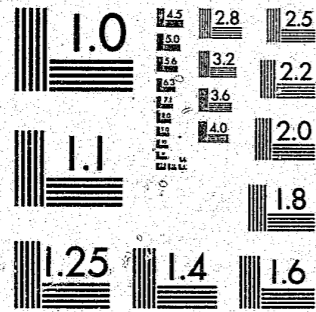


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Federal Justice Research Program

97009

Dispute Resolution: Techniques and Applications

A Selected Bibliography

97009

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Dispute Resolution: Techniques and Applications

A Selected Bibliography

compiled by

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Dispute Resolution Information Center/NCJRS

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Ronnie Mills

March 1985

U.S. Department of Justice
Office of Legal Policy
Federal Justice Research Program

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INTRODUCTION

The dispute resolution field has grown dramatically in the past decade. This growth has been attributed to a number of circumstances. Problematic and sometimes staggering court backlog has been an impetus for designing alternative dispute resolution mechanisms and for diverting cases to them. The cost of prolonged litigation has also prompted the consideration of alternatives to traditional judicial proceedings. Finally, growing recognition that not all complaints require an adversarial setting for their resolution and that, in some instances, such a setting may actually be detrimental to reaching a satisfactory resolution has further increased receptivity to innovative mechanisms. Viewed in combination, these factors point to a continued demand for varied and accessible conflict resolution forums.

Historical Overview

Alternative dispute resolution mechanisms have been in place under the Federal Government's auspices for some time. The Federal Mediation and Conciliation Service, for example, was founded in 1947 with the mandate of facilitating labor-management relations. The Community Relations Service of the U.S. Department of Justice, created by the Civil Rights Act of 1964, was established to provide assistance to communities involved in disputes or difficulties stemming from discriminatory practices based on race, color, or national origin. Since then, numerous other Federal agencies have become involved in exploring alternative dispute resolution mechanisms. The Administrative Conference of the U.S. is currently engaged in identifying dispute resolution practices employed in administrative agencies in an attempt to describe and gauge the level of Federal Government dispute resolution activity.

In 1980, the Dispute Resolution Act was passed. The Act called for financial assistance for the development

and maintenance of mechanisms for resolving minor disputes. Although the act authorized \$11 million annually through fiscal year 1984 for this effort, Congress has never appropriated any funds. Continued Federal interest in the development of alternative dispute resolution mechanisms has been expressed, however, through the establishment of a Dispute Resolution Information Center (DRIC) by the Federal Justice Research Program of the U.S. Department of Justice. The mandate of the DRIC is to supply a variety of information services to individuals and organizations exploring new ways to resolve conflicts outside the traditional court system. The DRIC, which operates out of the National Criminal Justice Reference Service, is responsible for the production of this bibliography.

A number of private-sector organizations active in dispute resolution have also emerged over the years. The American Bar Association's Special Committee on Alternative Dispute Resolution, for instance, serves as a resource for dispute resolution program and legislative information and has designed the Multi-Door Dispute Resolution Center projects being implemented in Tulsa, Houston, and the District of Columbia. The Multi-Door Center concept was developed by Frank Sander, a Harvard law school professor, and is based on the vision of a courthouse with multiple doors, each providing access to a particular dispute resolution process. The range of dispute resolution processes would ultimately be incorporated into the formal legal system.

The Society of Professionals in Dispute Resolution (SPIDR) was founded in 1973 in recognition of the growing professionalism in the field of conflict resolution. SPIDR brings together dispute resolvers working in such diverse fields as labor-management, employment, family, environment, consumer affairs, international relations,

etc., through its local and national networks. The National Institute for Dispute Resolution (NIDR), opened in 1983, is one of the more recently founded dispute resolution organizations. NIDR was established in an effort to answer basic questions about dispute resolution and to facilitate the implementation of new alternatives to traditional litigation.

A by-product of the increased activity in the field of dispute resolution has been the development of new dispute resolution techniques and the expansion of the types of applications for these techniques. The dispute resolution repertoire now includes not only the more standard negotiation, mediation, arbitration, facilitation, fact-finding, and conciliation techniques, but also includes innovations such as med-arb, med-fact-finding, minitrials, and private judging. Use of alternative dispute resolution methods has extended beyond the labor field, where arbitration and mediation have commonly been employed to resolve disputes, to applications in a variety of other arenas such as juvenile justice, criminal justice, the family, education, the performing arts, consumer affairs, medical malpractice, housing, and community relations.

The newness of the field has not permitted conclusive analysis of all the implications of the use of alternative dispute resolution processes for individual participants or for the traditional legal and/or nonlegal system. Issues such as cost effectiveness, the observance of due process, and effects of using volunteers as mediators or neutrals remain controversial. Further evaluation is also needed to determine the effectiveness of specific techniques in resolving particular types of disputes.

Given the varied nature of conflicts and conflicting parties, coupled with the need to resolve disputes more quickly and, in some cases, more personally than the traditional judicial system allows, the dispute resolution field

promises to continue expanding into new areas. This bibliography attempts to document some of the directions the field is currently taking and to provide access to experience dispute resolvers have already gained.

The Bibliography

The selections in this bibliography, taken from the NCJRS data base, were chosen to reflect the wide range of alternative dispute resolution applications and techniques currently employed. While every possible combination of application and technique has not been included, most of the major trends in the field are represented. The bibliography has been divided into chapters; most chapters represent an arena in which dispute resolution processes have been applied (e.g., the family, consumer affairs, labor relations, etc.) and include entries pertaining to the use of dispute resolution techniques within those arenas. The bibliography is divided into the following chapters:

- Overview
- Community
- Environment
- Family
- Judicial System
- Juvenile
- Labor
- Legal Issues
- Training and Directories

Within each chapter, entries are arranged in NCJ number (accession number) order. Title, author, and subject indexes are provided. Information about how to obtain the full text of the documents included in this bibliography is provided on the inside back cover.

DISPUTE RESOLUTION

OVERVIEW

1. **ADJUDICATION AS A PRIVATE GOOD.** By W. M. LANDES and R. A. POSNER. University of Chicago Law School. *JOURNAL OF LEGAL STUDIES*, V 8, N 2 (MARCH 1979), P 235-284. NCJ-59831

THE OPERATION OF PRIVATE JUDICIAL SYSTEMS IS EXAMINED FROM A THEORETICAL ECONOMIC STANDPOINT IN ORDER TO DETERMINE WHETHER ADJUDICATION CAN BE VIEWED AS A PRIVATE ECONOMIC GOOD FOR WHICH A FREE MARKET CAN OPERATE. SUPPLY AND DEMAND FOR TWO PUBLIC AND PRIVATE JUDICIAL FUNCTIONS, RULE FORMULATION AND DISPUTE RESOLUTION, ARE ANALYZED. THEIR DIFFERING CHARACTERISTICS INDICATE THAT DISPUTE RESOLUTION IS MORE ADAPTABLE TO A MARKET MODEL THAN IS RULE FORMULATION. EXAMPLES FROM PRIMITIVE SOCIETIES AND COMMERCIAL ARBITRATION CLARIFY THE CONCEPT OF ADJUDICATION ACCORDING TO MARKET PRINCIPLES. COMPETITION IN ADJUDICATION EXISTS BECAUSE THERE ARE SUBSTITUTES FOR PUBLIC ADJUDICATION, INCLUDING PRIVATE ADJUDICATION, NONADJUDICATIVE SUBSTITUTES SUCH AS LIQUIDATED DAMAGES CLAUSES, AND OTHER COURT SYSTEMS. A VOLUNTARY RELATIONSHIP BETWEEN DISPUTANTS IS NECESSARY FOR THIS COMPETITION TO EXIST. PRIVATE ADJUDICATION'S GROWTH RATE, WHICH IS DOUBLE THAT OF FEDERAL CASES, IS CITED TO SUPPORT THE ARGUMENT THAT AMERICANS ARE INCREASINGLY SATISFIED WITH PRIVATE ADJUDICATION. AN ECONOMIC MODEL FOR THE DECISION WHETHER TO SETTLE A DISPUTE IN OR OUT OF COURT IS PRESENTED AND APPLIED IN BOTH THE PRESENCE AND ABSENCE OF CONTRACTUAL RELATIONSHIPS BETWEEN THE PARTIES. IN ADDITION, IT IS ARGUED THAT RECENT LITERATURE HAS OVERSTATED THE POSITION THAT COURT-GENERATED RULES ARE EFFICIENT PRODUCTS OF PRIVATE INPUTS. IT IS CONCLUDED THAT (1) PUBLIC COURTS DO NOT AUTOMATICALLY GENERATE ECONOMICALLY EFFICIENT RULES; (2) PRIVATE ADJUDICATION'S LAW AND PRACTICES ARE STRONGLY INFLUENCED BY ECONOMIC CONSIDERATIONS AND CAN BE EXPLAINED IN ECONOMIC TERMS; AND (3) ECONOMIC THEORY CAN THEREFORE BE USED TO EXPLAIN FUNDAMENTAL ASPECTS OF THE LEGAL SYSTEM. FOOTNOTES ARE INCLUDED.

2. **NONJUDICIAL DISPUTE RESOLUTION MECHANISMS—THE EFFECT ON JUSTICE FOR THE POOR.** By L. R. SINGER. National Clearinghouse for Legal Services Northwestern University School of Law, 500 N Michigan Ave, Suite 2220, Chicago, IL 60611. *CLEARINGHOUSE REVIEW*, V 13, N 8 (DECEMBER 1979), COMPLETE ISSUE. NCJ-63458

THIS ARTICLE PROVIDES INFORMATION ON ALTERNATIVE METHODS FOR HANDLING DISPUTES TO ACHIEVE JUSTICE FOR THE POOR AND TO STIMULATE DEBATE ON NONJUDICIAL DISPUTE RESOLUTION IN THE LEGAL SERVICES COMMUNITY. EMERGING MODELS FOR PROCESSING DISPUTES INCLUDE MEDIATION, ARBITRATION, AND THEIR VARIATIONS AND NONJUDICIAL COMMUNITY DEVICES SUCH AS DISPUTE CENTERS, INSTITUTIONAL GRIEVANCE PROCEDURES, CONSUMER CONCILIATION, GOVERNMENT-SPONSORED MEDIATION, CONSUMER ARBITRATION, AND COURT-ANNEXED ARBITRATION. SUPPORTERS OF NONJUDICIAL FORUMS OFTEN HAVE VARYING, SOMETIMES UNSTATED, OBJECTIVES—MORE EFFICIENT COURTS, WIDER CITIZEN ACCESS TO TRIBUNALS FOR COMPLAINT RESOLUTION, REDUCTION OF CONFLICT, AND USE OF THE LEGAL SYSTEM TO FURTHER SOCIAL, ECONOMIC, AND POLITICAL CONCEPTIONS OF EQUAL JUSTICE. POTENTIAL EFFECTS OF NONJUDICIAL RESOLUTION INCLUDE GREATER COURT EFFICIENCY, GREATER COURT ACCESS FOR THE POOR, MORE CONFLICT RESOLUTION, AND A GREATER DEGREE OF SOCIAL AND ECONOMIC JUSTICE BETWEEN INDIVIDUALS AND LARGE ORGANIZATIONS; GROUPINGS OF INDIVIDUALS AND COMPLAINTS; AND REFORM OF SYSTEMIC SOCIAL AND ECONOMIC PROBLEMS. EVALUATIONS SHOULD CONSIDER THE EFFECTS OF PROCEDURAL PROTECTION, PARTICIPATION OF PARTIES, TIME, ENFORCEABILITY, MEANS OF ADJUDICATION, THE ROLE OF COERCION IN ASSESSING RESULTS OF VARYING DISPUTE RESOLUTIONS, AND THE RELATIONSHIP OF LEGAL SERVICES.

Availability: National Clearinghouse for Legal Services Northwestern University School of Law, 500 N Michigan Ave, Suite 2220, Chicago, IL 60611.

3. **MEDIATION—ONE ANSWER TO THOSE LONG DAYS IN COURT.** Crime and Justice Foundation, 19 Temple Place, Boston, MA 02111. *PERSPECTIVES*, V 3, N 2 (FALL WINTER 1979), P 1-2, 6. NCJ-66416

PROBLEMS OF DISPUTE SETTLEMENT AND THE GROWTH OF MEDIATION PROGRAMS AS A NATIONWIDE ALTERNATIVE ARE DESCRIBED IN THIS ARTICLE, WHICH LISTS SOME OF THE MAJOR INNOVATIONS OF THE 1970'S. DISPUTE SETTLE-

OVERVIEW

MENT IN CIVIL OR CRIMINAL COURT CAN RESULT IN LONG DELAYS SUCH AS IN PERSONAL INJURY CASES THAT TAKE OVER 4 YEARS TO PROCESS IN SOME LARGE CITIES. HIGH COURTS, WAGE FORFEITURES, PROBLEMS OF UNRESOLVED TENSIONS IN DROPPED CASES, AND THE UNSUITABILITY OF THE ADVERSARY PROCESS IN RESOLVING DIFFERENCES HAVE LED CRIMINAL JUSTICE PROFESSIONALS TO EXPLORE MEDIATION AS AN ALTERNATIVE. THIS PROCESS RELIES ON A THIRD PARTY WHO HELPS DISPUTANTS REACH AN AGREEMENT BUT DOES NOT COMPEL A RESOLUTION. ARBITRATION DECISION ON THE OTHER HAND, MAY BE ENFORCEABLE OR MERELY ADVISORY. MEDIATION PROGRAMS INCLUDE THE COLUMBUS NIGHT PROSECUTORS PROGRAM, FUNDED BY LEAA; THE NATIONAL CENTER FOR DISPUTE SETTLEMENT, ESTABLISHED BY THE AMERICAN ARBITRATION ASSOCIATION; AND THE NEW YORK INSTITUTE FOR MEDIATION AND CONFLICT RESOLUTION DISPUTE CENTER, SPONSORED BY THE INSTITUTE FOR MEDIATION AND CONFLICT RESOLUTION. THE DORCHESTER URBAN COURT PROGRAM ALSO OPERATES DISPOSITION AND VICTIM SERVICE COMPONENTS. OTHER NOTABLE INNOVATIONS INCLUDE THE ESTABLISHMENT OF NEIGHBORHOOD JUSTICE CENTERS IN 1977 AND THE OPERATION OF 20 ALTERNATIVE DISPUTE RESOLUTION PROGRAMS BETWEEN 1970 AND 1977. THE DISPUTE RESOLUTION ACT OF 1979 ESTABLISHES A NATIONAL CLEARINGHOUSE FOR INFORMATION AND TECHNICAL ASSISTANCE AND PROVIDES INCENTIVE GRANTS FOR INNOVATIVE APPROACHES TO DISPUTE RESOLUTION. NOTES ARE PROVIDED AND A CHARTED COMPARISON OF MASSACHUSETTS' MEDIATION PROGRAMS IS PRESENTED.

4. **RESOLUTION OF MINOR DISPUTES—JOINT HEARING BEFORE THE HOUSE SUBCOMMITTEE ON COURTS, CIVIL LIBERTIES, AND THE ADMINISTRATION OF JUSTICE AND SUBCOMMITTEE ON CONSUMER PROTECTION AND FINANCE, 96TH CONGRESS, FIRST SESSION.** US Congress House Subcommittee on Courts, Civil Liberties, and the Administration of Justice, Washington, DC 20515; US Congress House Subcommittee on Consumer Protection and Finance, Washington, DC 20515. 676 p. 1979. NCJ-66984
THIS PUBLICATION CONTAINS THE TEXT OF JOINT SUBCOMMITTEE HEARINGS OF THE U.S. HOUSE OF REPRESENTATIVES ON THE ISSUE OF MINOR DISPUTE RESOLUTION. THE HEARINGS WERE HELD BETWEEN JUNE 6, 1979, AND JUNE 18, 1979, AND CONSISTED OF THE PREPARED STATEMENTS OF 25 WITNESSES AND ADDITIONAL STATEMENTS OF 15 ORGANIZATION REPRESENTATIVES. THE EXPERT WITNESSES REPRESENTED JUDICIAL AND CITIZEN INVOLVEMENT IN LEGAL AND CONSUMER AFFAIRS INSTITUTIONS ON NATIONAL, STATE, AND LOCAL LEVELS. AMONG THEM WERE THE DIRECTOR OF THE U.S. OFFICE OF CONSUMER AFFAIRS; A PROFESSOR OF LAW FROM COLUMBIA UNIVERSITY; A REPRESENTATIVE OF THE AMERICAN BAR ASSOCIATION, A VARIETY OF NEIGHBORHOOD JUSTICE CENTERS, THE INSTITUTE FOR SOCIAL ANALYSIS, THE NATIONAL ASSOCIATION OF COUNTIES, THE U.S. CHAMBER OF COMMERCE, AND THE NATIONAL CENTER FOR STATE COURTS. ADDITIONAL STATEMENTS WERE MADE ON BEHALF OF SUCH PRIVATE INTERESTS AS THE COUNCIL OF BETTER BUSINESS BUREAUS, THE LEGAL SERVICES CORPORATION, THE MOTOR VEHICLE MANUFACTURERS ASSOCIATION, THE NATIONAL SENIOR CITIZENS LAW CENTER, AND SEARS, ROEBUCK AND CO. MOST TESTIMONY DEALT WITH THE PROBLEMS OF PROVIDING APPROPRIATE FORUMS FOR THE RESOLUTION OF MINOR DISPUTES AND THE NECESSITY FOR NEW APPROACHES BOTH WITHIN THE COURT AND OUTSIDE IT. UNDER DISCUSSION WERE BILLS H.R. 2863, H.R. 3719, AND S. 423, ALL OF WHICH PROPOSED USE AND EVALUATION OF A WIDE VARIETY OF ALTERNATIVES TO FORMAL ADJUDICATION, A NATIONAL INFORMATION CLEARINGHOUSE, AND A TECHNICAL ASSISTANCE PROGRAM. AMONG THE PROBLEMATIC ISSUES RAISED WERE STATE AND FEDERAL SEPARA-

TECHNIQUES AND APPLICATIONS

TION OF POWERS, THE RISING NUMBER OF FAMILY AND HOUSING DISPUTES, LACK OF FUNDING SOURCES, THE INVOLVEMENT OF NONLAWYERS, AND INTERRELATIONS BETWEEN SMALL CLAIMS COURTS, CONSUMER PROGRAMS, THE POLICE, PROSECUTORS, AND CRIMINAL COURTS. MOST ONGOING PROGRAMS OF ALTERNATIVE RESOLUTION OF MINOR DISPUTES WERE DEEMED SUCCESSFUL, BUT WITNESSES WARNED THAT CAREFUL CONSIDERATION MUST BE GIVEN TO ENSURE THEIR QUALITY OF JUSTICE. TEXTS OF THE PROPOSED BILLS AND ADDITIONAL MATERIALS SUBMITTED BY WITNESSES AND OTHERS ARE APPENDED.

Supplemental Notes: HEARINGS HELD JUNE 6, 7, 14 AND 18, 1979.

5. **RECENT TRENDS IN RESOLVING INTERPERSONAL, COMMUNITY AND ENVIRONMENTAL DISPUTES.** By M. SVIRIDOFF. *ARBITRATION JOURNAL*, V 35, N 3 (SEPTEMBER 1980), P 3-9. NCJ-72024

RECENT TRENDS IN RESOLVING INTERPERSONAL, COMMUNITY, AND ENVIRONMENTAL DISPUTES ARE DISCUSSED AND ILLUSTRATED BY CASE STUDIES. THE MAJOR NEW TRENDS IN DISPUTE RESOLUTION HAVE THE FOLLOWING ELEMENTS: (1) A SIGNIFICANT MOVEMENT AWAY FROM CUMBERSOME, EXPENSIVE, AND USUALLY UNSATISFACTORY LITIGATION PROCESSES; (2) A GROWING TENDENCY TO SUBSTITUTE FOR LITIGATION A VARIETY OF ALTERNATIVES, SUCH AS MEDIATION AND ARBITRATION; AND (3) THE ADOPTION OF PROCEDURES CLOSELY RELATED TO THOSE UNIQUELY SUCCESSFUL METHODS BY WHICH AMERICANS SOLVE MOST LABOR DISPUTES. THE MOVE AWAY FROM FORMAL LITIGATION AS A MEANS OF RESOLVING DISPUTES IS DUE NOT ONLY TO THE TIME, EXPENSE, AND STIGMATIZATION INVOLVED, BUT ALSO BECAUSE MOST CRIMINAL AND CIVIL CASES INVOLVE PARTIES WHO ARE NOT STRANGERS TO ONE ANOTHER. IN MANY CASES, THE ADVERSARIAL FORMAT IMPOSED BY FORMAL LITIGATION IS NOT APPROPRIATE FOR THE NATURE OR THE SPIRIT OF THE DISPUTE. EXAMPLES OF INTERPERSONAL DISPUTE RESOLUTIONS ACCOMPLISHED THROUGH MEDIATION AND CONFLICT RESOLUTION ARE PROVIDED FROM NEW YORK, CINCINNATI, AND DETROIT. EXAMPLES OF DISPUTES BETWEEN COMMUNITY GROUPS, INTERGOVERNMENTAL DISPUTES, AND ENVIRONMENTAL DISPUTES RESOLVED THROUGH MEDIATION ARE ALSO PROVIDED. THE OPPORTUNITIES FOR CLARIFYING THE NATURE OF THE CONFLICT THROUGH THE USE OF GUIDED COMMUNICATION BETWEEN THE PARTIES AND THROUGH RATIONAL COMPROMISE, WHILE AVOIDING THE TIME AND COST OF FORMAL LITIGATION, ARE NOTED.

Supplemental Notes: THIS ARTICLE WAS PRESENTED AS A SPEECH AT THE AMERICAN ARBITRATION ASSOCIATION'S ARBITRATION DAY, A CONFERENCE HELD IN NEW YORK CITY, MAY 2, 1980.

6. **MEDIATION AND ARBITRATION AS A CIVIL ALTERNATIVE TO THE CRIMINAL JUSTICE SYSTEM—AN OVERVIEW AND LEGAL ANALYSIS.** By P. R. RICE. *AMERICAN UNIVERSITY LAW REVIEW*, V 29, N 1 (FALL 1979), P 17-81. NCJ-72263

THIS PAPER PRESENTS AN OVERVIEW AND LEGAL ANALYSIS OF MEDIATION AND ARBITRATION PROGRAMS AS AN ALTERNATIVE TO THE CRIMINAL JUSTICE SYSTEM IN RESOLVING DISPUTES. BURGEONING CASELOADS COUPLED WITH PROCEDURAL DELAYS HAVE BEEN MAJOR FACTORS IN REDUCING THE EFFECTIVENESS OF THE CRIMINAL JUSTICE SYSTEM AS A VEHICLE FOR RESOLVING DISPUTES. MEDIATION AND ARBITRATION PROGRAMS CAN HELP RELIEVE SOME OF THE DEBILITATING PRESSURES ON THE CRIMINAL JUSTICE SYSTEM. MEDIATION PROGRAMS PROVIDE A NEUTRAL PERSON TO ASSIST THE ACCUSED AND THE ALLEGED VICTIM IN ARRIVING AT A MUTUALLY AGREEABLE SOLUTION TO THEIR DISPUTE. ARBITRATION PROGRAMS PROVIDE

1978 - 1982

OVERVIEW

THAT, IF THE PARTIES FAIL TO REACH A SETTLEMENT, THE ARBITRATOR HAS THE AUTHORITY, CONSENTED TO BEFOREHAND BY THE PARTIES INVOLVED, TO IMPOSE A SOLUTION. ALTHOUGH SUCH PROGRAMS VARY SUBSTANTIALLY IN THEIR STRUCTURE AND IN THE TYPES OF DISPUTES HANDLED, THEY GENERALLY FOLLOW THE SAME PROCEDURE FOR ACQUIRING THE CONSENT OF THE DISPUTING PARTIES SHORTLY AFTER ARREST AND OF DEFERRING THE PROSECUTION FOR A PERIOD, PENDING AN ATTEMPT TO RESOLVE THE PROBLEMS. MEDIATION ARBITRATION PROGRAMS EMPHASIZE THE PERSONAL RESPONSIBILITY OF EACH PARTY RATHER THAN THE NARROW ASSESSMENT OF LEGAL FAULT. CATHARSIS IS SOUGHT THROUGH THE SUPERVISED CONFRONTATION OF PARTIES. ALTHOUGH NOT A PANACEA, MEDIATION AND ARBITRATION OFFER THE POTENTIAL FOR PROVIDING MORE MEANINGFUL AND LASTING SOLUTIONS TO ONGOING DISPUTES IN A MORE EFFICIENT AND ECONOMICAL FASHION. DUE PROCESS ISSUES ARE PREVALENT THROUGHOUT THE PROGRAMS, BUT THEY CAN BE AVOIDED BY USING MINIMAL CARE IN STRUCTURING THE PROGRAMS AROUND IDENTIFIABLE GOALS AND RESOURCES. FOOTNOTES ARE PROVIDED.

7. **WHAT'S NEW IN DISPUTE RESOLUTION.** By M. SVIRIDOFF. *NEW YORK LAW JOURNAL*, V 183, N 99 (MAY 21, 1980), P 1-8. NCJ-76254

THE ARTICLE PRESENTS ANECDOTAL EXAMPLES OF A GROWING TREND AWAY FROM EXPENSIVE, CUMBERSOME, AND OFTEN UNSATISFACTORY LITIGATION TOWARD A VARIETY OF ALTERNATIVES, SUCH AS MEDIATION AND ARBITRATION, WHICH ARE SIMILAR TO THE METHODS USED TO RESOLVE LABOR DISPUTES. A GOOD EXAMPLE OF SUCCESSFUL MEDIATION OF BOTH CRIMINAL AND MINOR COMPLAINT CASES IS THE CINCINNATI INSTITUTE OF JUSTICE PRIVATE COMPLAINT PROGRAM, WHICH HAS REDUCED THE MUNICIPAL COURT'S CRIMINAL CASELOAD SINCE 1974. THE 4A PROGRAM (ARBITRATION AS AN ALTERNATIVE TO ADJUDICATION), A PROGRAM PIONEERED BY THE AMERICAN ARBITRATION ASSOCIATION, HAS COMBINED MEDIATION AND ARBITRATION WITH GREAT SUCCESS. RECENTLY, AN EXPERIMENTAL PROGRAM IN NEW YORK STATE, IN WHICH DAMAGE SUITS INVOLVING \$6,000 OR LESS MUST BE ARBITRATED, WAS MADE PERMANENT AFTER CUTTING COURT DOCKETS NEARLY IN HALF. IN ADDITION, CALIFORNIA'S ECONOMICAL LITIGATION EXPERIMENT, IN WHICH CIVIL CASES INVOLVING LESS THAN \$10,000 ARE BROUGHT TO TRIAL ALMOST IMMEDIATELY, SIGNIFICANTLY REDUCES THE AMOUNT OF TIME AND TROUBLE INVOLVED IN PRETRIAL DISCOVERY AND INFORMATION PROCESSING. THE DETROIT MANDATORY DIVERSION PROGRAM REQUIRES THAT CIVIL SUITS MUST FIRST BE HEARD BY A PANEL OF ARBITRATORS-MEDIATORS WHO CONFER AND REACH A CONCLUSION. THE PARTIES ARE FREE TO REJECT THE PANEL'S DECISION BUT ONLY IF THEY ARE WILLING TO RISK A SERIOUS PENALTY IF THE COURT DECISION IS NOT SUBSTANTIALLY DIFFERENT FROM THE PANEL'S. THE FORMAL MEDIATION BETWEEN THE ARMY CORPS OF ENGINEERS AND LOCAL FARMERS OVER THE BUILDING OF A DAM ACROSS A RIVER NEAR SEATTLE SHOWS HOW THE RESULTS REACHED WERE SHORTER, CHEAPER, AND MORE SATISFACTORY TO BOTH SIDES THAN CONVENTIONAL ENVIRONMENTAL LITIGATION. THE ARTICLE CONCLUDES THAT SUCH EXAMPLES MAY BE THE FIRST STEP TOWARD A NEW MODE OF DISPUTE RESOLUTION. NO REFERENCES ARE GIVEN.

Supplemental Notes: THIS ARTICLE IS BASED ON AN ADDRESS GIVEN DURING AN 'ARBITRATION DAY' PROGRAM ARRANGED BY THE AMERICAN ARBITRATION ASSOCIATION.

8. **HIGHWAYS AND BYWAYS OF LEGAL RESOLUTION.** By L. H. COOKE. 17 p. 1981. NCJ-77272
THIS ADDRESS, PREPARED BY NEW YORK'S CHIEF JUDGE, EXPLORES ALTERNATIVES TO THE COURTS AND TO CON-

VENTIONAL ADJUDICATIVE METHODS. ALTERNATIVES TO THE COURTS AND TO CONVENTIONAL ADJUDICATIVE METHODS MUST BE SELECTED AND DEVELOPED IF THE STRUCTURE OF JUSTICE BASED ON A COURT FOUNDATION IS TO SURVIVE. COURTS ALONE CANNOT CONTINUE TO RESPOND TO THE DEMANDS PLACED ON THEM. TURNING FIRST TO THE CIVIL AREAS OF DISPUTE, THREE DISTINCT SUBCATEGORIES FOR ALTERNATIVE TREATMENT MAY BE IDENTIFIED. THESE SUBCATEGORIES INCLUDE DIFFERENT MODES OF RECOVERY ESTABLISHED BY LEGISLATIVE ACTION FOR CERTAIN TYPES OF INJURY OR DAMAGES, MEASURES OPERATING WITHIN THE TRADITIONAL COURT OUTLINE DESIGNED TO ELIMINATE OR REDUCE COURT TIME, AND MEASURES TAKEN PRIOR TO RESORTING TO THE COURTS AND OPERATING OUTSIDE OF THEM. LEGISLATORS CAN ENACT CHANGES IN SUBSTANTIVE LAW SO AS TO REDUCE COURT SYSTEM PRESSURES BY EITHER REMOVING SOME DISPUTES FROM THE COURTS OR BY SIMPLIFYING COURT PROCESSING (E.G., NO FAULT DIVORCE STATUTES). OTHER METHODS HAVE BEEN INTRODUCED IN SOME JURISDICTIONS. FOR EXAMPLE, IN MICHIGAN A SPECIAL PROCEDURE COMBINES MEDIATION WITH ECONOMIC INDUCEMENT FOR TORT CASES WHERE LIABILITY IS NOT AT ISSUE, COMMENCING WHEN A PANEL OF THREE RECEIVES DOCUMENTARY EVIDENCE AND RECOMMENDS A SETTLEMENT. WITH RESPECT TO CIVIL DISPUTES GENERALLY, COMPLEX ISSUES MUST BE ELIMINATED FROM THE LITIGATION SCHEME, LEGAL RIGHTS MUST BE SIMPLIFIED, AND MORE DIVERSION OF DISPUTES FROM THE COURT SYSTEM MUST OCCUR. IN THE CRIMINAL FIELD, RISING CRIME RATES AND OVERCROWDED DETENTION FACILITIES NECESSITATE THE IMPLEMENTATION OF ALTERNATIVES TO FORMAL CRIMINAL JUSTICE PROCESSING AND CONVENTIONAL FORMS OF PUNISHMENT. THE INCORPORATION OF A MEDIATION OR ARBITRATION MODEL INTO THE CRIMINAL JUSTICE SYSTEM INSTEAD OF THE ADJUDICATIVE MODEL HAS BEEN SUGGESTED. THIS APPROACH OFFERS GREATER FLEXIBILITY IN FACTFINDING AND DISCIPLINE IMPOSITION, INFORMALITY, HUMANENESS, SPEED, AND ECONOMY. FOR OFFENDERS DIVERTED OUT OF THE CRIMINAL JUSTICE SYSTEM (WHEN AN ALTERNATIVE TO ARREST IS CHOSEN), COMMUNITY COURTS AND MEDIATION FORUMS OFFER ANOTHER AVENUE FOR DISPUTE RESOLUTION. FINALLY, DECRIMINALIZATION OF CERTAIN CONDUCT AND RECLASSIFICATION OF SOME CRIMES TO LESSER OFFENSES COULD ALSO BE CONSIDERED. NO REFERENCES ARE CITED.

Supplemental Notes: ADDRESS GIVEN AT THE NEW YORK COUNTY LAWYERS' ASSOCIATION, NEW YORK, NEW YORK, MARCH 19, 1981 (CHARLES EVANS HUGHES MEMORIAL LECTURE).

9. **DISPUTE RESOLUTION—SETTLING CONFLICTS WITHOUT LEGAL ACTION.** By T. S. DENENBERG and R. V. DENENBERG. 29 p. 1981. NCJ-81413

THIS PAMPHLET IS DESIGNED TO INFORM THE PUBLIC ABOUT SUCH NONCOURT ALTERNATIVE DISPUTE SETTLEMENT TECHNIQUES AS ARBITRATION, MEDIATION, THE USE OF NEIGHBORHOOD JUSTICE CENTERS, AND OMBUDSMEN. IN MEDIATION, IMPARTIAL PERSONS HELP ANTAGONISTS REACH THEIR OWN AGREEMENT. IN ARBITRATION, IMPARTIAL PERSONS ARE GIVEN THE AUTHORITY TO DETERMINE THE OUTCOME. THE ARBITRATOR'S PROPER ROLE IS TO MAKE A JUST DECISION BASED ON THE MERITS OF THE CASE PRESENTED BY EACH SIDE. AN ARBITRATION HEARING OFTEN COSTS AS LITTLE AS \$150 AND CAN BE COMPLETED WITHIN HOURS. THE ARBITRATOR IS OFTEN AN EXPERT IN THE MATTER UNDER DISPUTE, ALTHOUGH ANYONE AGREEABLE TO BOTH SIDES MAY SERVE. ARBITRATION IS BEING USED TO DEAL WITH CONSUMER PROBLEMS, MEDICAL MALPRACTICE CLAIMS, AND LANDLORD-TENANT

OVERVIEW

DISPUTES. ARBITRATION OF GRIEVANCES UNDER EXISTING COLLECTIVE BARGAINING AGREEMENTS, MOST COMMONLY CALLED 'RIGHTS-ARBITRATION,' IS USED IN LABOR CASES. NEIGHBORHOOD JUSTICE CENTERS ARE INCREASINGLY BEING USED TO HANDLE DOMESTIC QUARRELS AND NEIGHBORHOOD SQUABBLES. OMBUDSMEN HAVE BEEN ESTABLISHED IN SUCH SETTINGS AS GOVERNMENT BUREAUCRA- CIES, UNIVERSITIES, AND NURSING HOMES TO HELP CITI- ZENS DEAL WITH THEIR GRIEVANCES AGAINST THE AGEN- CIES. OMBUDSMEN HAVE NO ENFORCEMENT POWER BUT EXERCISE STRONG MORAL AUTHORITY. PRIVATE ORGANI- ZATIONS AND GOVERNMENT AGENCIES INVOLVED IN ALTE- RATIVE DISPUTE RESOLUTION ARE LISTED. CASE EXAMPLES OF DISPUTES ARE ALSO PROVIDED.

Supplemental Notes: PUBLIC AFFAIRS PAMPHLET.

Availability: Public Affairs Committee, Inc, 381 Park Avenue South, New York, NY 10016.

