remember, however, that this number is required from each subpopulation (e.g. agency) to be compared.

One way a project may monitor recidivism -- aside from checking previous files on each "new" complainant or respondent -- is to monitor the Summons Docket. Because the Columbus project already has a daily contact with this source of information, it would be possible to check each case on the Summons Docket for persons who have previously gone through the program, but who may not be picked up as potential eligibles for another hearing because the occurring "offense" is too serious or not appropriate for the program. In the final analysis, these recidivism measures attempt to address two fundamental questions about program impact:

- Do program participants end up back in the program within _____ months after the settling (or other disposition) of the case?
- Do program participants end up back in the criminal justice system (on other charges, similar charges, or more serious charges) within _____ months after the settling (or other disposition) of the case?

By monitoring participants according to type of offense and by disposition of the case through the program, it will be possible to ascertain the program's impact on recidivism by type of case (or type of offense) as well as measuring impact on recidivism for the program as a whole.

(2) The effectiveness of hearing officers can be assessed in a variety of ways and should be attended to with a view toward improving performance and/or maintaining a high level of performance. In other words, growth and quality control. The following methods would assist in assessment of staff performance:

- monitoring the percentage of cases settled and co-relating results against each hearing officer (only if true random assignment of cases to officers is made);
- asking clients to assess the hearing officer at the completion of the hearing, at the time of the callback or similar post-hearing contact;
- conducting quality control measures on the performance of each hearing officer by observing hearings and reviewing the case records; and
- tracking staff time allocations in the following categories: hearing preparation, conducting hearings, post-hearing activities, other administrative duties.

The tracking of staff time allocation will provide a valuable source of information -- beyond individual performance standards -- related both to overall program efficiency and cost-benefit of program services. Because approximately 80% of the operating costs are likely to be staff compensation, a crucial component of any evaluation will be to address the questions: What does the staff do, how often do they do it, and how much does it cost? Moreover, the monitoring of the time staff spend in various functional categories (administrative, clerical, providing direct services, evaluation, etc.) will contribute significantly to the evaluation of overall program efficiency. This type of information can prove invaluable to program administrators in the planning process. Collection of information on staff time allocation can be very simply and effectively coordinated with submission of time sheets for payroll purposes. Instead of requiring staff to indicate only the number of hours worked each day, and the totals for the week, a simple breakdown of hours by functional category can substitute for the more common time sheet. An example of this instrument is attached.

Figure 4.2
Staff Time Allocation Tally Sheet

Name: _____

Staff Position: _____

Status: (Full-time, Part-time, volunteer, etc.) _____

Time Period Covered Under This Report: _____ (day) _____ (month)
_____ (year)

FUNCTIONAL CATEGORY: / hrs.	Mon.	Tues.	Wed.	Thur.	Fri.	Sat.	Totals
Administration/ Management							
Direct Supervision							
Conducting Back- ground Research							
Completing Forms/ Filing							
Conducting Hearings							
Answering phone or Tending front desk							
Other Clerical							
Collecting or sum- marizing evalua- tion information							
Waiting for hear- ing to begin							
Training, on-the- job assessment							
* Etc.							
Total hours worked per week							

- * The functional categories selected by the individual project should reflect the principal responsibilities of each staff member, and should be sufficiently detailed to allow some flexibility in determining the designation of hours to specific tasks. Estimates of time should be made in hour units

(3) The effectiveness of administrative procedures, which is closely linked to measures of program efficiency as noted above, requires collection of data in the following areas:

- size of caseload and average time span from intake to disposition (or first hearing) and sources of cases;
- time lags in the conduct of hearings, i.e. time scheduled vs. time conducted;
- percentage of "no shows" that are traced to delay in notification, incorrect address, etc. and;
- accuracy, currency and completeness of all project records and reports.

This would apply in particular to the forms utilized both during the hearing process and the forms designed for aggregating and summarizing evaluation data. Again, the data point identified above should be related to an analysis of how staff indicate they spend their time. This procedure can prove very effective in identifying inefficiencies, overlaps in responsibilities, and costs per components of operation.

(4) In order to assess the effectiveness of the program in diverting cases from the criminal court system, the evaluator need only determine the number of cases that would have resulted in a court appearance without the program. For example, in the Columbus project, the evaluator may simply count the number of cases resolved which were taken from the summons docket. Clearly, successful resolution of these cases translates into diversion from the criminal court process. To the extent that selection criteria channel participants into the program prior to summons or warrant, there may be clients treated who would not have gone to court in any event. To measure the impact of diverting such clients on court caseloads, some attempt must be made to estimate the number of such cases who would have dropped out of the system by:

- failure to respond to summons,
- withdrawing charges,

- District Attorney declines to prosecute the case,
- court grants immediate dismissal.

To find these rates, the evaluator should attempt to establish a baseline inventory of the type of cases processed by CDS which fall out at each stage. Baselines on current police, court, and prosecutor practices for the types of cases the program intends to process will prove invaluable in estimating overall program impact on these components of the criminal justice system in the program jurisdiction.

At the same time that information on attrition rates at each stage is being collected, rough cost estimates based on the time required to process each case (of the kind treated by CDS) can be gathered for inclusion in a cost/benefit comparison. Without conducting an extensive study, such comparisons should be considered only first approximations, but they can be suggestive of the types of trade-offs involved. The benefits from diversion can be assumed to be restricted to the man hours which would be required to process the case at each stage.

(5) The effectiveness of the program in referring clients to more appropriate agencies and services can be assessed in two ways. First, during the call-back procedure discussed earlier, clients who had been referred to agencies should be asked if:

- they went to the agency,
- they could get services (eligibility, waiting list),
- the agency had any services at all.

Moreover, the client should be asked if the agency offered the appropriate services. This is particularly important, since a client's dissatisfaction with the services may have more to do with the fact that the referral was inappropriate than with the quality of the service. Second, the effectiveness of referrals can be monitored by employing a simple postcard information retrieval system with each cooperating agency. Clients leaving the program are given a card stating the agency, time and date of appointment, and so on. This card, noting various datapoints provided by the agency, should be returned to the program once the client makes contact.

In this fashion it will be possible to ascertain how many clients actually avail themselves of services upon referral. More comprehensive information may be collected on success of services if the individual agencies would be willing to cooperate. The collection of data beyond the most rudimentary question of whether contact was made, may exceed the immediate evaluation needs, but should be explored with each agency at the local level for possible implementation at a later date.

(6) Perhaps one of the most crucial questions a program evaluation should be able to answer is, "What are the costs of this program and how do they compare with the normal court processing costs?" In estimating normal court processing costs, if none are available, the evaluator needs to translate costs as a function of the number of cases handled and the amount of time spent on different types of cases. For example, assuming a single case goes through the system to incarceration, the evaluator needs to make an estimate of how much time is spent on the case, which individuals spend time (as a percentage of the total), and what their individual rates are in terms of dollars per unit of time. Once this estimate, or range of costs per types of cases, is made, it can be compared to the cost per case for the program. The evaluator should be able to estimate the program cost per case relatively easily, especially if staff are required to keep track of the amount of time they spend in the program by functional category (as suggested in evaluation point one).

In Columbus, during the first grant period, ending September 1, 1973, a total of 4,304 cases were scheduled, 2,963 cases were heard, and at least 2,651 cases were resolved to the satisfaction of both parties. Based on a total operating budget of \$80,327, this yields a cost per case heard of \$27.10. Computing on the basis of cases successfully resolved, the program processed these cases at a per case cost of \$30.30. However, if the computation includes those disputes which were presumably settled without direct intervention--ie. case scheduled but the charge was dropped prior to a hearing--the cost per case would be only \$20.12.

By comparison, rudimentary estimates of the costs of processing a criminal misdemeanor through the Columbus court system are \$100, from the filing of an affidavit to the end of trial. This estimate could go as high as \$250 a case depending on the ultimate disposition. Although these estimates are based solely on the Columbus experience, it can be expected that project costs per case will favorably compare to current court proces-

sing costs in other jurisdictions. Moreover, as the cost accounting procedures of the Columbus project become more sophisticated, it will be possible to estimate the cost savings associated with diverting specific types of offenses from the normal court processing.

4.3 Operating Costs

Since the beginning of operations in November, 1971, the project has received two LEAA grants, extending from September 1972 to August, 1974. Annual program costs, including in-kind and cash contributions, have included the following elements:

Salaries for the Coordinator and his secretary	\$26,051
Consultant fees to the hearing officers, Clerks, and Night Supervisors	<u>41,232</u>
TOTAL PERSONNEL COSTS	\$67,283
Space Rental	5,000
Equipment Purchase	3,040
Equipment Usage	3,180
Telephone	924
Supplies and Materials	<u>900</u>
TOTAL	\$80,327

Of these costs, \$10,004 were in-kind (space, desks, wastebaskets) contributions of the Prosecutor's Office. The equipment purchased (\$3,040) included dictaphones, file cabinets, a calculator and an extra desk. Some jurisdictions might find these additional supplies already available or unnecessary. Because such a program may use space when other staff are not using it (evenings and weekends), space and equipment costs can be negligible.

Annual staff costs break down as follows:

Coordinator	\$14,310
Secretary	6,740
Fringe for both	5,001
Clerks (16 hours x 365 days) @ \$3.00	17,520
3 hearing officers (4 hours x 312 days) @ 3.00/hr.	11,232
Legal Supervisor (4 hours x 312 days) @ 10.00/hr.	<u>12,480</u>
TOTAL	\$67,283

Costs can be modified by employing fewer hearing officers, reducing coverage by the clerks, reducing the number of hours or days per week that hearings are held, or reducing salaries. In a small project, the coordinator and/or secretary could serve on a part-time basis. The use of students tends to keep these costs down, as would the use of a mix of paid and volunteer staff.