10. **MEDIATION—IS IT AN EFFECTIVE ALTERNATIVE TO ADJUDICATION IN RESOLVING PRISONER COMPLAINTS?** By G. F. COLE, R. A. HANSON, and J. E. SILBERT. American Bar Association Action Commission to Reduce Court Costs and Delay, 1800 M Street, NW, 2nd Floor, South Lobby, Washington, DC 20036. *JUDICATURE*, V 65, N 10 (MAY 1982), P 481-489. NCJ-82966

THE POTENTIAL ADVANTAGES OF MEDIATION AS AN ALTE- RATIVE TO ADJUDICATION IN RESOLVING PRISONER COM- PLAINTS ARE DISCUSSED AND TESTED IN A MEDIATION PROJECT AT THE FEDERAL CORRECTIONAL INSTITUTION AT DANBURY, CONN. IN THE FACE OF THE HIGH VOLUME OF INMATE LITIGATION FLOODING THE COURTS SINCE THE U.S. SUPREME COURT RULED THAT PRISONERS WERE ENTITLED TO THE PROTECTIONS OF THE CIVIL RIGHTS ACT OF 1871, MEDIATION PROMISES TO FACILITATE SETTLEMENT OF DIS- PUTES, SINCE THE INFORMALITY OF THE PROCESS STANDS IN CONTRAST TO THE COMPLEX, CUMBERSOME PROCEDURE OF THE COURTROOM. OTHER ADVANTAGES OF ME- DIATION ARE THE FREEDOM FOR QUESTIONING THAT AIDS THE EXPLORATION OF UNDERLYING ISSUES AND ITS EFFECTIVENESS IN DEALING WITH ADMINISTRATIVE PROBLEMS THAT REQUIRE ADMINISTRATIVE SOLUTIONS. BETWEEN OC- TOBER 1980 AND JUNE 1981, INMATES AT THE FEDERAL CORRECTIONAL INSTITUTION, AT DANBURY, CONN., HAD ACCESS TO A MEDIATOR PROVIDED BY THE NATIONAL CENTER FOR CORRECTIONAL MEDIATION. THE PROGRAM SOUGHT TO RESOLVE THROUGH MEDIATION PRISONER CIVIL RIGHTS COMPLAINTS THAT HAD BEEN FILED IN THE FEDERAL COURTS. THE PROGRAM EMPHASIZED THAT BOTH PARTIES HAD TO AGREE TO SUBMIT THE CAUSE TO ME- DIATION. ACTIONS DURING THE BASELINE PERIOD WHICH INVOLVED CIVIL RIGHTS COMPLAINTS WERE ABOUT EQUALLY DIVIDED AMONG SUCH ISSUES AS FURLOUGHS, CONDITIONS OF CONFINEMENT, TRANSFER, FREEDOM OF INFORMATION, MEDICAL, AND MAIL. ALTHOUGH THE BASELINE DATA SHOWED THAT MOST CASES WERE INAPPROPRIATE FOR MEDIATION, OTHER INDICATORS POINTED TO A POSSIBLE ROLE FOR THE PROJECT. MEDIATION WAS ATTEMPTED IN ONLY ONE OF THE 32 CASES, AND THAT CASE DID NOT RESULT IN AN AGREEMENT. FUTURE CONSIDERATIONS SHOULD FOCUS ON THE NATURE OF COMPLAINTS ARISING IN SPECIFIC INSTITUTIONS, THE INCENTIVES OF THE PARTICIPANTS TO MEDIATE, THE ROLE OF THE MEDIATOR, AND THE STRUCTURE FOR RENDERING THE MEDIATION SER- VICES. THIRTEEN FOOTNOTES ARE LISTED, AND TABULAR DATA ARE PROVIDED.

Sponsoring Agency: National Institute of Corrections, 320 First Street, NW, Washington, DC 20534

11. **SYMPOSIUM ON JUDICIAL REFORM.** P. L. DUBOIS, Ed. *POLICY STUDIES JOURNAL*, V 10, N 4 (JUNE 1982), P 663-779. NCJ-84719
- THIS ARTICLE SUMMARIZES NINE ESSAYS IN A SYMPOSIUM THAT ADDRESSES A VARIETY OF METHODOLOGICAL, THEO-

TECHNIQUES AND APPLICATIONS

RETICAL, AND EMPIRICAL ISSUES ASSOCIATED WITH EVALUATING REFORMS IN THE STRUCTURE, STAFFING, AND OPER- ATION OF STATE AND FEDERAL COURTS. THE FIRST TWO PAPERS PROVIDE OVERVIEWS OF MAJOR JUDICIAL REFORM ISSUES, BEGINNING WITH AN OUTLINE OF CHANGES IN THE FEDERAL JUDICIAL ADMINISTRATION DURING THE TENURE OF CHIEF JUSTICE BURGER. THE COMPANION ESSAY FO- CUSES ON STATE COURT REFORMS, WITH ATTENTION TO POLITICAL FORCES THAT OFTEN CLASH IN THIS AREA. PER- SPECTIVES ON THE INCREASING BUREAUCRATIZATION OF AMERICAN COURTS ARE OFFERED BY AN ANALYSIS OF NONADVERSARIAL PROCEEDINGS AND AN EMPIRICAL STUDY OF JUDICIAL INVOLVEMENT IN PRETRIAL CASE PROC- ESSING. THE NEXT PRESENTATION REVIEWS RESEARCH ON MEDIATION AND ARBITRATION, CONCLUDING THAT THESE METHODS HAVE SOME VALUE AS ALTERNATIVES TO COURT IN TERMS OF COST, FLEXIBILITY, AND PERCEIVED FAIRNESS TO LITIGANTS. THE PROBLEM OF SIMULTANEOUSLY PRO- TECTING JUDICIAL INDEPENDENCE WHILE ASSURING QUAL- ITY JUDICIAL PERFORMANCE IS THEN CONSIDERED. WHILE ONE STUDY ASSESSES RESEARCH ON THE MAJOR ALTE- RATIVE METHODS OF STATE JUDGE SELECTION, THE OTHER EXPLORES WAYS TO EVALUATE THE PERFORMANCE OF SIT- TING JUDGES. AN ANALYSIS OF THE CONSEQUENCES OF THE JUDGES' BILL OF 1925 PROVIDES ONE VIEW ON COURT ORGANIZATIONAL INNOVATION, AND ANOTHER PAPER ARGUES THAT A FRANCHISE, CORPORATION, OR FEDERAL MODEL OF COURT ORGANIZATION MIGHT BE MORE APPRO- PRIATE THAN THE TRADITIONAL VERTICAL AUTHORITY STRUCTURES. THE SYMPOSIUM CLOSURES WITH A DISCU- SION OF CHIEF JUSTICE BURGER'S PROPOSAL THAT EVERY NEW PIECE OF FEDERAL LEGISLATION THAT MIGHT CREATE NEW CASES FOR THE FEDERAL COURTS BE ACCOMPANIED BY A JUDICIAL IMPACT STATEMENT. THE ARTICLE INCLUDED FOUR REFERENCES. (AUTHOR SUMMARY MODIFIED)

Sponsoring Agency: US Department of Justice National Institute of Justice, 633 Indiana Avenue NW, Washington, DC 20531.

12. **ART OF NEGOTIATION.** By C. ASPLER. *CORRECTIONAL OPTIONS*, V 2, N 1 (FALL 1982), P 34-42. NCJ-84746

THE PROCESS OF NEGOTIATION IS EXAMINED, WITH ATTEN- TION TO SOME OF THE CRITICAL ELEMENTS THAT AFFECT THE DIRECTION AND OUTCOME OF NEGOTIATIONS. THE IM- PORTANCE OF PROBATION PAROLE OFFICERS UNDER- STANDING THE ART OF NEGOTIATION IS EMPHASIZED. FOR A NEGOTIATION TO BE SUCCESSFUL, BOTH PARTIES MUST BE SATISFIED WITH THE OUTCOME, AND THIS CAN ONLY OCCUR THROUGH A COOPERATIVE EFFORT. A FAILURE TO TAKE A CLOSE LOOK AT WHAT PEOPLE NEGOTIATE CAN STIFLE EFFECTIVE NEGOTIATION. THE PSYCHOLOGICAL NEEDS OF THE PARTIES, ALTHOUGH RARELY EXPRESSED OPENLY, ALWAYS FORM PART OF THE NEGOTIATION PACK- AGE. BARRIERS TO EFFECTIVE NEGOTIATION INCLUDE IN- SENSITIVITY TO THE NEEDS AND PREFERENCES OF THE NE- GOTIATING PARTNER, INABILITY TO THINK CREATIVELY, AND AN UNWILLINGNESS TO ESTABLISH A RANGE OF POSITIONS WITHIN WHICH SETTLEMENT MAY BE POSSIBLE. A TOTAL RANGE OF OPTIONS CANNOT BE DEVELOPED UNLESS THE OPTIONS ARE EVALUATED AGAINST THEIR POSSIBLE CON- SEQUENCES AND THE RESPONSES THEY WILL GENERATE FROM THE OTHER SIDE. FALLBACK POSITIONS AND POINTS OF COMPROMISE NEED TO BE DETERMINED IN ADVANCE. ANOTHER FACTOR IN NEGOTIATION IS THE USE OF POWER. SOMETIMES, AGREEMENT IS ENHANCED NOT BY ACQUIRING POWER, BUT BY GIVING IT AWAY. THREE REFERENCES ARE GIVEN.

Availability: National Institute of Justice National Criminal Justice Reference Service Microfiche Program.

1978 - 1982

13. **MEDIATION—A BOON TO COURTS AND CITIZENS.** By L. H. COOKE. *COURT REVIEW*, V 20, N 1 (FALL 1982), P 8-11, 16. NCJ-85702

WHEN PROPERLY ADMINISTERED, MEDIATION PROGRAMS SIMULTANEOUSLY INVOLVE THE COMMUNITY IN RENDERING JUSTICE, PROVIDE ACCESS TO ALL CITIZENS IN AN EFFI- CIENT MANNER, AND STRUCTURE REMEDIES THAT ARE UN- AVAILABLE IN COURT. MEDIATION OFFERS A RADICAL DE- PARTURE FROM ARBITRATION AND THE JUDICIAL PROCESS. MEDIATION'S MOST NOTABLE FEATURE IS ITS DEDICATION TO THE PARTIES' SELF-RESOLUTION OF THEIR DISAGREE- MENT. THE MEDIATOR ENCOURAGES COMMUNICATION, AS- SISTS IN IDENTIFYING AREAS OF DISAGREEMENT, AND WORKS TO BRING PARTIES TO A RESOLUTION DEFINED BY THE PARTIES THEMSELVES. ISSUES THAT MUST BE AD- DRESSED WHEN DEVELOPING A LOCAL MEDIATION PRO- GRAM INCLUDE AVAILABILITY OF SERVICES TO THE PUBLIC, EDUCATION OF THE PUBLIC REGARDING THE MEDIATION CONCEPT, AND AREAS OF DISPUTE THAT WILL BE HANDLED. ONE OF THE MAJOR CIVIL AREAS SUITABLE FOR MEDIATION IS THAT OF LANDLORD-TENANT DISPUTES. NEIGHBORHOOD DISPUTES ARE ALSO PARTICULARLY AMENABLE TO ME- DIATION, AS ARE CONSUMER-MERCHANT DISPUTES AND DO- MESTIC DISPUTES. MEDIATION IS ALSO AN AVAILABLE AL- TERNATIVE IN THE CRIMINAL ARENA. BY MAKING THE CRIM- INAL ANSWERABLE TO THE VICTIM, FUTURE CRIMINAL ACTS MAY BE DETERRED. THE MEDIATION APPROACH WOULD BE USEFUL WITH CRIMES SUCH AS VANDALISM, TRESPASSING, AND SIMPLE ASSAULT. THE MOST TANGIBLE GAIN IS THE LESSER COST OF DISPOSING OF EACH CASE THAT IS RE- SOLVED THROUGH MEDIATION. NO REFERENCES ARE CITED.

14. **ALTERNATIVE DISPUTE RESOLUTION—FROM A LEGAL SERVICES PERSPECTIVE, FROM A NATIONAL PERSPECTIVE.** By J. M. RIFKIN, J. SAWYER, and L. E. RAY. *NLADA BRIEF- CASE*, V 39, N 1 (FALL 1982), P 20-26. NCJ-87273

ONE SECTION OF THIS ARTICLE DESCRIBES THE ELEMENTS OF THE MEDIATION PROJECT OF THE LEGAL STUDIES PRO- GRAM AT THE UNIVERSITY OF MASSACHUSETTS AMHERST, AND THE SECOND SECTION OF THE ARTICLE EXAMINES THE DISPUTE RESOLUTION MOVEMENT FROM A BROAD NATION- AL PERSPECTIVE. THE UNIVERSITY OF MASSACHUSETTS ME- DIATION PROJECT USES A TEAM OF TWO MEDIATORS FOR EACH DISPUTE AND IS COMMITTED TO CONFIDENTIALITY AND THE VOLUNTARY PARTICIPATION OF THE DISPUTING PARTIES. PAIRS OF MEDIATORS ARE CAREFULLY ASSIGNED TO EACH DISPUTE BASED ON AN ASSESSMENT OF THE NATURE OF THE DISPUTE AND THE CHARACTERISTICS OF THE DISPUTANTS. IN EFFECTIVE MEDIATIONS, EACH PARTY GIVES UP SOMETHING AND RECEIVES SOMETHING THROUGH THE AGREEMENT. SUCCESSFUL MEDIATIONS RESULT IN WRITTEN AGREEMENTS SIGNED BY ALL PARTIES AND BY THE MEDIATORS. AFTER THE AGREEMENT IS SIGNED, THE CASE COORDINATOR SPEAKS TO THE PARTIES AT SPECIFIED INTERVALS TO DETERMINE IF THE AGREE- MENT IS BEING IMPLEMENTED. IF THE AGREEMENT IS VIOL- ATED, THE PARTIES MAY REMEDIATE THE PROBLEM OR THE CASE WILL BE OFFICIALLY CLOSED. THE AGREEMENT HAS NO LEGAL STANDING BEFORE A COURT. THE STRENGTH OF THE AGREEMENT LIES IN ITS BEING AGREED TO BY THE PARTIES INVOLVED. THROUGHOUT THE COUN- TRY, A DISPUTE RESOLUTION MOVEMENT IS GROWING BE- CAUSE OF COURT CASE BACKLOGS AND DISSATISFACTION WITH THE ADVERSARIAL STRUCTURE FOR RESOLVING MANY TYPES OF PERSONAL DISPUTES. TECHNIQUES GEN- ERALLY USED ARE (1) ARBITRATION, WHERE A NEUTRAL THIRD PARTY SETTLES A DISPUTE; (2) MEDIATION, WHERE A NEUTRAL THIRD PARTY ASSISTS IN REACHING A COMPROMISE; AND (3) CONCILIATION, WHERE A NEUTRAL THIRD PARTY HELPS DISPUTANTS ARRIVE AT A COMMON DEFINI-

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TION OF THE PROBLEM AND SET TERMS FOR ITS RESOLU- TION. CURRENTLY, MORE THAN 180 MINOR DISPUTE CEN- TERS OPERATE IN 40 STATES, WITH ANOTHER 17 CENTERS ENVISIONED. THE EFFECTIVENESS OF ALTERNATIVE DIS- PUTES RESOLUTION WILL DEPEND ON AN INFORMED PUBLIC AND THE PROFESSIONALS WHO OPERATE THE DISPUTE RESOLUTION CENTERS.

15. **DISPUTE RESOLUTION—SETTLING CONFLICTS WITHOUT LEGAL ACTION.** By T. S. DENENBERG and R. V. DENEN- BERG. 32 p. 1981. NCJ-87384

THIS BOOKLET DESCRIBES THE TECHNIQUES USED AND THE PROCEDURES INVOLVED IN NONJUDICIAL DISPUTE RES- OLUTION, AND INCLUDES SOME TYPICAL CASES. MOST CASES ARE HANDLED BY MEDIATION AND ARBITRATION, OR A COMBINATION OF THE TWO. THESE TECHNIQUES ARE BEING APPLIED IN COMMERCIAL AND CONSUMER DISPUTES, LABOR-MANAGEMENT RELATIONS, NEIGHBORHOOD AND FAMILY STRIFE, AND CLASHES OVER ENVIRONMENT. IN AD- DITION, GOVERNMENTS AND OTHER LARGE INSTITUTIONS HAVE CREATED MECHANISMS SUCH AS GRIEVANCE PROCEDURE AND OMBUDSMEN TO SETTLE DISPUTES BETWEEN THEM AND INDIVIDUALS. THE MANY APPLICATIONS OF DIS- PUTES RESOLUTION ARE JUST BEGINNING TO BE EXPLORED. THE BOOKLET DISCUSSES THE ARRANGEMENTS INVOLVED IN THE VARIOUS TYPES OF NONJUDICIAL DISPUTE RESOLU- TION AND THE BENEFITS TO BOTH PARTIES FROM SELECT- ING DISPUTE RESOLUTION. A LIST OF 12 RESOURCE ORGA- NIZATIONS IS INCLUDED FOR FURTHER INFORMATION.

Supplemental Notes: PUBLIC AFFAIRS PAMPHLET NUMBER 597.

Availability: Public Affairs Committee, Inc, 381 Park Avenue South, New York, NY 10016.

16. **USE OF MEDIATION, CONCILIATION AND NEGOTIATION TECHNIQUES IN THE CONTEXT OF ADULT DIVERSION IN CANADA (FROM CONCILIATION AND ARBITRATION, P 8-43, 1980, LOUIS KOS-RABCEWICZ-ZURKOWSKI, ED.).** By F. BERTRAND. 36 p. 1980. NCJ-88382

FOLLOWING A DISCUSSION OF THE DEVELOPMENT OF THE CONCEPT OF DIVERSION IN CANADA, SPECIFIC DIVER- SION PROGRAMS USING THE TECHNIQUES OF MEDIATION, CONCILIATION, AND NEGOTIATION ARE DESCRIBED, INCLUD- ING THE TECHNIQUES USED AND THE OPTIONS FOR ACTION THAT DEPEND ON VARIOUS OUTCOMES. CANADA BEGAN TO SHOW AN INTEREST IN DIVERSION PROGRAMS IN THE EARLY 1970'S, AND MANY DIFFERENT KINDS OF DIVERSION PROJECTS COVERING A WIDE RANGE OF FUNCTIONS FROM PREVENTION TO CORRECTION DEVELOPED. BECAUSE PROJECTS DEVELOPED WITHOUT SUFFICIENT GUIDANCE, OFFICIAL COMMITTEES WERE FORMED TO GUIDE THE EVOLU- TION OF A CANADIAN CONCEPT OF DIVERSION. A 1979 FEDERAL DISCUSSION PAPER RESTRICTS THE USE OF DI- VERSION TO POSTCHARGE PRETRIAL ALTERNATIVES TO COURT PROGRAMS FOR PROSECUTABLE OFFENSES. PRO- GRAMS THAT ARE NONADVERSARIAL AND RESOLVE CON- FFLICTS THROUGH MEDIATION ARE ADVOCATED. IN FEDERAL POLICY PROPOSALS, THE FOLLOWING CONDITIONS ARE AS- SOCIATED WITH THE USE OF MEDIATION: (1) PARTICIPATION IN THE DIVERSION PROGRAM IS VOLUNTARY; (2) THE SELEC- TION CRITERIA DO NOT EXCLUDE CASES WHERE THERE WAS NO PRIOR RELATIONSHIP BETWEEN THE OFFENDER AND VICTIM; (3) THE SELECTION CRITERIA DO NOT EXCLUDE VICTIMLESS CRIMES, CASES OF REFUSAL BY A VICTIM TO PARTICIPATE IN A DIVERSION PROGRAM, NOR CASES WHERE THE VICTIM REFUSES TO MEET THE OFFENDER; (4) FAILURE TO REACH A NEGOTIATED AGREEMENT CONSTITUTES AN EXCLUSION CRITERION; AND (5) FAILURE TO COMPLY WITH THE TERMS OF AN AGREEMENT UNDER THE POLICY PROPOSALS CONSTITUTES 'WILLFUL FAILURE.' CUR-

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RENTLY CANADA HAS 10 DIVERSION PROGRAMS. FOUR PROGRAMS USE ONLY MEDIATION TO RESOLVE CONFLICTS; THREE USE MEDIATION AND NEGOTIATION; TWO USE PRIMARILY NEGOTIATION; AND ONE COMBINES CONCILIATION WITH NEGOTIATION. EACH OF THE 10 PROJECTS IS DESCRIBED, WITH ATTENTION TO THOSE ASPECTS OF THE PROJECTS BEARING ON THE DISPUTE SETTLEMENT PROCESS. THIRTEEN FOOTNOTES AND SEVEN REFERENCES ARE PROVIDED.

17. **ALTERNATIVE DISPUTE RESOLUTION—WHO'S IN CHARGE OF MEDIATION?** American Bar Association Special Committee on Resolution of Minor Disputes, 1800 M Street, NW, Washington, DC 20036. 97 p. 1982. **NCJ-89151**

SYMPOSIUM PRESENTATIONS CONSIDER THE SPONSORS OR LINKS OF MEDIATION PROGRAMS, THE BACKGROUNDS OF MEDIATORS, AND VARIOUS TYPES OF MEDIATION PROGRAMS. THE PRESENTATIONS INDICATE THAT DIVERSE MEDIATION PROGRAM GOALS COMPLICATE THE DETERMINATION OF WHO SHOULD SPONSOR A MEDIATION PROGRAM. THOSE EMPHASIZING HIGH-SHOW RATES FOR USERS OF THE PROGRAM FAVOR FORMAL LINKS TO THE LEGAL SYSTEM, AN ARRANGEMENT THAT TYPICALLY PRODUCES HIGH-SHOW RATES. ABOUT 30 PERCENT OF MEDIATION PROGRAMS ARE COURT-RELATED. THE JUDGE'S APPROVAL OF MEDIATION PROGRAMS BECOMES ESSENTIAL FOR SUCCESS IN SUCH A LINKAGE, WHICH MEANS THE PROGRAM ENJOYS 'SYSTEM' RECOGNITION. THE ISSUE OF TAKING CASES (I.E., MONEY) FROM THE LAWYERS THAT WOULD OTHERWISE BE INVOLVED IN THE CASE NEEDS TO BE ADDRESSED. AN ADMINISTRATOR OF A COMMUNITY MEDIATION PROGRAM ADVOCATED COMMUNITY SPONSORSHIP OF SUCH PROGRAMS, EVEN THOUGH LOW-SHOW RATES OFTEN RESULT, BECAUSE SUCH PROGRAMS ARE BELIEVED TO BE MORE RESPONSIVE TO COMMUNITY CONCERNS. ONE SPEAKER SUGGESTED THAT UNDER MEDIATION PROGRAMS, A NEW PROFESSION OF LAWYER-MEDIATOR IS EMERGING, BUT OTHERS FAVOR MEDIATORS COMING FROM THE RANKS OF SOCIAL PSYCHOLOGISTS OR CITIZEN USERS OF THE PROGRAM TRAINED IN MEDIATION. NONPROFIT PROGRAMS APPEAR TO HAVE AS MUCH SUCCESS AS OTHER PROGRAMS, WITH THE MAJOR BENEFIT BEING THE USE OF VOLUNTEERS, WHILE THE MAJOR PROBLEMS ARE FUNDING AND MARKETING THE PROGRAM. PROGRAMS SPONSORED BY CHURCH ORGANIZATIONS AND UNIVERSITIES SEEM TO OFFER MANY BENEFITS, NOTABLY COOPERATION BETWEEN THE COMMUNITY, CHURCH, AND ACADEMIC COMMUNITY. STABILITY APPEARS TO BE THE MOST IMPORTANT ASPECT OF PROGRAM SUCCESS, SINCE COMMUNITIES MUST PERCEIVE THAT THE PROGRAM, REGARDLESS OF ITS LINKAGES, IS PROVIDING AN ONGOING AND RELIABLE SERVICE TO THE COMMUNITY.

Supplemental Notes: PANEL DISCUSSION SERIES TOPIC 2-1982.

Availability: American Bar Association Special Committee on Resolution of Minor Disputes, 1800 M Street, NW, Washington, DC 20036.

18. **EVALUATION OF ALTERNATIVES TO COURT ADJUDICATION.** By J. PEARSON. *JUSTICE SYSTEM JOURNAL*, V 7, N 3 (WINTER 1982), P 420-444. **NCJ-89393**

THIS ARTICLE REVIEWS THE MOST RIGOROUS EVALUATION DATA AVAILABLE TO DATE ON THE EFFECTIVENESS OF MEDIATION AND ARBITRATION IN ACHIEVING A BROAD RANGE OF OBJECTIVES. THE STUDIES SHOW THAT WHILE MEDIATION AND ARBITRATION PROGRAMS FAIL TO ACHIEVE MANY OF THE PERFORMANCE GOALS RELATED TO COURT CONGESTION AND COST SAVINGS, THEY CONSISTENTLY RATE VERY FAVORABLY ON MEASURES OF USER SATISFACTION, PERCEPTIONS OF FAIRNESS, COMPLIANCE WITH OUTCOMES AND, IN MOST CASES, REDUCED LEVELS OF RELITIGATION.

TECHNIQUES AND APPLICATIONS

COMPARED WITH THEIR VOLUNTARY COUNTERPARTS, MANDATORY MEDIATION AND ARBITRATION PROGRAMS COME CLOSER TO SUCCEEDING (AND IN SOME CASES DO SUCCEED) IN REDUCING COURT CONGESTION AND ACHIEVING PUBLIC COST SAVINGS TOO. IN THE LAST DECADE, THERE HAS BEEN A RESURGENCE OF INTEREST IN ALTERNATIVES TO ADJUDICATION. NUMEROUS MEDIATION AND COURT-ANNEXED ARBITRATION PROGRAMS HAVE BEEN INITIATED. MANY GOALS HAVE BEEN POSITED FOR SUCH PROGRAMS, INCLUDING THE JUDICIAL OBJECTIVES OF REDUCING COURT BACKLOGS, AND ACHIEVING SAVINGS IN TIME AND MONEY AS WELL AS INCREASING DISPUTANTS' ACCESS TO, AND QUALITY OF, JUSTICE. (AUTHOR ABSTRACT)

19. **MEDIATION ... AN ALTERNATIVE THAT WORKS.** By A. DAVIS. Massachusetts District Court Department Trial Court of Massachusetts, Holyoke Building, Holyoke Square, Salem, MA 01970. 34 p. 1983. **NCJ-90676**

THIS OVERVIEW OF MEDIATION EXAMINES THE NATURE OF MEDIATION, THE TRAINING OF MEDIATORS, THE SKILLS REQUIRED IN MEDIATION, AND ISSUES RAISED BY MEDIATION. SOME DEFINITIONS OF MEDIATION ARE PRESENTED, FOLLOWED BY A COMPARISON OF MEDIATION WITH ADJUDICATION, ARBITRATION, CONCILIATION, AND THE USE OF AN OMBUDSPERSON. THE BENEFITS OF MEDIATION ARE LISTED AS ITS BEING AFFORDABLE, TIMELY, CONVENIENT, COMFORTABLE, UNDERSTANDABLE, PRIVATE, CONFIDENTIAL, HEALING, AND EFFECTIVE. MEDIATION IS INDICATED TO BE PARTICULARLY APPROPRIATE FOR DISPUTES BETWEEN FAMILY MEMBERS, NEIGHBORS, FRIENDS, TEACHERS AND STUDENTS, LANDLORDS AND TENANTS, AND CONSUMERS AND MERCHANTS. THE OVERALL PROCESS OF MEDIATION IS PORTRAYED AS REFERRAL TO THE MEDIATION PROJECT BY THE POLICE, COURTS, OR COMMUNITY AGENCY; INTAKE INTERVIEW; HOLDING OF THE MEDIATION SESSION; THE DEVELOPMENT OF A WRITTEN AGREEMENT BETWEEN THE PARTIES; AND FOLLOWUP BY A COORDINATOR. THE STAGES OF THE MEDIATION SESSION ITSELF ARE ALSO BRIEFLY DESCRIBED. THE TOPICS DISCUSSED IN THE SECTION ON THE TRAINING OF MEDIATORS INCLUDE THE SELECTION OF MEDIATORS, THE LENGTH OF TRAINING, THE TRAINING FORMAT, AND THE SKILLS EMPHASIZED IN TRAINING. SOME IMPORTANT ISSUES RAISED BY MEDIATION ARE (1) WHETHER TO CONNECT MEDIATION TO THE COURTS OR MAKE IT INDEPENDENT, (2) WHETHER THE MEDIATORS SHOULD BE FROM THE SAME COMMUNITY AS THE DISPUTANTS, (3) WHETHER THE MEDIATORS SHOULD BE TRAINED VOLUNTEERS OR ACADEMICALLY TRAINED SPECIALISTS, AND (4) WHETHER A MEDIATOR'S OATH OF CONFIDENTIALITY WILL BE SUPPORTED BY THE COURTS. THE RESOURCES SECTION INCLUDES LISTS OF MASSACHUSETTS MEDIATION PROJECTS; MEDIATION TRAINERS, CONSULTANTS, AND INFORMATION SOURCES; AND MASSACHUSETTS SCHOOL MEDIATION PROJECTS. FORTY- EIGHT BIBLIOGRAPHIC ENTRIES ARE PROVIDED.

20. **CONSUMER DISPUTE RESOLUTION—EXPLORING THE ALTERNATIVES.** L. RAY and D. SMOLOVER, Eds. American Bar Association Special Committee on Resolution of Minor Disputes, 1800 M Street, NW, Washington, DC 20036. 662 p. 1983. **NCJ-91236**

THIRTY-EIGHT PAPERS ON ALTERNATIVE DISPUTE RESOLUTION IN CONSUMER CASES FOCUS ON MODEL PROGRAMS; RESEARCH AND EVALUATION OF CONSUMER DISPUTE RESOLUTION; LEGAL ISSUES IN DISPUTE RESOLUTION; BUSINESS AND TRADE ASSOCIATION, INDEPENDENT, COMMUNITY AND COURT-SPONSORED, AND GOVERNMENT PROGRAMS; AND DISPUTE RESOLUTION IN THE AUTO INDUSTRY. FOUR PAPERS ON THE NATURE OF THE PROBLEM AND BASIC APPROACHES TO IT DISCUSS THE CHARACTERISTICS OF A MODEL MECHANISM FOR RESOLVING CONSUMER DIS-

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PUTES, FACTORS THAT SHOULD BE CONSIDERED BY THE PRIVATE SECTOR, AND A CONSUMER'S VIEW OF THIRD-PARTY MECHANISMS. SEVERAL MODEL PROGRAMS ARE DESCRIBED, INCLUDING A CONCILIATION SERVICE FOR RESOLVING TENANT-LANDLORD DISPUTES, THE APPLIANCE INDUSTRY'S SOLUTION TO CONSUMER DISPUTES, A PROGRAM UNDERTAKEN BY A COALITION OF CORPORATION COUNSELS, UTILITY CONSUMER MEDIATION AND ARBITRATION IN PENNSYLVANIA, AND CONSUMER ARBITRATION IN A RECESSION. ADDITIONAL PAPERS FOCUS ON MINOR DISPUTE PROCESSING, NONJUDICIAL DISPUTE RESOLUTION MECHANISMS, DISPUTE RESOLUTION IN THE FUNERAL SERVICE INDUSTRY, SMALL CLAIMS COURT IN CALIFORNIA, NEGOTIATION, AND INTERNAL REVENUE SERVICE DISPUTE RESOLUTION. TABLES, CHAPTER NOTES AND REFERENCE LISTS, AND 350 REFERENCES ARE PROVIDED.

Availability: American Bar Association Special Committee on Resolution of Minor Disputes, 1800 M Street, NW, Washington, DC 20036.

21. **ALTERNATIVES TO LITIGATION AND ADJUDICATION—A CONFERENCE HELD IN MADISON, WISCONSIN, DECEMBER 8, 1978.** Wisconsin Office of State Courts, 213 NE State Capitol, Madison, WI 53702. 109 p. 1982. **NCJ-91480**

CONFERENCE ADDRESSES DEAL WITH ASPECTS OF THE DEVELOPMENT AND MAINTENANCE OF ALTERNATIVE DISPUTE RESOLUTION PROCESSES AND PROGRAMS AT THE FEDERAL, STATE, AND LOCAL LEVELS, WITH ATTENTION TO MEDIATOR TRAINING, PROGRAM IMPLEMENTATION AND ADMINISTRATION, AND LEGAL ISSUES AND IMPLICATIONS. ONE PAPER EXAMINES PROGRESS IN SOME FEDERAL APPROACHES TO ALTERNATIVE FORMS OF DISPUTE SETTLEMENT, NOTABLY AN ARBITRATION EXPERIMENT IN THREE FEDERAL DISTRICTS INVOLVING MONETARY CASES THAT FOCUS PRIMARILY ON FACTUAL ISSUES AND THE FUNDING OF THREE NEIGHBORHOOD JUSTICE CENTERS. ANOTHER ADDRESS DESCRIBES FOUR PROGRAMS DESIGNED TO HANDLE DISPUTES INVOLVING JUVENILES THROUGH COMMUNITY MEANS OTHER THAN FORMAL JUVENILE COURT PROCESSING, FOLLOWED BY AN ADDRESS THAT DISCUSSES THE FOLLOWING LEGAL IMPLICATIONS OF MEDIATION AND ARBITRATION: THE CONFIDENTIALITY OF COMMUNICATIONS AND RECORDS WITHIN THE PROGRAMS, THE EQUAL PROTECTION IMPLICATIONS OF SCREENING CRITERIA, AND PROCEDURAL DUE PROCESS IMPLICATIONS OF ACTIONS TAKEN WITHIN THE PROGRAM. AN OUTLINE OF AN ADDRESS NOTES THE CHARACTERISTICS OF VARIOUS TYPES OF DISPUTE RESOLUTION PROCESSES, THE SKILLS REQUIRED IN NEGOTIATION, MEDIATION, AND ARBITRATION PROCESSES AS WELL AS HOW THESE SKILLS MAY BE APPLIED IN PARTICULAR CASES. A DISCUSSION OF THE IMPLEMENTATION OF MIAMI'S MEDIATION PROGRAM COVERS THE PROGRAM'S STRUCTURAL PLACEMENT, PUBLICITY, SELECTION OF MEDIATORS, MEDIATOR TRAINING, AND THE TYPES OF CASES HEARD. THE CONCLUDING PAPER DEALS WITH AREAS WHERE THE STATE OF FLORIDA IS ANTICIPATING HELPING LOCAL CITIZEN DISPUTE SETTLEMENT PROGRAMS TO MAINTAIN AND IMPROVE THEIR OPERATIONS, NOTABLY IN THE AREAS OF MEDIATOR TRAINING, PUBLICITY, AND FUNDING.

22. **MEDIATION IN THE JUSTICE SYSTEM—CONFERENCE PROCEEDINGS, MAY 20-21, 1982, JOHN JAY COLLEGE OF CRIMINAL JUSTICE.** M. R. VOLPE, T. F. CHRISTIAN, and J. E. KOWALEWSKI, Eds. American Bar Association Special Committee on Resolution of Minor Disputes, 1800 M Street, NW, Washington, DC 20036. 159 p. 1983. **NCJ-92471**
- TEN PAPERS REPRESENTING INDIVIDUAL AND PANEL DISCUSSIONS FOCUS ON SPECIFIC PROGRAMS AND GENERAL ISSUES RELATED TO MEDIATION. FOLLOWING AN OVERVIEW OF MEDIATION, A HISTORY OF MEDIATION IN THE UNITED STATES NOTES THAT MEDIATION CENTERS HAVE DEVELOPED BOTH AS PROGRAMS BASED IN THE CRIMINAL JUS-

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TICE SYSTEM AND AS COMMUNITY-BASED PROGRAMS. THE 4-YEAR EFFORT THAT LED TO NEW YORK'S ESTABLISHMENT IN 1981 OF A STATE-FUNDED NETWORK OF COMMUNITY-BASED DISPUTE RESOLUTION CENTERS IS DESCRIBED. A DISCUSSION OF ISSUES THAT MUST BE FACED IN STARTING A MEDIATION PROGRAM FOCUSES ON SOURCES OF REFERRALS, TYPES OF CASES TO INCLUDE AND EXCLUDE, THE USE OF VOLUNTEERS, AND THE NEED TO BALANCE PROFESSIONALISM AND AN INFORMAL ATMOSPHERE. REPRESENTATIVES OF SEVERAL MEDIATION PROGRAMS IN NEW YORK STATE NOTE THAT THE MAIN PROBLEMS INVOLVED IN OPERATING THESE PROGRAMS ARE STAFF BURNOUT, LARGE CASELOADS, DIFFICULTIES IN FINDING VOLUNTEER MEDIATORS, AND THE NEED TO BE CONSCIOUS OF SECURITY. THE WAYS IN WHICH THE SPECIAL COMMITTEE ON DISPUTE RESOLUTION OF THE AMERICAN BAR ASSOCIATION ACTS AS FACILITATOR AND PROMOTER FOR DISPUTE RESOLUTION IN THE UNITED STATES ARE EXPLAINED. OTHER ISSUES EXAMINED INCLUDE METHODS OF RESEARCH AND EVALUATION OF ALTERNATIVE DISPUTE RESOLUTION PROGRAMS, RECRUITMENT AND TRAINING OF MEDIATORS, AND THE ELEMENTS NECESSARY FOR A SUCCESSFUL NEIGHBORHOOD JUSTICE SYSTEM, BASED ON THE EXPERIENCE OF THE COMMUNITY BOARDS PROGRAM IN SAN FRANCISCO.