NOTE: The costs of the program are directly related to personnel expenditures. Although space and other direct charges function as variables, staff compensation represents about 80% of the total operating cost. As such, staff positions, salaries, and/or fringe benefits for employees will greatly affect the ultimate per case cost. The utilization of professional, para-professional or volunteer staff, or any mix of these, will be the primary cost determinant. Considerations such as training, supervision, and staff commitment to full or part-time work should be explored before program staffing costs are estimated.

CHAPTER 5: SUMMARY

5.1 Replication Potential

The major point of the CDS concept is that many interpersonal problems, which are the basis of a significant number of minor criminal violations, can be dealt with in a more efficient, appropriate and satisfactory manner outside of the traditional criminal justice system. By nature, the criminal justice process is not oriented towards working out compromises and solutions to citizen problems in a personal and empathetic way. The courts must deal only with the questions of whether a crime has been committed and who is guilty of the criminal conduct. Unfortunately, this is often a very minor aspect of the problem which brought two disputing parties to face one another in court.

A smoothly functioning and effective CDS program provides valuable assistance to the criminal justice system, as well as to the disputants. From the perspective of the criminal justice system, the CDS model offers: a reduction of court caseload; low costs; a very simple administrative process; and worthwhile, as well as easily attainable, goals. From the point of view of the disputants, the model offers empathetic assistance from the criminal justice system, and an alternative, informal forum for settling differences in an objective setting.

The program's flexibility, its simple concept and procedures, make it an ideal candidate for replication. A CDS program, based on the Columbus Project, could be easily adapted to fit the needs and capabilities of many different settings. The potential for expansion depends on the needs of a community and on the effectiveness of the program in dealing with specific problems. In addition to the cases handled by the Columbus Project, the concept might be applied to other problem behaviors including selected juvenile complaints, alcohol violations, and minor drug related offenses. With appropriate linkages to community social service agencies, the program may be equipped to deal with a range of personal problems which the courts cannot address.

5.2 Crucial Program Variables

Despite the high potential for replicability, the previous experience of the Columbus project has enabled program developers

to identify a limited number of special considerations, or variables, which may significantly affect overall program success. Each of these considerations is described here for the special attention of those contemplating the development of a similar program.

Leadership: Program founders believed that an alternative to traditional prosecutorial procedures was necessary for certain types of cases. More importantly, they had the influence in their own realms (the Prosecutor's Office and the law school) to make the project a reality. The City Attorney's relationship with the police and courts, and the law professor's unique position for staff recruitment, provided an important catalyst for program development. The City Attorney believes that a good relationship with the police and the courts is a sine qua non for obtaining acceptance of a CDS Program in a community.

The law professor initiated project development by persuading four other professors to rotate one night a week as Night Prosecutor. He recommended to his students that they observe the proceedings. Soon the students themselves were hearing cases and the project applied for and received LEAA assistance.

Because the program operates entirely within the city legal structure, community support and advice did not play a major part in its establishment or activities. However, discussions were held with the local United Fund to develop a referral list for cases in which social services might be needed.

NOTE: A replication of this program would not require that the project director have direct ties with the police or courts. However, because these relationships are ultimately crucial to program success, the planning process must include a procedure for involving both the police and the courts in a policy-making capacity. Moreover, the stronger the relationship of the project director to the prosecutor's office -- optimally, the director would be a member of that office's staff -- the greater the chance of securing support from policy-makers at all levels. In the replication effort, the most effective leadership should come from the prosecutor's office itself, and should then branch out to include police and court representatives.

Location: The location of the project in the City Prosecutor's Office, situated in the Central Police Station, provides easy access to police assistance, when necessary. Moreover, this location is optimal since the building is open 24 hours a day, seven days a week. Also, because it is a police station, parties to disputes need not be apprehensive about appearing in a strange building at night. Its location in downtown Columbus is central, and public transportation is available to and from the neighborhoods where most disputants live.

There were two reasons for the choice of the police station and the office of the City Prosecutor as the appropriate building. Because the concept of pre-arrest diversion was new, it was important that cases be properly researched and screened. Only in the Central Police Station could Night Prosecutor staff have complete and rapid access to police files for background information on parties with criminal histories. This information can be important in deciding whether or not to accept the case or whether to hear it under secure conditions.

Another reason for locating the project in the police station lies in the philosophy of the CDS program. The purpose of the program is not to remove the spectre of "the long arm of the law" from the process of dispute settlement. Rather, project founders believe that the no-nonsense atmosphere of the police station helps hearing officers by legitimizing their authority. The notices sent out are official in appearance and are signed "By order of the Police Prosecutor". This assures that the respondent will take the notice seriously. In addition, the proximity to the police, court and jail remind the hearing participants that legal sanctions are a reality, and that the project staff are a legitimate part of the criminal justice system. This environment is intended to support the CDS program as an alternative to "prosecution", and to make participants aware that it is not entirely without legal reinforcement. Hearing officers often remind parties that a lack of compromise could result in more serious consequences if the matter were to go through the courts. Such admonitions, while theoretical, often supply the necessary motivation for a compromise solution.

One further advantage of being located in the Prosecutor's Office is the efficiency of internal program monitoring. The City Attorney supervises the activities of the Prosecutor and of the Night Prosecutor Program. Its easy accessibility makes the program monitoring function convenient and inexpensive.

NOTE: There seems to be little question that the citizen dispute settlement concept cannot be effectively replicated unless the program is located in a setting that maintains an aura of judicial authority. Therefore, any location other than the prosecutor's office (optimal), the central police station or a police precinct building, or a courtroom building, would not be appropriate. Although the program lacks much of the actual authority of these judicial components, its effectiveness rests in the fact that it gains support from these settings and suggests implicitly to the program participants that legal mechanisms are operating during the hearing as they would in any other "courtroom" setting. In the final analysis, it is this implicit assumption that gives the program the "authority" it needs to impress upon participants the advantages of settling the dispute during the hearing.

Staff: The Columbus Citizen Dispute Settlement Program currently utilizes law students as hearing officers and clerks. The skills required of these staff members, however, are by no means limited to, or even defined by, their legal training. Rather, the skill requirements could generally be identified as maturity, common sense, and good judgement. A knowledge of the laws -- particularly in relation to the various fines and penalties associated with specific "crimes" -- should be provided by the Night Supervisor. The fact that the Columbus project utilizes law students is a result more of coincidence than of design. A replication of the Night Prosecutor Program would not require the utilization of law students or others with legal backgrounds. However, the use of non-legally oriented staff would necessitate a more specialized training program. For example, a seminar could be conducted to cover basic points of the law, with special attention to common cases handled by the program. Once a staff had been identified, a well-designed training program would be able to provide to those without legal backgrounds the knowledge and skills which a law student staff brings to the hearing process.

NOTE: Staff recruitment and training are a crucial part of the CDS program model, since the success of the program hinges on the effectiveness of its staff. A formal recruitment and screening process is the first prerequisite to a quality staff. The hiring process should, however, be supported by continuing assessment and staff development efforts. For staff with no previous legal training, seminars should be held to explore many of the legal issues which emerge during hearings. For more detail on the importance of training, see Section 2.5, Training.

PART II.

**THE CITIZEN DISPUTE SETTLEMENT PROGRAM
OPERATING PROCEDURES**

CHAPTER 6: OVERVIEW OF PROGRAM PROCEDURES

6.1 Introduction

The Program Process described in this part of the manual, is intended to assist the potential replicator in structuring the day-to-day activities of a Citizen Dispute Settlement Program. These operating procedures are based, in part, on the current organization and functional links between the City Prosecutor, the police, and the courts in the City of Columbus, Ohio. Therefore, it is imperative that the replicator consider whatever modifications may be necessary to support the particular organization of the local jurisdiction in which the program will operate.

Perhaps the single most important element of a replication effort will be the degree to which the replicator successfully coordinates the program's efforts with existing policies and procedures of the judicial system. Although the Columbus Night Prosecutor Program has had success in modifying many of the traditional procedures for handling criminal violations -- particularly with respect to Summons Docket cases -- its success was predicated on a solid organizational effort and a sensitive realization of the needs and requirements of the police, courts, and Prosecutor's Office. Moreover, the changes or modifications which have taken place have occurred because they are, in the final analysis, beneficial to both the criminal justice system and to its clients. This implies that the first priority of the Columbus project is to the system and citizens which it serves, and not to its own ends as an innovative method of criminal justice programming.

Of utmost concern to the replicator is the quality and level of support for the program from the police and the courts. As with all new programming, the strength of this support is often not secured until some measureable gains can be documented. It is hoped that the proven success of the Columbus project can provide a solid foundation for new support in other jurisdictions. However, each new program retains the obligation to carefully evaluate its own success and to continually assess the need for further program development. The pivotal role of evaluation cannot be over-estimated. As the replicator begins to institutionalize this program, evaluation must be an integral part of the project's policies and procedures. This integration is not only a more efficient and effective means of continuous self-assessment, but will play a large role in the ability of the project to justify

and expand the responsibilities it has to those already involved in the administration of justice.