Supplemental Notes: DISPUTE RESOLUTION PAPER SERIES, NUMBER 2.

Availability: American Bar Association, 1155 East 60th Street, Chicago, IL 60637.

23. **PATHS TO JUSTICE—MAJOR PUBLIC POLICY ISSUES OF DISPUTE RESOLUTION.** National Institute for Dispute Resolution, 1901 L Street, NW Suite 600, Washington, DC 20036. 46 p. 1984. **NCJ-93038**

THIS REPORT DISCUSSES PUBLIC POLICY ISSUES ASSOCIATED WITH ALTERNATIVE DISPUTE RESOLUTION MECHANISMS, WITH ATTENTION TO CHOOSING AMONG LITIGATION, ARBITRATION, AND MEDIATION; EVALUATION STANDARDS; AND INSTITUTIONALIZING ALTERNATIVES TO COURTS. THE AD HOC PANEL ON DISPUTE RESOLUTION AND PUBLIC POLICY ADDRESSED A BROAD CONTINUUM RANGING FROM ADJUDICATION THROUGH ARBITRATION, MEDIATION, AND NEGOTIATION. IT FOUND THAT THE LEGAL ISSUE WAS NOT SO MUCH ONE OF EXCESSIVE LITIGATION AS OF COMPLEXITY, PROHIBITIVE COSTS, AND EXCESSIVE DELAYS IN USING THE COURTS. THE REPORT REVIEWS THE ADVANTAGES AND DISADVANTAGES OF THREE MAJOR DISPUTE RESOLUTION MODELS: LITIGATION, ARBITRATION, AND MEDIATION. THE PANEL FORMULATED SEVEN CRITERIA FOR JUDGING A DISPUTE RESOLUTION MECHANISM: IT MUST BE ACCESSIBLE TO DISPUTANTS, PROTECT THE RIGHTS OF DISPUTANTS, BE EFFICIENT IN TERMS OF COST AND TIME, BE FAIR AND JUST, ASSURE FINALITY AND ENFORCEABILITY OF DECISION, BE CREDIBLE, AND EXPRESS THE COMMUNITY'S SENSE OF JUSTICE. THE REPORT DISCUSSES MAJOR ISSUES RELATED TO INSTITUTIONALIZING METHODS OF NONJUDICIAL DISPUTE RESOLUTION: FUNDING AND INCENTIVES FOR ALTERNATIVES, IMPLEMENTATION, AND DEFINING THEIR RELATIONSHIP TO EACH OTHER AND TO THE COURTS. OTHER QUESTIONS ARISE REGARDING PROFESSIONAL RESPONSIBILITY, ETHICS, AND ACCREDITATION. THE PANEL FOUND THAT WHILE THERE WAS CONSIDERABLE ACTIVITY IN DISPUTE RESOLUTION, VERY LITTLE EXPERIENCE WITH SUCH PROGRAMS HAD BEEN DOCUMENTED. THUS, IT CONCLUDED THAT FUTURE ACTIONS SHOULD EMPHASIZE EXPERIMENTATION, EVALUATION, AND DISSEMINATION OF INFORMATION. THE REPORT IDENTIFIES SPECIFIC INITIATIVES TO FURTHER

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RENTLY CANADA HAS 10 DIVERSION PROGRAMS. FOUR PROGRAMS USE ONLY MEDIATION TO RESOLVE CONFLICTS; THREE USE MEDIATION AND NEGOTIATION; TWO USE PRIMARILY NEGOTIATION; AND ONE COMBINES CONCILIATION WITH NEGOTIATION. EACH OF THE 10 PROJECTS IS DESCRIBED, WITH ATTENTION TO THOSE ASPECTS OF THE PROJECTS BEARING ON THE DISPUTE SETTLEMENT PROCESS. THIRTEEN FOOTNOTES AND SEVEN REFERENCES ARE PROVIDED.

17. **ALTERNATIVE DISPUTE RESOLUTION—WHO'S IN CHARGE OF MEDIATION?** American Bar Association Special Committee on Resolution of Minor Disputes, 1800 M Street, NW, Washington, DC 20036. 97 p. 1982. NCJ-89151

SYMPOSIUM PRESENTATIONS CONSIDER THE SPONSORS OR LINKS OF MEDIATION PROGRAMS, THE BACKGROUNDS OF MEDIATORS, AND VARIOUS TYPES OF MEDIATION PROGRAMS. THE PRESENTATIONS INDICATE THAT DIVERSE MEDIATION PROGRAM GOALS COMPLICATE THE DETERMINATION OF WHO SHOULD SPONSOR A MEDIATION PROGRAM. THOSE EMPHASIZING HIGH-SHOW RATES FOR USERS OF THE PROGRAM FAVOR FORMAL LINKS TO THE LEGAL SYSTEM, AN ARRANGEMENT THAT TYPICALLY PRODUCES HIGH-SHOW RATES. ABOUT 30 PERCENT OF MEDIATION PROGRAMS ARE COURT-RELATED. THE JUDGE'S APPROVAL OF MEDIATION PROGRAMS BECOMES ESSENTIAL FOR SUCCESS IN SUCH A LINKAGE, WHICH MEANS THE PROGRAM ENJOYS 'SYSTEM' RECOGNITION. THE ISSUE OF TAKING CASES (I.E., MONEY) FROM THE LAWYERS THAT WOULD OTHERWISE BE INVOLVED IN THE CASE NEEDS TO BE ADDRESSED. AN ADMINISTRATOR OF A COMMUNITY MEDIATION PROGRAM ADVOCATED COMMUNITY SPONSORSHIP OF SUCH PROGRAMS, EVEN THOUGH LOW-SHOW RATES OFTEN RESULT, BECAUSE SUCH PROGRAMS ARE BELIEVED TO BE MORE RESPONSIVE TO COMMUNITY CONCERNS. ONE SPEAKER SUGGESTED THAT UNDER MEDIATION PROGRAMS, A NEW PROFESSION OF LAWYER-MEDIATOR IS EMERGING, BUT OTHERS FAVOR MEDIATORS COMING FROM THE RANKS OF SOCIAL PSYCHOLOGISTS OR CITIZEN USERS OF THE PROGRAM TRAINED IN MEDIATION. NONPROFIT PROGRAMS APPEAR TO HAVE AS MUCH SUCCESS AS OTHER PROGRAMS, WITH THE MAJOR BENEFIT BEING THE USE OF VOLUNTEERS, WHILE THE MAJOR PROBLEMS ARE FUNDING AND MARKETING THE PROGRAM. PROGRAMS SPONSORED BY CHURCH ORGANIZATIONS AND UNIVERSITIES SEEM TO OFFER MANY BENEFITS, NOTABLY COOPERATION BETWEEN THE COMMUNITY, CHURCH, AND ACADEMIC COMMUNITY. STABILITY APPEARS TO BE THE MOST IMPORTANT ASPECT OF PROGRAM SUCCESS, SINCE COMMUNITIES MUST PERCEIVE THAT THE PROGRAM, REGARDLESS OF ITS LINKAGES, IS PROVIDING AN ONGOING AND RELIABLE SERVICE TO THE COMMUNITY.

Supplemental Notes: PANEL DISCUSSION SERIES TOPIC 2-1982.

Availability: American Bar Association Special Committee on Resolution of Minor Disputes, 1800 M Street, NW, Washington, DC 20036.

18. **EVALUATION OF ALTERNATIVES TO COURT ADJUDICATION.** By J. PEARSON. *JUSTICE SYSTEM JOURNAL*, V 7, N 3 (WINTER 1982), P 420-444. NCJ-89393

THIS ARTICLE REVIEWS THE MOST RIGOROUS EVALUATION DATA AVAILABLE TO DATE ON THE EFFECTIVENESS OF MEDIATION AND ARBITRATION IN ACHIEVING A BROAD RANGE OF OBJECTIVES. THE STUDIES SHOW THAT WHILE MEDIATION AND ARBITRATION PROGRAMS FAIL TO ACHIEVE MANY OF THE PERFORMANCE GOALS RELATED TO COURT CONGESTION AND COST SAVINGS, THEY CONSISTENTLY RATE VERY FAVORABLY ON MEASURES OF USER SATISFACTION, PERCEPTIONS OF FAIRNESS, COMPLIANCE WITH OUTCOMES AND, IN MOST CASES, REDUCED LEVELS OF RELITIGATION.

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COMPARED WITH THEIR VOLUNTARY COUNTERPARTS, MANDATORY MEDIATION AND ARBITRATION PROGRAMS COME CLOSER TO SUCCEEDING (AND IN SOME CASES DO SUCCEED) IN REDUCING COURT CONGESTION AND ACHIEVING PUBLIC COST SAVINGS TOO. IN THE LAST DECADE, THERE HAS BEEN A RESURGENCE OF INTEREST IN ALTERNATIVES TO ADJUDICATION. NUMEROUS MEDIATION AND COURT-ANNEXED ARBITRATION PROGRAMS HAVE BEEN INITIATED. MANY GOALS HAVE BEEN POSITED FOR SUCH PROGRAMS, INCLUDING THE JUDICIAL OBJECTIVES OF REDUCING COURT BACKLOGS, AND ACHIEVING SAVINGS IN TIME AND MONEY AS WELL AS INCREASING DISPUTANTS' ACCESS TO, AND QUALITY OF, JUSTICE. (AUTHOR ABSTRACT)

19. **MEDIATION ... AN ALTERNATIVE THAT WORKS.** By A. DAVIS. Massachusetts District Court Department Trial Court of Massachusetts, Holyoke Building, Holyoke Square, Salem, MA 01970. 34 p. 1983. NCJ-90676

THIS OVERVIEW OF MEDIATION EXAMINES THE NATURE OF MEDIATION, THE TRAINING OF MEDIATORS, THE SKILLS REQUIRED IN MEDIATION, AND ISSUES RAISED BY MEDIATION. SOME DEFINITIONS OF MEDIATION ARE PRESENTED, FOLLOWED BY A COMPARISON OF MEDIATION WITH ADJUDICATION, ARBITRATION, CONCILIATION, AND THE USE OF AN OMBUDSPERSON. THE BENEFITS OF MEDIATION ARE LISTED AS ITS BEING AFFORDABLE, TIMELY, CONVENIENT, COMFORTABLE, UNDERSTANDABLE, PRIVATE, CONFIDENTIAL, HEALING, AND EFFECTIVE. MEDIATION IS INDICATED TO BE PARTICULARLY APPROPRIATE FOR DISPUTES BETWEEN FAMILY MEMBERS, NEIGHBORS, FRIENDS, TEACHERS AND STUDENTS, LANDLORDS AND TENANTS, AND CONSUMERS AND MERCHANTS. THE OVERALL PROCESS OF MEDIATION IS PORTRAYED AS REFERRAL TO THE MEDIATION PROJECT BY THE POLICE, COURTS, OR COMMUNITY AGENCY; INTAKE INTERVIEW; HOLDING OF THE MEDIATION SESSION; THE DEVELOPMENT OF A WRITTEN AGREEMENT BETWEEN THE PARTIES; AND FOLLOWUP BY A COORDINATOR. THE STAGES OF THE MEDIATION SESSION ITSELF ARE ALSO BRIEFLY DESCRIBED. THE TOPICS DISCUSSED IN THE SECTION ON THE TRAINING OF MEDIATORS INCLUDE THE SELECTION OF MEDIATORS, THE LENGTH OF TRAINING, THE TRAINING FORMAT, AND THE SKILLS EMPHASIZED IN TRAINING. SOME IMPORTANT ISSUES RAISED BY MEDIATION ARE (1) WHETHER TO CONNECT MEDIATION TO THE COURTS OR MAKE IT INDEPENDENT, (2) WHETHER THE MEDIATORS SHOULD BE FROM THE SAME COMMUNITY AS THE DISPUTANTS, (3) WHETHER THE MEDIATORS SHOULD BE TRAINED VOLUNTEERS OR ACADEMICALLY TRAINED SPECIALISTS, AND (4) WHETHER A MEDIATOR'S OATH OF CONFIDENTIALITY WILL BE SUPPORTED BY THE COURTS. THE RESOURCES SECTION INCLUDES LISTS OF MASSACHUSETTS MEDIATION PROJECTS; MEDIATION TRAINERS, CONSULTANTS, AND INFORMATION SOURCES; AND MASSACHUSETTS SCHOOL MEDIATION PROJECTS. FORTY- EIGHT BIBLIOGRAPHIC ENTRIES ARE PROVIDED.

20. **CONSUMER DISPUTE RESOLUTION—EXPLORING THE ALTERNATIVES.** L. RAY and D. SMOLOVER, Eds. American Bar Association Special Committee on Resolution of Minor Disputes, 1800 M Street, NW, Washington, DC 20036. 662 p. 1983. NCJ-91236

THIRTY-EIGHT PAPERS ON ALTERNATIVE DISPUTE RESOLUTION IN CONSUMER CASES FOCUS ON MODEL PROGRAMS; RESEARCH AND EVALUATION OF CONSUMER DISPUTE RESOLUTION; LEGAL ISSUES IN DISPUTE RESOLUTION; BUSINESS AND TRADE ASSOCIATION, INDEPENDENT, COMMUNITY AND COURT-SPONSORED, AND GOVERNMENT PROGRAMS; AND DISPUTE RESOLUTION IN THE AUTO INDUSTRY. FOUR PAPERS ON THE NATURE OF THE PROBLEM AND BASIC APPROACHES TO IT DISCUSS THE CHARACTERISTICS OF A MODEL MECHANISM FOR RESOLVING CONSUMER DIS-

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PUTES, FACTORS THAT SHOULD BE CONSIDERED BY THE PRIVATE SECTOR, AND A CONSUMER'S VIEW OF THIRD-PARTY MECHANISMS. SEVERAL MODEL PROGRAMS ARE DESCRIBED, INCLUDING A CONCILIATION SERVICE FOR RESOLVING TENANT-LANDLORD DISPUTES, THE APPLIANCE INDUSTRY'S SOLUTION TO CONSUMER DISPUTES, A PROGRAM UNDERTAKEN BY A COALITION OF CORPORATION COUNSELS, UTILITY CONSUMER MEDIATION AND ARBITRATION IN PENNSYLVANIA, AND CONSUMER ARBITRATION IN A RECESSION. ADDITIONAL PAPERS FOCUS ON MINOR DISPUTE PROCESSING, NONJUDICIAL DISPUTE RESOLUTION MECHANISMS, DISPUTE RESOLUTION IN THE FUNERAL SERVICE INDUSTRY, SMALL CLAIMS COURT IN CALIFORNIA, NEGOTIATION, AND INTERNAL REVENUE SERVICE DISPUTE RESOLUTION. TABLES, CHAPTER NOTES AND REFERENCE LISTS, AND 350 REFERENCES ARE PROVIDED.

Availability: American Bar Association Special Committee on Resolution of Minor Disputes, 1800 M Street, NW, Washington, DC 20036.

21. **ALTERNATIVES TO LITIGATION AND ADJUDICATION—A CONFERENCE HELD IN MADISON, WISCONSIN, DECEMBER 8, 1978.** Wisconsin Office of State Courts, 213 NE State Capitol, Madison, WI 53702. 109 p. 1982. NCJ-91480

CONFERENCE ADDRESSES DEAL WITH ASPECTS OF THE DEVELOPMENT AND MAINTENANCE OF ALTERNATIVE DISPUTE RESOLUTION PROCESSES AND PROGRAMS AT THE FEDERAL, STATE, AND LOCAL LEVELS, WITH ATTENTION TO MEDIATOR TRAINING, PROGRAM IMPLEMENTATION AND ADMINISTRATION, AND LEGAL ISSUES AND IMPLICATIONS. ONE PAPER EXAMINES PROGRESS IN SOME FEDERAL APPROACHES TO ALTERNATIVE FORMS OF DISPUTE SETTLEMENT, NOTABLY AN ARBITRATION EXPERIMENT IN THREE FEDERAL DISTRICTS INVOLVING MONETARY CASES THAT FOCUS PRIMARILY ON FACTUAL ISSUES AND THE FUNDING OF THREE NEIGHBORHOOD JUSTICE CENTERS. ANOTHER ADDRESS DESCRIBES FOUR PROGRAMS DESIGNED TO HANDLE DISPUTES INVOLVING JUVENILES THROUGH COMMUNITY MEANS OTHER THAN FORMAL JUVENILE COURT PROCESSING, FOLLOWED BY AN ADDRESS THAT DISCUSSES THE FOLLOWING LEGAL IMPLICATIONS OF MEDIATION AND ARBITRATION: THE CONFIDENTIALITY OF COMMUNICATIONS AND RECORDS WITHIN THE PROGRAMS, THE EQUAL PROTECTION IMPLICATIONS OF SCREENING CRITERIA, AND PROCEDURAL DUE PROCESS IMPLICATIONS OF ACTIONS TAKEN WITHIN THE PROGRAM. AN OUTLINE OF AN ADDRESS NOTES THE CHARACTERISTICS OF VARIOUS TYPES OF DISPUTE RESOLUTION PROCESSES, THE SKILLS REQUIRED IN NEGOTIATION, MEDIATION, AND ARBITRATION PROCESSES AS WELL AS HOW THESE SKILLS MAY BE APPLIED IN PARTICULAR CASES. A DISCUSSION OF THE IMPLEMENTATION OF MIAMI'S MEDIATION PROGRAM COVERS THE PROGRAM'S STRUCTURAL PLACEMENT, PUBLICITY, SELECTION OF MEDIATORS, MEDIATOR TRAINING, AND THE TYPES OF CASES HEARD. THE CONCLUDING PAPER DEALS WITH AREAS WHERE THE STATE OF FLORIDA IS ANTICIPATING HELPING LOCAL CITIZEN DISPUTE SETTLEMENT PROGRAMS TO MAINTAIN AND IMPROVE THEIR OPERATIONS, NOTABLY IN THE AREAS OF MEDIATOR TRAINING, PUBLICITY, AND FUNDING.

22. **MEDIATION IN THE JUSTICE SYSTEM—CONFERENCE PROCEEDINGS, MAY 20-21, 1982, JOHN JAY COLLEGE OF CRIMINAL JUSTICE.** M. R. VOLPE, T. F. CHRISTIAN, and J. E. KOWALEWSKI, Eds. American Bar Association Special Committee on Resolution of Minor Disputes, 1800 M Street, NW, Washington, DC 20036. 159 p. 1983. NCJ-92471

TEN PAPERS REPRESENTING INDIVIDUAL AND PANEL DISCUSSIONS FOCUS ON SPECIFIC PROGRAMS AND GENERAL ISSUES RELATED TO MEDIATION. FOLLOWING AN OVERVIEW OF MEDIATION, A HISTORY OF MEDIATION IN THE UNITED STATES NOTES THAT MEDIATION CENTERS HAVE DEVELOPED BOTH AS PROGRAMS BASED IN THE CRIMINAL JUSTICE

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Supplemental Notes: DISPUTE RESOLUTION PAPER SERIES, NUMBER 2.

Availability: American Bar Association, 1155 East 60th Street, Chicago, IL 60637.

23. **PATHS TO JUSTICE—MAJOR PUBLIC POLICY ISSUES OF DISPUTE RESOLUTION.** National Institute for Dispute Resolution, 1901 L Street, NW Suite 600, Washington, DC 20036. 46 p. 1984. NCJ-93038

THIS REPORT DISCUSSES PUBLIC POLICY ISSUES ASSOCIATED WITH ALTERNATIVE DISPUTE RESOLUTION MECHANISMS, WITH ATTENTION TO CHOOSING AMONG LITIGATION, ARBITRATION, AND MEDIATION; EVALUATION STANDARDS; AND INSTITUTIONALIZING ALTERNATIVES TO COURTS. THE AD HOC PANEL ON DISPUTE RESOLUTION AND PUBLIC POLICY ADDRESSED A BROAD CONTINUUM RANGING FROM ADJUDICATION THROUGH ARBITRATION, MEDIATION, AND NEGOTIATION. IT FOUND THAT THE LEGAL ISSUE WAS NOT SO MUCH ONE OF EXCESSIVE LITIGATION AS OF COMPLEXITY, PROHIBITIVE COSTS, AND EXCESSIVE DELAYS IN USING THE COURTS. THE REPORT REVIEWS THE ADVANTAGES AND DISADVANTAGES OF THREE MAJOR DISPUTE RESOLUTION MODELS: LITIGATION, ARBITRATION, AND MEDIATION. THE PANEL FORMULATED SEVEN CRITERIA FOR JUDGING A DISPUTE RESOLUTION MECHANISM: IT MUST BE ACCESSIBLE TO DISPUTANTS, PROTECT THE RIGHTS OF DISPUTANTS, BE EFFICIENT IN TERMS OF COST AND TIME, BE FAIR AND JUST, ASSURE FINALITY AND ENFORCEABILITY OF DECISION, BE CREDIBLE, AND EXPRESS THE COMMUNITY'S SENSE OF JUSTICE. THE REPORT DISCUSSES MAJOR ISSUES RELATED TO INSTITUTIONALIZING METHODS OF NONJUDICIAL DISPUTE RESOLUTION: FUNDING AND INCENTIVES FOR ALTERNATIVES, IMPLEMENTATION, AND DEFINING THEIR RELATIONSHIP TO EACH OTHER AND TO THE COURTS. OTHER QUESTIONS ARISE REGARDING PROFESSIONAL RESPONSIBILITY, ETHICS, AND ACCREDITATION. THE PANEL FOUND THAT WHILE THERE WAS CONSIDERABLE ACTIVITY IN DISPUTE RESOLUTION, VERY LITTLE EXPERIENCE WITH SUCH PROGRAMS HAD BEEN DOCUMENTED. THUS, IT CONCLUDED THAT FUTURE ACTIONS SHOULD EMPHASIZE EXPERIMENTATION, EVALUATION, AND DISSEMINATION OF INFORMATION. THE REPORT IDENTIFIES SPECIFIC INITIATIVES TO FURTHER

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THESE OBJECTIVES AND PROVIDES TABLES, A GLOSSARY, AND APPROXIMATELY 75 REFERENCES.

Supplemental Notes: REPORT OF THE AD HOC PANEL ON DISPUTE RESOLUTION AND PUBLIC POLICY.

Sponsoring Agency: US Department of Justice Federal Justice Research Program, Room 4235, 10th and Pennsylvania Avenues, NW, Washington, DC 20530.

Availability: National Institute of Justice National Criminal Justice Reference Service Microfiche Program; National Institute of Justice National Criminal Justice Reference Service Paper Reproduction Sales, Box 6000 Department F, Rockville, MD 20850.

24. **STATE OF THE ART—ALTERNATIVES TO COURT AND TRIAL (FROM IMPROVEMENT OF THE ADMINISTRATION OF JUSTICE, P 263-281, 1981, FANNIE J. KLEIN, ED.—SEE NCJ-93134). By P. NEJELSKI and L. RAY. 19 p. 1981. NCJ-93146**

THE MAJOR ALTERNATIVES TO COURT AND TO TRIAL FOR CIVIL CASES ARE THE USE OF COURT-ANNEXED ARBITRATION, THE USE OF ADJUDICATION BY SOMEONE OTHER THAN A FULL-TIME JUDGE, AND THE GROWING MEDIATION MOVEMENT, WHICH TRIES TO AVOID THE ADVERSARIAL MODEL. THE FIRST TWO PROGRAMS TRY TO RESOLVE MORE TRADITIONAL FORMS OF COMMERCIAL AND TORT LITIGATION. CASES AFFECTED USUALLY ENTAIL MONEY DAMAGES AND INVOLVE LAWYERS BOTH IN PROSECUTION AND IN DECIDING CASES. IN CONTRAST, THE JUSTICE MEDIATION PROGRAMS DO NOT RELY AS HEAVILY ON THE FORMALITIES OF THE TRADITIONAL LEGAL SYSTEM. THEIR MAIN CASE TYPES DEAL WITH COMPLAINTS INVOLVING PERSONS WITH CONTINUING RELATIONSHIPS, SUCH AS FAMILY MEMBERS, NEIGHBORS, AND FRIENDS. LAWYERS ARE GENERALLY NOT REQUIRED. IN 1981, THE AMERICAN BAR ASSOCIATION SPECIAL COMMITTEE ON RESOLUTION OF MINOR DISPUTES IDENTIFIED 141 DISPUTE RESOLUTION PROGRAMS. PROGRAM SPONSORS INCLUDED COURTS, MAYORS' OFFICES, BAR ASSOCIATIONS, PROSECUTORS' OFFICES, PRIVATE FOUNDATIONS, PRIVATE CITIZENS, AND CONSUMER GROUPS. THE PROGRAMS DEAL WITH A WIDE VARIETY OF BOTH CRIMINAL AND CIVIL MATTERS. DISPUTANTS GENERALLY VIEW THE MEDIATION PROCESS AS FAIR AND EFFECTIVE. PROGRAM-RELATED ISSUES REQUIRING FURTHER CONSIDERATION ARE THE COST-EFFECTIVENESS OF THESE PROGRAMS, POSSIBLE COERCIVENESS OF THE CENTERS, MEDIATION BY UNEQUAL PARTIES, AND THE QUESTION OF WHETHER THESE PROJECTS WILL BE REGARDED AS AN INFERIOR FORM OF JUSTICE. ADDITIONAL ISSUES REQUIRING CONSIDERATION, A DISCUSSION OF THE ROLE OF JUDGES AND LAWYERS IN THESE CENTERS, AND AN ANNOTATED LIST OF 24 REFERENCES ARE INCLUDED.

Availability: American Bar Association, 1155 East 60th Street, Chicago, IL 60637.

25. **QUIET (R) EVOLUTION IN AMERICAN DISPUTE SETTLEMENT. By D. MCGILLIS. HARVARD LAW SCHOOL BULLETIN, V 31, N 20 (SPRING 1980), P 20-25. NCJ-93370**
- NONJUDICIAL FORUMS FOR THE MEDIATION OF MINOR DISPUTES OUTSIDE THE COURT SYSTEM ARE GAINING WIDESPREAD ACCEPTANCE IN THE UNITED STATES. IN THE 1960'S, MANY COMMISSIONS AND REPORTS SHOWED THAT COURTS HAD GREAT DIFFICULTY IN PROCESSING MINOR CIVIL AND CRIMINAL DISPUTES. THE NOTION TOOK HOLD

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THAT NONJUDICIAL FORUMS FOR THE MEDIATION OF MINOR DISPUTES SHOULD BE TRIED IN ORDER TO BYPASS THE COURT PROBLEMS. THE IDEA ORIGINATED APPARENTLY INDEPENDENTLY IN A NUMBER OF JURISDICTIONS ACROSS THE COUNTRY. THE PROLIFERATION OF DISPUTE MEDIATION PROJECTS ACCELERATED IN THE 1970'S. BY 1979, EXPERIMENTAL PROJECTS WERE OPERATING IN APPROXIMATELY 100 AMERICAN CITIES AND IN SEVERAL OTHER COUNTRIES. PROJECTS VARY CONSIDERABLY IN SIZE, SHAPE, FORM, AND EMPHASIS. DISPUTE SETTLEMENT TECHNIQUES ALSO DIFFER AMONG THE PROJECTS AND INCLUDE CONCILIATION, MEDIATION, AND ARBITRATION. CASE EXAMPLES ILLUSTRATE THE BENEFITS OF MEDIATION, AND CURRENT RESEARCH DATA ARE VERY FAVORABLE. TENTATIVE FINDINGS FROM CURRENT RESEARCH SUGGEST THAT MEDIATION PROJECTS PROCESS CASES RAPIDLY, PROJECTS APPEAR TO BE VIEWED FAVORABLY BY DISPUTANTS, PROJECTS MAY BE MORE EFFECTIVE AT RESOLVING DISPUTES, AND PROJECTS IMPROVE ACCESSIBILITY TO JUSTICE. HOWEVER, MUCH STILL REMAINS TO BE KNOWN. THE DISPUTE RESOLUTION ACT, SIGNED IN 1980, WAS DEVELOPED TO SUPPORT THE DISPUTE RESOLUTION MOVEMENT.

26. **DISPUTING IN LEGAL AND NONLEGAL CONTEXTS—SOME QUESTIONS FOR SOCIOLOGISTS OF LAW. By R. DICKINS and J. FITZGERALD. LAW AND SOCIETY REVIEW, V 15, N 3-4 (1980-81), P 681-706, 883-910. NCJ-93457**

THE FOCUS OF THE SOCIOLOGY OF LAW HAS SHIFTED FROM DISTINCTLY LEGAL INSTITUTIONS TO THE INSTITUTIONS AND PROCESSES OF DISPUTING. THE SOCIOLOGY OF LAW HAS TRADITIONALLY EXAMINED THE WAYS IN WHICH THE LAW HANDLES 'TROUBLE' CASES. RECENTLY, HOWEVER, FOCUS HAS SHIFTED TO ASPECTS OF DISPUTING INVOLVING LESS DISTINCTLY LEGAL PROCESSES AND PERSONNEL. WHAT HAPPENS IN THE EARLY STAGES OF A DISPUTE CAN EXPLAIN NOT ONLY WHY SOME DISPUTES GO TO COURT WHILE OTHERS DO NOT, BUT ALSO THE RESULTS OF FURTHER STAGES OF THE PROCESS. ANOTHER TREND IN RESEARCH ON MODERN DAY DISPUTING HAS INVOLVED EXAMINATION OF THE ROLE OF NONLEGAL THIRD PARTIES OR OTHERS NOT IMMEDIATELY INVOLVED IN THE DISPUTE. AN ALTOGETHER HIGHER LEVEL PROBLEM NOW EVIDENT IN THE DISPUTING LITERATURE CONCERNS THE RELATIONSHIP OF DISPUTING TO THE OVERALL STATE OF SOCIETY. IT IS PROBABLY FAIR TO CHARACTERIZE MUCH OF THE TRADITIONAL SOCIOLOGY OF LAW IN THE UNITED STATES AS BEING BASED FIRMLY ON THE ASSUMPTION THAT SOCIAL CONFLICT AND FRICTION ARE NECESSARILY DESTRUCTIVE. FURTHER, IT ASSUMES OR ASSERTS THAT LEGAL PROCESSES PLAY AN IMPORTANT PART IN MANAGING CONFLICT AND FRICTION AND MUST THEREFORE CONTRIBUTE TO THE OVERALL LEVEL OF SOCIAL COHESION AND INTEGRATION IN SOCIETY. RECENT LEGAL ANTHROPOLOGICAL LITERATURE IN NON-WESTERN SOCIETIES HAS AUGMENTED THIS LINE. THIS HAS LED TO PROPOSALS FOR ALTERNATIVE DISPUTE HANDLING MECHANISM SUCH AS NEIGHBORHOOD JUSTICE CENTERS, WHICH MAY BE MORE EFFECTIVE THAN THE COURTS IN REDUCING CERTAIN TYPES OF POTENTIALLY DISRUPTIVE CONFLICT. NOTES ACCOMPANY THE TEXT. ABOUT 650 REFERENCES ARE INCLUDED. (AUTHOR SUMMARY MODIFIED)

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27. **NEIGHBORHOOD JUSTICE CENTERS FIELD TEST—FINAL EVALUATION REPORT—EXECUTIVE SUMMARY. By R. F. COOK, J. A. ROEHL, and D. I. SHEPPARD. Institute for Social Analysis, 11739 Bowman Green Drive, Reston, VA 22090. 35 p. 1980. NCJ-65514**

FINDINGS OF THE NATIONAL EVALUATION OF THE NEIGHBORHOOD JUSTICE CENTERS (NJC'S) ARE PRESENTED. THE STUDY ASSESSED THE EFFECT OF THREE CENTERS IN ATLANTA, GA., KANSAS CITY, MO., AND LOS ANGELES, CALIF. THE THREE NJC'S HANDLED 3,947 CASES DURING THEIR FIRST 15 MONTHS OF OPERATION; THESE CASES INCLUDED MANY TYPES OF DISPUTES FROM SEVERAL DIFFERENT REFERRAL SERVICES. NEARLY HALF OF THE CASES WERE RESOLVED AND A 6-MONTH FOLLOWUP ON THE CASES FOUND THAT AGREEMENTS STILL HELD AND MOST DISPUTANTS WERE SATISFIED WITH THE PROCESS. NJC'S APPEAR TO HANDLE MOST INTERPERSONAL CASES MORE EFFICIENTLY THAN THE COURTS; THEY ARE FASTER, AND THEIR DECISIONS ARE MORE SATISFYING TO THE DISPUTANTS. EVEN THOUGH THE IMPACT ON COURT CASELOAD WAS INSIGNIFICANT, JUDGES AND OTHER JUSTICE SYSTEM OFFICIALS HELD A POSITIVE VIEW OF THE NJC'S AND BELIEVED THAT THEY FACILITATED COURT PROCESSES. CIVIL AND CONSUMER DISPUTES REACHED HEARING LESS OFTEN THAN THOSE OF A MORE CLEARLY INTERPERSONAL NATURE, BUT THE INTERPERSONAL DISPUTES TENDED TO SHOW A LESS SATISFACTORY RESOLUTION RATE UPON FOLLOWUP. THERE WERE INDICATIONS THAT THE COSTS PER CASE AT THE NJC'S MAY BECOME COMPETITIVE WITH THOSE OF THE COURTS. IT WAS CONCLUDED THAT THE NJC'S PROVIDE A NEEDED AND EFFECTIVE ALTERNATE MECHANISM FOR THE RESOLUTION OF MINOR DISPUTES. IT IS RECOMMENDED THAT (1) GOVERNMENTS SUPPORT THE CONTINUED DEVELOPMENT OF ALTERNATIVE DISPUTE RESOLUTION MECHANISMS, (2) A PROGRAM OF RESEARCH AND DEVELOPMENT BE CONDUCTED ON OUTREACH METHODS, (3) WORKSHOPS ON SUCH MECHANISMS BE OFFERED TO CRIMINAL JUSTICE OFFICIALS, AND (4) A NATIONAL RESEARCH AND EVALUATION PROGRAM BE LAUNCHED TO ASSESS CURRENT DISPUTE RESOLUTION APPROACHES. TABULAR DATA AND ONE FIGURE ARE INCLUDED. (AUTHOR ABSTRACT MODIFIED)

Sponsoring Agency: US Department of Justice National Institute of Justice, 633 Indiana Avenue NW, Washington, DC 20531.

Availability: National Institute of Justice National Criminal Justice Reference Service Microfiche Program.

28. **NEIGHBORHOOD JUSTICE CENTERS. By D. MCGILLIS. Abt Associates, Inc, 55 Wheeler Street, Cambridge, MA 02138. 20 p. 1980. NCJ-69075**

THIS POLICY BRIEF DESCRIBES PROGRAMS FOR RESOLVING MINOR DISPUTES WITHOUT ARREST OR FORMAL COURT ACTION USING CONCILIATION, MEDIATION, OR ARBITRATION TECHNIQUES TO DEAL WITH INTERPERSONAL CONFLICTS. EFFECTIVE ADJUDICATION IN MANY CIVIL AND CRIMINAL CASES IS HAMPERED BY EXTENSIVE DELAYS, LIMITED ACCESS, HIGH DISMISSAL RATES, AND INEFFECTIVE PROCEDURES. SUPPORT, THEREFORE, HAS GROWN FOR ALTERNATIVE DISPUTE RESOLUTION MECHANISMS SUCH AS NEIGHBORHOOD JUSTICE CENTERS. SUCH CENTERS OR SIMILAR PROJECTS TEND TO FOCUS ON DISPUTES AMONG INDIVIDUALS WHO HAVE AN ONGOING RELATIONSHIP, SUCH AS LANDLORDS AND TENANTS. CENTERS RECEIVE REFERRALS FROM MANY SOURCES, VARY IN ACTIVE PURSUIT OF CLIENTS, AND MAY ATTEMPT TO SETTLE DISPUTES THROUGH CONCILIATION BEFORE SCHEDULING A FORMAL MEDIATION OR ARBITRATION SESSION. IN ADDITION, STAFF OFTEN HAVE VARIED BACKGROUNDS, MOST COMMONLY IN THE SOCIAL SCIENCES, AND MEDIATORS AND ARBITRATORS UNDERGO RIGOROUS TRAINING PROGRAMS. PLANNERS INTERESTED IN STARTING SUCH CENTERS SHOULD BEGIN BY DEFINING LOCAL NEEDS. CURRENT COURT CAPACITY FOR PROCESSING MINOR DISPUTES CAN BE DETERMINED BY REVIEWING DATA ON COURT CASELOAD SIZE, BACKLOGS, AVERAGE PROCESSING DELAYS, ETC.; ASSESSING THE AVAILABILITY OF LOCAL FORUMS FOR ALTERNATIVE DISPUTE PROCESSING (BETTER BUSINESS BUREAUS, HOUSING AUTHORITIES, AND SO ON); AND ESTABLISHING A PLANNING BOARD. SEVERAL TYPES OF SPONSORS HAVE BEEN USED FOR CENTERS, INCLUDING PUBLIC SPONSORSHIP (E.G., THE MIAMI CITIZEN DISPUTE SETTLEMENT PROGRAM), PRIVATE SPONSORSHIP (E.G., THE ROCHESTER COMMUNITY DISPUTE SERVICES PROJECT), AND PRIVATE SPONSORSHIP WITH A COMMUNITY RATHER THAN JUSTICE SYSTEM ORIENTATION. FUNDING SOURCES HAVE INCLUDED CITY, COUNTY, AND STATE GOVERNMENTS, THE AMERICAN BAR ASSOCIATION, LEAA, AND THE DEPARTMENT OF LABOR. LEGISLATIVE SUPPORT CAN PROMOTE AND GUIDE THE DEVELOPMENT OF APPROPRIATE DISPUTE RESOLUTION ALTERNATIVES. STATES CONSIDERING ASSISTING JUSTICE CENTER DEVELOPMENT HAVE NUMEROUS OPTIONS, INCLUDING FINANCIAL SUPPORT, CONFIDENTIALITY SAFEGUARDS, AND LIMITATIONS

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ON STAFF CIVIL LIABILITY. POLICYMAKERS IN THE EXECUTIVE AND JUDICIAL BRANCHES CAN ALSO PROVIDE VALUED SUPPORT. SOURCES FOR FURTHER INFORMATION ARE GIVEN. AN APPENDIX PROVIDES SAMPLE LEGISLATION SUPPORTING JUSTICE CENTERS.

Supplemental Notes: POLICY BRIEFS 2D EDITION.

Sponsoring Agency: US Department of Justice National Institute of Justice, 633 Indiana Avenue NW, Washington, DC 20531.

Availability: GPO Stock Order No. 027-000-00892-5; National Institute of Justice National Criminal Justice Reference Service Microfiche Program.

29. MOUNTAIN VIEW RENTAL HOUSING MEDIATION—A GRASS ROOTS PROGRAM. By J. V. WARMAN. *URBAN LAW ANNUAL*, V 17 (1979), P 271-278. NCJ-69080

THE CITY OF MOUNTAIN VIEW, CALIFORNIA, RENTAL HOUSING MEDIATION PROGRAM IS DISCUSSED; PROGRAM NEED, STAFF TRAINING, METHODS OF EVALUATION, ACCOMPLISHMENTS, AND BUDGET ARE EMPHASIZED. IN THE SPECIALIZED AREA OF RESOLUTION OF HOUSING-RELATED DISPUTES, THE CITY OF MOUNTAIN VIEW PROVIDES ITS CITIZENS WITH AN ALTERNATIVE TO THE COURT SYSTEM. LIKE THE NEIGHBORHOOD JUSTICE CENTER, THE PROGRAM SEEKS TO EFFECTIVELY PROVIDE FAIR RESOLUTION OF DISPUTES WHILE AVOIDING THE COURTS' EXPENSIVE AND BACKLOGGED SYSTEM. BECAUSE OF THE TRANSIENCY AND HIGH FREQUENCY OF LANDLORD-TENANT PROBLEMS IN THE AREA, A CITIZEN HOUSING COMMITTEE PROPOSED AND INITIATED THE PROGRAM. THE COMMITTEE RECOMMENDED THE CITY COUNCIL'S ADOPTION OF THE MEDIATION CONCEPT TO INCREASE THE POTENTIAL FOR LONGER TENURE BY THE CITY'S EXISTING RENTERS, TO HELP ELIMINATE DISCRIMINATION IN RENTAL HOUSING, AND TO IMPROVE LIVING CONDITIONS AND OWNER-RENTER RELATIONS. THE COUNCIL ADOPTED THE CONCEPT IN JANUARY 1975 AND CONTINUED TO FUND THE PROGRAM ANNUALLY. THE COUNCIL APPOINTS 22 VOLUNTEER (33 PERCENT LANDLORDS, 33 PERCENT TENANTS, AND 33 PERCENT RESIDENTS) FOR 2-YEAR TERMS. EACH MEMBER IS THEN TRAINED TO MEDIATE HOUSING-RELATED DISPUTES. WHEN AN INDIVIDUAL WITH A HOUSING PROBLEM CALLS THE HOUSING HOTLINE, TRAINED STAFF MEMBERS DETERMINE WHETHER REFERRAL TO ANOTHER AGENCY, SIMPLE INFORMATION, OR MEDIATION WOULD BE APPROPRIATE. DURING 1978 APPROXIMATELY 1,625 CALLS WERE ANSWERED, AND 171 MEDIATIONS WERE HELD. THE MOST FREQUENT TYPES OF PROBLEMS RECEIVED ARE THOSE REGARDING REFUND OF SECURITY DEPOSITS, EVICTION NOTICES, REPAIRS TO PROPERTY, AND RENTAL INCREASES. PROGRAM SUCCESSSES INCLUDE AN 80 PERCENT REDUCTION IN THE NUMBER OF HOUSING-RELATED SMALL CLAIMS COURT CASES BY 1977 AND A DROP IN THE NUMBER OF HOUSING-RELATED CALLS TO OTHER AGENCIES. IN 1978 THE CALIFORNIA STATE LEGISLATURE CITED THE PROGRAM AS SUCCESSFUL AND URGED ESTABLISHMENT OF SIMILAR PROGRAMS THROUGHOUT THE STATE. FOOTNOTES ARE INCLUDED.

30. NEIGHBORHOOD JUSTICE CENTERS AND THE MEDIATION OF HOUSING-RELATED DISPUTES. By D. MCGILLIS. *URBAN LAW ANNUAL*, V 17 (1979), P 245-269. NCJ-69081

MAJOR TYPES OF MEDIATION AND ARBITRATION PROJECTS THAT CURRENTLY PROCESS MINOR HOUSING DISPUTES ARE DISCUSSED; GENERAL ISSUES RELATED TO DISPUTE SETTLEMENT ARE HIGHLIGHTED. TRADITIONALLY HOUSING DISPUTES HAVE BEEN PROCESSED IN CIVIL COURTS OF GENERAL JURISDICTION, SMALL CLAIMS COURTS, AND SOMETIMES IN CRIMINAL COURTS. SOME JURISDICTIONS ARE EXPLORING ALTERNATIVES TO TRADITIONAL SETTLEMENT MECHANISMS THROUGH USE OF MEDIATION PROJECTS THAT ARE SOLELY DEVOTED TO HOUSING DIS-

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PUTE ARBITRATION. SUCH PROGRAMS ARE CURRENTLY IN OPERATION IN BOSTON, MASSACHUSETTS; COLUMBUS, OHIO; MIAMI, FLORIDA; NEW YORK, NEW YORK; ROCHESTER, NEW YORK; AND SAN FRANCISCO, CALIFORNIA. THESE PROJECTS ATTEMPT TO REDUCE THE PROBLEMS ASSOCIATED WITH THE COURTS, SUCH AS HIGH COSTS, LONG DELAYS, AND INSUFFICIENT RESOURCES TO DEAL IN DETAIL WITH COMPLEX RECIPROCAL OFFENSES AMONG LANDLORDS AND TENANTS. HOUSING DISPUTES MAY INCLUDE LANDLORD-TENANT DISPUTES, TENANT-TENANT DISPUTES, OR DISPUTES BETWEEN BUILDING OWNERS AND PUBLIC AND PRIVATE AGENCIES. PROJECTS VARY CONSIDERABLY IN THE DEGREE TO WHICH THEY ACTIVELY PURSUE CLIENTS, WHO ARE REFERRED FROM MANY SOURCES INCLUDING THE POLICE, PROSECUTORS, THE COURTS, SOCIAL SERVICES, AND LEGAL AID. ADMINISTRATIVE, INTAKE, AND SOCIAL SERVICE STAFF AT THE VARIOUS PROJECTS TEND TO HAVE VARIED BACKGROUNDS, MOST COMMONLY IN THE SOCIAL SCIENCES. THE AMERICAN ARBITRATION ASSOCIATION AND THE INSTITUTE FOR MEDIATION AND CONFLICT RESOLUTION HAVE DEVELOPED RIGOROUS TRAINING PROGRAMS FOR MEDIATORS AND ARBITRATORS. IN ADDITION, LOCAL TRAINING RESOURCES ARE OFTEN AVAILABLE. NEIGHBORHOOD JUSTICE CENTERS ALSO PROCESS LANDLORD-TENANT DISPUTES. ACCORDING TO A RECENT SURVEY OF THREE CENTERS, PROPORTIONS OF PROJECT CASELOADS DEVOTED TO SUCH DISPUTES RANGE FROM 22 PERCENT FOR THE LOS ANGELES, CALIFORNIA, CENTER TO 17.5 PERCENT FOR THE ATLANTA, GEORGIA, CENTER TO 11.5 PERCENT FOR THE KANSAS CITY, MISSOURI, CENTER. POTENTIAL PROBLEMS WITH THE CONDUCT OF MEDIATION INCLUDE INSUFFICIENT INCENTIVES FOR A POWERFUL PARTY TO COMPROMISE AND THE QUESTION OF WHETHER MATTERS AFFECTING LARGE NUMBERS OF TENANTS SHOULD BE MEDIATED ON A PIECEMEAL BASIS. FOOTNOTES AND TABLES ARE INCLUDED.

Sponsoring Agencies: US Department of Justice Law Enforcement Assistance Administration; Abt Associates, Inc, 55 Wheel-er Street, Cambridge, MA 02138.

31. SUFFOLK COUNTY (NY) COMMUNITY MEDIATION CENTER—AN EVALUATION REPORT. Evaluation Group, Inc, 88-30 79th Avenue, Glendale, NY 11227. 155 p. 1980. NCJ-70147

THE SUFFOLK COUNTY (N.Y.) MEDIATION CENTER IS EVALUATED AS AN ALTERNATIVE TO COURT; ITS ADVANTAGES IN PROCESSING TIME, COSTS, AND SERVICE TO CITIZENS ARE DETAILED. THE COMMUNITY MEDIATION CENTER (CMC) IS IDENTIFIED AS A WAY TO DECENTRALIZE THE RESOLUTION OF COMMUNITY CONFLICT BY DIVERTING BOTH COMPLAINING AND RESPONDING PARTIES AWAY FROM POLICE OR COURT TOWARD A SETTING IN WHICH CONFLICT CAN BE RESOLVED THROUGH MEDIATION. THE EMPHASIS IS ON THE RESOLUTION OF CONFLICT, NOT ON THE DETERMINATION OF GUILT OR INNOCENCE OF THE PARTIES IN CONFLICT. STUDY METHODS WERE INDEPTH INTERVIEWING, INSPECTION OF AVAILABLE DATA AND PROGRAM RECORDS, AND OBSERVATION OF PARTICIPANTS. RESEARCHERS FOUND THAT CMC CASE PROCESSING TIME IS APPROXIMATELY ONE-FOURTH OF THAT REQUIRED BY THE COURTS, THAT CMC SUCCESSFULLY DIVERTS NEARLY TWO-THIRDS OF ALL CASES RECEIVED, AND THAT CMC REQUIRES LESS TIME AND FEWER IN-PERSON VISITS EN ROUTE TO A SOLUTION. ONLY 6 PERCENT OF ALL AGREEMENTS REACHED IN CMC FAILED, AND PER-UNIT COSTS WERE LOWER THAN ANY OF THE BASELINE COMPARISON FIGURES IDENTIFIED BY THE EVALUATION TEAM. FURTHERMORE, FORMER CLIENTS REPORTED SATISFACTION BOTH WITH THE PROGRAM AND WITH THE FOLLOWUP ASSISTANCE. CASE INTAKE CRITERIA DEVELOPED BY CMC WERE FOUND TO BE CLEARLY UNDERSTOOD AND STRICTLY FOLLOWED BY POLICE, THE DISTRICT

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ATTORNEY, AND OTHER SOURCES OF REFERRAL. THE STUDY'S RECOMMENDATIONS INCLUDED THE EXPERIMENTAL USE OF CENTRAL CASE SCREENING TO REDUCE DUPLICATION OF EFFORT, THE DEVELOPMENT OF A STANDARD MISDEMEANOR AND FELONY COURT COST INDEX, A FIXED LIMIT REGARDING THE MAXIMUM NUMBER OF CASES FORWARDED TO CMC EACH MONTH, AND TRAINING FOR ALL PERSONNEL PARTICIPATING IN THE USE OF CMC. DIAGRAMS AND TABULAR DATA ARE INCLUDED. APPENDICES CONTAIN STUDY INSTRUMENTS, SELECTED PROGRAM FORMS, RELEVANT CORRESPONDENCE, AND APPROXIMATELY 25 REFERENCES. (AUTHOR ABSTRACT MODIFIED)

Sponsoring Agencies: New York State Division of Criminal Justice Services, Executive Park Tower, Stuyvesant Plaza, Albany, NY 12203; US Department of Justice National Institute of Justice, 633 Indiana Avenue NW, Washington, DC 20531.

32. NEW DIRECTIONS IN PSYCHOLEGAL RESEARCH. P. D. LIBSITT and B. D. SALES, Eds. 346 p. 1980. NCJ-71016

NEW DIRECTIONS IN PSYCHOLEGAL RESEARCH ARE PRESENTED IN THIS COLLECTION OF WRITINGS THAT EXPLORE WAYS IN WHICH THE LAW IS AFFECTED BY JUDGES, JURIES, AND OTHER PARTICIPANTS IN THE LEGAL SYSTEM. EACH CHAPTER CONCENTRATES ON A PARTICULAR AREA OF CONCERN TO PSYCHOLOGISTS AND THE JUDICIARY. BOTH THEORETICAL AND EMPIRICAL APPROACHES ARE USED TO STUDY DECISIONMAKING WITHIN THE LEGAL PROCESS. EARLY CHAPTERS EXAMINE THE DECISIONS OF CORPORATE EXECUTIVES WHICH RESULT IN VIOLENCE TO THE PUBLIC; TEST THE VALUE OF THE SUBJECTIVELY EXPECTED UTILITY MODEL FOR EXPLAINING A PERSON'S DECISION TO STEAL; AND ARGUE FOR USING ATTRIBUTION THEORY TO STUDY DECISIONMAKING IN THE CRIMINAL JUSTICE SYSTEM. PSYCHOLOGICAL PRINCIPLES USED BY PAROLE BOARDS IN PREDICTING RECIDIVISM ARE EXAMINED, AND AN EMPIRICALLY DERIVED THEORY THAT CAN BE USED TO PREDICT LEGAL DECISIONMAKING IS PRESENTED. ANOTHER SECTION FOCUSES ON A MAJOR PSYCHOLEGAL RESEARCH AREA—IDENTIFICATION OF CRITICAL PROBLEMS WITHIN THE LEGAL SYSTEM. ONE SELECTION INVESTIGATES JUVENILES' COMPREHENSION OF MIRANDA WARNINGS, WHILE ANOTHER EXAMINES THE UTILITY OF INFORMATION INTEGRATION THEORY FOR POTENTIALLY MINIMIZING THE EFFECTS OF BIAS ON JUDGE AND JUROR JUDGMENTS. OTHER CHAPTERS DISCUSS THE IMPACT OF THE COMMON LAW RULES OF EVIDENCE IN RAPE CASES AND REVIEW ALTERNATIVES TO THE TRADITIONAL COURT PROCESSING OF DISPUTE PROCEDURES. A FINAL SECTION PRESENTS AN INDEPTH INVESTIGATION OF SOME PSYCHOLEGAL ISSUES IN THE CARE AND TREATMENT OF MENTAL HEALTH SERVICE CLIENTS. USING DIFFERENT RESEARCH METHODOLOGIES, IT FOCUSES ON THE EFFECTS OF DIFFERING CONDITIONS OF CONFIDENTIALITY AND ON THE IMPACT OF RECENT MODIFICATIONS IN INVOLUNTARY CIVIL COMMITMENT LAW UPON CLIENT PROCESSING AND ON PATIENTS WITHIN MENTAL HOSPITALS. REFERENCES ARE PROVIDED FOR EACH CHAPTER. FOOTNOTES AND TABULAR DATA ARE GIVEN. (AUTHOR ABSTRACT MODIFIED)

Supplemental Notes: BOOK DEVELOPED OUT OF THE THIRD NATIONAL CONFERENCE OF THE AMERICAN PSYCHOLOGY-LAW SOCIETY, SNOWMASS (CO), JUNE 1977.

Availability: Van Nostrand Reinhold, Ordering, 7625 Empire Drive, Florence, KY 41042.

33. COMMUNITY MEDIATION IN DORCHESTER, MASSACHUSETTS. By W. L. F. FELSTINER and L. A. WILLIAMS. University of Southern California Social Science Research Institute, 950 West Jefferson Blvd, Los Angeles, CA 90007. 233 p. 1979. NCJ-71092

THIS REPORT DESCRIBES THE MEDIATION COMPONENT OF THE DORCHESTER URBAN COURT (MASSACHUSETTS) AND ANALYZES THE MEDIATION PROCESS, MEDIATION TRAINING,

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REFERRAL SOURCES, COSTS, AND CASELOAD PROBLEMS. DATA FOR THE REPORT CAME FROM INTERVIEWS, ANALYSIS OF THE FIRST 500 PROJECT FILES, AND OBSERVATION OF 34 MEDIATION SESSIONS. RESEARCHERS ALSO CONDUCTED SURVEYS OF DISPUTANTS AND MEDIATORS. THE PROJECT SUBSTITUTED LAY MEDIATION FOR CRIMINAL PROSECUTION IN CASES WHERE THE VICTIM AND DEFENDANT WERE NOT STRANGERS. MOST OF THE REFERRED CASES CAME FROM THE CLERK OR A JUDGE OF THE LOCAL DISTRICT COURT, AND MOST CASES INVOLVED ASSAULTS OR THREATS BETWEEN INTIMATES. WEAPONS OF SOME SORT WERE USED TWO-THIRDS OF THE TIME. MEDIATION HEARINGS WERE HELD IN TWO-THIRDS OF THE CASES REFERRED TO THE PROJECT, AND AGREEMENTS WERE REACHED IN 90 PERCENT OF THE CASES. THE PROJECT'S LONG-TERM FOLLOWUP CONFIRMED THAT IMPROVED RELATIONS BETWEEN PARTIES FOLLOWED SUCCESSFUL MEDIATION. THE MOST COMMON AGREEMENT FAILURE CONCERNED THE PAYMENT OF MONEY, AND THE MOST COMMON RESPONSE OF AN AGREEMENT BREAKDOWN WAS TO DO NOTHING. LOW CASELOADS WERE A MAJOR PROJECT PROBLEM; CASELOADS AVERAGED ONLY 18 PER MONTH FROM 1976-77. MEDIATION COSTS IN 1976-77 TOTALED ABOUT THREE TIMES THE COURT COSTS SAVED BY MEDIATION; HOWEVER, THIS OCCURRENCE IS ATTRIBUTED TO MEDIATION AS PRACTICED IN DORCHESTER, RATHER THAN MEDIATION AS A PROCESS. THE REPORT ALSO CONCLUDES THAT, BECAUSE MEDIATORS ARE STRANGERS AND BECAUSE INSTITUTIONALIZED MEDIATION IS UNFAMILIAR, THIS KIND OF MEDIATION IN THE SHORT TERM IS LIKELY TO PLAY ONLY A SMALL ROLE AT THE MARGIN OF DISPUTE PROCESSING. BEHAVIOR. MEDIATOR TRAINING IS SEEN AS THE KEY TO THE CONTENT OF MEDIATION HEARINGS. IN ADDITION, FUTURE HIGH-VOLUME MEDIATION PROJECTS ARE SEEN AS HAVING IMPORTANT LINKS TO THE CRIMINAL JUSTICE SYSTEM. ON A COST-BENEFIT BASIS, MEDIATIONS PER CASE COSTS ARE PROBABLY GREATER THAN LOWER CRIMINAL COURT PROCESSING IN DORCHESTER, BUT BENEFITS TO THE DISPUTANTS AND TO THE COMMUNITY ARE ALMOST SURELY GREATER. THE REPORT CONTAINS 55 TABLES, 1 FIGURE, FOOTNOTES, REFERENCES, AND 5 APPENDICES OF ILLUSTRATIVE CASES, CASE DISPOSITIONS, STUDY INSTRUMENTS, AND RELATED MATERIALS. (AUTHOR ABSTRACT MODIFIED)

Sponsoring Agency: US Department of Justice National Institute of Justice, 633 Indiana Avenue NW, Washington, DC 20531.

Availability: National Institute of Justice National Criminal Justice Reference Service Microfiche Program.

34. VOLUNTARINESS, CONSENT AND COERCION IN ADJUDICATING MINOR DISPUTES—THE NEIGHBORHOOD JUSTICE CENTER (FROM POLICY IMPLEMENTATION, 1980, P 131-158, JOHN BRIGHAM AND DON W. BROWN, ED.—SEE NCJ-74975). By C. B. HARRINGTON. 28 p. 1980. NCJ-74979

THIS PAPER EXAMINES DIMENSIONS OF COERCION AND NONCOERCION IN THE IDEOLOGY OF DELEGALIZATION THROUGH A CASE STUDY OF ONE COMMUNITY MEDIATION PROGRAM. DELEGALIZATION USES ALTERNATIVE MODELS OF ADJUDICATION FOR MINOR DISPUTES. THE KANSAS CITY NEIGHBORHOOD JUSTICE CENTER (KNJC) PROVIDES AN ILLUSTRATION OF SOME OF THE POLICY IMPLICATIONS OF THE CURRENT REFORM MOVEMENT IN MINOR CRIMINAL AND CIVIL ADJUDICATION. QUESTIONS ARISE AS TO WHETHER MEDIATION AND ARBITRATION ARE VOLUNTARY PROCESSES AND WHETHER DELEGALIZATION IS MORE ACCURATELY VIEWED AS SYMBOLIC REFORM EMPLOYING COERCION TO EXTEND THE STATE'S ROLE IN MINOR DISPUTE PROCESSING. THE CATEGORY 'MINOR DISPUTES,' AS USED BY DELEGALIZATION REFORMERS, INCLUDES CRIMINAL AND CIVIL DISPUTES INVOLVING SMALL AMOUNTS OF MONEY.

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DATA WERE GATHERED AT THE KANSAS CITY NEIGHBORHOOD JUSTICE CENTER, A GOVERNMENTALLY SPONSORED DISPUTE RESOLUTION CENTER. WHILE PARTIES ARE VIEWED AS PARTICIPATING VOLUNTARILY IN THE PROCESS, INSTITUTIONAL COERCION ARISES FROM THE USE OF BINDING ARBITRATION. THE REFERRAL PROCESS TO THE KCJJC FROM COURTS, JUDGES, PROSECUTORS, AND CLERKS CONTAINS A SUBTLE ELEMENT OF COERCION FOR INDIVIDUALS TO ACCEPT THE ALTERNATIVE. IN GENERAL, THE CREATION OF A TRIBUNAL TO ADJUDICATE MINOR DISPUTES, MOSTLY ORDER-MAINTENANCE PROBLEMS, IN AN INDIVIDUALIZED THERAPEUTIC STYLE IMPLIES A TRANSFORMATION IN ORDER-MAINTENANCE POLICY WHICH EXTENDS THE SCOPE OF LEGAL AUTHORITY AND THE STATE'S ROLE IN IDENTIFYING AND CHANNELING ORDER-MAINTENANCE PROBLEMS. TABLES, 21 NOTES, AND 62 REFERENCES ARE APPENDED.

Availability: Sage Publications, Inc, 275 South Beverly Drive, Beverly Hills, CA 90212.

35. **BEYOND THE COURTROOM—PROGRAMS IN COMMUNITY JUSTICE AND CONFLICT RESOLUTION.** By B. S. ALPER and L. T. NICHOLS. 300 p. 1981. NCJ-76580
- THIS BOOK PRESENTS A COMPREHENSIVE OVERVIEW OF PROGRAMS AND PROCEDURES IN CONFLICT RESOLUTION AND EMPHASIZES THE GROWING MOVEMENT IN THE UNITED STATES TO BRING THE COMMUNITY INTO THE PROCESS OF DECIDING CASES BETWEEN LANDLORDS AND TENANTS, NEIGHBORS, SCHOOLS AND PUPILS, AND EVEN PRISONERS AND JAILERS. FIVE DISTINCT PROGRAMS ARE DISCERNIBLE IN THIS MOVEMENT: MEDIATION, ARBITRATION, RESTITUTION, VICTIM ASSISTANCE AND COMPENSATION, AND SENTENCING ADVICE BY CITIZEN PANELS. THESE PROGRAMS EMANATE FROM THE CURRENT DISSATISFACTION WITH PUBLIC SAFETY AND COURT PROCEDURES, ALTHOUGH THE IDEA OF COMMUNITY INVOLVEMENT IN THE SETTLEMENT OF DISPUTES DATES BACK TO ANCIENT TIMES. THE BOOK REVIEWS MAJOR PROBLEMS CONFRONTING THE CRIMINAL COURTS, AND DESCRIBES COURT-MONITORING PROGRAMS AND RESULTING REFORMS SUCH AS PRETRIAL DIVERSION. A CHAPTER ON 'COMMUNITY' PROVIDES THEORETICAL BACKGROUND FOR THE SUBSEQUENT DETAILED CROSS-CULTURAL COMPARISONS OF SUCCESSFUL PROGRAMS IN 25 COUNTRIES AS WELL AS IN THE UNITED STATES. A SECTION ON REMEMBERING THE VICTIM DETAILS VARIOUS ASPECTS OF RESTITUTION INCLUDING ADULT RESTITUTION PROGRAMS AND RESTITUTION FOR YOUTHFUL OFFENDERS; DESCRIBES THE VERA INSTITUTE WITNESS ALERT SYSTEM; AND EXPLORES VICTIM ASSISTANCE PROGRAMS IN CALIFORNIA, ILLINOIS, AND MASSACHUSETTS. COMPENSATION TO VICTIMS AS REDRESS IS DISCUSSED, ALONG WITH FEDERAL AND STATE LEGISLATION, LEGISLATION IN OTHER COMMON-LAW COUNTRIES, AND LEGISLATION IN EUROPE. SPECIFIC CHAPTERS, EACH DEVOTED TO A DISTINCT TYPE OF COMMUNITY PROGRAM, EXAMINE THE PROGRAM'S UNDERLYING PHILOSOPHY, PURPOSE, AND METHOD OF OPERATION. WHENEVER POSSIBLE, ADDRESSES OF CURRENT PROGRAMS ARE GIVEN IN ORDER TO ENABLE READERS BEGINNING SIMILAR PROJECTS TO CONTACT AN OPERATING PROGRAM. A SECTION ON COMMUNITY COURTS DESCRIBES INFORMAL TRIBUNALS IN THE UNITED STATES, INCLUDING AN INDIAN TRIBAL COURT, A MEXICAN-AMERICAN COMMUNITY COURT, COMMUNITY COURTS IN CHINATOWNS, THE JEWISH CONCILIATION BOARD OF NEW YORK CITY, AND NEIGHBORHOOD JUSTICE CENTERS. IN ADDITION, EXAMPLES FROM THE SOCIALIST WORLD ARE DESCRIBED, SUCH AS THE EAST GERMAN SOCIAL COURTS AND THE MEDIATION COMMITTEES OF THE PEOPLE'S REPUBLIC OF CHINA. A FINAL CHAPTER PRESENTS A MISCELLANY OF COMMUNITY-COURT MODELS FROM SUCH DIVERSE REGIONS AS PAPUA NEW GUINEA, INDIA, MEXICO, PAKISTAN, AND THE PHILIPPINES. CHARTS, CHAPTER NOTES, AN INDEX,

TECHNIQUES AND APPLICATIONS

A NATIONAL DIRECTORY OF CONFLICT-RESOLUTION PROGRAMS, AND A BIBLIOGRAPHY OF APPROXIMATELY 300 REFERENCES ARE INCLUDED. (AUTHOR ABSTRACT MODIFIED)

Sponsoring Agency: Gardiner Howland Shaw Foundation, 19 Temple Place, 5th Floor, Boston, MA 02111.

Availability: Heath Lexington Books, 125 Spring Street, Lexington, MA 02173.

36. **GO-BETWEEN—MEDIATORS AT NEIGHBORHOOD JUSTICE CENTERS RESOLVE DISPUTES WITHOUT ASSIGNING GUILT.** By G. PICK. *STUDENT LAWYER*, V 38, N 5 (MARCH 1980), P 38-40, 57-59. NCJ-76712

THE DEVELOPMENT AND ACTIVITIES OF NEIGHBORHOOD JUSTICE CENTERS (NJC'S) AND OTHER MEDIATION PROGRAMS THAT TRY TO RESOLVE MINOR DISPUTES OUTSIDE OF COURT ARE DESCRIBED, USING CHICAGO'S UPTOWN-EDGEWATER NJC AS A PRIMARY EXAMPLE. DOZENS OF DISPUTE CENTERS NOW OPERATE ACROSS THE COUNTRY TO SETTLE EVERYTHING FROM NOISE COMPLAINTS TO MAJOR FELONIES THROUGH MEDIATION AND SOMETIMES EVEN ARBITRATION. THE UPTOWN-EDGEWATER NJC HAD ITS GENESIS IN 1977 WHEN A LAWYERS' COMMITTEE RESEARCHING WAYS TO IMPROVE LOCAL SMALL CLAIMS COURTS BECAME ENTHUSIASTIC ABOUT THE POSSIBILITIES OF MEDIATION. WITH FUNDING FROM FOUNDATIONS AND THE CHICAGO BAR ASSOCIATION, THE UPTOWN-EDGEWATER NJC OPENED IN 1979. ITS MEDIATORS ARE NOT LAWYERS BUT COMMUNITY RESIDENTS WHO UNDERGO TRAINING FROM THE AMERICAN ARBITRATION ASSOCIATION (AAA). THE MEDIATION CENTER HAS BEEN MORE EFFECTIVE THAN SMALL CLAIMS COURTS IN HANDLING DISPUTES BETWEEN COMMUNITY RESIDENTS WHO KNOW EACH OTHER AND CAN EXPECT SOME TYPE OF FUTURE RELATIONSHIP. THEIR ACCESSIBILITY AND METHODS HELP REDUCE LINGERING ANIMOSITIES THAT CAN ULTIMATELY RESULT IN VIOLENT CONFRONTATIONS. MOST LAWYERS ARE GRATEFUL TO BE RELIEVED OF UNPROFITABLE MINOR DISPUTE CASES, AND THE AAA CONCLUDES THAT MEDIATION CUTS COURT COSTS, TRIMS CASELOADS, AND REDUCES RECIDIVISM. THE PRINCIPAL ADVANTAGE OF MEDIATION IS THAT IT DELVES TO THE ROOT OF PROBLEMS RATHER THAN SIMPLY DECIDING GUILT OR INNOCENCE. ALTHOUGH MEDIATION IS NEW TO THE UNITED STATES, IT HAS BEEN APPLIED ELSEWHERE, PARTICULARLY IN COMMUNIST COUNTRIES: THE AAA LAUNCHED THE FIRST U.S. MEDIATION CENTER IN PHILADELPHIA IN THE LATE 1960'S WHICH WAS FOLLOWED BY OTHERS IN ROCHESTER, N.Y.; COLUMBUS, OHIO; AND MIAMI. FOLLOWING A 1976 SPEECH BY CHIEF JUSTICE BURGER ON THE NEED FOR ALTERNATIVE METHODS OF SETTLING MINOR DISPUTES, THE AMERICAN BAR ASSOCIATION (ABA) SPONSORED A TASK FORCE THAT RECOMMENDED THAT THE ABA HELP ESTABLISH NJC'S AROUND THE COUNTRY. THE ABA SPECIAL COMMITTEE ON RESOLUTION OF MINOR DISPUTES ESTIMATES THAT 96 DISPUTE RESOLUTION CENTERS NOW EXIST, MOSTLY IN BIG CITIES. SOME NJC'S ARE TIED DIRECTLY TO JUDICIAL AGENCIES WHILE OTHERS ARE SPONSORED BY THE AAA OR BAR ASSOCIATIONS. ALL COST NOTHING TO CLIENTS. TYPES OF CASES HANDLED INCLUDE LANDLORD-TENANT DISPUTES, CONSUMER COMPLAINTS, AND FAMILY QUARRELS. CENTERS OFTEN DISCOURAGE HIRING LAWYERS OR A LAWYER'S PARTICIPATION IN THEIR SESSIONS BECAUSE LEGAL TRAINING IS NOT CONSISTENT WITH THE AIMS OF MEDIATION. ALL MEDIATORS FACE PROBLEMS IN LISTENING TO CLIENTS WITHOUT COMMENT AND REMAINING IMPARTIAL. PROPONENTS OF MEDIATION CONTEND THAT, ALTHOUGH DISPUTE PROGRAMS MAY BE SLOW TO DEVELOP, THEIR IMPACT OVER THE LONG TERM WILL BE SIGNIFICANT. NO REFERENCES ARE CITED.