Lastly, the commitment and ability of staff to fairly and empathetically deal with individuals during the hearing process should never be over-shadowed by the requirements of administrative procedures. The procedures of the program should be developed to support the role of the hearing officers and clerks, not vice-versa. The simplicity of this notion may often be lost in the flurry of activity to operationalize the project. It must not be lost if the Citizen Dispute Settlement concept is to assist the individuals it is designed to serve.

6.2 Summary of Procedures

The following five pages illustrate the principal procedural similarities and differences in the three major program components of the Columbus Night Prosecutor Program. The subsequent chapter details the mechanics of each procedure. Since many of the procedures apply to a variety of cases, few significant changes must be made to accomodate bad check cases in the hearing process. Moreover, although the Columbus project has chosen to focus some attention on these complaints, the basic program model is sufficiently flexible to apply to other criminal or civil problems. In reviewing these procedures, therefore, the replicator should give full attention to the substitution or addition of other "offenses" which may be more pressing in the jurisdiction in which the program will operate.

Figure 6.1: Overview of Program Procedures

PROCEDURE \ COMPONENT	CITIZEN COMPLAINT CASES	CASES FROM THE SUMMONS DOCKET	BAD CHECK CASES
SCREENING	Parties to a dispute that could lead to a civil suit or a criminal complaint; particularly cases that could be handled through compromise or restitution.	SAME (Parties in a dispute that has resulted in the filing of a criminal complaint and is awaiting trial.)	SAME (Any retail company that agrees to handle check-delinquent cases through the program.)
TAKING A CHARGE	Information on the nature of the dispute and the parties involved; recorded by the program clerk onto the Charge Form (Form 6).	SAME (Information on the nature of the dispute and the parties involved, taken off the court summons docket by the program day secretary and recorded on the Charge Form (Form 6).	Compiling xeroxed copies of all bad checks and company transactions with individuals; filed by the program clerk in the "New Cases" File.
USE OF THE HEARING DOCKET	Utilized by the clerk, the principal scheduling and coordinating tool (Forms 1 & 2) used to assign a hearing officer, hearing time, and on-going coordinating information.	SAME (Exception: cases scheduled by the Day Secretary instead of the clerk.)	NA (Each company is assigned a specific night of the week and a specific hearing officer.)

Figure 6.1: Overview of Program Procedures (page 2)

<div>COMPONENT</div> <div>PROCEDURE</div>	CITIZEN COMPLAINT CASES	CASES FROM THE SUMMONS DOCKET	BAD CHECK CASES
SPECIAL PROBLEM CASES	<p>When the clerk indicates in the "special instructions" portion of Form 6 that the complainant or respondent is particularly nervous, angry or unusual in behavior, the hearing officer may request a weapons search or other special assistance.</p>	NA	NA
DELIVERY OF NOTICES	<p>A "Notice to Respondent" (Form 3) of the hearing date is mailed out by the clerk one week in advance of the scheduled hearing date <u>or</u> if scheduled earlier, the notice is hand delivered by a police officer. At the time the hearing is scheduled, the complainant receives a "Reminder to Complainant of Hearing" (Form 11).</p>	<p>SAME</p> <p>(Special Forms are mailed out, including "Notice to Respondent of Hearing from Summons Docket" (Form 4) and "Notice to Complainant Witness from Summons Docket" (Form 5) to notify parties that a pre-court hearing will be held. Failure of complainant to appear results in dismissal.)</p>	<p>SAME</p> <p>(A "Notice to Respondent" (Form 3) is mailed out to indicate the charge; and the complainant's name.</p>

Figure 6.1: Overview of Program Procedures (page 3)

PROCEDURE \ COMPONENT	CITIZEN COMPLAINT CASES	CASES FROM THE SUMMONS DOCKET	BAD CHECK CASES
PRE-HEARING PREPARATION	Clerks consult Hearing Docket (Forms 1 & 2), prepare Daily Hearing Sheet (Form 1B), arrange Charge Forms (Form 6) in Daily Hearing Docket (1A). In addition, hearing officers may wish to conduct a criminal records check along with a routine review of previous hearings under the same names of the parties involved.	SAME	SAME
WHEN ONE OR MORE OF THE DISPUTANTS DOES NOT APPEAR	At least one phone call and/or a rescheduled hearing is attempted prior to other action.	NA	SAME
RESPONDENT ABSENT	Case rescheduled, dropped or recommended to proceed on warrant.	Case proceeds to court.	REPEAT DELIVERY OF NOTICES
COMPLAINANT ABSENT	Charges dropped, case dismissed.	Case dismissed.	NA
CASE RESCHEDULED	REPEAT DELIVERY OF NOTICES	NA	REPEAT DELIVERY OF NOTICES
CASE CONTINUED	Notice to Respondent (Form 3) and Reminder to Complainant (Form 4) handed out for new hearing date.	NA	Check filed in "Promise to Pay" folder.
CASE SETTLED	Hearing officers transfer information from Charge Form (Form 6) to permanent Index Cards (Form 7) for filing.	Index Cards filed (Form 7), Nolle Pros approval of supervisor noted on Charge Form (Form 6).	Check marked "paid" and placed in permanent file.
CASE DROPPED	Initiated by complainant and/or hearing officer in consultation, considered settled.	SAME AS SETTLED	Xerox copy of checks returned to company.
CASE TO COURT	Approval of supervisor, Index Card (Form 7) filed.	Approval of supervisor, "PROCEED TO COURT" noted on Charge Form (Form 6).	Copy of checks returned to company.

Figure 6.1: Overview of Program Procedures (page 4)

PROCEDURE \ COMPONENT	CITIZEN COMPLAINT CASES	CASES FROM THE SUMMONS DOCKET	BAD CHECK CASES
HOLDING A HEARING	Complainant describes charge, background, reasons, etc; respondent does same; hearing officer guides discussions toward reconciliation; advising on issues and legal matters.	SAME	SAME
USE OF WITNESSES	All witnesses are interviewed and are permitted to participate at the discretion of the hearing officer.	SAME	NA
USE OF ATTORNEYS	Parties retain right to counsel, although rules of evidence not adhered to.	SAME	NA
WHEN CASE IS SETTLED OR DROPPED	Agreement reviewed and case is dismissed; hearing officer enters result on Charge Form (Form 6), hearing officers transfer to Index Cards (Form 7) for permanent filing. Complainant <u>only</u> may drop charges.	SAME (Case withdrawn from summons docket and <u>NOLLE PROSE</u> d by the supervisor.	Checks returned to company and hearing officer fills out form on "Business Bad Checks" (Form 10) noting the results.
WHEN CASE IS CONTINUED OR RESCHEDULED	REPEAT DELIVERY OF NOTICES	NA	Check filed in "Promise to Pay Folder" if continued, or "Repeat Folder" if new notice is mailed out.

Figure 6.1: Overview of Program Procedures (page 5)

PROCEDURE	COMPONENT	CITIZEN COMPLAINT CASES	CASES FROM THE SUMMONS DOCKET	BAD CHECK CASES
WHEN AN AFFIDAVIT IS TAKEN		Taken only by the supervisor, who notes disposition on Charge Form (Form 6). Hearing Officer assists complainant in filling out questionnaire (Form 9) and fills out "Authorization to File" (Form 8) for supervisor's signature.	SAME (Approval of supervisor with "PROCEED TO COURT" written on Charge Form (Form 6))	Copy of checks returned to company, referred to Clerk of Courts.
POST HEARING ACTIVITIES		New "Notices to Appear" (Form 3) filed for typing and mailing; Index Cards (Form 7) completed and filed; daily results noted on Hearing Docket (Form 1 & 2), on Daily Summary Sheet (Form 1C) and Charge Forms (Form 6) are destroyed.	SAME	Hearing officer completes Form on Business Bad Checks (Form 10) and transfers results information to Hearing Docket.
THE CALL BACK PROCEDURE		Three weeks after cases were settled or dropped, clerks and hearing officers call participants to verify success.	SAME	NA

CHAPTER 7: THE PROGRAM PROCESS

7.1 Taking a Charge

The Charge Form, (Form 6) is the basic reference document of the Night Prosecutor Program. It includes all essential information about a case and is used for notations concerning the results of hearings. Charges may be initiated by a private citizen, by a law enforcement officer, or taken directly from the Summons Docket, as seen below.

Circumstance 1: A private citizen may make a charge by appearing in person at the Prosecutor's Office. No charges are taken over the telephone. Telephone complainants are requested to appear in person. After listening to the charge and determining the appropriateness of the case for a night hearing, the clerk consults the program hearing docket to set a time and date for the hearing. A date which falls about one week after the date of the complaint is usually chosen. The specific date and hour are checked with the complainant to ensure convenience. When an appointed time has been chosen, the clerk enters it into the hearing docket and writes it on a reminder to the complainant about the scheduled hearing (Form 11). The date and time are entered on the Charge Form (Form 6) and the form is placed in one of the six Daily Hearing Docket files until it is reviewed by the hearing officer on the day of the hearing.

Circumstance 2: A charge may also be made by a law enforcement officer who is called to the scene of a dispute. Such a dispute usually involves either domestic problems or a situation where there is so little (or no) criminal conduct that, in the judgement of the law enforcement officer, an arrest is not appropriate. The officer may call the Prosecutor's Office, giving the same basic information contained in the Charge Form. The officer receives a hearing date and time over the phone from the clerk of the Night Prosecutor's Program, and then in turn gives notification of the hearing to the parties at the scene of the incident. Since this procedure does not require the mailing of notices, it is possible to schedule a hearing in an abbreviated time period.