1978 - 1982

37. **NEIGHBORHOOD JUSTICE—ASSESSMENT OF AN EMERGING IDEA.** By R. TOMASIC and M. M. FEELEY. 302 p. 1982. NCJ-83472

TWELVE ARTICLES, INCLUDING SOME PREVIOUSLY PUBLISHED, FOCUS ON RATIONALES, CASE STUDIES, AND ASSESSMENT OF NEIGHBORHOOD JUSTICE CENTERS. ONE PAPER ARGUES THAT THE CRIMINAL JUSTICE SYSTEM'S EFFECTIVENESS CAN BE INCREASED BY DECENTRALIZING SOME OR ALL EXISTING OPERATIONS. A DECENTRALIZED SYSTEM, WORKING CONCURRENTLY WITH A MUNICIPAL SYSTEM, WILL CONCILIATE AND REINTEGRATE COMMUNITY DISPUTANTS, DEVIANTS, DELINQUENTS, AND OTHERS WITH PROBLEMS. DISPUTE RESOLUTION OUTSIDE THE COURTS IS DISCUSSED, WITH ATTENTION TO VARIOUS MECHANISMS (ADJUDICATION, MEDIATION, NEGOTIATION, AVOIDANCE), AS WELL AS RATIONAL CRITERIA FOR SELECTING AN APPROPRIATE MECHANISM FOR A PARTICULAR CASE. IN CONTRASTING TWO IDEAL ORGANIZATIONS—ONE IN A TECHNOLOGICALLY COMPLEX, RICH SOCIETY AND ONE IN A TECHNOLOGICALLY SIMPLE, POOR SOCIETY—ONE ARTICLE EXPLORES THE IMPLICATIONS OF LINKAGES BETWEEN SOCIAL ORGANIZATIONS AND DISPUTE PROCESSING FOR CERTAIN REFORMS CURRENTLY ADVOCATED IN THE UNITED STATES. OTHER PAPERS CONSIDER DEVELOPMENTS IN MINOR DISPUTE PROCESSING, REPORT FINDINGS FROM AN EMPIRICAL STUDY OF DISPUTE PROCESSING AND NEIGHBORHOOD STRUCTURE, AND RESULTS OF THE NEIGHBORHOOD JUSTICE CENTERS FIELD TEST IN KANSAS CITY, ATLANTA, AND LOS ANGELES. THERE IS A DESCRIPTION OF THE MEDIATION COMPONENT OF THE DORCHESTER URBAN COURT (MASS.), A PROGRAM THAT SUBSTITUTES LAY MEDIATION FOR CRIMINAL PROSECUTION IF THE VICTIM AND DEFENDANT ARE ACQUAINTANCES. AN EXAMINATION OF THE BROOKLYN DISPUTE CENTER (N.Y.) CONCLUDES THAT MEDIATION IS APPROPRIATE ONLY FOR THOSE DISPUTANTS WHO WANT TO TALK THROUGH A DISAGREEMENT, NOT NEGOTIATE A SETTLEMENT. FOUR BROAD-RANGING ASSESSMENTS OF NEIGHBORHOOD JUSTICE CENTERS CONCLUDE THE BOOK. ONE EXAMINES THE ELUSIVE NOTION OF 'SUCCESS' IN THE NEIGHBORHOOD JUSTICE MOVEMENT, ANOTHER CRITICIZES THE CENTERS WITHIN A BROAD SOCIAL AND POLITICAL CONTEXT, AND A THIRD RAISES IMPORTANT QUESTIONS ABOUT THE ADAPTABILITY OF MEDIATION IN CROSS-CULTURAL SETTINGS. THE FINAL ASSESSMENT REVIEWS THE MAJOR ASSUMPTIONS AND PROBLEMS OF THE NEIGHBORHOOD JUSTICE CENTER MOVEMENT. TABLES, DIAGRAMS, CHAPTER NOTES, AN INDEX, AND ABOUT 500 REFERENCES ARE SUPPLIED.

Availability: Longman Inc, 19 West 44 Street, Suite 1012, New York, NY 10036.

38. **DISPUTE RESOLUTION—SEEKING JUSTICE OUTSIDE THE COURTROOM.** By J. J. MCCARTHY. *CORRECTIONS MAGAZINE*, V 8, N 4 (AUGUST 1982), P 33-40. NCJ-84020
- THE RESOLUTION OF DISPUTES THROUGH THE SERVICES OF MEDIATION CENTERS IS DISCUSSED IN THIS ARTICLE; EXAMPLES OF CASES THAT ARE RESOLVED THROUGH THIS PROCESS ARE PROVIDED. DISPUTE RESOLUTION IS ONE OF THE COUNTRY'S NEWEST COURT REFORM MOVEMENTS. IN THE PAST 12 YEARS, THE USE OF MEDIATION AS AN OUT-OF-COURT METHOD OF RESOLVING INTERPERSONAL DISPUTES HAS GROWN FROM A SINGLE PROJECT IN PHILADELPHIA TO NEARLY 200 PROGRAMS NATIONWIDE HOLDING AS MANY AS 200,000 HEARINGS YEARLY. THE CHIEF JUSTICE OF THE SUPREME COURT, THE AMERICAN BAR ASSOCIATION, RALPH NADER, AND MEMBERS OF CONGRESS ALL SUPPORT THE MEDIATION CENTER CONCEPT. CENTERS HANDLE CASES MUCH FASTER THAN FORMAL LITIGATION, USUALLY CONDUCTING HEARINGS WITHIN 10 DAYS OF REFERRAL. CRITICS POINT OUT THAT THE EFFECT ON REDUCING THE VOLUME OF COURT CASES OR JAIL POPULATIONS

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IS NEGLIGIBLE. HOWEVER, PROPONENTS BELIEVE THAT THE METHOD WILL HAVE AN IMPACT ON CRIME BY SOLVING PROBLEMS AT AN EARLY STAGE. THEY ALSO SUGGEST THAT THE OPTIONS AVAILABLE TO THE COURT ARE OFTEN INAPPROPRIATE AND INEFFECTIVE IN DEALING WITH DISPUTES BETWEEN ACQUAINTANCES. MEDIATION EMPHASIZES FACE-TO-FACE DISCUSSIONS AND LENGTHY SESSIONS BETWEEN CONFLICTING PARTIES. ABOUT 60 PERCENT OF THE COUNTRY'S MEDIATION PROGRAMS ARE POSITIONED WITHIN THE CRIMINAL JUSTICE SYSTEM. ANOTHER 30 PERCENT MAINTAIN THEIR INDEPENDENCE AS PRIVATE, NON-PROFIT CORPORATIONS. DISPUTANTS WHO REACH THE BARGAINING TABLE ARE DISPROPORTIONATELY POOR, MEMBERS OF MINORITY GROUPS, UNEDUCATED, AND FEMALE. THE AGE AND BACKGROUND OF MEDIATORS VARY WITH EACH PROGRAM; SOME USE PAID LAW STUDENTS, WHILE OTHERS RELY ON VOLUNTEERS. MOST MEDIATORS FIND THE WORK SATISFYING AND CHALLENGING. PHOTOGRAPHS ARE PROVIDED.

39. **PEOPLE'S LAW REVIEW.** R. WARNER, Ed. 364 p. 1980. NCJ-84356

THIS SELF-HELP VOLUME CONTAINS OVER 30 ARTICLES DESIGNED TO HELP CITIZENS UNDERSTAND THE LEGAL PROCESS AND HANDLE THEIR EVERYDAY LEGAL PROBLEMS WITHOUT THE ASSISTANCE OF A LAWYER. THE HISTORY AND PHILOSOPHICAL BASIS OF THE LAW ARE EXPLAINED, WITH EMPHASIS ON THE VARIETY OF WAYS THAT THE REGULATION OF HUMAN CONDUCT HAS BEEN HANDLED IN DIFFERENT ERAS AND CULTURES. THE USE OF MEDIATION TO REDUCE DEPENDENCE ON LAWYERS AND COURTS TO ACHIEVE JUSTICE IS DISCUSSED, AS IS THE USE OF COMPUTERS TO PROMOTE GENUINE POPULAR PARTICIPATION IN THE LEGAL SYSTEM. PRACTICAL ADVICE IS GIVEN ON HOW TO CONDUCT LEGAL RESEARCH, FILE FOR A DIVORCE, ORGANIZE A SMALL BUSINESS, AND DEAL WITH LANDLORDS. OTHER GUIDELINES COVER ESTATE PLANNING, THE USE OF SMALL CLAIMS COURT, PROTECTION FROM ILLEGAL SEARCHES AND SEIZURES, AND THE HANDLING OF AUTOMOBILE ACCIDENT CLAIMS. FURTHER SECTIONS DEAL WITH LAWS RELATED TO WRITERS, AGREEMENTS FOR PERSONS WHO ARE UNMARRIED BUT ARE LIVING TOGETHER, CHANGING A NAME, AND TO THE USE OF SOLAR ENERGY. SPECIFIC SELF-HELP LAW PROGRAMS ARE DESCRIBED, INCLUDING A SELF-HELP DIVORCE OFFICE, TRAINING DRUG ADDICTS AND OTHERS IN SOCIAL SURVIVAL SKILLS, INCORPORATING A NONPROFIT ORGANIZATION, AND PROTECTING THE PARENTAL RIGHTS OF DIVORCED FATHERS. LEGAL INFORMATION PROGRAMS, WHICH ARE COMMUNITY GROUPS AND ORGANIZATIONS THAT PROVIDE FREE LEGAL INFORMATION AND MATERIALS IN SPECIFIC AREAS OF THE LAW, ARE DESCRIBED IN THE AREAS OF TENANTS' RIGHTS, BATTERED WOMEN, THE RIGHTS OF ARTISTS, AND OTHERS. ADDRESSES OF RESOURCE ORGANIZATIONS AND AN ANNOTATED BIBLIOGRAPHY PRESENTING REVIEWS OF ABOUT 200 SELF-HELP LAW PUBLICATIONS ARE PROVIDED.

Availability: Addison-Wesley Publishing Company, Inc, Jacob Way, Reading, MA 01867.

40. **COMMUNITY JUSTICE CENTRES—PROCEEDINGS OF A SEMINAR.** Sydney University Law School Institute of Criminology, 173-175 Phillip Street, NSW 2000, Sydney, Australia. 105 p. 1982. NCJ-85780

SEMINAR DISCUSSIONS ON COMMUNITY JUSTICE CENTERS IN NEW SOUTH WALES (AUSTRALIA), INTENDED TO RESOLVE DISPUTES BETWEEN PARTIES IN AN ONGOING RELATIONSHIP, INDICATE GENERAL SUPPORT FOR THE CENTERS BY PRACTITIONERS BUT REVEAL SOME RESERVATIONS WITH ACADEMICS. THREE PILOT COMMUNITY JUSTICE CENTERS WERE ESTABLISHED BY LEGISLATION IN NEW SOUTH WALES

OUT OF THE REALIZATION THAT THE COURTS, WHICH APPLY FORMAL MECHANISMS TO RESOLVE A SINGLE ISSUE, ARE ILL-EQUIPPED TO RESOLVE MULTIFACETED DISPUTES BETWEEN PARTIES WHOSE CONFLICT GROWS OUT OF AN ONGOING RELATIONSHIP, THE CENTERS ARE BASED ON PRINCIPLES OF NONCOERCION OF THE PARTIES IN BOTH THE INITIATION AND CONTINUATION OF THE USE OF CENTER PROCESSES AND THE USE OF MEDIATION THAT INVOLVES THE PARTIES IN DEVISING THEIR OWN SOLUTION TO THE DISPUTE. MEDIATORS ARE LAY PERSONS SELECTED FROM THE COMMUNITY ON THE BASIS OF CHARACTERISTICS THAT FACILITATE THEIR BEING EFFECTIVE MEDIATORS. EVERY EFFORT IS MADE TO SELECT A RANGE OF MEDIATORS THAT ARE REPRESENTATIVE OF THE COMMUNITY THEY SERVE. AFTER 1 YEAR OF OPERATION, ASSESSMENTS OF THE CENTERS ARE GENERALLY FAVORABLE; HOWEVER, CRITICS FEAR THAT THEY MAY BECOME ARENAS OF SECOND-CLASS JUSTICE FOR THE POOR WHO DO NOT HAVE ACCESS TO THE AUTHORITATIVE BENEFITS OF THE COURTS. THERE IS SOME DOUBT TOO THAT THE CENTERS WILL SUCCEED IN BEING NONCOERCIVE, GIVEN THEIR DESIRE TO BUILD CASELOADS. SOME SEE THE CENTERS AS A PIECEMEAL REFORM EFFORT THAT AVOIDS THE COMPREHENSIVE REFORM REQUIRED TO EXTEND AND EXPEDITE AUTHORITATIVE JUSTICE FOR CITIZENS IN THE COURTS.

Supplemental Notes: SEMINAR HELD MARCH 10, 1982, SYDNEY, AUSTRALIA.

Availability: New South Wales Government Printing Office, P O Box 75, Pyrmont, NSW 2009, Australia.

41. **HOW TO ORGANIZE A NEIGHBORHOOD MEDIATION SERVICE—A HANDBOOK FOR COMMUNITY COUNCILS, VOLUNTEERS, AND COMMUNITY ORGANIZERS.** By J. GORMAN. 32 p. 1982. NCJ-87238

THIS PROCEDURE MANUAL FOR ORGANIZING A NEIGHBORHOOD MEDIATION SERVICE COVERS NEEDS ASSESSMENT, RECRUITING VOLUNTEERS, ORGANIZING THE PROGRAM, MEDIATING A DISPUTE, PUBLIC RELATIONS, EVALUATION, AND POTENTIAL PROBLEMS. A NEIGHBORHOOD MEDIATION SERVICE INVOLVES VOLUNTEERS GETTING TOGETHER TO INFORMALLY RESOLVE MINOR DISPUTES BETWEEN NEIGHBORS. AN ASSESSMENT TO DETERMINE WHETHER A NEIGHBORHOOD NEEDS A MEDIATION SERVICE SHOULD INCLUDE A COMMUNITY SURVEY DESIGNED TO DETERMINE IF RESIDENTS NEED AND WANT A MEDIATION SERVICE, AN EXAMINATION OF POLICE STATISTICS TO DETERMINE WHETHER THE NEIGHBORHOOD HAS A CRIME PROBLEM AND, IF SO, ITS PATTERN, AND AN ANALYSIS OF COURT STATISTICS TO DETERMINE CASELOAD AND COST. THE NEXT STEP IS TO RECRUIT VOLUNTEERS TO FULFILL THE FUNCTIONS OF SPOKESPERSON, MEDIATORS, AND A SUPPORT COMMITTEE. VOLUNTEER JOB DESCRIPTIONS SHOULD BE COMPOSED. STEPS IN ORGANIZING THE PROGRAM INCLUDE (1) ELECTING OFFICERS, (2) SETTING GOALS AND OBJECTIVES, (3) DETERMINING THE KINDS OF COMPLAINTS THAT WILL BE HEARD, (4) SETTING EXPECTATIONS OF CASELOAD, (5) DETERMINING MEDIATION APPROACH, (6) SETTING A POLICY OF CONFIDENTIALITY, (7) ESTABLISHING AN INTAKE PROCESS FOR COMPLAINTS, (8) SETTING THE PROCESS FOR REFERRING COMPLAINTS TO OTHER FORUMS, AND (9) DETERMINING THE HEARING LOCATION AND TIMES. THE BASIC STEPS IN THE MEDIATION PROCESS ITSELF ARE TO HAVE DISPUTANTS DESCRIBE THE DISPUTE, DISCUSS THE DESIRED OUTCOME, AND ARRIVE AT A SETTLEMENT. THE TRAINING OF THE VOLUNTEERS SHOULD INCLUDE TEAM BUILDING AMONG THE VOLUNTEERS AND THE USE OF ROLEPLAYING. A PUBLIC RELATIONS PROGRAM SHOULD BE MOUNTED, AND THE MEDIATION PROGRAM SHOULD BE REGULARLY EVALUATED TO DETERMINE ITS EFFECTIVE-

NESS AND EFFICIENCY. A BIBLIOGRAPHY OF 11 LISTINGS IS PROVIDED.

Sponsoring Agencies: US Department of Justice National Institute of Justice, 633 Indiana Avenue NW, Washington, DC 20531; Commission on Catholic Community Action Diocese of Cleveland, Cleveland, OH.

Availability: National Institute of Justice National Criminal Justice Reference Service Microfiche Program.

42. **SUBPROCESSES OF NEGOTIATION—THE CASE OF COMMUNITY MEDIATION (FROM PRETRIAL SERVICES ANNUAL JOURNAL, VOLUME 5, P 134-149, 1982, ELIZABETH GAYNES, ED.—SEE NCJ-89690).** By J. PALENSKI and N. M. SUGRUE. Touchstone Applied Science Associates. 16 p. 1982. NCJ-89698

THE PAPER EXAMINES THE STRUCTURE, FORMAT, AND DYNAMICS OF THE MEDIATION SESSION AND TWO MAJOR CATEGORIES OF NEGOTIATION SUBPROCESSES ('DEFUSING' AND 'REPAIRING'). THE ANALYSIS IS BASED ON DATA COLLECTED OVER A 6-MONTH PERIOD AT THE SUFFOLK COMMUNITY MEDIATION JUSTICE CENTER PROGRAM (NEW YORK). EACH SESSION INCLUDES THE COMPLAINANT, RESPONDENT, AND TWO MEDIATORS. A SESSION HAS BOTH PUBLIC AND PRIVATE CAUCUSES. THE GOAL OF EVERY MEDIATION SESSION IS SUCCESSFUL CONFLICT RESOLUTION. FOUR DIMENSIONS IN MEDIATION MAY MAKE A SESSION PROBLEMATIC IN REACHING COMPROMISES AND AN AGREEMENT: MEDIATION IS VOLUNTARY AND CAN BE HALTED AT ANY TIME BY EITHER PARTY; SESSIONS MAY BE THREATENING OR EMBARRASSING DUE TO THE PERSONAL, PRIVATE BEHAVIOR THAT OFTEN IS EXPOSED; SESSIONS MAY BE VOLATILE; AND SESSIONS ARE UNPREDICTABLE. IN ORDER FOR THE MEDIATION PROCESS TO BE SUCCESSFUL, MEDIATORS MUST ADOPT APPROPRIATE COPING STRATEGIES, OFTEN IN THE FORM OF TRADEOFFS, DEALS, AND ACCOMMODATIONS TOWARD PARTICIPANTS. TWO CATEGORIES OF SUBPROCESSES ARE USED. THE FIRST, 'DEFUSING A POTENTIAL CRISIS,' REQUIRES THE MEDIATOR TO DEFINE THE ONGOING SITUATION AS ONE LEADING TO A CRISIS OR BREAKDOWN IN MEDIATION. THE MEDIATOR HEADS OFF THE POTENTIAL CRISIS BY REDIRECTING THE INTERACTION. IN THE SECOND CATEGORY, 'REPAIRING A CRISIS,' THE MEDIATOR MUST REGAIN A MEASURE OF CONTROL OVER A SITUATION IN WHICH EITHER THE RESPONDENT OR COMPLAINANT HAS GAINED CONTROL. SPECIFIC STRATEGIES USED IN BOTH THESE SITUATIONS ARE DETAILED. OBSERVATIONS OF THOSE INVOLVED IN MEDIATION AND 14 FOOTNOTES ARE PROVIDED.

Supplemental Notes: AVAILABLE ON MICROFICHE AS NCJ-89690.

Sponsoring Agencies: US Department of Justice National Institute of Justice, 633 Indiana Avenue NW, Washington, DC 20531; New York State Division of Criminal Justice Services, Executive Park Tower, Stuyvesant Plaza, Albany, NY 12203; New York Office of Crime Control Planning.

Availability: National Institute of Justice National Criminal Justice Reference Service Microfiche Program; National Institute of Justice National Criminal Justice Reference Service Paper Reproduction Sales, Box 6000 Department F, Rockville, MD 20850.

43. **COMMUNITY RELATIONS SERVICE—PUBLIC SECTOR MEDIATION AND CONCILIATION OF RACIAL DISPUTES.** By G. R. POMPA. *JOURNAL OF INTERGROUP RELATIONS*, V 9, N 2 (SUMMER 1981), P 46-53. NCJ-89942

CREATED BY THE CIVIL RIGHTS ACT OF 1964, THE DEPARTMENT OF JUSTICE'S COMMUNITY RELATIONS SERVICE (CRS) HELPS COMMUNITIES SETTLE RACE-RELATED DISPUTES THROUGH CONCILIATION OR MEDIATION AND HAS RESPONDED RECENTLY TO COMPLAINTS REGARDING POLICE USE OF EXCESSIVE FORCE, KU KLUX KLAN ACTIVITIES, AND THE INFLUX OF INDOCHINESE RESETTLEMENTS. CRS'S

GREATEST ASSEST IS ITS THIRD-PARTY NEUTRALITY ROLE, SINCE IT ENTERS A COMMUNITY ON REQUEST WITH NO INVESTIGATIVE POWERS OR AUTHORITY TO DISPENSE FUNDS. ITS TRIRACIAL, BILINGUAL STAFF CAN PROVIDE INFORMAL CONCILIATION, FORMAL MEDIATION, OR TECHNICAL ASSISTANCE SO THE COMMUNITY CAN RESOLVE RACIAL CONFLICTS WITHOUT RESORTING TO LITIGATION OR VIOLENCE. THE CRS INITIALLY OPERATED IN THE SOUTHEASTERN UNITED STATES, BUT THEN BECAME INVOLVED IN THE LARGER URBAN CENTERS IN THE NORTH. THE CRS RESPONDED TO 1,431 ALERTS TO RACIAL DISPUTES OR INCIDENTS IN FISCAL YEAR 1980. THE CRS LOGGED 249 CASES ALLEGING POLICE USE OF EXCESSIVE FORCE, A 92.8-PERCENT INCREASE OVER THE PREVIOUS YEAR. THE COMPLAINTS WERE DISTRIBUTED EVENLY NATIONALLY, AND 63 PERCENT STEMMED FROM BLACKS, 32 PERCENT FROM HISPANICS, AND 4 PERCENT FROM AMERICAN INDIANS. THERE WERE 68 CASES RELATED TO KLAN ACTIVITIES AND 32 PERCENT TO INDOCHINESE REFUGEE RESETTLEMENTS, INCREASES OF 55 PERCENT AND 540 PERCENT, RESPECTIVELY. THE NEED FOR CRS IS LIKELY TO GROW AS RACIAL ANTAGONISMS INCREASE AND PUBLIC RESOURCES FOR DOMESTIC PROGRAMS DECLINE. POTENTIAL AREAS FOR CRS INTERVENTION INCLUDE IMPLEMENTATION OF SCHOOL DESEGREGATION, PRISON UPRISINGS, POLICE-COMMUNITY RELATIONS, SCHOOL DISPUTES WITH PARENT ORGANIZATIONS, AND JOB DISCRIMINATION. THE ARTICLE CONTAINS TWO FOOTNOTES.

44. **RESOLVING CAMPUS DISPUTES—NOTES OF A UNIVERSITY OMBUDSMAN.** By C. STIEBER. *ARBITRATION JOURNAL*, V 37, N 2 (JUNE 1982), P 5-11. NCJ-93980

THIS ARTICLE EXAMINES THE ROLE OF COLLEGE OMBUDSMEN. TODAY'S OMBUDSMEN FIND THE POSITION'S GREATEST STRENGTH IN SETTLING DISPUTES INVOLVING INDIVIDUALS. ALTHOUGH THE OBVIOUS TURBULENCE AND MILITANCE OF THE 1960'S HAVE VANISHED, TODAY'S STUDENTS EXPERIENCE INTENSE STRESS BASED ON INSECURITY. OMBUDSMEN WORK AT MANY COLLEGES, ALTHOUGH THERE IS A GREATER LIKELIHOOD OF THERE BEING SUCH A PERSON AT A LARGE, STATE COLLEGE OR UNIVERSITY. THE DISPUTES OMBUDSMEN HANDLE AND THE TECHNIQUES THEY USE ARE MUCH LESS PRECISE THAN THOSE OF OTHER PROFESSIONALS WHO WORK AT CONFLICT SETTLEMENT. THE POWER ITSELF IS INTANGIBLE, TIED TO CREDIBILITY AND HEAVILY DEPENDENT ON PRESTIGE, PERSUASION, AND THOROUGH KNOWLEDGE OF THE CAMPUS BUREAUCRACY AND ITS RULES. NORMALLY, OMBUDSMEN WILL HAVE LITTLE IMPACT IN CONFLICTS OVER POLICY, BUT IN THE COURSE OF RESOLVING INDIVIDUAL PROBLEMS THERE MAY BE EVIDENCE OF PERSISTENT DIFFICULTIES. THUS, OMBUDSMEN ARE IN AN EXCELLENT POSITION TO FLAG WHAT WORKS WELL OR POORLY IN THE INSTITUTION AS A WHOLE. EFFECTIVE OMBUDSMEN MUST HAVE ACCESS TO ALL PERSONS, OFFICES, AND RECORDS IN THE INSTITUTION. ONE TABLE AND SEVEN NOTES ARE INCLUDED.

ENVIRONMENT

- 45. METROPOLITAN WATER ROUNDTABLE—RESOURCE ALLOCATION THROUGH CONFLICT MANAGEMENT.** By W. J. D. KENNEDY and H. LANSFORD. *ENVIRONMENTAL IMPACT ASSESSMENT REVIEW*, V 4, N 1 (MARCH 1983), P 67-78. NCJ-93281

THIS PAPER DISCUSSES THE RESOLUTION THROUGH MEDIATION OF A LONG-TERM WATER RIGHTS DISPUTE. IN COLORADO, WHERE WATER IS SCARCE, WATER LAW HAS ITS BASIS IN THE DOCTRINE OF PRIOR APPROPRIATION, IN WHICH THE FIRST PARTY TO DIVERT WATER AND PUT IT TO BENEFICIAL USE HAS THE RIGHT OF CONTINUAL USE REGARDLESS OF WHO OWNS THE ADJACENT LAND. THE FUTURE WATER NEEDS OF METROPOLITAN DENVER HAVE LONG BEEN THE SUBJECT OF DEBATE AND LITIGATION. ALMOST 70 PERCENT OF THE STATE'S WATER IS WEST OF THE CONTINENTAL DIVIDE; OVER 80 PERCENT OF ITS POPULATION IS EAST OF THE ROCKIES. DENVER'S ATTEMPTS AT DIVERSION HAVE BEEN FRAUGHT WITH CONTROVERSY, WITH ITS LONG-TERM WATER RIGHTS CLAIMS TIED UP IN COURT DISPUTES. IN 1981, ACCORD ASSOCIATES CAME IN TO MEDIATE ONE DIVERSION PROPOSAL, THE TWO FORKS PROJECT. ACCORD ESTABLISHED A ROUNDTABLE OF 31 MEMBERS, EACH REPRESENTING A PARTY WITH A STAKE IN THE PROJECT. MEMBERS AGREED TO SPECIFIC RULES DESIGNED TO BRING THEM TO A CONSENSUS. AFTER DIVIDING INTO SMALLER GROUPS TO EXAMINE ASPECTS OF THE PROBLEM, MEMBERS SUGGESTED AREAS IN WHICH IMPLICIT AGREEMENT EXISTED. THE MEDIATORS USED THESE SUGGESTIONS IN A NEGOTIATING DRAFT, AND THE GROUP ACCEPTED ALL BUT THREE OF THE DRAFT AGREEMENTS. NEXT, THE ROUNDTABLE DIVIDED INTO THREE INTEREST GROUPS, EACH OF WHICH WAS TO WRITE ITS OWN PROPOSAL. TECHNICAL ASSISTANCE CAME FROM A STANDING COMMITTEE WITH TECHNICAL EXPERTISE. BY THE DEADLINE, MEMBERS HAD REACHED A CONSENSUS. THE ROUNDTABLE ACCOMPLISHED MUCH BEYOND THE AGREEMENT ON TWO FORKS: THE PROCESS GREATLY INCREASED RESPECT AND UNDERSTANDING AMONG PARTICIPANTS, SOME OF WHOM WOULD NOT TALK TO EACH OTHER PRIOR TO WORKING ON THIS PROJECT. A MAP ILLUSTRATING THE DENVER WATER SUPPLY SYSTEM ACCOMPANIES THE TEXT.

- 46. ALTERNATIVE ENVIRONMENTAL MEDIATION STRUCTURES WITHIN THE FEDERAL GOVERNMENT—FINAL REPORT.** By S. B. CARNDUFF and J. R. RUSSELL. Clark-McGlennon Associates, 148 State Street, Boston, MA 02109. 96 p. 1980. NCJ-93294

THIS PAPER DISCUSSES ENVIRONMENTAL MEDIATION AS IT MIGHT BE ORGANIZED FOR DISPUTES INVOLVING FEDERAL AGENCIES. DISPUTES OF SUBSTANTIAL IMPORTANCE AFFECTING MANY CITIZENS AND LARGE AMOUNTS OF LAND AND MONEY OFTEN INVOLVE FEDERAL AGENCIES. PROCEDURES FOR MAKING DECISIONS AT THE FEDERAL LEVEL NEED TO BE ABLE TO ACCOMMODATE THE LEVEL OF PUBLIC INTEREST AND THE MAGNITUDE OF THE POTENTIAL CONTROVERSY SURROUNDING A GIVEN PROJECT. REFLECTING A GROWING TREND, EFFORTS HAVE BEEN MADE TO EXPAND USE OF NONJUDICIAL FORMS OF DISPUTE, SUCH AS MEDIATION. IN ORDER FOR FEDERAL AGENCIES TO EITHER RESPOND TO OR INITIATE MEDIATION, THEY MUST TAKE A NUMBER OF STEPS. FIRST, THEY NEED TO CREATE GENERAL GUIDELINES FOR PARTICIPATION IN MEDIATION. SECOND, EACH AGENCY SHOULD DEVELOP ITS OWN POLICY ON MEDIATION. THIRD, THE AGENCIES SHOULD DECLARE THEIR PREFERENCES REGARDING FEDERALLY FUNDED AND ADMINISTERED SERVICES. FOURTH, THEY NEED TO ACQUIRE STATEMENTS FROM MEDIATION CENTERS REGARDING INTEREST IN AND POLICIES FOR MEDIATING FEDERAL AGENCY DISPUTES. FINALLY, AN INTERAGENCY TASK FORCE SHOULD DECIDE WHAT EXPERIMENTAL ALTERNATIVES SHOULD BE TESTED. IT IS IMPORTANT THAT BEFORE ENTERING THE DYNAMIC, HIGH PRESSURE SETTING OF MEDIATION, THE PARTIES HAVE A CLEAR UNDERSTANDING OF THE PROCESS IN ORDER TO AVOID MISUNDERSTANDINGS. NOTES AND TABLES ACCOMPANY THE TEXT. APPENDIXES INCLUDE A BIBLIOGRAPHY, A COMPILATION OF PROJECTS AND REGIONAL CENTERS, AND SAMPLE LEGISLATION FOR STATE-LEVEL MEDIATION DEPARTMENTS.

Sponsoring Agency: US Executive Office of the President Council on Environmental Quality, 722 Jackson Place, NW, Washington, DC 20006.

Availability: NTIS. Accession No. PB81-176315. (Microfiche)

- 47. NEW APPROACHES TO MANAGING ENVIRONMENTAL CONFLICT—HOW CAN THE FEDERAL GOVERNMENT USE THEM?** By W. M. EMRICH. 98 p. 1980. NCJ-93455

FEDERAL GOVERNMENT AGENCIES ARE EXPRESSING INCREASING INTEREST IN NONADVERSARIAL METHODS OF CONFLICT RESOLUTION. THERE ARE, HOWEVER, IMPEDIMENTS IN THE AGENCIES THEMSELVES THAT PREVENT FULL PARTICIPATION IN THESE NEW TECHNIQUES. THE FEDERAL GOVERNMENT IS USUALLY AN IMPORTANT PARTICI-

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PART IN MOST MAJOR ENVIRONMENTAL DISPUTES; YET ITS ABILITY TO MANAGE INTENSE CONFLICT OFTEN SUFFERS. GOVERNMENT AGENCIES ARE THEREFORE BECOMING INCREASINGLY AWARE THAT IT IS OFTEN THE PROCESS FOLLOWED TO RESOLVE ISSUES THAT CREATES A PROBLEM, NOT ONLY THE SUBSTANTIVE DIFFICULTIES POSED BY THE ISSUES THEMSELVES. PARTIES ON ALL SIDES OF ENVIRONMENTAL ISSUES ARE REALIZING THAT THERE ARE MORE GRAY AREAS THAN BLACK AND WHITE EXTREMES. THEY ARE THEREFORE MORE OPEN TO COOPERATIVE METHODS OF PROBLEMSOLVING. IN THOSE CASES IN WHICH COLLABORATION OR COMPROMISE ARE PREFERRED, THE INNOVATIVE TECHNIQUES OF MEDIATION AND FACILITATION ARE AVAILABLE. A STUDY OF THE FEDERAL EXPERIENCE WITH THIRD PARTY TECHNIQUES FOUND THAT THERE IS SIMPLY TOO LITTLE DATA FROM WHICH TO DRAW CONCLUSIONS. WHAT IS THUS FAR REASONABLE TO CONCLUDE IS THAT INTEREST IN NEW APPROACHES TO CONFLICT MANAGEMENT IS MUCH STRONGER THAN 5 YEARS AGO, SEVERAL AGENCIES ARE ATTEMPTING TO INCREASE THEIR PARTICIPATION IN INNOVATIVE TECHNIQUES. THE TECHNIQUES HAVE THUS FAR PROVEN GREAT APPLICABILITY TO PERMIT ISSUANCE AND STANDARD REVIEW, AND PARTICIPATION HAS BEEN PASSIVE. MOREOVER, FOUNDATIONS, RATHER THAN THE GOVERNMENT, PROVIDE FUNDING FOR THESE EFFORTS, AND, IN ALMOST ALL CASES, A PARTY OTHER THAN THE FEDERAL GOVERNMENT INITIATED THE IDEA FOR THIRD PARTY ASSISTANCE. ALTHOUGH AGENCY STATUTES MAY NOT EXPLICITLY PROHIBIT MEDIATION, THEY OFTEN DO SO INDIRECTLY BY PROHIBITING CONFIDENTIAL OFF-THE-RECORD COMMUNICATIONS FOR CERTAIN AGENCY PROCEEDINGS. A NUMBER OF NEW ACTIONS CAN HELP OVERCOME THE BARRIERS TO TRYING MEDIATION AND SIMILAR TECHNIQUES. EDUCATION OF THOSE RELUCTANT TO LEAVE LITIGATION CAN GIVE THEM THE DATA THEY NEED TO MAKE MORE INFORMED DECISIONS. A PRESIDENTIAL OR CONGRESSIONAL DIRECTIVE TO OPEN UP AGENCIES TO ALTERNATIVE DECISIONMAKING FORMATS WOULD ENABLE THE AGENCIES TO REVISE THOSE PRACTICES CURRENTLY INHIBITING USE OF THESE FORMATS. A TOTAL OF 54 REFERENCES ARE INCLUDED. THE FIRST APPENDIX IS A COMPENDIUM OF FEDERAL EXPERIENCE. THE TWO REMAINING APPENDIXES INCLUDE DATA ABOUT THE STUDY ITSELF AND RELATED MATERIALS.

Sponsoring Agency: US Executive Office of the President Council on Environmental Quality, 722 Jackson Place, NW, Washington, DC 20006.