Circumstance 3: The Night Prosecutor's day secretary reviews the Summons Docket each day and compiles a list of complaints for which a summons has been served. The secretary then consults the hearing docket, assigns a time and date for a hearing (usually one week prior to scheduled court appearance), and completes information on the case on a Charge Form. The court case number is retained for reference.

NOTE: Aside from the hearing process itself, the taking of a charge may be one of the most important program functions. It is at this level that screening takes place. The discretion of the clerk is crucially linked to the types of cases the program handles. The clerk must exercise great care in assessing the problem and determining whether the program can actually be of assistance. The clerk must assume responsibility for referring cases which are inappropriate for the program to the more proper agency.

The usual Charge Form (Form 6) is not used for bad check cases. Instead, the program maintains for each company a file of xerox copies of the bad checks which they are trying to collect. The file contains three folders. "New Cases" consists of checks which have had or are about to have notices sent out on them. "Repeat Cases" are those which have not responded to the first notice and are being sent a second and final notice. The "Promise to Pay" folder is used for cases in which complete restitution has not yet been made, but has been arranged for. The xerox copies of checks which have been paid are kept in a separate file, in alphabetical order, in the day secretary's office. Bad checks outstanding on unresolved cases, which lead to criminal complaints or dropped prosecution, are returned to the company.

* The Night Prosecutor Program is currently revising the administrative procedures related to the processing of bad check cases. One Charge Form (Form 6) will be filled out for each company and attached to a list, prepared by the company, of all the respondents who are expected to appear. The Charge Form and the list are then placed in the appropriate daily file. The company maintains the "New Cases," "Repeat Cases," and "Promise to Pay" folders. The new process simplifies the administrative procedures for the project.

7.2 Use of the Hearing Docket

The hearing docket (Forms 1&2), mentioned in conjunction with the taking of charges, serves as the principal coordinating tool of the program. The hearing docket is broken down by date and time. On weekdays, hearings are scheduled for half-hour time slots beginning at 6:00 p.m. and ending at 9:30 p.m., so that all hearings end by 10:00 p.m. The hearings for Saturdays begin at 8:30 a.m. and continue on a half-hourly basis until 12:00 p.m. The number of hearings possible for each half-hour time slot is determined by the number of hearing officers. If there are five (5) hearing officers, then it is possible to schedule forty (40) hearings each weeknight and thirty-five (35) hearings on Saturdays.

The hearing docket, in addition to being a time-scheduling device, contains ongoing information. Hearings that are rescheduled or continued have that fact noted on the hearing docket, and Summons Docket cases are noted with the initial "S".

Each day, when hearings have been complete, clerks tabulate the number of hearings held and the results at the bottom of the day's docket (Forms 1&2) for record keeping purposes.

The daily hearing sheet is a page with spaces for entering information taken from the hearings docket. Each day before the hearings begin, the clerks copy the information from the docket for that day onto the daily hearing sheet and clip it onto that day's hearing file. The sheet is different from the docket itself, in that there is space for the hearing officer's name and the room assigned. The clerks assign cases to the hearing officers who will be working that evening and also note which room they should occupy. Thus, when the hearing officers arrive, they can obtain the appropriate Charge Forms (Form 6's) from the daily hearing file.

7.3 Special Problem Cases

When the clerk takes the complaining party's statement, it may be apparent that some type of exceptional circumstance is involved. For example, the complaining witness may be under a doctor's care for a nervous condition or the respondent may have a prior criminal record of a violent nature. In each of these cases, the clerk makes a notation in the block on the Charge Form (Form 6) denoted Special Instructions so that the hearing

officer may take whatever measures appear appropriate to ensure that the hearing is held on a low-pitch basis and that the party with a history of mental problems is not aroused.

7.4 Delivery of Notices

Immediately after setting a hearing date and verifying it with the complainant, the clerk fills out a Notice to Respondent of Hearing (Form 3), which is a notice to the respondent that a hearing has been scheduled and that appearance is expected. This notice is mailed out on the same day as the taking of the complaint, to assure that the respondent receives the notice before the scheduled hearing date. A special type of notice is mailed in a Summons Docket case. Since a criminal complaint has been filed, the regular charge notice must include a statement that the charge is a criminal matter. Therefore, Forms 4&5 are mailed for Summons Docket cases.

Under certain circumstances it is desirable that hearings be held sooner than one week following the complaint. An arrangement has been made with the police department to assist the Night Prosecutor's Program by delivering the Notice to Respondents (Form 3) by cruiser in such cases. Hearings can be scheduled within 36 hours when delivery is successfully made by cruiser.

A common problem facing the Night Prosecutor Program is returned mail. This problem occurs either because the initial address was incorrect or because the respondent has moved. It is the responsibility of the complainant to provide the respondent's address. If the respondent does not receive a notice to appear, a hearing cannot be held. When this situation arises, there are several options available:

Option 1: The complaining party appears at the scheduled date and time in order to speak with the hearing officer. If the complaining party still wishes to pursue the matter after a discussion with the hearing officer, additional addresses, such as those of relatives or close associates, where the respondent might be reached, may be offered. Assuming a new address, another notice is mailed out and the hearing date is rescheduled.

Option 2: The hearing is continued until the complaining party has had the opportunity to find additional addresses. Once new addresses are found, option one (above) is followed.

7.5 Pre-Hearing Preparation

Clerks arrive at the Night Prosecutor's Office at 4:00 p.m. each day, two hours before the first scheduled hearing. The clerk consults the Hearing Docket (Form 1 or 2) for that day's schedule and prepares the Daily Hearing Sheet. Charge Forms (Form 6's) are arranged in the Daily Hearing Docket file in chronological order of cases to be heard.

Prior to the time of the hearing, it is the responsibility of the hearing officers to check the Daily Hearing Sheet and determine when hearings will be held. The hearing officer removes all Charge Forms (Form 6's) for cases assigned, reads them, and determines whether or not a criminal records check is necessary on any of the parties. If additional information is necessary, the hearing officer contacts the clerk or supervisor for authorization and for direction in finding the particular data needed. The following records and sources of information are available:

- The criminal records of the City of Columbus are available to the Night Prosecutor's Office. However, any hearing officer who wishes access to the records must first consult a clerk or supervisor for authorization.
- Information on warrants or summons can be obtained from the Clerk of Courts Office. The researcher can discover if there has been a warrant issued recently for the arrest of a party. The Clerk of Courts can also provide information dealing with outstanding warrants on the Summons Docket, bond schedules, etc.
- If there is an outstanding warrant located on a cruiser, the Information Bureau of the Police Department has a card file which specifies which cruiser the warrant is on, when it was put on the cruiser, the address of the person sought and the bond set for release after arrest, if appropriate. The Information Bureau also contains a listing of all persons who are incarcerated in the city jail.
- Whether or not the hearing officer feels that a criminal records check is needed, routine checks are made in the master index file of previous Night Prosecutor hearings for any data that may be available from prior hearings involving either party.

7.6 When One or More Parties Does Not Appear

Because a large percentage of the hearings scheduled in Columbus result in "no-shows" on the part of the complainant, the respondent or both, detailed procedures for dealing with such contingencies have been developed. At the hour scheduled, the hearing officer calls out the names of the two parties involved. If only one party appears, the hearing officer ascertains whether the missing party is the complainant or the respondent.

Situation 1: If the party who fails to appear is the complainant, the hearing officer allows ten minutes for the party to appear. If, after this time, the complainant does not appear, the hearing officer attempts to contact the complainant and ascertain why s/he is not present. If the complainant is not available or cannot be contacted, the hearing officer waits an additional five minutes and then dismisses the respondent, dismissing the charges. If the hearing officer contacts the complainant but is unable to obtain the complainant's presence or a valid reason for failure to appear, the hearing officer will tell the complainant that the charge which has been filed against the respondent has been dropped and that the complainant will not be permitted to refile on the same matter. If the hearing officer contacts the complainant and determines that there has been some type of error in scheduling or that the complainant was unaware of the requirement to appear, then the hearing officer attempts to reconcile the difficulty by whatever method appears most expedient, whether it be rescheduling the case or asking the complainant to come to the office immediately.

Situation 2: If the party who fails to appear is the respondent, the hearing officer attempts to reach the respondent by telephone. If the hearing officer is unable to reach the respondent, the hearing officer takes the complainant into the designated room and discusses the charge. After listening to the complainant's story, the hearing officer has four options available: (1) reschedule the hearing for a later date; (2) drop the case; (3) recommend the filing of a complaint on the Summons Docket; or (4) recommend the filing of a complaint requesting the issuance of a warrant of the arrest of the respondent. Since the whole purpose of citizen dispute settlement is reconciliation and solution of interpersonal disputes, the preferred practice is to reschedule the hearing by sending a second notice of hearing to the respondent, inscribed with the statement that it is the final notice to appear, and that failure to appear may result in the initiation of further legal action (Form 3). If the respondent does not appear after the second notice is sent, the hearing officer again talks to the complainant and determines, from a legal viewpoint, if the complainant

has a sufficient case for a courtroom trial. If so, and if the complainant desires formal action, the hearing officer requests the supervisor to authorize a complaint to be filed and a summons issued for the appearance of the respondent in court.

Situation 3: Because criminal charges are involved in Summons Docket cases, the Night Prosecutor's Office cannot be as flexible as it is with Citizen Complaint cases. The procedures for Summons Docket cases parallel those for other cases except in situations where the charges are dropped. In this event, the hearing officer must note the reasons for withdrawal and the charge form must be signed by the supervisor and a recommendation of nol-pros proceeds to court. In all other cases, the words "Proceed to Trial" are endorsed across the front of the charge form to indicate that no agreement was reached (or the respondent did not appear) during the hearing.

If the hearing officer determines that there is no possibility of proving the allegations in court, after consulting with the prosecuting witness, the hearing officer makes a conscientious effort to direct the prosecuting witness to a social agency that might offer help for the problem. In such cases, the charge is dropped.

7.7 Holding a Hearing

When both parties appear in the waiting area, the hearing officer ushers them into the assigned hearing room. The hearing officer offers introductions and explains that both parties will be given an opportunity to tell their versions of the dispute without interruption. The complainant speaks first. The hearing officer might interrupt occasionally to ask for clarification. No interruptions from the respondent are permitted. When the complainant is finished, the respondent may tell the other side of the story. When the respondent has finished, the hearing officer asks questions to probe for the underlying tensions which have given rise to the incident.

In many cases, the hearing officer relates the legal issues associated with the problem and explains the criminal sanctions available to each party. The supervisor is available to provide information on legal issues, when necessary. The hearing officer emphasizes the limited utility of criminal prosecution in achieving the complainant's goals. Parties are discouraged from wasting their time and money in court, if a resolution can be reached

in an evening hearing. Cases from the Summons Docket, however, cannot be simply dropped. The complainant must actually withdraw the charges.

The optimal situation is one in which the parties themselves discover both the problem and its solution. Obviously, this solution is most acceptable and most likely to be followed, since the disputants thought of it themselves. This is not always possible in practice, however, and it is in these cases that the hearing officer is required to suggest possible settlements to the parties.

During the hearing, it may become apparent that the underlying problem is not of a criminal nature, but should be handled by an administrative agency or social service organization, such as the Board of Health or a marriage counselor. As part of the settlement, the hearing officer may refer the parties to the proper organization. The clerks or the supervisor has the names of organizations and the types of problems each organization handles.

Because of the program's continuing relationship with the retail companies, a permanent hearing procedure exists for bad check cases. The same hearing officer and the same company representative work together on the night of the week set aside for that company. This provides a continuity that facilitates smooth operations. The company representative and the hearing officer are assigned one room, and respondents who appear are referred to them one by one. The company representative and the hearing officer attempt to reach a settlement with each respondent. Those who make full restitution have their xerox sheets marked to so indicate. The sheets are then placed for filing by the day secretary in the permanent check file. Those who do not make full restitution, but who make arrangements to pay either at the company office or at the hearing, have their xerox sheets placed in the "Promise to Pay" folder.

NOTE: The hearing officer's role in a citizen dispute settlement program is one of catalyst between the parties. Another model, victim confrontation, is similar to CDS except that the "hearing officer" is specially equipped to "counsel" the parties and determine -- through application of psychological counseling tools -- behavioral motivation, personality traits, and the like. In victim confrontation, the goal of conflict settlement reaches beyond the immediate dispute and into a case-by-case assessment of the personal interaction between parties. For example, experimental programs have been established to deal with stranger-to-stranger crimes (e.g., some rape cases) through victim confrontation. The hearing officer is a trained psychologist or psychiatric counselor who evaluates, probes, and moves toward a determination of underlying interpersonal conflicts. In one sense, victim confrontation combines the counseling referral service of CDS with the hearing process.

7.8 Use of Witnesses

Whether or not witnesses should be permitted to participate in the hearing, either individually or collectively, is left to the discretion of each hearing officer. In general, aside from the limitations of space, the presence of witnesses is encouraged. Witnesses often add information that neither party was willing to divulge, and thereby facilitate the airing of underlying problems. Since the program does not have the power of subpoena, no witness can be required to appear. Notice forms are not utilized for witnesses. Each party is notified of the responsibility to obtain witnesses if desired.

7.9 Use of Attorneys

Both complainants and respondents have the right to be represented by attorneys at Night Prosecutor hearings. The procedure, however, is not advocacy-oriented and rules of evidence are not adhered to. The emphasis in a Night Prosecutor hearing is not the verification of facts or the establishment of guilt or innocence, but, rather, the airing of grievances and the resolution of problems. Therefore, project staff feel the presence of attorneys is often superfluous and is sometimes a hindrance.

7.10 When a Case is Settled or Dropped

It is the goal of the hearing process to reach a settlement to which both parties agree. In most cases, this is achieved by a combination of factors -- emotions having been vented and suggestions for resolution having been proposed by a third party. When a case is settled, the hearing officer reviews the terms agreed upon with the parties and receives the assent of each. At this point, the case is dismissed. No forms or affidavits need to be signed by the parties, except in Summons Docket cases.

There are a number of situations in which the case would be considered dropped without a hearing:

- (1) If the complainant does not appear, and cannot be reached or refuses to appear.
- (2) If the complainant withdraws the charge. Often a complainant will have a change of heart, or the parties will arrive at a mutually satisfying solution before the date of the hearing. A complainant (not a respondent) may withdraw the charge only by appearing in person at the Prosecutor's Office and stating the desire to have a charge dropped.
- (3) If the respondent does not appear and the complainant chooses not to file an affidavit.

In all but the most unusual circumstances, Summons Docket cases are not rescheduled because of the lack of time before the case comes to trial. However, if the two parties wish to hold another hearing, the complainant must withdraw the charges so the case can be removed from the Summons Docket. The complainant retains the right to refile at a later time.

7.11 When the Case is Continued or Rescheduled

Often, a half-hour session is not long enough to reach a solution. If the parties agree, a case can be continued until the next evening or any other time that is available and convenient. Other situations in which a case would be continued or rescheduled are:

- (a) When the respondent does not appear at the first scheduled hearing;
- (b) When the complainant does not appear at the first scheduled hearing, but is contacted and indicates interest in a rescheduled hearing;
- (c) When the respondent, upon receiving notice, calls in and requests a rescheduled hearing at a more convenient time;
- (d) When one of the parties requests a continuance to prepare the case, obtain a witness or an attorney;
- (e) When the parties take advantage of another counseling program; and
- (f) When a notice to a respondent is sent to an incorrect address and the complainant requests a continuance to obtain a new address.

In all situations in which a case is continued, the hearing officer must contact a clerk who will negotiate a new hearing time with the two parties and enter it on the hearing docket. Each party is given a Reminder of Hearing (Form 11) with the new date and time entered. The hearing is noted in the docket. The Charge Form (Form 6) which has been marked "continued" by the hearing officer, is placed by the clerk in the Continuing Action File.

7.12 When an Affidavit is Taken

For the Night Prosecutor's Program, the taking of an affidavit is a serious matter and often a sign of failure.

However, not all cases can be resolved by discussion, and parties are sometimes adamant in their insistence on filing criminal charges.

Affidavits can be taken only by the supervisor, who is a member of the bar and thereby entitled to serve this function. In situations where a clerk or a hearing officer handles a case in which one or both parties desire to file affidavits, the supervisor is called in for consultation. The staff member explains the situation to the supervisor, who then meets with the parties involved.

The supervisor tries to obtain a settlement and informs the complainant, when appropriate, that an affidavit will not solve the underlying problem. If, however, the complainant insists, and the case has prima facie validity, the supervisor must take the affidavit. The supervisor notes the disposition on the Charge Form (Form 6) for transfer to the index card file (Form 7). The hearing officer interviews the complainant and any witnesses and helps them to fill out a questionnaire (Form 9) concerning the case. This questionnaire is used by the day Prosecuting Attorney for understanding the details of the case before entering the courtroom. The hearing officer also fills out an Authorization to File which is signed by the supervisor.

Under normal circumstances, there are three possible procedures to be followed once an affidavit is taken:

- The most common method of serving a criminal complaint is to place it on the Summons Docket. A complaint issued in this manner will result in the respondent being summoned to court by mail. In such a case, a hearing is automatically scheduled (approximately one week before the court date) at the Night Prosecutor's Office and appropriate notices are sent to the respondent. The hearing can result in either the dismissal of the complaint or the referral of the case to court.
- The second most common method is the issuance of a summons which requires the respondent to appear directly in court, without an appearance before the Night Prosecutor.
- The final method is the issuance of a warrant for the arrest of the accused.*

* It should be noted that, in accordance with Rule 4(A)(1) of the Ohio Rules of Criminal Procedure, the Prosecuting Attorney has the option to order the issuance of a summons in lieu of an arrest when certain conditions exist. The general policy in Columbus is to issue a summons in all criminal misdemeanor cases unless the City Prosecutor's Office directs otherwise. It is, therefore, imperative that endorsements be contained on any complaints that the supervisor feels necessitate the arrest of the accused on a warrant.

7.13 Post-Hearing Activities

Hearing officers and clerks, when the hearings scheduled for the evening have been completed, have a number of clerical tasks to perform. Rescheduled and continued cases are noted as they occur during the evening, in order for the party or parties involved to be given immediate notice of the new hearing date. Any new Notices to Appear (Form 3) that have been placed in the "To be Typed" file are typed at this time by a clerk and are placed in the "Outgoing Mail" file. Charge Forms (Form 6's) for rescheduled cases are filed for continuing action.

If a hearing is not to be rescheduled and the matter has either been dropped or resolved by the Night Prosecutor's Office, the hearing officer completes the Index Cards (Form 7's) to document the results of the hearings. One Index Card (Form 7) is filled out in the name of the respondent and one in the name of the complainant. The Index Cards are attached to the Charge Forms (Form 6) by the hearing officer and deposited in a "Completed Action" box for filing by the clerks.