Availability: NTIS. Accession No. PB81-16566-4. (Microfiche)

48. **POTENTIAL OF MEDIATION FOR RESOLVING ENVIRONMENTAL DISPUTES RELATED TO ENERGY FACILITIES.** American Management Systems Inc, 1777 N Kent Street, Arlington, VA 22209. 111 p. 1979. **NCJ-93477**

TECHNIQUES AND APPLICATIONS

THIS STUDY ASSESSES THE POTENTIAL OF MEDIATION AS A TOOL FOR RESOLVING DISPUTES RELATED TO PERMITTING NEW ENERGY FACILITIES AND EXPLORES POSSIBLE FEDERAL GOVERNMENT ROLES IN STIMULATING THE USE OF ISSUES; THESE DISPUTES FREQUENTLY RESULT WHEN PARTIES CHALLENGE THE SITING OR MODIFICATION OF AN ENERGY FACILITY ON THE BASIS OF ITS POTENTIAL ENVIRONMENTAL IMPACT. MEDIATION HAS THE POTENTIAL FOR ACHIEVING QUICKER AND MORE SATISFACTORY SOLUTIONS FOR CERTAIN ENERGY-FACILITY DISPUTES THAN THE COURT SYSTEM. MEDIATION ALSO CAN LEAD TO COMPROMISE AND TO DISCUSSION OF GENUINE ISSUES; IT CAN ACCOMMODATE NUMEROUS PARTIES AND ISSUES EFFICIENTLY. MEDIATION DOES HAVE LIMITATIONS, HOWEVER. IT DOES NOT GUARANTEE AN AGREEMENT, ALTHOUGH IT MAY AT LEAST CLARIFY ISSUES DIVIDING THE PARTIES. MEDIATION ALSO HAS A LIMITED ABILITY TO SET LEGALLY BINDING PRECEDENTS FOR FUTURE DISPUTES. FINALLY, MEDIATION IS LIKELY TO BE SUCCESSFUL ONLY FOR DISPUTES INVOLVING HOW NATIONAL OR LOCAL ENERGY ENVIRONMENTAL POLICY IS TO BE IMPLEMENTED FOR A SPECIFIC FACILITY IN A SPECIFIC LOCALITY. DISPUTES INVOLVING NATIONAL POLICY ARE GENERALLY UNSUITABLE FOR MEDIATION BECAUSE OF THE DIFFICULTY OF IMPLEMENTING AN AGREEMENT AT THE LOCAL LEVEL. DIFFERENCES IN FUNDAMENTAL LOCAL POLICY ARE NOT SUITABLE FOR MEDIATION BECAUSE THEY GENERALLY LACK ROOM FOR COMPROMISE. ENVIRONMENTAL GROUPS ARE GENERALLY RECEPTIVE TO PARTICIPATION IN MEDIATION EFFORTS, IF CERTAIN BASIC CONDITIONS ARE MET REGARDING RESOURCE REQUIREMENTS AND PROCEDURES. ENVIRONMENTAL GROUPS WOULD NEED FINANCIAL ASSISTANCE, BUT IN A FASHION THAT WOULD PRESERVE THEIR INDEPENDENCE AND THE IMPARTIALITY OF THE MEDIATOR. GOOD FAITH BARGAINING BY ALL PARTIES AND CONFIDENTIAL PROCEEDINGS ARE ALSO AMONG THE CONDITIONS THEY GENERALLY DESIRE. IF THE FEDERAL GOVERNMENT ELECTS TO PROMOTE WIDER USE OF MEDIATION, IT COULD PROVIDE IMPARTIAL FUNDING THROUGH A COALITION OF AGENCIES. POSSIBLE AVENUES FOR SUPPORT WOULD BE THE FEDERAL MEDIATION AND CONCILIATION SERVICE, A FEDERAL SERVICES OMBUDSMAN, TRAINING AND LICENSING OF ENVIRONMENTAL MEDIATORS, PILOT MEDIATION PROJECTS, EDUCATION SERVICES, AND DIRECT TECHNICAL ANALYTICAL ASSISTANCE. NOTES AND EXHIBITS ACCOMPANY THE TEXT. THE APPENDIXES DISCUSS THE ACTIVITIES OF SEVERAL MEDIATION INSTITUTIONS AND PRESENT ADDITIONAL INFORMATION SOURCES. (AUTHOR SUMMARY MODIFIED)

Sponsoring Agency: US Department of Energy, Washington, DC 20585.

Availability: NTIS. Accession Nos. DOE EV 10274-1; PC-A06 MFA01. (Microfiche)

FAMILY

49. **DELAWARE—FAMILY COURT ARBITRATION UNIT—THE FAMILY COURT, A PROJECT EVALUATION.** By S. C. MANASSE. Delaware Criminal Justice Planning Commission, State Capitol Bldg, 4th Floor, 820 French Street, Wilmington, DE 19801. 46 p. 1979. **NCJ-58580**

AN EVALUATION OF DELAWARE'S FAMILY COURT ARBITRATION UNIT AFTER 1 YEAR OF OPERATION IS PRESENTED; PROJECT GOALS, PURPOSES, OPERATION, STUDY FINDINGS, AND RECOMMENDATIONS ARE OUTLINED. TO SOME INDIVIDUALS, THE PRIMARY PURPOSE OF THIS PROJECT WAS TO DIVERT YOUTH FROM FURTHER JUVENILE JUSTICE SYSTEM INVOLVEMENT; TO OTHERS, THE INTENT WAS TO EXPEDITE THE FLOW OF CASES THROUGH THE COURT WITH MINIMAL COSTS. SPECIFIC CASELOAD GOALS WERE TO PROCESS 240 TO 260 CASES PER MONTH IN THE NEW CASTLE, DEL., OFFICE; TO PROCESS 40 TO 60 CASES PER MONTH IN EACH OF THE KENT AND SUSSEX COUNTY OFFICES; AND TO PROCESS 60 PERCENT OF ALL TARGET CASES, I.E., MISDEMEANORS, THROUGH THE ARBITRATION UNIT AND THEREBY REDUCE THE NUMBER OF REFERRALS FOR JUDICIAL ACTION BY 20 PERCENT. THESE GOALS WERE MET DURING THE PERIOD EVALUATED; FROM JUNE 1977 THROUGH DECEMBER 1978, THE UNIT PROCESSED 5,771 CASES. THE AVERAGE COST ASSOCIATED WITH PROCESSING A CASE THROUGH THE ARBITRATION UNIT WAS ESTIMATED TO BE \$18.72; ESTIMATED PER CASE COSTS THROUGH JUDICIAL AVENUES WAS \$48.00. IT WAS CONCLUDED THAT THE ARBITRATION UNIT IS EFFECTIVE AND EFFICIENT IN PROCESSING DEFENDANTS AND CASES, ALLOWS CRIME VICTIMS TO HELP DETERMINE THE FINAL DISPOSITION, AND ENABLES THE COURT TO REVIEW THE CHARGES, DETERMINE THE COUNSEL FACTORS, AND SEEK EFFECTIVE AVENUES FOR RESOLUTION. MOST IMPORTANT, IT ENABLES DEFENDANTS WHO SUCCESSFULLY COMPLETE THE PROGRAM TO LEAVE WITHOUT A RECORD INDICATING AN ADJUDICATION OF DELINQUENCY OR A FINDING OF GUILT. IT WAS RECOMMENDED THAT THE PROJECT STAFF APPLY TO LEAA FOR CONSIDERATION AS AN EXEMPLARY PROJECT, AND THAT THE STAFF IMMEDIATELY WRITE DOWN THE CRITERIA USED TO DETERMINE CASE ARBITRATION. TABULAR INFORMATION AND APPENDIXES INCLUDING FLOW CHARTS ARE INCLUDED IN THE EVALUATION. (AUTHOR ABSTRACT MODIFIED)

Availability: National Institute of Justice. National Criminal Justice Reference Service Microfiche Program.

50. **PROCEDURAL JUSTICE IN FAMILY COURT—DOES THE ADVERSARY MODEL MAKE SENSE?** By G. B. MELTON and E. A. LIND. *CHILD AND YOUTH SERVICES*, V 5, N 1 2 (SPRING SUMMER 1982), P 65-83. **NCJ-86731**

RECENT PROPOSALS FOR NONADVERSARY PROCEDURES IN RESOLUTION OF CUSTODY DISPUTES HAVE RELIED ON UNTESTED ASSUMPTIONS ABOUT PSYCHOLOGICAL HARMS OF ADVERSARY PROCEDURES AND THE CONTRIBUTIONS THAT MENTAL HEALTH PROFESSIONALS MIGHT MAKE IN REQUIRED MEDIATION. THERE IS, IN FACT, REASON TO BELIEVE THAT ADVERSARY PROCEEDINGS MAY RESULT IN MORE SENSE OF CONTROL OVER THE PROCESS AND A STRONG BELIEF IN ITS FAIRNESS. IT IS LIKELY THAT THESE BENEFITS ARE APPLICABLE AT LEAST TO OLDER CHILDREN AS WELL AS TO DISPUTING PARENTS. ADVERSARY PROCEDURES MAY ALSO RESULT IN QUICKER, MORE LASTING RESOLUTIONS OF CONFLICT. EVALUATION STUDIES ARE NEEDED TO TEST EFFECTS OF VARIOUS PROCEDURES MORE DEFINITELY. (AUTHOR ABSTRACT)

51. **MEDIATION—AN ALTERNATIVE FOR PINS (PERSONS IN NEED OF SUPERVISION)—A RESEARCH REPORT OF THE CHILDREN'S AID SOCIETY'S PINS MEDIATION PROJECT.** By J. BLOCK and B. KREGER. Children's Aid Society, 105 East 22nd Street, New York, NY 10010. 151 p. 1982. **NCJ-87526**

EVALUATION OF THE PINS (PERSONS IN NEED OF SUPERVISION) MEDIATION PROJECT IN NEW YORK CITY INDICATES THAT MEDIATION CAN BE A COST- AND SERVICE-EFFECTIVE ALTERNATIVE TO THE COURT PROCESS FOR A GOOD PROPORTION OF STATUS OFFENDERS AND THEIR FAMILIES. THE STUDY GATHERED DATA FROM TWO SETS OF FAMILIES—THOSE WHO OPTED FOR MEDIATION TO HANDLE THEIR CHILD'S PROBLEM AND THOSE WHO CONTINUED WITH THE NORMAL COURT PROCESS—ON THEIR SOCIOECONOMIC AND DEMOGRAPHIC BACKGROUNDS, AS WELL AS THEIR PERCEPTIONS OF FAMILY PROBLEMS, THE COURT, THE USE OF AUTHORITY, AND PSYCHOSOCIAL PROCESSES. BOTH SETS FOUND THE PROJECTS HELPFUL IN RESOLVING THEIR PROBLEMS. FAMILIES GOING TO COURT CONSIDERED THEMSELVES STRICTER, HAD CHILDREN WITH RUNAWAY BEHAVIOR, AND WERE MORE LIKELY TO PREFER PLACEMENT AS A SOLUTION TO THEIR CHILDREN'S PROBLEMS. WHILE FAMILIES REPORTING SATISFACTION WITH THE COURT PROCEDURE ATTRIBUTED THIS TO THE FACT THAT THEIR CHILDREN WERE PLACED OUTSIDE THE HOME, FAMILIES UNDER-

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GOING MEDIATION OFTEN CREDITED THE SERVICE WITH IMPROVING INTRAFAMILY COMMUNICATION. THUS, DIFFERENT TYPES OF FAMILIES SEEK DIFFERENT OUTCOMES; THEIR EVALUATION OF THE SERVICE THEY RECEIVE REFLECTS THOSE EXPECTATIONS. THIS SUGGESTS THAT FAMILIES SHOULD BE COUNSELED AT THE OUTSET TO SET REALISTIC GOALS AND BE AWARE OF WHAT THE COURT CAN OFFER. MEDIATION WAS MOST SUCCESSFUL WITH FAMILIES WHOSE CHILDREN WERE OLDER THAN 13 YEARS, HAD NO PRIOR PINS EXPERIENCE, AND TOOK AN ACTIVE INTEREST IN THE SESSIONS. STUDY DATA AND NINE REFERENCES ARE PROVIDED.

Availability: Children's Aid Society, 105 East 22nd Street, New York, NY 10010.

52. **ALTERNATIVE MEANS OF FAMILY DISPUTE RESOLUTION.** H. DAVIDSON, L. RAY, and R. HOROWITZ, Eds. American Bar Association Special Committee on Resolution of Minor Disputes, 1800 M Street, NW, Washington, DC 20036. 606 p. 1982. **NCJ-92365**

THIS COLLECTION OF PAPERS DERIVES FROM A CONFERENCE ON ALTERNATIVES TO FAMILY DISPUTE RESOLUTION AND SEEKS TO ASSESS THE STATUS OF ALTERNATIVE METHODS (MEDIATION, CONCILIATION, ARBITRATION) BEING IMPLEMENTED IN LIEU OF THE ADVERSARIAL APPROACH IN SUCH MATTERS AS DIVORCE, CHILD CUSTODY, AND ADOPTIONS. THE COLLECTION OF 27 ARTICLES IS DIVIDED INTO THE FOLLOWING TOPICS: DIVORCE MEDIATION, DOMESTIC VIOLENCE MEDIATION, AND PARENT-CHILD DISPUTE RESOLUTION. PAPERS IN THE FIRST SECTION DESCRIBE THE ACTORS AND PROCEDURES OF MEDIATED DIVORCE SETTLEMENT, CONTRASTING IT TO THE TRADITIONAL ADVERSARIAL PROCESS AND SUGGESTING THAT ITS ADVANTAGES LIE IN THE OPPORTUNITY IT PROVIDES FOR SEPARATING MARRIAGE PARTNERS TO COOPERATIVELY PARTICIPATE IN DECISIONMAKING REGARDING THEIR CHILDREN AND PROPERTY. SEVERAL PAPERS DEAL WITH PROFESSIONAL ETHICS ISSUES OF MEDIATION PRACTITIONERS. INDIVIDUAL PAPERS DISCUSS THE EMOTIONAL CONTEXT OF DIVORCE, ESTIMATING CASELOAD AND PERSONNEL REQUIREMENTS IN COURT-RELATED CONCILIATION PROGRAMS, AND SPECIFIC PROGRAMS SUCH AS THE FAMILY CONCILIATION COURT OF LOS ANGELES COUNTY (CALIFORNIA). ARTICLES ON DOMESTIC VIOLENCE MEDIATION EMPHASIZE SCREENING PROCEDURES, MEDIATOR TRAINING AND INTERVENTION APPROACHES, AND THE ROLE OF SHELTER STAFF IN MEDIATION. THE FINAL SECTION RELATES TO STATUS OFFENDERS' AND THEIR FAMILIES' NEEDS FOR DISPUTE RESOLUTION OUTSIDE THE CRIMINAL JUSTICE SYSTEM. SOME ARTICLES CONTAIN TABULAR DATA, CHARTS, AND SAMPLE FORMS. APPENDED ARE BIBLIOGRAPHIES AND A LIST OF AMERICAN BAR ASSOCIATION PUBLICATIONS.

Availability: American Bar Association Special Committee on Resolution of Minor Disputes, 1800 M Street, NW, Washington, DC 20036.

53. **PARENT-CHILD MEDIATION—AN ALTERNATIVE THAT WORKS.** By M. MORRIS. Children's Aid Society, 105 East 22nd Street, New York, NY 10010. 84 p. 1983. **NCJ-92463**

THIS EVALUATION OF THE CHILDREN'S AID SOCIETY'S PINS MEDIATION PROJECT CONCLUDES THAT COMMUNITY-BASED MEDIATION DOES WORK WITH THE STATUS OFFENDER POPULATION AND PROVIDES A GOOD ALTERNATIVE TO THE FAMILY COURT BY IMPROVING COMMUNICATION, ALLEVIATING CRISIS, AND ALLOWING FOR THE RESOLUTION OF FAMILY CONFLICTS OUTSIDE THE ADVERSARIAL COURT SYSTEM. THE RESEARCH ASKED SEVERAL QUESTIONS OF THE PARTICIPATING FAMILIES 2 MONTHS AFTER THEIR LAST MEDIATION SESSION. DID THE PETITIONER (USUALLY THE PARENT) THINK THAT MEDIATION HAD BEEN HELPFUL? WAS

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THE CHILD NOW MORE MANAGEABLE? WERE THE PRESENTING PROBLEMS RESOLVED? THE RESEARCH ALSO CONSIDERED WHETHER THE FAMILY COMPLETED MEDIATION, ATTENDING ALL SESSIONS SCHEDULED FOR THEM, AND WHETHER THE CHILD DID NOT RETURN TO THE FAMILY COURT ON A NEW PINS CHARGE. POSITIVE RESULTS FOR EACH FAMILY FOR EACH OF THE FIVE FACTORS WERE ADDED TOGETHER AND ANALYZED ON A SCALE FROM ZERO TO FIVE. RESULTS SHOWED THAT THE VAST MAJORITY OF THE FAMILIES WHO PARTICIPATED IN MEDIATION—77.3 PERCENT—WERE MODERATELY OR HIGHLY SUCCESSFUL. IT IS CONCLUDED THAT LEGISLATIVE CHANGE SHOULD BE PROPOSED TO PROVIDE MEDIATION AS A FIRST STEP IN A MANDATORY DIVERSION ARRANGEMENT FOR FAMILIES WITH SERIOUS PARENT-CHILD CONFLICTS. CHARTS AND DATA TABLES ARE PROVIDED. ADDITIONAL STUDY DATA ARE APPENDED.

Supplemental Notes: RESEARCH REPORT OF THE PINS MEDIATION PROJECT.

54. **MEDIATION—PROFESSIONAL DYNAMICS.** By M. J. ROSANOVA. *MEDIATION QUARTERLY*, N 1 (SEPTEMBER 1983), P 63-73. **NCJ-93278**

WHILE SOME LAWYERS AND THERAPISTS BELIEVE IT IS IN THEIR SELF-INTEREST TO OPPOSE THE DEVELOPMENT OF THE PRACTICE OF MEDIATION IN REACHING DIVORCE AGREEMENTS, MANY JUDGES, LAWYERS, AND THERAPISTS ARE NATURAL ALLIES OF MEDIATION BECAUSE OF THE PROFESSIONAL BENEFITS IT OFFERS THEM. IN DIVORCE MEDIATION, TWO SPOUSES CONTEMPLATING DIVORCE WORK WITH EACH OTHER AND WITH A SKILLED PROFESSIONAL WHO HAS BEEN TRAINED TO HELP THEM MUTUALLY RESOLVE ISSUES OF PARENTING, PROPERTY, AND SUPPORT. THE DIVORCE AGREEMENT IS NEGOTIATED COOPERATIVELY, AND NEITHER PARTY WINS AT THE EXPENSE OF THE OTHER. A JUDGE MUST APPROVE ANY SETTLEMENT AGREEMENT DURING THE DISSOLUTION HEARING, AND INDEPENDENT LEGAL COUNSEL MUST PREPARE A LEGALLY BINDING AGREEMENT THAT REFLECTS THE RESULTS OF THE MEDIATION AND ALSO REPRESENTS THE PARTIES IN THE COURT PROCEEDING. YET, MEDIATION REMAINS A DISTINCTIVE CONFLICT-REDUCING TECHNIQUE THAT IS NEITHER THE PRACTICE OF LAW NOR OF THERAPY. THE MEDIATION PROFESSION, HOWEVER, FACES POTENTIAL CRITICISMS FROM BOTH THE ESTABLISHED BAR AND THERAPISTS. LAWYERS CRITICIZE MEDIATION BECAUSE IT IS NOT A REFLECTION OF THE ADVERSARIAL PROCESS IN WHICH THEY ARE TRAINED, AND THEY FURTHER ARGUE THAT IT AMOUNTS TO THE PRACTICE OF LAW BY MEDIATORS WHO MAY NOT BE MEMBERS OF THE BAR. THERAPISTS TEND TO CHALLENGE MEDIATION BECAUSE IT EMPLOYS THE PSYCHOLOGICAL PRINCIPLES OF CONFLICT RESOLUTION WITHOUT ADHERING TO MANY OF THE GOALS AND TECHNIQUES OF THERAPY. BOTH LAWYERS AND THERAPISTS MUST COME TO ACCEPT THAT MEDIATION IS NEITHER A CHALLENGE TO NOR A HYBRID OF THEIR PROFESSIONS BUT RATHER A DISTINCTIVE PRACTICE REQUIRING DISTINCTIVE PROFESSIONAL SKILLS. ALLIES OF MEDIATION TEND TO BE JUDGES WHO APPRECIATE THE CAPACITY OF MEDIATION TO REDUCE OVERCROWDED COURT DOCKETS WITHOUT REDUCING THE COURT'S ULTIMATE AUTHORITY OVER DIVORCE AGREEMENTS, LAWYERS WHO VIEW MEDIATION AS A MORE EFFECTIVE MEANS OF HANDLING DIVORCE CASES THAN THE ADVERSARIAL APPROACH AS WELL AS A WAY TO EXPAND THEIR INCOMES BY SERVING AS MEDIATORS, AND THERAPISTS WHO VIEW MEDIATION AS AN ARENA APPROPRIATE FOR THEIR SKILLS AND AS A NEW SOURCE OF INCOME. THIS PAPER ALSO DESCRIBES ILLINOIS' EXPERIENCE IN DEVELOPING PROFESSIONAL MEDIATORS. FOURTEEN REFERENCES ARE LISTED.

JUDICIAL SYSTEM

55. **TORT CASES IN JUDICIAL AND ALTERNATIVE DISPUTE RESOLUTION SYSTEMS.** By R. E. KEETON. 99 p. 1979. **NCJ-64688**

JUDICIAL SYSTEMS FOR RESOLVING TORT DISPUTES ARE COMPARED WITH ALTERNATIVE TORT DISPUTE RESOLUTION SYSTEMS. OVER THREE-QUARTERS OF TORT CASES ARE CLAIMS FOR COMPENSATION FOR ACCIDENTAL INJURY TO PERSONS OR PROPERTY, USUALLY BASED ON NEGLIGENCE. ANGLO-AMERICAN RULES AND PRACTICES ARE BASED ON THREE PRINCIPLES: FAULT, STRICT ACCOUNTABILITY, AND WELFARE. CLAIMS ARE COMMONLY PRESENTED IN BIPOLAR FORM, INVOLVING ONE CLAIMANT AND ONE DEFENDANT. DISPUTES USUALLY CONCERN BOTH FACTS AND EVALUATIONS AND RELATE TO PAST ACTIONS. CRITERIA FOR EVALUATING THE DISPUTE RESOLUTION SYSTEMS' EFFECTIVENESS INCLUDE PROCEDURAL EFFECTIVENESS AND NON-PROCEDURAL CRITERIA. JURY TRIALS OFFER PROCEDURAL BENEFITS BUT ARE OFTEN DELAYED AND COSTLY. THEY ARE THEREFORE LIKELY TO BECOME INCREASINGLY LESS ACCEPTABLE AS A TORT DISPUTE RESOLUTION SYSTEM. NONJURY TRIALS ARE MORE TIMELY, ACCESSIBLE, AND AFFORDABLE THAN JURY TRIALS, BUT MAY NOT BE AS IMPARTIAL, ACCURATE, OR CONSISTENT. NONPROCEDURAL CRITERIA FOR EVALUATION INCLUDE SENSITIVITY TO ALL INTERESTS, CONSISTENCY WITH DECLARED PRINCIPLES, EFFECT ON CONSISTENCY WITH DECLARED PRINCIPLES, EFFECT ON CONTINUING RELATIONSHIPS, THE RELATIONSHIPS BETWEEN SUBSTANTIVE LAW STANDARDS AND BURDENS OF DISPUTE RESOLUTION, AND ADAPTABILITY TO DIFFERENT KINDS OF DISPUTES. ALTERNATIVES TO JUDICIAL DISPUTE RESOLUTION SYSTEMS INCLUDE (1) STRUCTURING INCENTIVES FOR SETTLEMENT THROUGH THE USE OF PRETRIAL CONFERENCES INITIATED BY COURTS AND BY REQUIRING ARBITRATION AS A PREREQUISITE TO JURY TRIALS AND (2) A PROGRAM OF INSTITUTIONALLY SPONSORED SETTLEMENT PROCEDURES WITH INCENTIVES FOR MAKING GENUINE BEST OFFERS EARLY. ANALYSIS OF THE POSSIBLE SYSTEMS SUGGESTS THAT SYSTEMS CURRENTLY IN USE SHOULD BE ASSESSED. THE MOST DESIRABLE SYSTEM IS THE OPTIONAL LOW-COST DISPUTE RESOLUTION SYSTEM; SECOND WOULD BE PROCEDURES MANDATED AS CONDITIONS BUT NOT SUBSTITUTES FOR JURY TRIALS. LEAST DE-

SIRABLE WOULD BE MANDATORY SUBSTITUTES FOR JURY TRIALS. EXTENSIVE FOOTNOTES ARE INCLUDED.

Sponsoring Agency: US Department of Justice Federal Justice Research Program, Room 4235, 10th and Pennsylvania Avenues, NW, Washington, DC 20530.

Availability: National Institute of Justice National Criminal Justice Reference Service Microfiche Program.

56. **HUMANISTS AS MEDIATORS—AN EXPERIMENT IN THE COURTS OF MAINE.** By A. L. GREASON. *AMERICAN BAR ASSOCIATION JOURNAL*, V 66 (MAY 1980), P 576-579. **NCJ-67988**

THE EVIDENCE THAT MEDIATION LEADS TO A MORE EQUITABLE AND AMIABLE RESOLUTION THAN CAN BE PROVIDED BY A TRIAL JUDGE HAS CONTRIBUTED TO ITS WIDESPREAD ACCEPTANCE AND GROWTH IN MAINE COURTS SINCE 1976. THE MEDIATION PROGRAM WAS FIRST SPONSORED BY THE CUMBERLAND COUNTY BAR ASSOCIATION, THE MAINE LABOR RELATIONS BOARD, AND THE MAINE COUNCIL FOR THE HUMANITIES AND PUBLIC POLICY. IT WAS SET UP AS AN EXPERIMENT IN SMALL CLAIMS COURTS. MEDIATION'S WIDESPREAD GROWTH IN MAINE HAS BEEN DUE LARGELY TO THE SUCCESS OF THE ORIGINAL EXPERIMENT AND TO THE NATURE OF THE MEDIATORS. CURRENTLY, ALL MEDIATORS ARE LAY PEOPLE WITH EXPERIENCE AS TEACHERS OR IN THE HUMANITIES. BY THE END OF THE EXPERIMENT'S FIRST YEAR, MEDIATORS RESOLVED 65 PERCENT OF THEIR CASES. IN DIVORCE CASES, THE RESOLUTION WAS MUCH HIGHER. THE INFORMALITY OF THE MEDIATION PROCESS OFFERS FLEXIBILITY IN SERVICES NOT AVAILABLE IN COURT. PARTIES TO A DISPUTE ARE TOLD BY THE JUDGE THAT MEDIATION IS AVAILABLE AND ENCOURAGED. THE MEDIATORS DISCUSS WITH THE PARTIES ALL ASPECTS OF THE ISSUES INVOLVED AND PROPOSE SOLUTIONS. ALTHOUGH MEDIATION IS NO MORE EFFICIENT THAN A HEARING AND TAKES MORE TIME, IT CAN SAVE THE COURT MONEY BY AVOIDING CONTINUANCES AND APPEALS. IT CAN ALSO SAVE MONEY FOR SMALL CLAIMS DISPUTANTS AND DIVORCE PARTIES. MEDIATION IN MAINE IS NOW BEING FUNDED BY THE STATE AS PART OF ITS JUDICIAL BUDGET; FURTHER STUDIES ARE BEING SUPPORTED BY A GRANT FROM THE NATIONAL SCIENCE FOUNDATION.

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57. **ARBITRATION AND THE COURTS—ARBITRATION SYSTEMS IN ENGLAND AND WALES.** By J. STEYN. *THE ARBITRATION JOURNAL*, V 35, N 4 (DECEMBER 1980), P 9-15.

NCJ-74222

THE ARBITRATION SYSTEM OF ENGLAND AND WALES IS DISCUSSED IN TERMS OF ITS HISTORY, ITS MERITS AND FAULTS, THE REFORM MOVEMENT, AND THE SIGNIFICANCE OF THE ARBITRATION ACT OF 1979. FOR SEVERAL CENTURIES ENGLISH COURTS HAVE EXERCISED EXTENSIVE CONTROL OVER THE ARBITRAL PROCESS. UP UNTIL THE END OF THE 19TH CENTURY, JUDGES SOMETIMES OPENLY SHOWED THEIR HOSTILITY TO ARBITRATION. THE CREATION OF THE COMMERCIAL COURT IN 1895 MARKED THE END OF THE ERA IN WHICH JUDGES VIEWED ARBITRATIONS AS RIVAL TRIBUNALS. NEVERTHELESS, ENGLISH JUDGES CONTINUED TO MAKE AMPLI USE OF THEIR SUPERVISORY POWERS TO ENSURE THAT ARBITRATORS APPLIED THE LAW OF ENGLAND AND NOT SOME PRIVATE SYSTEM OF ARBITRATION LAW. THE PRINCIPAL MEANS OF EXERCISING THIS CONTROL WAS THE SPECIAL CASE PROCEDURE. AS DISSATISFACTION WITH THE SITUATION GREW, THE MOVEMENT FOR REFORM WAS GIVEN A FINAL IMPETUS BY THE JULY 1978 PUBLICATION OF THE 'REPORT ON ARBITRATION OF THE COMMERCIAL COURT COMMITTEE.' THE ARBITRATION ACT OF 1979 LARGELY FOLLOWED THE RECOMMENDATIONS OF THE REPORT. IN ESSENCE, THE 1979 ACT WAS A PRAGMATIC COMPROMISE. IT ABOLISHED, INTER ALIA, THE SPECIAL CASE PROCEDURE BUT CREATED A NEW AND FAIRLY RESTRICTED APPEAL PROCEDURE. IT IS ARGUED HEREIN THAT DESPITE IMPERFECTIONS OF THE NEW SYSTEM WHICH ARE CURRENTLY UNDER REVIEW BY THE COMMERCIAL COURT COMMITTEE, A REASONABLE BALANCE HAS BEEN ACHIEVED THROUGH THE NEW LAW BETWEEN THE COMPETING PRINCIPLES OF FINALITY AND LEGAL CERTAINTY. APPROXIMATELY 50 FOOTNOTES ARE INCLUDED IN THE ARTICLE. (AUTHOR ABSTRACT MODIFIED).

Supplemental Notes: ORIGINALLY PRESENTED AS A PAPER AT AN INTERNATIONAL ARBITRATION CONFERENCE IN BERMUDA, MARCH 26-28, 1980.

58. **ROLE OF COURTS AND THE LOGIC OF COURT REFORM—NOTES ON THE JUSTICE DEPARTMENT'S APPROACH TO IMPROVING JUSTICE.** By A. SARAT. *JUDICATURE*, V 64, N 7 (FEBRUARY 1981), P 300-311.

NCJ-75843

NOTING THE REFORMS OF THE AMERICAN JUDICIAL SYSTEM SINCE 1977, THIS ARTICLE STATES THAT BEFORE COURTS CAN BE MADE MORE ACCESSIBLE AND EFFICIENT, TYPES OF DISPUTES IN COURTS SHOULD BE DETERMINED. IN THE LAST 100 YEARS, THE TYPE OF CASES HANDLED BY COURTS HAS CHANGED AND THE OVERALL NUMBER OF CASES HAS INCREASED. MANY OF THE CASES SHOULD NOT BE HANDLED BY THE COURTS, BUT BY THE PRIVATE OR PUBLIC SECTORS. THEY INCLUDE NONADVERSARY CASES SUCH AS NONCONTEST DIVORCES AND CREDITOR-DEBTOR ACTIONS, OR CASES INVOLVING SPECIALIZED KNOWLEDGE. THUS, IN ORDER TO MAKE COURTS MORE EFFICIENT AND ACCESSIBLE, STANDARDS FOR ALLOCATION OF CASES MUST BE DEVELOPED. FOR EXAMPLE, AN ALLEGED VIOLATION OF CONSTITUTIONAL RIGHTS SHOULD BE HANDLED THROUGH FORMAL, USUALLY JUDICIAL PROCEDURES, BUT A DISPUTE ABOUT PERSONAL PROBLEMS, WHICH CANNOT BE ENDED BY COURT AWARD TO ONE OF THE PARTIES FOR BREACH OF CONTRACT, SHOULD BE HEARD IN ANOTHER KIND OF FORUM WHICH CAN PROVIDE FINAL RESOLUTIONS AND BINDING DECISIONS. THE COST OF ALLOCATION OF DISPUTES IN RELATION TO DERIVED BENEFIT SHOULD ALSO BE CONSIDERED. THE NEXT STEP IN THE REFORM SHOULD INVOLVE DECISIONS AS TO THE RANGE AND TYPES OF FORMS AND THE PROCEDURES FOR CHANNELING DISPUTES. THEY SHOULD INCLUDE CHANNELING CASES FROM FEDERAL TO STATE COURTS (WHICH ARE CHEAPER) AND

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CREATING ALTERNATIVES TO COURT. AFTER AN ALLOCATION PLAN HAS BEEN DEVISED, THE PROBLEMS OF COURTS' ACCESSIBILITY AND EFFICIENCY SHOULD BE TACKLED. THE FIRST PRIORITY MUST BE TO PROVIDE LEGAL COUNSEL TO ALL WHO NEED IT. SUCH MEASURES AS DEVELOPMENT OF PREPAID LEGAL SERVICES PLANS OR LEGAL INSURANCE MAY BE ADVISABLE. ACCORDING TO A STUDY BY THE NATIONAL CENTER FOR STATE COURTS, COURT EFFICIENCY DEPENDS LARGELY ON THE ATTITUDES OF LAWYERS AND JUDGES. EFFORTS OF CONGRESS, THE JUSTICE DEPARTMENT, AND THE ORGANIZED BAR TO HANDLE CIVIL LITIGATION EXPEDITIOUSLY. THE ARTICLE CONTAINS 49 FOOTNOTES.

59. **ROCHESTER ANSWER TO COURT BACKLOGS.** By S. WELLER, J. C. RUHNKA, and J. A. MARTIN. *JUDGES' JOURNAL*, V 20, N 3 (SUMMER 1981), P 36-45.

NCJ-79067

THIS ARTICLE REPORTS THE RESULTS OF AN EVALUATION OF THE COMPULSORY CIVIL ARBITRATION PROGRAM IN THE ROCHESTER CITY COURT (NEW YORK). BEGUN IN OCTOBER 1970, THE ROCHESTER PROGRAM INCLUDES ALL CIVIL CASES IN THE CITY COURT EXCEPT EVICTIONS AND SMALL CLAIMS. WITH THESE EXCEPTIONS, ALL CIVIL CASES WITH AN UPPER JURISDICTIONAL LIMIT OF \$6,000 NOW ARE SCHEDULED FOR ARBITRATION. IN ADDITION, SUPREME COURT (NEW YORK'S GENERAL TRIAL COURT) CASES CAN BE SENT TO ARBITRATION BY STIPULATION OF THE PARTIES. THE EVALUATION FOCUSED ON THE GOALS OF THE ARBITRATION PROGRAM AND THE DEGREE TO WHICH THOSE GOALS HAVE BEEN ACHIEVED. THE FOLLOWING CRITERIA WERE SELECTED AS YARDSTICKS BY WHICH THE SUCCESS OF THE PROGRAM WOULD BE JUDGED: (1) THE ABILITY OF THE ARBITRATION PROGRAM TO DISPOSE OF CASES AND REDUCE THE COURT'S BACKLOG; (2) THE ABILITY OF THE PROGRAM TO REDUCE DELAY, PARTICULARLY DELAY TO DISPOSITION ONCE A CASE IS READY FOR TRIAL; (3) THE EFFICIENCY OF THE PROGRAM IN TERMS OF SAVINGS IN ATTORNEY TIME AND EFFORT AND ATTORNEY FEES TO LITIGANTS; AND (4) THE QUALITY OF JUSTICE DISPENSED BY THE PROGRAM. TO TEST THE EVALUATION, A 'CONTROL' COURT (THE SYRACUSE CITY COURT, N.Y.) WITH A SIMILAR CASELOAD BUT WITHOUT THE ARBITRATION PROGRAM WAS COMPARED WITH THE ROCHESTER COURT. DATA WERE COLLECTED FROM THE CASE RECORDS OF BOTH COURTS, PERSONAL INTERVIEWS WERE CONDUCTED WITH JUDGES AND COURT STAFF, AND QUESTIONNAIRES WERE SENT TO ABOUT 300 ATTORNEYS WHOSE NAMES APPEARED IN THE ROCHESTER ARBITRATION FILES. THE DATA SHOW THAT THE COMPULSORY CIVIL ARBITRATION PROGRAM IN ROCHESTER PRODUCED A SUBSTANTIAL REDUCTION IN RETRIAL SETTLEMENTS. HOWEVER, TOTAL CASE PROCESSING TIME WITH ARBITRATION REMAINED HIGH COMPARED WITH SYRACUSE. GRAPHS, TABLES, AND 11 FOOTNOTES ARE PROVIDED.