It is the responsibility of the clerks to complete the hearing docket after all hearings have been held. At the end of the hearing process, the hearing officers fill out Index Cards (Form 7). The clerks remove the Charge Forms (Form 6) and attached Index Cards (Form 7's) from the "Completed Action" box and enter the last name of the hearing officer and the result of the hearing on the hearing docket opposite the names of the parties involved. After all daily results have been logged onto the hearing docket, the clerks total the number of hearings scheduled, note their dispositions, and enter this information on the Daily Summary Sheet

(Form 1C). Information from the Charge Form (Form 6) is transferred. At the beginning of each month the hearing dockets which have been used during the preceding month are removed from the hearing docket folder and permanently retained on file in the Night Prosecutor's Office. Charge Forms and permanent files on Summons Docket cases are segregated from the normal hearing docket for record purposes. Once the Index Cards (Form 7) are filed and the hearing docket filled out, the Charge Forms (Form 6) are placed in drawers under the name of the hearing officer who conducted the hearing, and are destroyed after the hearing officer has called the complainant (See Section 7.14).

NOTE: Dealing with cases from the Summons Docket poses more serious problems for the program than dealing with most other cases. Both in terms of administration and ultimate results, great care must be taken to coordinate closely with the clerk of courts and the day prosecutor's office. To a large extent, the reputation and credibility of the program will rest with the court's and the prosecutor's assessment of the effectiveness with which these cases are handled.

7.14 The Callback Procedure

Since no formal contracts are drawn between the parties of a settled dispute, and no recourse is available in cases of non-compliance, except to refile charges, a method was devised to evaluate the short-term effectiveness of dispute settlements arrived at through Night Prosecutor Hearings. The callback procedure involves spending a few minutes, at the close of the evening's hearings, telephoning former complainants to discover whether or not their experience with the Night Prosecutor's Program was a fruitful one. Hearing officers refer to the Form 6's filed in their drawers three weeks previously and telephone the complainants to inquire about the present state of their dispute.

APPENDIX

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Summary of Project Records and Forms

- Form 1: Hearing Docket - Weekdays: Serves as the basis for scheduled hearings that take place between 6:00 p.m. and 10:00 p.m., Monday through Friday. Utilized principally by clerks, who take the charges.
- [Form] 1A: Daily Hearing Docket File: A group of six folders, each marked with a day of the week (excluding Sunday), where Form 6's for hearings scheduled for that day of the week are filed.
- [Form] 1B: Daily Hearing Sheet: Serves to consolidate and organize the hearings scheduled for each day by listing the names of the parties, the hearing officer and the room assigned. Filled out by the clerks and utilized principally by hearing officers, it is clipped to the front cover of the Daily Hearing Docket File (Form 1A) in use that day.
- [Form] 1C: Daily Summary Sheet: Serves to summarize and tabulate the results of each day's activities for monitoring purposes.
- Form 2: Hearing Docket - Saturdays: Serves as the basis for scheduling hearings that take place between 8:00 a.m. and 12 noon on Saturdays. Utilized principally by clerks, who take the charges. (Also feeds into Forms 1A and 1B above).
- Form 3: Notice to Respondents of Hearings: Notifies the respondent that a charge has been filed by the complainant and the date and time of the scheduled hearing. The form is mailed out approximately one week in advance of the scheduled hearing.
- Form 4: Notice to Respondents of Hearing from Summons Docket: Similar to Form 3 above, except that this notice, mailed to the respondent, makes reference to the fact that the case has already been scheduled for court appearance.
- Form 5: Notice to Complaining Witness from Summons Docket: Similar to Form 4 above, except that the notice is mailed to the complainant.
- Form 6: Charge Form: Serves as the basic reference document. Utilized by the clerk in noting information on the parties involved, the charges, and any special instructions to the hearing officer.

Summary of Project Records and Forms (page 2)

- Form 7: Case Index Cards: Serves as the basic filing tool. Clerks transfer information from Form 6 (above) for permanent filing as cases are closed or resolved.
- [Form] 8: Night Prosecutor's Action: Serves as the authorization for filing a criminal complaint in cases where the hearing failed to resolve the problem and the complaining party still wishes to take legal action.
- Form 9: Questionnaire: Contains information useful to the Prosecutor's Office in that it describes a case in situations where a criminal complaint is being filed.
- [Form] 10: Business Bad Checks: Serves as the principal coordinating tool in handling bad check cases. Summarizes basic information and results of each case handled.
- Form 11: Reminder to the Complainant of Hearing: A short memorandum, which is handed to the complainant at the time the charge is made and the hearing scheduled, as a reminder of the scheduled hearing date and time.

Sample Form

Form1: Hearing Docket (Scheduling Dates for Weekday Hearings)

[Editor's note: The actual form is formatted on legal size paper to include scheduling through the hour of 9:30]

	(Month) _____		(Day) _____		, 197 _____		
Time	Plaintiff	Zip	Respondent	Zip	Div./ Summons	H/ Officer	Results
6:00	_____	_____	_____	_____	_____	_____	_____
6:00	_____	_____	_____	_____	_____	_____	_____
6:00	_____	_____	_____	_____	_____	_____	_____
6:00	_____	_____	_____	_____	_____	_____	_____
6:30	_____	_____	_____	_____	_____	_____	_____
6:30	_____	_____	_____	_____	_____	_____	_____
6:30	_____	_____	_____	_____	_____	_____	_____
6:30	_____	_____	_____	_____	_____	_____	_____
7:00	_____	_____	_____	_____	_____	_____	_____
7:00	_____	_____	_____	_____	_____	_____	_____
7:00	_____	_____	_____	_____	_____	_____	_____
7:00	_____	_____	_____	_____	_____	_____	_____
7:30	_____	_____	_____	_____	_____	_____	_____
7:30	_____	_____	_____	_____	_____	_____	_____
7:30	_____	_____	_____	_____	_____	_____	_____
7:30	_____	_____	_____	_____	_____	_____	_____
7:30	_____	_____	_____	_____	_____	_____	_____
8:00	_____	_____	_____	_____	_____	_____	_____
8:00	_____	_____	_____	_____	_____	_____	_____
8:00	_____	_____	_____	_____	_____	_____	_____
8:00	_____	_____	_____	_____	_____	_____	_____
8:30	_____	_____	_____	_____	_____	_____	_____
8:30	_____	_____	_____	_____	_____	_____	_____
8:30	_____	_____	_____	_____	_____	_____	_____
8:30	_____	_____	_____	_____	_____	_____	_____

Sample Form

Form 1c: Daily Summary Sheet (Tabulation)

_____ (Month) _____ (Day) _____, 197_____

Hearing Officers

1. _____
2. _____
3. _____
4. _____

Clerks

1. _____
2. _____

Supervisor

Hearing Results

Scheduled _____

Held _____

Warrants Filed _____

Rescheduled _____

Summons Issued _____

Walk-In Warrants _____

Cases Withdrawn _____

Referred to Other
Agencies _____

Walk-In Summons _____

Family Counseling

Scheduled

Held

Environmental Health _____
S

H

Child Abuse _____
S

H

Landlord-Tenant _____
S

H

Call Backs Made _____

BAD CHECK RESULTS

Held _____

Scheduled _____

Settled _____

Dropped _____

Warrants _____

Names of Business

Summons _____

Sample Form

Form 2: Hearing Docket (Scheduling Dates for Saturday Hearings)

[Editor's note: The actual form is formatted on legal size paper to include time scheduling through the hour of 11:30]

____ (Month) SATURDAY _____, 197__

<u>Time</u>	<u>Plaintiff Zip</u>	<u>Respondent Zip</u>	<u>Div/ Summons</u>	<u>H/ Officer</u>	<u>Results</u>
8:00	_____	_____	_____	_____	_____
8:00	_____	_____	_____	_____	_____
8:00	_____	_____	_____	_____	_____
8:00	_____	_____	_____	_____	_____
8:30	_____	_____	_____	_____	_____
8:30	_____	_____	_____	_____	_____
8:30	_____	_____	_____	_____	_____
8:30	_____	_____	_____	_____	_____
9:00	_____	_____	_____	_____	_____
9:00	_____	_____	_____	_____	_____
9:00	_____	_____	_____	_____	_____
9:00	_____	_____	_____	_____	_____
9:30	_____	_____	_____	_____	_____
9:30	_____	_____	_____	_____	_____
9:30	_____	_____	_____	_____	_____
9:30	_____	_____	_____	_____	_____
10:00	_____	_____	_____	_____	_____
10:00	_____	_____	_____	_____	_____
10:00	_____	_____	_____	_____	_____
10:00	_____	_____	_____	_____	_____
10:30	_____	_____	_____	_____	_____
10:30	_____	_____	_____	_____	_____
10:30	_____	_____	_____	_____	_____
10:30	_____	_____	_____	_____	_____

Sample Form

Form 3: Notice to the Respondent that a hearing has been scheduled
requesting appearance. (Mailed)

POLICE PROSECUTOR'S OFFICE
ROOM NUMBER 105
CENTRAL POLICE STATION
120 W. Gay Street

Columbus, Ohio _____ 19__

CALL AFTER 5:00 p.m. if you
have questions concerning
this notice. 461-7483

TO: _____. Please be advised that a charge
of _____ has been made against you by
_____. You are notified to be at the
office of the PROSECUTOR on the ____ day of _____, 197__,
at _____ o'clock AM?PM.