Sponsoring Agency: National Science Foundation, 1800 G Street, NW, Washington, DC 20550.

60. **EVALUATION OF COURT-ANNEXED ARBITRATION IN THREE FEDERAL DISTRICT COURTS.** By E. A. LIND and J. E. SHARP. *Federal Judicial Center*, 1520 H Street, NW, 27 Roy Street, Washington DC 20005. 142 p. 1981.

NCJ-79277

THIS IS AN EVALUATION REPORT OF EXPERIMENTAL LOCAL RULES PROVIDING FOR MANDATORY, NONBINDING ARBITRATION OF CERTAIN CLASSES OF CIVIL ACTIONS IN EFFECT SINCE EARLY 1978 IN THE FEDERAL DISTRICT COURTS OF THE EASTERN DISTRICT OF PENNSYLVANIA, THE DISTRICT OF CONNECTICUT, AND THE NORTHERN DISTRICT OF CALIFORNIA. ALTHOUGH THE THREE LOCAL RULES DIFFER IN VARIOUS RESPECTS, THEY TYPICALLY PROVIDE FOR MANDATORY ARBITRATION BEFORE A PANEL

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OF THREE ARBITRATORS FOR CASES SEEKING MONEY DAMAGES NOT EXCEEDING \$100,000 AND GENERALLY INVOLVING PERSONAL INJURY OR CONTRACT SUBJECT MATTER. EVALUATION INFORMATION WAS COLLECTED OVER 2 YEARS THROUGH QUESTIONNAIRES FROM COUNSEL, DOCKET INFORMATION, QUESTIONNAIRES FROM ARBITRATORS, AND INTERVIEWS WITH ARBITRATORS, COUNSEL, AND COURT PERSONNEL. THE RESULTS OF THE EVALUATION SUGGEST THAT MORE EXPEDITIOUS SETTLEMENT HAS BEEN ACHIEVED BECAUSE OF COURT-ANNEXED ARBITRATION, BUT FREQUENT TERMINATION BY ACCEPTANCE OF AN AWARD HAS NOT. THE ARBITRATION RULES HAVE CAUSED A DECREASE IN TIME FROM FILING TO DISPOSITION OF CASES IN TWO OF THE THREE DISTRICTS. IT APPEARS THAT COURT-ANNEXED ARBITRATION CAN SERVE AS AN EFFECTIVE DEADLINE FOR CASE PREPARATION, SUBSTITUTING FOR TRIAL, NOT AS A FORUM FOR CASE RESOLUTION, BUT AS A STIMULUS TO SETTLEMENT. IT IS MUCH LESS CLEAR THAT THE ARBITRATION RULES HAD TANGIBLE CONSEQUENCES FOR CASES THAT REACHED AN ARBITRATION HEARING. ABOUT 40 PERCENT OF ARBITRATED CASES WERE DISPOSED OF BY THE ARBITRATION PROCESS; IN THE OTHER 60 PERCENT, THE ARBITRATION WAS VOIDED BY A DEMAND FOR TRIAL DE NOVO. THE REPORT OFFERS SUGGESTIONS ON HOW THE EFFECTIVENESS OF ARBITRATION FOR PROMOTING POSTHEARING SETTLEMENT MIGHT BE ENHANCED. BECAUSE SUBSTANTIAL NUMBERS OF CASES PROCEED BEYOND THE ARBITRATION HEARING, THE CONCEPT OF ARBITRATION AS A MECHANISM TO PROMOTE POSTHEARING SETTLEMENTS MAY WARRANT SPECIAL ATTENTION. OVERALL, COURT-ANNEXED ARBITRATION PROMISES TO EXPEDITE LITIGATION FOR MANY CASES, BUT IT REMAINS UNCERTAIN WHETHER THE RULES WILL RESULT IN DECREASED INCIDENCE OF TRIALS. TABULAR DATA ARE GIVEN. APPENDIXES CONTAIN TEXTS OF THE RULES AND STUDY INSTRUMENTS.

Availability: National Institute of Justice National Criminal Justice Reference Service Microfiche Program.

61. **COURT EFFORTS TO REDUCE PRETRIAL DELAY—A NATIONAL INVENTORY.** By P. A. EBENER. 137 p. 1981.

NCJ-80393

TELEPHONE SURVEYS OF 50 STATE COURT ADMINISTRATORS AND 40 ADMINISTRATORS OF COURTS IN MAJOR CITIES WERE USED TO COLLECT DATA ON TYPES OF TACTICS USED TO REDUCE PRETRIAL DELAY, THE NUMBER OF SPECIFIC TYPES OF PROCEDURES IN USE, AND THE DISTRIBUTION OF PROCEDURES ACROSS COURTS. PRETRIAL DELAY-REDUCING TACTICS FELL INTO TWO MAJOR GROUPS: MANAGEMENT EFFORTS TO STREAMLINE OR IMPROVE MANAGEMENT OF CASES PROGRESSING THROUGH THE SYSTEM AND DIVERSION EFFORTS TO REDUCE THE NUMBER OF CASES PROGRESSING TOWARD TRIAL. ABOUT 25 MANAGEMENT PROCEDURES WERE IDENTIFIED, BUT ALL OF THESE WERE DIRECTED TOWARD THREE STRATEGIES: EFFICIENT MANAGEMENT OF COURT RESOURCES, EXPEDITIOUS PRETRIAL PROCESSING USING SIMPLIFIED AND STREAMLINED PROCEDURES, OR ESTABLISHMENT OF FIRM TRIAL DATES. ONE OR MORE OF THESE STRATEGIES WERE ADOPTED BY 47 STATES, WITH COURT RESOURCES MANAGEMENT BEING THE MOST POPULAR STRATEGY. SOME OF THE SPECIFIC PROCEDURES TO STRETCH RESOURCES WERE USE OF COMPUTERIZED INFORMATION SYSTEMS FOR MONITORING THE PROGRESS OF CASES, CLASSIFICATION OF CASES FOR ASSIGNMENT TO SPECIAL EXPEDITING TRACKS, AND ESTABLISHMENT OF GOALS AND TIME GUIDELINES. TWENTY-NINE STATES AND 40 LOCAL COURTS ADOPTED SOME KIND OF EXPEDITING PROCEDURE, SUCH AS USING MAIL AND TELEPHONE CONFERENCING TO EXPEDITE MOTIONS PROCESSING AND LIMITING THE NUMBER OF INTERROGATORIES THAT A PARTY CAN REQUEST, AND 43 OF THE COURTS RE-

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PORTED AT LEAST 1 SPECIAL PROCEDURE AIMED AT LIMITING CONTINUANCES AND THUS ADHERING TO A FIRM TRIAL DATE. DIVERSION STRATEGIES ALSO FELL INTO THREE CATEGORIES: JUDICIAL ARBITRATION, MEDICAL MALPRACTICE SCREENING PROCEDURES (SUGGESTED AS A MODEL FOR OTHER TYPES OF SCREENING), AND SETTLEMENT PROGRAMS. JUDICIAL ARBITRATION INVOLVES AN INFORMAL HEARING ATTENDED BY PARAJUDICIAL PERSONNEL. THE HEARING RESULTS IN A DISPOSITION THAT IS FILED IN COURT. THE MEDICAL MALPRACTICE SCREENING METHOD INCLUDES A HEARING BEFORE A PANEL OF ATTORNEYS, JUDGES, AND PHYSICIANS. SETTLEMENT PROGRAMS ARE HEAVILY USED FOR CIVIL CASES. SETTLEMENT MECHANISMS INCLUDE MEDIATION, MOCK TRIALS, AND COURT-ORDERED CONFERENCES. THE OUTCOME IS USUALLY A NEGOTIATED SETTLEMENT OR DECISION BETWEEN THE PARTIES, WITH INPUT BY THE JUDICIAL ARBITRATOR. THE SURVEY INSTRUMENTS, SURVEY DATA, LIST OF RESPONDENTS, AND A BIBLIOGRAPHY OF 60 ENTRIES ARE PROVIDED.

Supplemental Notes: RAND PUBLICATION SERIES.

Sponsoring Agency: Rand Corporation The Institute for Civil Justice, 1700 Main Street, Santa Monica, CA 90406.

Availability: Rand Corporation, 1700 Main Street, Santa Monica, CA 90406 Stock Order No. R-2732-1CJ; National Institute of Justice National Criminal Justice Reference Service Microfiche Program.

62. **JUDICIAL ARBITRATION IN CALIFORNIA—THE FIRST YEAR.** By D. R. HENSLER, A. J. LIPSON, and E. S. RALPH. Rand Corporation The Institute for Civil Justice, 1700 Main Street, Santa Monica, CA 90406. 140 p. 1981.

NCJ-82325

FINDINGS ARE PRESENTED FROM AN EVALUATION OF THE FIRST YEAR OF JUDICIAL ARBITRATION IN CALIFORNIA. IN 1978, THE CALIFORNIA LEGISLATURE ADOPTED A JUDICIAL ARBITRATION PROGRAM WHOSE RULES PROVIDE THAT THE COURT ORDER ALL CIVIL DAMAGE SUITS VALUED AT \$15,000 OR LESS TO BE HEARD BY A SINGLE RANDOMLY SELECTED ATTORNEY OR RETIRED JUDGE WHO HAS VOLUNTEERED TO SERVE AS AN ARBITRATOR. BOTH PARTIES IN A SUIT MAY STIPULATE ARBITRATION OF ANY CASE, REGARDLESS OF MONETARY VALUE INVOLVED. THE RULES FURTHER PROVIDE FOR COMPLETING THE ARBITRATION PROCESS WITHIN 3 MONTHS OF A CASE'S ASSIGNMENT TO THE PROGRAM. THE ARBITRATORS ARE DIRECTED TO CONDUCT THE HEARING AS INFORMALLY AS POSSIBLE, WITH RELAXED RULES OF EVIDENCE. THE FIRST-YEAR EVALUATION EXAMINED (1) WHETHER ARBITRATION REDUCES COURT CONGESTION OR BACKLOGS OR BOTH, (2) WHETHER IT SPEEDS DISPUTE RESOLUTION, (3) WHETHER IT CUT COSTS, AND (4) WHETHER PARTICIPANTS PREFER ARBITRATION TO MORE TRADITIONAL PROCEDURES. DURING THE FIRST YEAR, ABOUT 24,000 CASES WERE DIVERTED TO THE ARBITRATION PROGRAM IN THE 13 COURTS REQUIRED TO ADOPT IT. THIS IS ABOUT TWICE THE NUMBER OF CASES DIVERTED TO THE STATE'S PREVIOUS, ENTIRELY VOLUNTARY PROGRAM DURING ITS ENTIRE 3-YEAR HISTORY. ABOUT HALF OF THE CASES ARRIVED AT ARBITRATION VOLUNTARILY, EITHER BY PLAINTIFF'S ELECTION OR BY STIPULATION OF BOTH PARTIES. THE COURTS HAVE HAD LITTLE TROUBLE IN RECRUITING AN ADEQUATE SUPPLY OF ARBITRATORS. FEW OF THE CASES ARE LIKELY TO BE PURSUED TO TRIAL. EVEN THE SIZEABLE NUMBER OF CASES DIVERTED TO ARBITRATION, HOWEVER, WILL ONLY MILDLY RELIEVE CONGESTION IN SUPERIOR COURTS, AND THE POTENTIAL EFFECT OF THE PROGRAM ON COURT COSTS IS HIGHLY UNCERTAIN. ARBITRATION DOES SPEED ADJUDICATION, AND EVIDENCE SUGGESTS THAT ATTORNEYS AND LITIGANTS BELIEVE THE ARBITRATION PROCESS IS FAIR. TABULAR AND GRAPHIC DATA ARE PROVIDED. APPENDED ARE A CHRONOLOGY OF IMPOR-

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TANT EVENTS PRECEDING CONSIDERATION OF MANDATORY ARBITRATION, A CHRONOLOGY OF LEGISLATIVE EVENTS, THE KERRY MEMORANDUM ON SB 1362, AND THE JUDICIAL ARBITRATION STATUTE.

Availability: Rand Corporation, 1700 Main Street, Santa Monica, CA 90406; National Institute of Justice National Criminal Justice Reference Service Microfiche Program.

63. **ANALYSIS OF JUDICIAL REFORM.** P. L. DUBOIS, Ed. 220 p. 1982. NCJ-83815

THE TEXT'S 14 ARTICLES CONCENTRATE ON THE NORMATIVE, METHODOLOGICAL, AND EMPIRICAL ISSUES SURROUNDING POLICIES AIMED AT IMPROVING COURT STRUCTURE, STAFFING, AND OPERATION. IT ADDRESSES TEMPORARY REFORM ISSUES (MEDIATION AND ARBITRATION, JUDICIAL SELECTION AND DISCIPLINE, ETC.) RATHER THAN THE DAILY CONCERNS OF COURT OPERATIONS. AN EXAMINATION OF OPPOSING TRENDS IN THE JUDICIAL SYSTEM (INCREASING BOTH LITIGATION AND NONADVERSARIAL RESOLUTION OF DISPUTES) SUGGESTS THAT THE JUDICIAL SYSTEM'S LEGITIMACY MAY BE UNDERMINED TO THE EXTENT THAT JUSTICE AND DUE PROCESS SEEM TO REQUIRE ADVERSARIAL PROCEEDINGS. ONE ARTICLE DEFENDS THE CAPACITY OF THE JUDICIAL PROCESS TO MEET SOCIETY'S NEEDS, BASED ON THE COURTS' FLEXIBILITY IN NEGOTIATION AND SETTLEMENT AND THEIR ROLE IN ADDRESSING POLICY ISSUES THAT LEGISLATIVE AND ADMINISTRATIVE INSTITUTIONS HAVE BEEN UNWILLING OR UNABLE TO RESOLVE. ANOTHER ARTICLE REFUTES CRITICISMS THAT HAVE BEEN LEVELLED AT JUDICIAL DECISIONMAKING AND EXAMINES SEVERAL PROPOSALS TO IMPROVE THE COURTS' ABILITY TO DEAL WITH COMPLEX SOCIAL SCIENCE INFORMATION. NEW EVIDENCE SUGGESTS THAT ALTHOUGH MEDIATION AND ARBITRATION ARE NOT AS EFFECTIVE AS ADVOCATES CLAIM, THEY HAVE PROVED TO BE OF VALUE. RESEARCH SUGGESTS HOW THOSE WHO SERVE ON JUDICIAL CONDUCT COMMISSIONS VIEW THE EFFECTIVENESS OF THEIR EFFORTS. OTHER ARTICLES REVIEW THE PROCESS OF JUDICIAL IMPEACHMENT AND EVALUATE THE JUDICIAL CONDUCT AND DISABILITY ACT (1981), WHICH SETS DISCIPLINARY SANCTIONS OTHER THAN REMOVAL. SOME OF THE KEY METHODOLOGICAL AND POLITICAL ISSUES ASSOCIATED WITH EVALUATING JUDICIAL PERFORMANCE (WHAT IS TO BE MEASURED, WHO IS TO CONDUCT THE EVALUATION, AND HOW THE EVALUATIONS ARE TO BE USED) ARE CONSIDERED. TWO ARTICLES EXPLORE THE CONSEQUENCES (BOTH ANTICIPATED AND UNINTENDED) OF CHANGING COURT STRUCTURE AND JURISDICTION. A REVIEW OF RESEARCH DISCUSSES THE IMPACT OF A STATE INTERMEDIATE COURT OF APPEALS ON THE STATE SUPREME COURT'S WORKLOAD AND POLICYMAKING. OTHER ARTICLES FOCUS ON THE COURTS' INTERNAL MANAGEMENT AND ORGANIZATION; THE COMPLEXITY OF COURT ADMINISTRATION; ALTERNATIVE MODELS FOR THE ORGANIZATION OF STATE COURT SYSTEMS; AND COURTS AS DISCRETE ORGANIZATIONS, AS APPLIED TO FEDERAL COURTS OF APPEAL IN GENERAL AND TO THE CIRCUIT COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA IN PARTICULAR. FIGURES, TABLES, AN INDEX, AND CHAPTER NOTES AND REFERENCES ARE SUPPLIED.

Supplemental Notes: POLICY STUDIES ORGANIZATION SERIES; CONTAINS REVISED AND EXPANDED VERSIONS OF PAPER PRESENTED AT A SYMPOSIUM ON JUDICIAL REFORM, PUBLISHED BY THE POLICY STUDIES JOURNAL.

Sponsoring Agency: US Department of Justice National Institute of Justice, 633 Indiana Avenue NW, Washington, DC 20531.

Availability: D C Heath and Company, 125 Spring Street, Lexington, MA 02173.

64. **NON-STRANGER VIOLENCE—THE CRIMINAL COURT'S RESPONSE.** By B. E. SMITH. Institute for Social Analysis, 11739 Bowman Green Drive, Reston, VA 22090. 201 p. 1983. NCJ-85091

TECHNIQUES AND APPLICATIONS

THIS STUDY ANALYZES CHARACTERISTICS OF AND COURT RESPONSES TO NONSTRANGER VIOLENCE CASES IN FOUR DIVERSE SITES: THE LOWER CRIMINAL COURTS OF CHARLOTTE, N.C., LOS ANGELES, AND MINNEAPOLIS, AND THE UPPER COURT OF BROOKLYN, N.Y. VICTIM AND DEFENDANT PERCEPTIONS OF AND SATISFACTION WITH MEDIATION PROGRAMS IN THREE OF THE CITIES ARE COMPARED WITH SIMILAR INDICATORS FROM COURT PARTICIPANTS. A SIGNIFICANT NUMBER OF OFFENDERS IN NONSTRANGER CASES WERE REARRESTED FOR OTHER CRIMES; MAJOR CHANGES IN COURT PRACTICES MAY BE REQUIRED TO REDUCE THE CONSEQUENCES FOR VICTIMS. IN BROOKLYN, THE ONLY SITE WHERE LATER ARREST RECORDS WERE COMPILED FOR DEFENDANTS IN NONSTRANGER VIOLENCE CASES, THE REARREST RATE WAS LOW FOR CRIMES COMMITTED AGAINST THE ORIGINAL DISPUTANT, BUT 32 PERCENT OF THE DEFENDANTS WERE REARRESTED AT LEAST ONCE, HALF FOR VIOLENT CRIMES. THIS SUGGESTS THAT SOME DEFENDANTS DEVELOP PATTERNS OF VIOLENT BEHAVIOR VENTED BOTH WITHIN THE HOME AMONG FAMILY AND FRIENDS AND OUTSIDE THE HOME AMONG STRANGERS. PREVIOUS CALLS TO POLICE WERE THE BEST PREDICTOR OF CONTINUING PROBLEMS; FOR THESE 'HIGH RISK' CASES, A MORE SUSTAINED FORM OF INTERVENTION MAY BE NEEDED THAN IS NORMALLY RECEIVED THROUGH EITHER MEDIATION OR COURT REFERRAL. A SIGNIFICANT MINORITY OF VICTIMS WAS DISSATISFIED WITH LEGAL OFFICIALS AND COURT PROCESSING. SATISFACTION LEVELS OF VICTIMS PROCESSED BY THE COURT WERE SIMILAR TO THOSE PROCESSED IN MEDIATION. TOPICS FOR FURTHER RESEARCH ARE SUGGESTED; FOOTNOTES AND STUDY DATA ARE PROVIDED. APPENDIXES INCLUDE 20 REFERENCES, STUDY INSTRUMENTS, AND SITE COMPARISON DATA.

Sponsoring Agency: US Department of Justice National Institute of Justice, 633 Indiana Avenue NW, Washington, DC 20531.

Availability: National Institute of Justice National Criminal Justice Reference Service Microfiche Program.

65. **USE OF MEDIATION AND ARBITRATION IN SMALL CLAIMS DISPUTES.** By W. DEJONG, G. A. GOOLKASIAN, and D. MCGILLIS. Abt Associates, Inc, 55 Wheeler Street, Cambridge, MA 02138. 182 p. 1983. NCJ-89106

BASED ON AN EXTENSIVE LITERATURE REVIEW AND ONSITE STUDY OF MEDIATION PROGRAMS IN MAINE, FLORIDA, GEORGIA, AND CALIFORNIA AND OF TWO ARBITRATION PROGRAMS IN NEW YORK, THIS REPORT GIVES JUDGES, COURT ADMINISTRATORS, AND OTHER JUSTICE POLICYMAKERS PRACTICAL INFORMATION AND RECOMMENDATIONS ON DEVELOPING SUCH PROGRAMS. MEDIATION AND ARBITRATION ARE BEING EXPLORED AS AN ALTERNATIVE TO REGULAR TRIAL TO REVITALIZE OVERBURDENED AND INCREASINGLY IMPERSONAL SMALL CLAIMS COURTS. RESEARCHERS FOUND THAT, WHEN PROPERLY IMPLEMENTED, MEDIATION AND ARBITRATION PROGRAMS CAN INCREASE CASE PROCESSING EFFICIENCY, REDUCE COURT COSTS, AND IMPROVE BOTH THE QUALITY OF JUSTICE AND THE COLLECTION OF JUDGMENTS. WHILE MOST JURISDICTIONS CAN ESTABLISH MEDIATION ARBITRATION PROGRAMS WITHOUT NEW LEGISLATION, SUPPORT FROM THE JUDICIARY AND LOCAL BAR IS CRUCIAL FOR SMALL CLAIMS APPLICATIONS, COURT-SPONSORED PROGRAMS (AS OPPOSED TO INDEPENDENT EFFORTS) OFFER SEVERAL ADVANTAGES: LOWER COSTS, GREATER CONVENIENCE TO LITIGANTS, OPPORTUNITY FOR JUDICIAL OVERSIGHT AND IMMEDIATE JUDICIAL REVIEW OF SETTLEMENTS, AND INCREASED FUNDING STABILITY FOR THE PROGRAM. MAJOR STUDY RECOMMENDATIONS INCLUDE USING ATTORNEYS AS HEARING OFFICERS FOR ARBITRATION PROGRAMS, BUT SEEKING MEDIATORS OF VARIED BACKGROUNDS; EXPERIMENTING WITH EVENING

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AND WEEKEND SESSIONS; OFFERING MEDIATION AND ARBITRATION IN SUCCESSION; AND MAKING ALL AWARDS AND SETTLEMENTS ORDERS OF THE COURT. THE REPORT DESCRIBES PROGRAM DEVELOPMENT, STAFF, BUDGET, OPERATIONS, AND CASELOAD FOR EACH OF THE SIX PROGRAMS STUDIED. SURVEY INSTRUMENT, MODEL LEGISLATION, AND PROGRAM FORMS ARE APPENDED; CHAPTER NOTES, DATA TABLES, AND FIGURES ARE PROVIDED.

Supplemental Notes: ISSUES AND PRACTICES SERIES.

Sponsoring Agency: US Department of Justice National Institute of Justice, 633 Indiana Avenue NW, Washington, DC 20531.

Availability: National Institute of Justice National Criminal Justice Reference Service Publication Sales, Box 6000 Department F, Rockville, MD 20850; National Institute of Justice National Criminal Justice Reference Service Microfiche Program; National Institute of Justice National Criminal Justice Reference Service Paper Reproduction Sales, Box 6000 Department F, Rockville, MD 20850.

66. **DISPUTE MEDIATION—EVALUATING THE COURT-SPONSORED MODEL (FROM PRETRIAL SERVICES ANNUAL JOURNAL, VOLUME 5, P 116-133, 1982, ELIZABETH GAYNES, ED.—SEE NCJ-89690).** By P.J. WEBER, P.G. LAEMMLE, R. WEIS, and J. KEMPF. 18 p. 1982. NCJ-89697

THE JEFFERSON COUNTY DISPUTE MEDIATION PROGRAM (KENTUCKY), AN EXPERIMENTAL PROJECT TO PROVIDE AN ALTERNATIVE TO THE FORMAL WARRANT PROCESS IN THE RESOLUTION OF INTERPERSONAL DISPUTES, IS EFFECTIVE AND EFFICIENT. THE TIME TAKEN TO PROCESS CASES RANGES FROM 7 TO 10 DAYS VERSUS 90 DAYS IN THE DISTRICT COURT. THE COST FOR CASES DIVERTED FROM THE FORMAL COURT SYSTEM IS \$13.41. THE PROGRAM'S MAIN GOAL IS TO ASSIST THE OPERATION OF THE DISTRICT COURT IN PROCESSING A LARGE NUMBER OF POTENTIAL CASES WHILE PROVIDING MORE PERSONALIZED SERVICES TO THOSE PERSONS WISHING TO USE THE COURT. THUS, THE PROGRAM PROVIDES TWO DISTINCT FUNCTIONS: (1) INTAKE, INTERVIEWING, AND SCREENING OF CITIZEN COMPLAINTS AND (2) MEDIATION, AN ATTEMPT AT CONFLICT RESOLUTION. CASES ARE CHANNLED INTO MEDIATION FROM INDIVIDUALS SELECTING MEDIATION AFTER DISCUSSION WITH AN INTAKE OFFICER, REFERRALS FROM INDIVIDUAL JUDGES, AND REFERRAL FROM THE BENCH IN THE WARRANT COURT. FOR THE PROGRAM'S FIRST 30 MONTHS, THE STAFF AVERAGED 3.5 INTERVIEWS EACH HOUR (THE INTAKE DESK WAS OPEN 102 HOURS EACH WEEK). IF THE CASES LATER DIVERTED BY JUDGES ARE INCLUDED, 56 PERCENT OF ALL COMPLAINANTS WERE DIVERTED FROM THE FORMAL SYSTEM. OF THE 15,578 CASES SCHEDULED FOR HEARINGS DURING THIS 30-MONTH PERIOD, 53 PERCENT (8,360) WERE ACTUALLY HELD. A TOTAL OF 74 PERCENT OF THESE WERE RESOLVED TO THE SATISFACTION OF BOTH PARTIES. STUDY DATA, DIAGRAMS, AND FOOTNOTES ARE INCLUDED.

Supplemental Notes: AVAILABLE ON MICROFICHE AS NCJ-89690.

Availability: National Institute of Justice National Criminal Justice Reference Service Microfiche Program; National Institute of Justice National Criminal Justice Reference Service Paper Reproduction Sales, Box 6000 Department F, Rockville, MD 20850.

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67. **ARBITRATION ALTERNATIVE—A COMPARATIVE ANALYSIS OF CASE PROCESSING TIME, DISPOSITION MODE, AND COST IN THE AMERICAN ARBITRATION ASSOCIATION AND THE COURTS.** By M. M. KRITZER and A. K. ANDERSON. JUSTICE SYSTEM JOURNAL, V 8, N 1 (SPRING 1983), DISCUSSION 6-19. NCJ-91132

ALTERNATIVES TO TRADITIONAL LITIGATION HAVE BEEN POPULAR TOPICS FOR DISCUSSION AND DEBATE IN RECENT YEARS, THOUGH EXISTING ALTERNATIVES HAVE SELDOM BEEN THE SUBJECT OF EMPIRICAL ENQUIRY. THIS NOTE COMPARES ONE PARTICULAR ALTERNATIVE, ARBITRATION THROUGH THE AMERICAN ARBITRATION ASSOCIATION (AAA) TO CIVIL LITIGATION IN STATE AND FEDERAL COURTS. THE ANALYSIS SHOWS (1) THAT AAA CASES ARE GENERALLY PROCESSED MORE QUICKLY THAN COURT CASES, (2) THAT AAA CASES ARE MORE LIKELY TO BE 'DECIDED' (RATHER THAN 'SETTLED'), AND (3) THAT AAA PROCESSING IS NOT NECESSARILY LESS COSTLY THAN COURT PROCESSING. (AUTHOR ABSTRACT)

Availability: National Institute of Justice National Criminal Justice Reference Service Microfiche Program; National Institute of Justice National Criminal Justice Reference Service Paper Reproduction Sales, Box 6000 Department F, Rockville, MD 20850.

68. **EVALUATION OF THE PILOT PROJECT ON COURT-REFERRED MEDIATION.** US Department of Justice Community Relations Service, Headquarters, Room 640, 550 11th Street, Washington, DC 20530. 61 p. 1981. NCJ-92767

IN SEVEN CASES REFERRED BY FEDERAL DISTRICT COURT JUDGES FOR MEDIATION, THE COMMUNITY RELATIONS SERVICE (CRS) SUCCESSFULLY NEGOTIATED FORMAL AGREEMENTS. EXTENDING THE PROGRAM TO OTHER REGIONS WILL PROVIDE THOSE REGIONS WITH A SUCCESSFUL ALTERNATIVE TO LITIGATION. THIS PILOT PROGRAM SOUGHT TO DISCOVER POTENTIAL BENEFITS OF EXTENDING CRS BEYOND THE SEVEN STATES IN WHICH IT OPERATED AT THE TIME OF THE STUDY. THE METHODOLOGY CONSISTED OF SELECTING REPRESENTATIVE CASES, REFERRING THEM TO CRS, AND EVALUATING THEIR RESULTS THROUGH USE OF A QUESTIONNAIRE GUIDELINE. THE SEVEN CASES INVOLVED RACIAL DISPUTES, SPECIFICALLY OVER REPRESENTATION ON A CITY COUNCIL, PRISON CONDITIONS, AND THE PERSONNEL PRACTICES OF POLICE DEPARTMENTS. MEDIATION BY CRS WAS A SUCCESSFUL ALTERNATIVE TO LITIGATION, ACCELERATING THE RESOLUTION OF THESE DISPUTES. THE SOCIAL BENEFITS OF IMPROVED RELATIONS BETWEEN PARTIES CANNOT BE QUANTIFIED, BUT EVEN WITHOUT THIS CRITICAL BENEFIT ADDED IN, THE CRS MEDIATIONS WERE COST-EFFECTIVE TO ALL PARTIES. APPENDIXES PRESENT SUMMARIES OF THE CASES, A SAMPLING OF PRESS REACTIONS TO CRS INVOLVEMENT, MEDIATORS' REPORTS, AND A DISCUSSION OF THE METHODOLOGY.

Availability: National Institute of Justice National Criminal Justice Reference Service Microfiche Program; National Institute of Justice National Criminal Justice Reference Service Paper Reproduction Sales, Box 6000 Department F, Rockville, MD 20850.

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69. **COMMUNITY ARBITRATION PROJECT—ANNE ARUNDEL COUNTY, MARYLAND.** By C. H. BLEW and R. ROSENBLUM. Abt Associates, Inc, 55 Wheeler Street, Cambridge, MA 02138. 93 p. 1979. NCJ-61012

THE COMMUNITY ARBITRATION PROJECT (CAP) IN ANNE ARUNDEL COUNTY, MD., A VOLUNTARY DIVERSION PROGRAM FOR JUVENILES, IS DESCRIBED, WITH EMPHASIS ON ITS IMPLEMENTATION, COSTS, OPERATIONS IN THE COMMUNITY, AND RESULTS. CAP WAS ESTABLISHED TO REDUCE THE BURDEN ON THE COURTS CREATED BY UNMANAGEABLE CASELOADS AND TO ASSIGN JUVENILES TO TASKS THAT PROVIDE MEANINGFUL SERVICES. ESSENTIAL ELEMENTS OF THE CAP INCLUDE PROMPT CASE PROCESSING (WITHIN 7 WORKING DAYS), A SETTING SUGGESTIVE OF A COURTROOM FOR THE ARBITRATION HEARING, INVOLVEMENT OF VICTIMS IN THE HEARING, ASSURANCE OF DUE PROCESS, USE OF COMMUNITY RESOURCES TO PROVIDE A POSITIVE WORK EXPERIENCE, AND CONSTRUCTIVE DISPOSITION (I.E., RESTITUTION, COUNSELING, AND SPECIAL EDUCATION PROGRAMS). OF THE 1,137 YOUTHS WHO WERE ASSIGNED THROUGH CAP TO COMMUNITY SERVICE OR ANOTHER ALTERNATIVE IN THE PROJECT'S FIRST 2 YEARS OF OPERATION, 85 PERCENT SUCCESSFULLY COMPLETED THEIR ASSIGNMENTS WITHIN THE PRESCRIBED 90-DAY PERIOD. OF MOST IMPORTANCE, CAP CLIENTS DEMONSTRATED SIGNIFICANTLY LOWER RATES OF REPEAT OFFENSES THAN COMPARABLE YOUTH WHO WERE PROCESSED TRADITIONALLY. ACCORDING TO A COMPARISON STUDY, OF THESE TWO GROUPS COUNTY YOUTHS PROCESSED BY CAP IN 1975 HAD A 4.5 PERCENT LOWER RECIDIVISM RATE AND 37 PERCENT FEWER REARRESTS PER CLIENT WITHIN 1 YEAR AFTER INTAKE ARBITRATION. MOREOVER, ONLY 8 PERCENT OF ARBITRATED CASES WERE TURNED OVER FOR PROSECUTION, FREEING THE STATE'S ATTORNEY'S OFFICE FROM CONCENTRATING ON MINOR JUVENILE OFFENSES, AS WELL AS SAVING THE POLICE MUCH TIME AND PAPERWORK INVOLVED IN CHARGING AN OFFENDER AND TESTIFYING IN COURT. COSTS OF CAP ARE ALMOST SOLELY FOR SALARIES: 90 PERCENT OF THE TOTAL BUDGET IN 3 YEARS OF FEDERAL FUNDING WAS FOR THE SALARIES OF SEVEN STAFF MEMBERS. AN ANNE ARUNDEL COUNTY JUVENILE CITATION FORM AND NOTICE AND ADVICE OF RIGHTS (FOR ARBITRATION HEARINGS) ARE AP-

PENDED. FOOTNOTES, FLOW CHARTS, PHOTOGRAPHS, AND TABULAR DATA ARE PROVIDED.

Supplemental Notes: AN EXEMPLARY PROJECT.

Sponsoring Agency: US Department of Justice National Institute of Justice, 633 Indiana Avenue NW, Washington, DC 20531.

Availability: GPO Stock Order No. 027-000-00845-3; National Institute of Justice National Criminal Justice Reference Service Microfilm Program.