FAILURE TO APPEAR MAY BRING FURTHER LEGAL ACTION.

BY ORDER OF THE POLICE PROSECUTOR

BY _____

Sample Form

Form 6: Charge Form (*Basic Reference Document*)

Form 6 Night Prosecutor's Prog. Summons Docket Case No. _____

Prosecuting Witness v. Respondent

Date _____, Columbus, Ohio

Prosecuting Witness:

Name _____ M or F

Address _____

Phone _____ (Note if unlisted) ZIP CODE

Respondent:

Name _____ M or F

Address _____

Phone _____ (Note if unlisted) ZIP CODE

Facts:

(If more room is needed, use reverse side)

Prior criminal or Night Prosecutor record: _____

Special Instructions: _____

Hearing set for _____, 197__ at _____
am/pm

Prosecutor or Clerk

For Summons Use Only:

Referred to Court Case No. _____

Approval:

Charge Withdrawn Case No. _____

H/Officer _____

Reasons for withdrawal _____

Supervisor _____

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Day Staff, Date with-
drawn _____

Form 7: Case Index Cards

Filled out and Filed on Both Complainant and Respondent
(Terminated with NP Program; Contains Form 6 Information).

Name _____ No. _____
Address _____
Phone _____
_____. V. _____
(Complainant) (Respondent)
Hearing Date _____
Charge _____

Dropped _____ No Show _____ Settled _____
Det. Bur. _____ Affidavit _____ Civil _____
To Court _____ other _____

Reverse side of 3 x 5 Index Card:

Results:

PW: _____

Sample Form

DATE: _____

CASE NO. _____

Form 9: Questionnaire

(Please complete and return immediately)

Name of defendant

Offense

Date of offense

Location of Offense

Is this location in the City of Columbus?

Yes () No ()

If other than Columbus, where?

Do you want to proceed with the prosecution?

Yes () No ()

(If answer is No, explain in Statement of Facts)

In compliance with Rule 16 (Discovery and Inspection) of the Ohio Rules of Criminal Procedure, it may become necessary for the City Prosecutor to furnish relevant information to the defendant or his attorney. You are requested to carefully read and answer the following questions:

1. Did the defendant or co-defendant furnish a relevant written or recorded statement? Yes () No ()
2. Were written summaries made of any relevant oral statements by the defendant or co-defendant? Yes () No ()
3. Does the defendant have a prior criminal record? Yes () No ()
4. Did you or any officer obtain any physical evidence such as photographs, books, papers or tangible objects relating to this case? Yes () No ()
5. Were any physical or mental examinations or scientific tests of any kind conducted in connection with this case? Yes () No ()
If yes, what were they? _____
6. List the names, addresses and phone numbers of all witnesses.

2. Were written summaries made of any relevant oral Yes () No ()
statements by the defendant or co-defendant? Yes () No ()

3. Does the defendant have a prior criminal record? Yes () No ()

4. Did you or any officer obtain any physical evidence such as photographs, books, papers or tangible objects relating to this case? Yes () No ()

5. Were any physical or mental examinations or scientific tests of any kind conducted in connection with this case? Yes () No ()

If yes, what were they?

6. List the names, addresses and phone numbers of all witnesses.

NAME _____

ADDRESS

PHONE NO.

7. Did any witness furnish a written or recorded statement? Yes () No ()
Yes () No ()

8. Do you know if any witness has a prior felony conviction? Yes () No ()

9. Do you know of any information favorable to the defendant relevant to his guilt or sentence? Yes () No ()

If yes, what is it?

Sample Form

STATEMENT OF FACTS: (Write a brief description of what happened. If more space is needed, use other side. THIS STATEMENT MAY BE PRODUCED IN COURT IF YOU TESTIFY AS A WITNESS, AS REQUIRED BY THE OHIO RULES OF CRIMINAL PROCEDURE.)

SIGNATURE: _____

DATE COMPLETED:

Sample Form

Form 10: Business Bad Checks

Company _____ Date _____

NEW CASES BROUGHT IN: _____

CASES SETTLED: _____

FIRST NO SHOW: _____

PROMISES TO PAY: _____

AFFADAVITS FILED: _____

DROPS: _____

REMARKS:

Company Representative _____

Hearing Officer _____

Form 11: Reminder to Complainant of the Scheduled Hearing.
(Handed Out at Time Complainant Appear and Hearing
Scheduled)

MUNICIPAL COURT

Columbus, Ohio. 19. . . .

POLICE PROSECUTOR'S OFFICE Room No. 105

CENTRAL POLICE STATION 100 W. GAY ST.

Phone 461-7483

Notify..... of.....
(address)

to be at the office of the PROSECUTOR on the..... day of.....

at..... o'clock Day/Night
AM/PM.

By order of the POLICE PROSECUTOR

BRING THIS NOTICE WITH YOU.

By.....

X-10-105

Description of Permanent Files

The intra-office administrative files, maintained principally by the project clerks, include:

- Daily Hearing Docket
- Completed Action File
- Continuing Action File
- Questionnaire File
- Form File
- Daily Files
- Two Mailing Files

These files are designed to aid in the smooth functioning of the office by maintaining order in the two distinct operations that are going on at the same time -- holding hearings and scheduling hearings for the next week. The procedures are ministerial, but experience has shown that they are the most effective means of coordinating functions of the office. With the exception of the Daily Hearing Docket and the Completed Action File, which are accessible to hearing officers, only the clerks and supervisors have access to the intra-office administrative files.

The Daily Hearing Docket File consists of all the Charge Forms (Form 6's) for cases that are to be heard during a particular session. The clerk consults the Hearing Docket in preparing the Daily Hearing Sheet (Form 1B). This sheet is appended to the front of the Daily Hearing Docket File and contains the names of the parties on each case to be heard, the time the case is to be heard, the name of the hearing officer who will hear the case, and the number of the room the case will be heard in. Inside the Daily Hearing Docket Files are Charge Forms (Form 6's) for each case to be heard that session, filed in order of hearing time.

The Completed Action File is used by the hearing officers. After hearings have been held, hearing officers place Charge Forms (Form 6's), related materials such as Index Cards (Form 7's), and questionnaires, when appropriate, in this daily file.

The Continuing Action File contains Charge Forms (Form 6's) that are to be held for cases that are, for a variety of reasons, considered "continued". For example, a party may be out of town and not able to be present for a hearing in the next week, or a correct address for the respondent may not be known at the time the charge is made. In this event, the clerk places the Charge Form (Form 6) in the Continuing Action File and holds

it for a designated period of time, usually not more than a month, before the charge is either dismissed or the case is scheduled for a hearing.

The Questionnaire File contains questionnaires for all cases that are not resolved in the Night Prosecutor's Office and are sent on to trial. The clerks are responsible for retaining questionnaires until the Clerk of Courts makes up a case pocket, usually about a week after the case is heard at the Night Prosecutor's Office. The clerk then places the questionnaires in this pocket in the Clerk of Courts Office. The Questionnaire File is only a holding file until the packets are made up by the Clerk of Courts.

The Form File contains blank forms, envelopes, and notices. It is used only as a convenient file to hold the materials that are utilized in taking charges or authorizing criminal complaints.

The Daily Files consist of two separate groups of files; one file contains all cases to be held on a particular day for each day of the week, the other file is for business bad checks. All Charge Forms (Form 6's) are placed in one of the daily files, depending on what day of the week the case is to be heard. All business bad checks are retained in a bad check file under the name of the company who has made the charge.

The Bad Checks File is divided into three parts: New Cases, Repeat Cases, and Promises to Pay. The company brings a xeroxed copy of the check along with any collection data showing its attempts to collect on it. A notice is then sent to the respondent to appear one week later at the Night Prosecutor's Office. If the party appears and makes restitution, the case is marked "settled" and retained in the permanent check file maintained by the day secretary. If the party does not make restitution, or does not appear, the case is either placed in the Repeat Cases file and a final notice is sent to the respondent to appear the next week, or the case is dropped by the company. If the respondent promises to pay at a later date, the case is placed in the Promise to Pay file and retained there until the party makes restitution. If the party does not pay within a designated time, it is either dropped by the company or a complaint is authorized. If the respondent makes restitution after the second notice is mailed, the case is marked settled and retained in the permanent check file. If the party does not, the company will either drop the case or file a complaint. The clerk is responsible for tabulating the results of all bad check

Description of Permanent Files (page 3)

cases and entering them on the hearing docket at the end of each session. Data will be supplied to the clerk on Business Bad Check Forms (Form 10) by the hearing officers.

The two mailing files are utilized by the clerk to expedite the scheduling of new charges and the mailing of notices to the respondent. After a Charge Form (Form 6) has been mailed out, the clerk will place it in the "to be typed" file. At some time during the session, the clerk types a notice to the respondent, verifies the address, double checks to see that the case has been entered on the Hearing Docket and places the Charge Forms (Form 6's) in the daily file for the date of the hearing and leaves the notices for the day secretary to mail.

NOTE: Only one document containing information on individual participants in the program is retained in the files. Index cards (Form 7) summarize pertinent facts on each person and case for the sole purpose of documenting case results and for tracking possible recidivism. However, the information on these cards is assumed to be exempt from subpoena. Although this assumption has yet to be tested, its likelihood is minimal in light of the brevity of the notes. Index cards do not carry sufficient information to render them useful in a court of law. Therefore, the confidentiality of the hearing room proceedings is almost certain.

CONTINUED

1 OF 2

Summary of Staff Responsibilities

Supervisor

The supervisor of the Night Prosecutor's Office must be a practicing attorney admitted to the Bar. The supervisor must be present at the office, or in the immediate vicinity, during the times hearings are scheduled.

The main functions of the supervisor are to:

- Advise and direct the hearing officers and clerks in their activities, particularly with respect to questions regarding substantive law and procedures.
- Be in contact with the judge in all matters requiring the approval of a judge, and the only person empowered to authorize the filing of a criminal complaint or the withdrawal of a complaint from the Summons Docket.

In general, the supervisor has complete control of the activities of the office and staff and is the only person authorized to either approve or withdraw a criminal complaint.

Clerks

It is the responsibility of the clerk to take all charges and schedule all hearings. Clerks are responsible for all administrative processes of the office, including:

(1) Hearing Dockets

- logging the names of parties and the date and time of their hearings on the hearing docket (Form 1 or 2);
- stating the name of the hearing officer who heard the case and the disposition of the case, respectively;
- filling out the Daily Summary Sheets (Form 1C), which form the basis of all data compiled at the end of the monthly report;

(2) Charge Forms

- listening to the allegations of the complaining witness, and determining whether the matter should be handled by the Prosecutor's Office or referred to the Detective Bureau, an administrative agency, the court or a private attorney, and noting what appear to be the important facts;
- taking the names, addresses and telephone numbers of both parties and scheduling the hearing onto the hearing docket;
- noting in the block on Form 6 denoted "Special Instructions" any exceptional circumstances that the hearing officer should be made aware of.

(3) Notices

- notifying all parties of the hearing date and time;
- verifying the proper address of the respondent, whenever possible, and leaving the notices, properly signed and addressed, for the day secretary.

(4) Master Summons File

- maintaining a permanent file containing the Form 6's of all cases heard from the Summons Docket, by segregating all Form 6's of cases from the Summons Docket from the Form 6's of cases from the normal hearing docket;
- separating all Summons Docket cases into two groups, "NOL-PROS" and "Proceed to Trial" and placing them on the day secretary's desk for removal from the court records;
- ensuring that all Form 6's from the Summons Docket are filled out properly and signed by both the hearing officer and supervisor;
- ensuring that when a case is either referred to court or nol-prossed from the Summons Docket, the Summons Docket information at the bottom of the Form 6 is filled out in full.

(5) Questionnaires

- ensuring that a questionnaire is filled out by the complaining witness and all other witnesses who are present at the Night Prosecutor's Office when a criminal complaint is authorized, or when a case is to proceed to trial from the Summons Docket (Form 9).

(6) Criminal Complaints

- ensuring that the word "summons" is typed on the top of a criminal complaint, and that an Authorization to File is attached to the complaint before it is filed in the Clerk of Court's Office;
- ensuring that the words "Summons Per Prosecutor's Office" appear at the top of cases preceeding directly to court without a program hearing, and making certain that the Authorization to File contains a similar statement (that the case is to go directly to court);
- ensuring that the words "Warrant Per Prosecutor's Office" appear at the top of a complaint, if a warrant exists for the arrest of the defendant, and making certain that the Authorization to File also contains a statement to the effect that the respondent is to be arrested on a warrant and not summoned into court.

(7) Telephone

- answering all incoming telephone calls to the office, unless the clerk is busy or unavailable, and being apprised of the contents of all telephone conversations.

(8) Intra-Office Administrative Files

- assuming total responsibility for maintaining the intra-office administrative files;
- Maintaining an address book containing the names, addresses and telephone numbers of all clerks, hearing officers and supervisors who work with the Night Prosecutor's Office.

(9) Monthly Report

- being responsible for compiling a report of cases considered during the month, including a numerical listing of all cases processed during the month, and dividing it into the categories listed on the bottom of the hearing docket under the heading "results".

(10) Monthly Payroll

- compiling a list of names of persons who have worked and the total hours worked, each month, and submitting it to the person designated as paymaster.

Hearing Officer

The hearing officer is responsible for conducting specific hearings assigned on the daily docket sheet and documenting the results of these hearing. The hearing officer is the only person who meets with and talks to both of the parties at the same time. Hearing officers are responsible for:

(1) Matters Prior to the Hearing

- checking the daily docket sheet and determining when hearings will be held;
- routinely checking the master index file on all prosecuting witnesses and respondents for any data that may be available from prior hearings;
- ascertaining when the parties are present for the scheduled hearing and conducting them to the hearing room assigned on the daily docket sheet.

(2) Conducting the Hearing

- allowing each party, beginning with the prosecuting witness to tell their side of the story without interruption;
- allowing each party to comment on the story told by the other side;
- allowing the parties and witnesses to discuss the problems between themselves and encouraging them to discover their own solution;

Summary of Staff Responsibilities (page 5)

- asking the parties or witnesses if they can suggest or agree to an equitable solution to the problem;

(3) Matters After the Hearing

- contacting the clerk, if the hearing is to be rescheduled, to determine when there is an available time slot on the requested date;
- documenting the results of the hearing, if the hearing is not to be rescheduled and if the matter has either been dropped or resolved by the Night Prosecutor's Office.

(4) Master Index File

- transferring pertinent information concerning the results of the hearing from the Charge Form onto a "3 x 5" card for permanent storage. (The information contained on these cards is confidential, and access is confined to project staff members.

The Day Secretary

The day secretary is a member of the Night Prosecutor's staff and serves as a liaison between the City Prosecutor's Office and the Night Prosecutor's Office. At the end of each day, the secretary mails the notices, which have been processed by the night clerks during the preceding session. The secretary is responsible for:

- answering any question from parties directed to the City Prosecutor's Office;
- ensuring that any administrative problems encountered during the sessions, which could not be settled during non-working hours, are resolved;
- notifying day prosecutors of the removal of those cases from the Summons Docket that have been nol-prossed and recketing cases that have been sent on for trial;
- working directly for, and being responsible to, the program coordinator.

The Program Coordinator

The program coordinator must be a member of the day prosecutor's staff and is responsible for liaison between the day and night staffs. The coordinator has the ultimate responsibility for all functions of the day secretary. The coordinator judges and acts as an expeditor in all areas in which functional difficulties are encountered. The coordinator is directly responsible to the City Attorney.

Duty City Prosecutor

The City Prosecutor's Office appoints a City Prosecutor to be on duty each week in the evening, except on Sunday and Monday. The Prosecutor's function is to be available to answer whatever questions may be directed by the City Police regarding such things as search and seizure. The Duty Prosecutor is also available to aid the Night Prosecutor's Office in any manner necessary. All questions from City Police regarding policy decisions or matters such as search and seizure should be referred to the Duty City Prosecutor.

Student Liaison

The student liaison is the crucial coordinating link between the program and the staffing source - Capital University Law School. Many of the functions performed by the liaison ensure the smooth management and supervision of staff. The liaison reports directly to the Night Supervisor. The liaison is responsible for:

- preparation of the monthly payroll for project staff and consultants or others who offer one-time supportive services to the project;
- recruitment and training of all new clerks and hearing officers;
- public relations concerning the Program and participants;
- liaison with Capital University/Administration;
- formulating and implementing the policies of the Program;
- research and development of additional areas of jurisdiction;
- overall supervisory responsibility for the logistical or administrative aspects of the Program.

EXEMPLARY PROJECT DOCUMENTATION

"Citizen Dispute Settlement: A Replication Manual"

To assist LEAA in the preparation of future Exemplary Project Documentation Materials, the reader is requested to answer and return the following questions.

1. What was your purpose in reading this document?

- ☐ Planning a new Citizen Dispute Settlement program
☐ Modifying existing procedures
☐ Comparing the Columbus CDS program with local program efforts
☐ General information
☐ Other (please specify: _____)

2. Were the materials in this document relevant to your needs?

- ☐ Completely ☐ Partly ☐ Not at all

Comments:

3. To what extent would you consider the materials useful for:

	Highly Useful	Of Some Use	Not Useful
Direct adaptation to your jurisdiction	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Providing a model for the development of similar systems	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Developing a thorough understanding of Citizen Dispute Settlement procedures	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Other (please specify:) _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

4. In what ways, if any, could the document be improved:

A. Content/Coverage

B. Structure/Organization

C. Writing Style/Format

5. Please check the ONE item below which best describes your affiliation with law enforcement or criminal justice. If the item checked has an asterisk (*), please also check the related level, i.e. Federal, State, County or local.

- | | | | |
|---|--------------------------------|--|--------------------------------|
| <input type="checkbox"/> Federal | <input type="checkbox"/> State | <input type="checkbox"/> County | <input type="checkbox"/> Local |
| <input type="checkbox"/> Headquarters, LEAA | | <input type="checkbox"/> Police * | |
| <input type="checkbox"/> LEAA Regional Office | | <input type="checkbox"/> Court * | |
| <input type="checkbox"/> State Planning Agency | | <input type="checkbox"/> Correctional Agency * | |
| <input type="checkbox"/> Regional SPA Office | | <input type="checkbox"/> Legislative Agency * | |
| <input type="checkbox"/> College/University | | <input type="checkbox"/> Other Government Agency * | |
| <input type="checkbox"/> Private Firm | | <input type="checkbox"/> Professional Associations * | |
| <input type="checkbox"/> Citizen Group | | <input type="checkbox"/> Crime Prevention Group * | |
| <input type="checkbox"/> Legal Aid/Public Defender Agency | | | |

6. Your Name (Optional) _____

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Your Position _____

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