70. **FOR TROUBLED YOUTH—HELP, NOT JAIL.** By S. J. SKURIS. *HASTINGS LAW JOURNAL*, V 31, N 2 (NOVEMBER 1979), P 539-561. NCJ-69530

THIS NOTE DESCRIBES ALTERNATIVE METHODS OF DEALING WITH NONCRIMINAL YOUTH AND CONCLUDES THAT STATES SHOULD SUBSTITUTE VOLUNTARY SOCIAL SERVICES AND MEDIATION FOR CURRENT COURT JURISDICTION. AN OVERVIEW OF THE HISTORY AND PHILOSOPHY OF THE JUVENILE COURT SYSTEM PROVIDES A FOUNDATION FOR DISCUSSION OF BOTH PROBLEMS ATTENDANT TO THE COURTS' JURISDICTION OVER THESE STATUS OFFENDERS AND THE TREND TOWARD ELIMINATION OF THIS JURISDICTION. THE WISDOM OF PLACING NONCRIMINAL MINORS IN THE SAME POSTDETENTION FACILITIES WITH MINORS IN CUSTODY FOR CRIMINAL OFFENSES IS QUESTIONED. PARENTS MISUSE STATUS OFFENSE JURISDICTION TO DIVEST THEMSELVES OF AN UNDESIRABLE OR MISBEHAVING CHILD. IN ADDITION, THERE ARE PRACTICAL PROBLEMS CAUSED IN COURT ADMINISTRATION WHEN OVERCROWDED CALENDARS AND TIME PRESSURES IMPEDE THE ADMINISTRATION OF SWIFT AND SURE JUSTICE FOR BOTH CRIMINAL OFFENDERS AND IMPROPERLY REMANDED STATUS OFFENDERS. MOREOVER, STATUS OFFENSE CASES PRESENT ISSUES THAT ARE PECULIARLY ILL SUITED FOR, AND NOT SERVED BY, LEGAL ANALYSIS AND JUDICIAL FACT-FINDING. PREFERRED METHODS FOR DEALING WITH NONCRIMINAL YOUTH INCLUDE COMMUNITY-BASED YOUTH SERVICES, WHICH PROVIDE FAMILY COUNSELING, CRISIS INTERVENTION, LONG-TERM COUNSELING SERVICES, REFERRALS TO OTHER APPROPRIATE COMMUNITY RESOURCES, AND A FOSTER HOME PROGRAM. THIRD-PARTY INTERVENTION, IN THE FORM OF MEDIATION, ARBITRATION, OR RECONCILIATION, IS PREFERRED TO COURT JURISDICTION. WHEN A CHILD IS NOT AMENABLE TO ALTERNATIVE TREATMENT FORMS, THE JUVENILE COURT CAN, AS A LAST RESORT, REASSERT JURISDICTION

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OVER THE CHILD BY USING ITS DEPENDENCY JURISDICTION. EXTENSIVE FOOTNOTES ARE INCLUDED.

- 71. GANG VIOLENCE REDUCTION PROJECT—4TH EVALUATION REPORT, JULY 1979-JUNE 1980.** By D. M. TORRES. California Department of the Youth Authority, Division of Research, 4241 Williamsborough Drive, Suite 216, Sacramento, CA 95823. 62 p. 1981. NCJ-76123

A PROGRAM IS EXAMINED THAT HIRED YOUTH GANG CONSULTANTS FROM LOS ANGELES BARRIOS TO SERVE AS REPRESENTATIVES FOR NEGOTIATING BETWEEN-GANG INCIDENTS AND FEUD MEDIATION AND FOR PLANNING RECREATION ACTIVITIES. THE PROJECT HAD TWO MAJOR OBJECTIVES FOR THE PERIOD UNDER EVALUATION (JULY 1, 1979-JUNE 30, 1980). IT WAS TO MAINTAIN A REDUCED LEVEL OF GANG-RELATED HOMICIDES (FOUR OR FEWER AMONG THE SEVEN GANGS INVOLVED), AND IT WAS TO MAINTAIN A REDUCED LEVEL OF GANG-RELATED VIOLENT INCIDENTS (NOT TO EXCEED 36 AMONG THE PARTICIPANT GANGS). DURING THIS TIME PERIOD, 1 HOMICIDE AND 22 VIOLENT INCIDENTS OCCURRED. ALTHOUGH THE PROJECT WAS EFFECTIVE IN REDUCING INTERGANG RIVALRIES, IT HAD NO EFFECT ON HOMICIDE OR VIOLENT CRIME INCIDENCE WITH PROJECT GANG MEMBERS AS SUSPECTS AND NONPROJECT GANG MEMBERS AS VICTIMS. THE INCIDENCE OF HOMICIDES WITH PROJECT GANG MEMBERS AS SUSPECTS AND NONGANG MEMBERS AS VICTIMS DECLINED AFTER THE PROJECT BEGAN, BUT ROSE SHARPLY DURING THE YEAR BEING EVALUATED. THE PROJECT HAD NO EFFECT ON VIOLENT INTERACTIONS BETWEEN GANG MEMBERS AND NONGANG MEMBERS. INCREASES IN HOMICIDES WERE ATTRIBUTED TO RIVALRIES BETWEEN PROJECT AND NONPROJECT GANGS IN WHICH NONGANG MEMBERS BECAME ACCIDENTAL VICTIMS, AND TO ARGUMENTS OR DISAGREEMENTS BETWEEN GANG AND NONGANG MEMBERS. TO HAVE IMPACT ON INCIDENTS OF THIS NATURE, THE PROJECT WOULD HAVE TO EXPAND ITS WORK TO OTHER BARRIOS FEUDING WITH PROJECT GANGS. GRAPHS AND TABULAR DATA ARE INCLUDED.

Sponsoring Agencies: California Office of Criminal Justice Planning, 9719 Lincoln Village Drive, Sacramento, CA 95827; US Department of Justice National Institute of Justice, 633 Indiana Avenue NW, Washington, DC 20531.

- 72. ALTERNATIVES TO JUVENILE JUSTICE FOR COUNTY GOVERNMENTS, VOLUME 1.** By C. RICHARDSON. National Association of Counties Research, Inc., 1735 New York Avenue NW, Washington, DC 20006. 32 p. 1980. NCJ-76557

PREPARED FOR COUNTY GOVERNMENTS, THIS GUIDE DESCRIBES COMMUNITY-BASED ALTERNATIVES TO INCARCERATION FOR JUVENILE OFFENDERS, INCLUDING VOLUNTEER SERVICES, MEDIATION, GROUP HOMES, ALTERNATIVES EDUCATION, AND RESTITUTION. FOLLOWING A SUMMARY OF ADVANTAGES OFFERED BY ALTERNATIVES TO FORMAL COURT ADJUDICATION, THE BOOKLET DISCUSSES DECISIONS MADE BY YOUTH WORKERS AT THE INTAKE PROCESS. OPTIONS AVAILABLE TO THE INTAKE OFFICER ARE OUTLINED, AND INTERAGENCY COOPERATION IS EMPHASIZED AS ESSENTIAL TO THE DEVELOPMENT OF ALTERNATIVE PROGRAMS. THE USE OF VOLUNTEERS IN COURT DIVERSION AND SCHOOL DELINQUENCY PROGRAMS IS RECOMMENDED, AND FUNDING SOURCES FOR THIS APPROACH ARE DETAILED. THE SECTION ON NONRESIDENTIAL PROGRAMS ADDRESSES INFORMAL PROBATION OR TREATING JUVENILE CASES WITHOUT A FORMAL PETITION, FAMILY CRISIS COUNSELING, AND MEDIATION AND ARBITRATION. THE FOLLOWING RESIDENTIAL PROGRAMS ARE ALSO COVERED: WILDERNESS PROGRAMS, FOSTER CARE, AND GROUP HOMES, WHICH HAVE INCREASED IN RESPONSE TO DISSATISFACTION WITH FOSTER HOME PLACEMENTS. THE REVIEW OF COMMUNITY FACILITIES EMPHASIZES THE EFFECTIVENESS OF VOCATIONAL COUNSELING IN PREVENTING MISCONDUCT AND RE-

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HABILITATING DELINQUENTS AND THEN CONSIDERS EDUCATIONAL PROGRAMS DIRECTED AT CHANGING STUDENTS' BEHAVIOR BY ALTERING THEIR ATTITUDES, SKILLS, OR EMOTIONAL ADJUSTMENT. EXAMPLES OF THIS METHOD INCLUDE REMEDIAL EDUCATION, WORK ASSIGNMENTS, BEHAVIOR CONTRACTS, IN-SCHOOL SUSPENSION, EXTENDED DAY PROGRAMS, AND TUTORIALS. RESTITUTION AND YOUTH SERVICE BUREAUS ARE EXAMINED, AS ARE THE PROBLEMS FACING JUVENILE JUSTICE AGENCIES IN RURAL AREAS. YOUTH ADVOCACY IS ALSO DEFINED, AND SUGGESTIONS FOR SUCCESSFUL ADVOCACY ARE OFFERED.

Sponsoring Agency: US Department of Justice Office of Juvenile Justice and Delinquency Prevention, 633 Indiana Avenue, NW, Washington, DC 20531.

Availability: National Institute of Justice National Criminal Justice Reference Service Microfiche Program.

- 73. NATIONAL CONFERENCE ON JUVENILE JUSTICE—8TH.** Teach 'Em Inc., 160 East Illinois St., Chicago, IL 60611; National District Attorneys Association, 708 North Pendleton Street, Alexandria, VA 22314; National Council of Juvenile and Family Court Judges, Box 8978, University of Nevada, Reno, NV 89507. 1981. NCJ-76585

PARTICIPANTS' PRESENTATIONS AT THE EIGHTH NATIONAL CONFERENCE ON JUVENILE JUSTICE (1981) ARE COLLECTED ON AUDIOTAPE CASSETTES. DISCUSSIONS INCLUDED THOSE FOCUSING ON THE JUVENILE JUSTICE AMENDMENTS OF 1980 AND FUTURE TRENDS IN JUVENILE JUSTICE, THE DELINQUENCY PREVENTION THROUGH YOUTH SERVICES PROGRAM AND THE EFFECTIVENESS OF THE JUVENILE COURT IN DELINQUENCY PREVENTION, A PROGRAM FOR HELPING LEARNING DISABLED DELINQUENTS AND ANOTHER FOR REDUCING CRIME IN SCHOOLS, AND RECENT NATIONAL ADVISORY COMMITTEE STANDARDS FOR INTERVENTION AND ADJUDICATION. OTHER TALKS ADDRESS RESEARCH INTO THE EFFECTIVENESS OF THE JUVENILE JUSTICE SYSTEM, THE LOS ANGELES COUNTY (CALIFORNIA) INTERCEPT PROGRAM FOR COURT DIVERSIONS, STANDARDS FOR THE SECURE DETENTION OF CHILDREN, AND RECENT DEVELOPMENTS IN THE AREA OF JUVENILE LAW. FURTHER PRESENTATIONS ARE CONCERNED WITH THE USE OF CONTRACTS IN JUVENILE PROBATION, PLEA BARGAINING IN JUVENILE COURT, A STUDY OF INSTITUTIONAL COMMITMENT AND RELEASE PRACTICES IN THE 50 STATES, AND THE ACTIVITIES OF SAN FRANCISCO'S YOUTH LAW CENTER TOWARD THE DEINSTITUTIONALIZATION OF STATUS OFFENDERS AND THE REMOVAL OF CHILDREN FROM ADULT JAILS. ADDITIONAL TOPICS CONSIDERED ARE THE FAILURE-TO-THRIVE SYNDROME AND PSYCHOSOCIAL DWARFISM, MENTALLY RETARDED JUVENILE OFFENDERS, TRIAL TECHNIQUES IN JUVENILE COURT, AND JUVENILE ARBITRATION PROGRAMS. A TABLE OF CONTENTS IS INCLUDED.

Supplemental Notes: THIS IS THE EIGHTH NATIONAL CONFERENCE ON JUVENILE JUSTICE, GROUP II. IT CONSISTS OF FOUR CASSETTES WITH A TOTAL RUNNING TIME OF 326 MINUTES. (RENTAL IS AVAILABLE).

Sponsoring Agencies: National Council of Juvenile and Family Court Judges, Box 8978, University of Nevada, Reno, NV 89507; National District Attorneys Association, 708 North Pendleton Street, Alexandria, VA 22314.

Availability: National Council of Juvenile and Family Court Judges, Box 8978, University of Nevada, Reno, NV 89507. (Audio Cassette)

- 74. STATE OF THE ART SURVEY OF DISPUTE RESOLUTION PROGRAMS INVOLVING JUVENILES.** By E. W. VORENBERG. University of Chicago National Center for Assessment of Alternatives to Juvenile Justice Processing, 969 East 60th Street, Chicago, IL 60637. 72 p. 1981. NCJ-82415

THIS REPORT EXAMINES THE HISTORY AND CURRENT STATE OF THE ART OF THE USE OF ALTERNATIVE DISPUTE

1978 - 1982

RESOLUTIONS FOR JUVENILES TO AVOID TRADITIONAL COURT PROCESSING. TWO FORMS OF DISPUTE RESOLUTION HAVE EVOLVED FOR JUVENILES: (1) PROGRAMS THAT ARE DESIGNED EXCLUSIVELY FOR JUVENILES AND (2) PROGRAMS THAT ARE DESIGNED MAINLY TO HANDLE A LARGE VARIETY OF ADULT CIVIL AND CRIMINAL COMPLAINTS, BUT THAT HEAR SOME JUVENILE CASES AS WELL. THE FIVE CATEGORIES OF PROGRAMS INCLUDE NEIGHBORHOOD JUSTICE CENTERS, WHICH HANDLE BOTH ADULT AND JUVENILE CASES, ARBITRATION PROGRAMS EXCLUSIVELY FOR JUVENILES, COMMUNITY PANELS USING MEDIATION AS A TECHNIQUE IN JUVENILE CASES, CONFERENCE COMMITTEES AND COMMUNITY ACCOUNTABILITY BOARDS, AND PEER COURTS. THESE PROGRAMS APPEAR TO HAVE BEEN INFLUENCED BY THE SCANDINAVIAN CHILD WELFARE BOARDS, THE DIVERSION PROGRAMS DEVELOPED DURING THE 1960'S, THE CHILDREN'S HEARING SYSTEM, WHICH BEGAN IN SCOTLAND IN 1968, THE NONJUDICIAL MINOR DISPUTE CENTERS THAT GREW RAPIDLY IN THE 1970'S, AND THE RECENT FEDERAL INITIATIVE TO DEINSTITUTIONALIZE STATUS OFFENDERS. CASE EXAMPLES AND PROGRAM DESCRIPTIONS ILLUSTRATE PROGRAM CHARACTERISTICS SUCH AS LOCATION, SPONSORING AGENCIES, BUDGETS, FUNDING SOURCES, TECHNIQUES USED, TYPES OF CASES HEARD, CASE REFERRAL SOURCES, AND TYPES OF AGREEMENTS REACHED. MAJOR ISSUES FACING THESE PROGRAMS INCLUDE THEIR COSTS, SOURCES OF FINANCIAL SUPPORTS, THE POTENTIAL EXISTENCE OF COERCION, DUE PROCESS CONCERNS, THE ROLE OF CONFIDENTIALITY, THE INEQUALITY OF THE PARTIES, AND THE INCLUSION OF CASES THAT WOULD NOT HAVE REACHED THE COURTS. THE QUESTION OF WHETHER THESE COMMUNITY DISPUTE SETTLEMENT PROGRAMS PROVIDE AN EFFECTIVE ALTERNATIVE TO FORMAL ADJUDICATION HAS NOT BEEN SATISFACTORILY ANSWERED. JUVENILE ARBITRATION AND MEDIATION PROGRAMS DO SUCCEED IN DIVERTING JUVENILES FROM COURT AND IN PROVIDING CRIME VICTIMS WITH GREATER SATISFACTION. TABLES, 34 REFERENCES, AND APPENDIXES PRESENTING DESCRIPTIONS AND FORMS FROM FLORIDA PROGRAMS AS WELL AS RELATED MATERIALS ARE PROVIDED.

Sponsoring Agency: US Department of Justice Office of Juvenile Justice and Delinquency Prevention, 633 Indiana Avenue, NW, Washington, DC 20531.

Availability: National Institute of Justice National Criminal Justice Reference Service Microfiche Program.

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- 75. RESTITUTION PROGRAMS IN JUVENILE AND FAMILY COURT.** National College of Juvenile Justice, P O Box 8978, University of Nevada, Reno, NV 89507. 1982. NCJ-91403

TAPES OF THE GENERAL SESSIONS AND WORKSHOPS OF A CONFERENCE ON JUVENILE RESTITUTION FOCUS ON SUCH ISSUES AS THE BENEFITS OF MONETARY AND COMMUNITY SERVICE RESTITUTION PROGRAMS FOR JUVENILES, INITIATING STATEWIDE RESTITUTION PROGRAMS, VARIOUS STRUCTURES FOR RESTITUTION PROGRAMS, OBTAINING COMMUNITY SUPPORT, RESTITUTION EVALUATION FINDINGS AND EVALUATION TECHNIQUES, AND LEGAL ISSUES INVOLVED IN THE USE OF RESTITUTION PROGRAMS. IN ADVOCATING RESTITUTION AS A SANCTION FOR JUVENILE OFFENDERS, EMPHASIS IS GIVEN TO THE DEMONSTRATION OF ACCOUNTABILITY FOR HARMFUL BEHAVIOR COMMITTED AS WELL AS THE POSITIVE CONTRIBUTIONS MADE TO VICTIMS AND THE COMMUNITY. THE VARIOUS FORMS OF RESTITUTION PROGRAMS DESCRIBED INCLUDE THOSE ADMINISTERED BY A STATE AGENCY STATEWIDE, THOSE ADMINISTERED BY A PRIVATE COMMUNITY-BASED ORGANIZATION, AND THOSE DEVELOPED AND OPERATED BY COUNTY JUVENILE COURTS. WORKSHOPS COVER SUCH TOPICS AS THE DEVELOPMENT OF REALISTIC PROGRAM PURPOSES AND OBJECTIVES, OBTAINING COMMUNITY SUPPORT FOR RESTITUTION PROGRAMS, AND THE ADVANTAGES AND DISADVANTAGES OF PREADJUDICATION (DIVERSION), POSTADJUDICATION, AND POSTINCARCERATION RESTITUTION PROGRAMS. A GENERAL SESSION PRESENTATION CONSIDERS THE VARIOUS FORMS OF RESTITUTION (MONETARY AND COMMUNITY SERVICE) AND HOW THEY MIGHT BE COMBINED. OTHER WORKSHOPS FOCUS ON PROCEDURES FOR DEVELOPING COMMUNITY SERVICE PROGRAMS, DEVELOPING JOB PLACEMENTS FOR YOUTH PARTICIPATING IN FINANCIAL RESTITUTION, AND HOW TO DEVELOP AN EVALUATION STRUCTURE FOR A RESTITUTION PROGRAM. CLOSING PRESENTATIONS CONSIDER THE DEVELOPMENT OF RESTITUTION PROGRAMS IN GREAT BRITAIN AS COMPARED WITH THEIR USE IN THE UNITED STATES AS WELL AS MAINTAINING RESTITUTION PROGRAMS IN THE 1980'S IN THE MIDST OF GOVERNMENT BUDGET CUTBACKS.

Supplemental Notes: CONSISTS OF 14 AUDIOCASSETTES. CONFERENCE HELD AUGUST 29—SEPTEMBER 1, 1982, LOUISVILLE, KENTUCKY.

Availability: National Council of Juvenile and Family Court Judges, Box 8978, University of Nevada, Reno, NV 89507. (Audio Cassette)

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76. EXTENT AND NATURE OF COLLECTIVE BARGAINING OF COURT EMPLOYEES IN THE STATES. By J. H. WEX. Institute for Court Management, 1624 Market Street, Suite 210, Denver, CO 80202. *JUSTICE SYSTEM JOURNAL*, V 413 (SPRING 1979), P 274-286. NCJ-56958

TO ASSESS THE EXTENT AND NATURE OF COLLECTIVE BARGAINING BY COURT EMPLOYEES IN THE STATES, RESEARCHERS SURVEYED JUDGES, ADMINISTRATORS, AND LABOR OFFICIALS AND EXAMINED A NUMBER OF COURT EMPLOYEE UNION CONTRACTS. QUESTIONNAIRES WERE MAILED TO THE COMBINED MEMBERSHIP OF THE TWO MAJOR NATIONAL ORGANIZATIONS OF COURT ADMINISTRATORS, THE CONFERENCE OF STATE COURT ADMINISTRATORS, AND THE NATIONAL TRIAL COURT ADMINISTRATORS. IN ADDITION, INFORMATION WAS GATHERED THROUGH IN-DEPTH INTERVIEWS IN SEVEN STATES. THE STUDY REVEALED THAT COURT EMPLOYEES IN 17 STATES ARE CURRENTLY ORGANIZED FOR COLLECTIVE BARGAINING. HOWEVER, THERE IS WIDE DISPARITY IN THE EXTENT OF UNIONIZATION, WITH THE FIGURES SHOWING 100 PERCENT AMONG EMPLOYEES IN HAWAII BUT ONLY A VERY SMALL PERCENT OF COURT EMPLOYEES IN NEVADA. THERE IS A VARIED PATTERN AMONG COUNTY COURT SYSTEMS. THE EXTENT OF THE GENERAL LABOR FORCE OF A STATE THAT BELONGS TO A UNION IS AN IMPORTANT INDICATOR OF AN ENVIRONMENT THAT IS CONDUCTIVE TO UNIONIZATION. AN INDEX OF UNIONIZATION, CREATED BY COMBINING THE PERCENTAGE OF PRIVATE SECTOR EMPLOYEES UNIONIZED WITH PERCENTAGE OF STATE AND LOCAL EMPLOYEES UNIONIZED, SHOWS NEW YORK STATE AT THE TOP WITH A SCORE OF 121 AND MISSISSIPPI AT THE BOTTOM WITH A SCORE OF 33. ANOTHER INDICATOR, URBANIZATION, DID APPEAR TO INFLUENCE THE EXTENT OF UNIONIZATION (IN NEW YORK, HAWAII, MICHIGAN, AND NEW JERSEY, WHERE UNIONIZATION IS HEAVIEST, 82.8 PERCENT OF THE POPULATION LIVES IN URBAN AREAS). MANY DIFFERENT JOB CATEGORIES ARE INCLUDED IN COURT BARGAINING UNITS, AND CONTRACTS USUALLY CONTAIN PROVISIONS COVERING SECOND OR PART-TIME JOBS, COURT HOURS, SENIORITY, AND PRODUCTIVITY. IT IS CONCLUDED THAT UNIONIZATION OF COURT EMPLOYEES IS A RESULT OF THE GENERAL GROWTH IN UNIONIZATION IN THE PUBLIC SECTOR AND CAN BE UNDERSTOOD IN THE SAME TERMS AS OTHER PUBLIC

SECTOR UNIONIZATION. REFERENCES AND TABULAR DATA ARE PROVIDED.

Supplemental Notes: PRICE QUOTED IS FOR SINGLE ISSUE.

Availability: Institute for Court Management, 1624 Market Street, Suite 210, Denver, CO 80202; William S. Hein and Company, Inc, 1285 Main Street, Buffalo, NY 14209.

77. COLLECTIVE BARGAINING FOR COURT PERSONNEL IN MASSACHUSETTS. By J. S. BERG. Institute for Court Management, 1624 Market Street, Suite 210, Denver, CO 80202. *JUSTICE SYSTEM JOURNAL*, V 43 (SPRING 1979), P 295-303. NCJ-56960

ALTHOUGH MANY FEARS HAVE ACCOMPANIED MASSACHUSETT'S FIRST COLLECTIVE BARGAINING EFFORTS FOR COURT PERSONNEL, THE PROCESS WILL FORCE THE COURTS TO DEVELOP A SOUND MANAGEMENT STRUCTURE AND ADDRESS ADMINISTRATIVE PROBLEMS. EFFECTIVE JUNE 13, 1977, JUDICIAL EMPLOYEES AT ALL LEVELS WERE GRANTED THE RIGHT TO BARGAIN COLLECTIVELY WITH THEIR EMPLOYER, DEFINED BY STATUTE AS THE CHIEF JUSTICE OF THE SUPREME JUDICIAL COURT. THIS LAW, AN AMENDMENT TO CHAPTER 150E OF THE GENERAL LAWS OF MASSACHUSETTS, HAS BROUGHT INTO FOCUS A NUMBER OF BASIC PROBLEMS—PERSONNEL RULES, COURT FUNDING, AND THE ORGANIZATIONAL STRUCTURE OF THE JUDICIARY. BEFORE THE 1977 AMENDMENT, EMPLOYEES IN THE COURTS WERE ALMOST UNIVERSALLY VIEWED AS COUNTY EMPLOYEES AND WERE UNIONIZED ALONG WITH OTHER EMPLOYEES OF THE COUNTIES. AS EARLY AS 1969, THE MASSACHUSETTS PROBATION ASSOCIATION HAD PETITIONED TO BARGAIN AS A STATE UNIT AND WAS SO RECOGNIZED. NO CONTRACT WAS WRITTEN, HOWEVER, BECAUSE THE COMMITTEE ON PROBATION DID NOT CONSIDER ITSELF AN EMPLOYER AND THE CONTRACT PROCEEDINGS ENDED UP IN LITIGATION. THIS DISPUTE WAS ONE OF THE FACTORS LEADING TO THE PASSAGE OF THE CHAPTER 150E AMENDMENT. THIS AMENDMENT REPRESENTS A UNIFIED STATE-WIDE APPROACH TO MATTERS THAT HAD BEEN CONSIDERED LOCAL AND LARGELY BEYOND THE AUTHORITY OF JUDICIAL LEADERSHIP. ALREADY PERSONNEL POLICIES ARE BEGINNING TO BE SPELLED OUT AND LINES OF AUTHORITY ARE BEING ESTABLISHED. FUNDING OF COURTS HAS ALWAYS TAKEN A BACK SEAT TO THE OTHER BRANCHES OF GOVERNMENT. IT IS FELT THAT UNIONIZATION WILL DRAW ATTENTION TO COURT NEEDS. BETTER MANAGEMENT WILL

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HOPEFULLY RESULT FROM RESOLUTION OF THESE BASIC ISSUES. NOTES AND REFERENCES ARE APPENDED.

78. **COLLECTIVE BARGAINING IN THE JUDICIAL BRANCH—CURRENT LEGAL DEVELOPMENTS.** By D. WEINSTEIN. Institute for Court Management, 1624 Market Street, Suite 210, Denver, CO 80202. *JUSTICE SYSTEM JOURNAL*, V 4 3 (SPRING 1979), P 314-336. NCJ-56962

THE DOCTRINES OF THE SEPARATION OF POWER AND THE INHERENT POWER OF THE COURTS ARE DISCUSSED IN RELATION TO THE RIGHT OF COURT PERSONNEL TO ENGAGE IN COLLECTIVE BARGAINING. LABOR RELATIONS CASES CITED FROM SEVERAL JURISDICTIONS, INCLUDING NEW YORK, MASSACHUSETTS, WASHINGTON, MISSOURI, NEW JERSEY, AND PENNSYLVANIA, REPEAT THIS COMMON THEME: TO WHAT EXTENT CAN THE LEGISLATIVE OR EXECUTIVE BRANCHES INTERFERE WITH OR IMPOSE LIMITS UPON THE JUDICIARY IN REGULATING EMPLOYEE RELATIONS? ALTHOUGH THE JUDICIAL RESPONSE TO UNIONIZATION OF COURT EMPLOYEES, A FAIRLY RECENT DEVELOPMENT IN MOST JURISDICTIONS, HAS RANGED FROM TOTAL ACQUIESCENCE TO TOTAL REJECTION, CASES SHOW THAT A SIMPLE 'YES' OR 'NO' ANSWER TO UNIONS IS INAPPROPRIATE BECAUSE OF THE COMPLEX RELATIONSHIP BETWEEN THE THREE BRANCHES OF GOVERNMENT AND THE FRAGMENTATION OF MOST JUDICIAL SYSTEMS. NO JUDICIAL SYSTEM IS FINANCIALLY INDEPENDENT, AND COURT WORKERS ARE PART OF THE LARGER UNIT OF ALL GOVERNMENT WORKERS. SEVERAL STATES HAVE ADOPTED STATUTES THAT SPECIFICALLY INCLUDE OR EXCLUDE JUDICIAL EMPLOYEES FROM THE APPLICABLE THAT LABOR RELATIONS LAWS (E.G., MASSACHUSETTS AND CONNECTICUT), BUT STATES THAT HAVE NOT DONE THIS MUST RELY ON THE INTERPRETATION OF THE PARTICULAR COLLECTIVE BARGAINING STATUTE BY THE COURTS. IN STATES THAT HAVE NOT YET ENACTED GENERAL COLLECTIVE BARGAINING STATUTES, COURT EMPLOYEE COLLECTIVE BARGAINING IS COMPOUNDED BY THE GENERAL PROBLEMS OF THE SCOPE OF PUBLIC EMPLOYEE NONSTATUTORY BARGAINING RIGHTS. SEVERAL PROBLEMS REMAIN, INCLUDING THE CONSTITUTIONALITY OF THE COLLECTIVE BARGAINING LAW GIVING AN EXECUTIVE AGENCY SOME CONTROL OVER JUDICIAL FUNCTIONING, THE IDENTIFICATION OF THE LEGITIMATE EMPLOYER OF JUDICIAL EMPLOYEES, THE SPECIFICATION OF JUST WHO ARE JUDICIAL EMPLOYEES, AND THE RIGHT OF SUPERVISORS AS APPOINTED OFFICIALS TO BARGAIN. REFERENCES ARE PROVIDED.

Supplemental Notes: PRICE QUOTED IS FOR SINGLE ISSUE.

Availability: Institute for Court Management, 1624 Market Street, Suite 210, Denver, CO 80202; William S. Hein and Company, Inc., 1285 Main Street, Buffalo, NY 14209.

79. **LABOR ARBITRATION AND DISPUTE RESOLUTION.** By J. G. GETMAN. Yale Law Journal, 401a Yale Station, New Haven, CT 06520. *YALE LAW JOURNAL*, V 88, N 5 (APRIL 1979), P 916-949. NCJ-57173

THE NATURE OF LABOR ARBITRATION AND THE TRANSFERABILITY OF THE LABOR ARBITRATION MODEL TO OTHER SITUATIONS ARE DISCUSSED IN THIS LAW JOURNAL ARTICLE. LABOR ARBITRATION IS ADMIRABLE FOR ITS APPARENT ABILITY TO RESOLVE DISPUTES FAIRLY AND IN AN EFFICIENT AND FLEXIBLE MANNER. THIS PERCEPTION HAS LED SOME COMMENTATORS TO BELIEVE ERRONEOUSLY THAT ARBITRATION OFFERS A TECHNIQUE FOR DISPUTE RESOLUTION THAT CAN BE ROUTINELY APPLIED IN ALL SITUATIONS. SUCH A CONCLUSION OVERLOOKS THE IDIOSYNCRATIC NATURE OF LABOR ARBITRATION AND ITS CRUCIAL RELATIONSHIP WITH UNIONIZATION AND COLLECTIVE BARGAINING. IT IS ONLY WHEN UNIONS ARE POWERFUL THAT ARBITRATION IS SUCCESSFUL. ALTHOUGH LABOR ARBITRATION TEACHES LITTLE ABOUT PROCEDURAL INNOVATION, IT

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DOES DEMONSTRATE THE ADVANTAGES OF GIVING PARTIES GREATER CONTROL OVER THE LAW TO BE APPLIED IN A CERTAIN TYPE OF DISPUTE. ARBITRATION IS NOT NECESSARILY INFORMAL OR INEXPENSIVE. PROCEDURES MAY VARY AND, EVEN WHEN HIGHLY FORMAL, THEY SERVE TO LEGITIMIZE THE ADMINISTRATION OF UNIONS. A REALISTIC UNDERSTANDING OF LABOR ARBITRATION IS IMPORTANT BECAUSE IT REMINDS PEOPLE THAT SYSTEMS OF DISPUTE RESOLUTION PLAY ONLY A LIMITED ROLE IN AFFECTING RELATIONSHIPS. POWERFUL ECONOMIC AND SOCIAL FORCES ALSO SHAPE INDUSTRIAL AND UNION EFFORTS. ANY ADOPTION OF COLLECTIVE BARGAINING FORMATS IN PRISONS MUST RECOGNIZE THE OVERRIDING CONCERN FOR SECURITY, AND THE FACT THAT THE PRISONERS' RELATIONSHIP TO INSTITUTIONAL MANAGERS IS NOT ONE OF EQUALITY. NEW FORMS OF ARBITRATION THAT MAY BE DEVELOPED IN PRISONS AND ELSEWHERE MUST USE PROCEDURES APPROPRIATE TO THEIR UNIQUE SITUATIONS. IF THE LABOR MODEL HELPS TO INAUGURATE FLEXIBLE SYSTEMS OF JUSTICE, THEN A VALID PURPOSE IS SERVED. SPECIFIC DISCUSSION CONCERNS THE IMPORTANCE OF UNION ORGANIZATION TO THE SUCCESS OF ARBITRATION AND ALSO CURRENT EXPERIMENTS WITH ARBITRATION IN PRISONS. FOOTNOTES ARE PROVIDED WITH THE TEXT.

80. **POLICE UNIONS IN THE CIVIL SERVICE SETTING.** By J. H. BURPO. Public Administration Service, 1497 Chain Bridge Road, McLean, VA 22101. 43 p. 1979. NCJ-59255

FOCUSING ON THE RELATIONSHIP BETWEEN POLICE UNIONS AND CIVIL SERVICE SYSTEMS, THIS PAPER EXAMINES COLLECTIVE BARGAINING AS AN ALTERNATIVE TO THE CIVIL SERVICE SYSTEM. A STUDY BY THE PUBLIC ADMINISTRATIVE SERVICE REVEALED THAT ALTHOUGH A SUBSTANTIAL MINORITY OF POLICE UNIONS AND PUBLIC ADMINISTRATORS FEEL THAT CIVIL SERVICE SYSTEMS INTERFERE WITH PERSONNEL ADMINISTRATION, MOST SUPPORT THE SYSTEM. UNION ATTEMPTS TO ALTER THE SYSTEM SHOULD REMAIN MINIMAL DUE TO PERCEIVED ADVANTAGES AND THE LACK OF ANY ALTERNATIVE TO THE CIVIL SERVICE SYSTEM. CURRENT INCREASING DEMAND FOR PRODUCTIVE PUBLIC SERVICES POINTS OUT THE NEED TO IMPROVE THE QUALITY AND EFFECTIVENESS OF POLICE SERVICES. NUMEROUS RECOMMENDATIONS FOR IMPROVING HIRING AND PROMOTION PRACTICES AND DISCIPLINARY POLICIES AND PROCEDURES ARE NOTED. SEVERAL REASONS FOR THE FAILURE OF CIVIL SERVICE CHANGES ARE OUTLINED, ALONG WITH A SUGGESTED ALTERNATIVE: UTILIZATION OF THE COLLECTIVE BARGAINING PROCESS FOR MORE PRODUCTIVE METHODS OF HIRING, PROMOTING, AND DISCIPLINING POLICE OFFICERS. A SUCCESSFUL EXAMPLE OF A COLLECTIVE BARGAINING AGREEMENT IN CORPUS CHRISTI, TEX., IS DISCUSSED. AMONG THE CIVIL SERVICE PROVISIONS NEGOTIATED INTO THIS CITY'S POLICE COLLECTIVE BARGAINING AGREEMENT ARE PROMOTION AND DEMOTION OF ASSISTANT CHIEFS AND COMMANDERS, PROBATIONARY PERIODS FOR RECRUITS AND SUPERVISORS, SUSPENSION OF OFFICERS, REDUCTION IN THE POWER OF THE CIVIL SERVICE COMMISSION IN DISCIPLINARY CASES, POWER OF ASSISTANT CHIEFS AND COMMANDERS TO RECOMMEND SUSPENSIONS, AND PROMOTIONS. ADDITIONAL ANALYSES OF THE CORPUS CHRISTI BARGAINING EXPERIENCE ARE EXAMINED. FOOTNOTES ACCOMPANY THE TEXT.

Sponsoring Agency: US Department of Justice National Institute of Justice, 633 Indiana Avenue NW, Washington, DC 20531.

Availability: GPO Stock Order No. 027-000-00859-3; National Institute of Justice National Criminal Justice Reference Service Microfiche Program.

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81. **CONRAIL'S ATTEMPTS TO CONTROL LABOR COSTS AND IMPROVE ITS LABOR PRODUCTIVITY.** US Comptroller General, 441 G Street NW, Washington, DC 20548. 49 p. 1980. NCJ-70092

THE REPORT EXAMINES CONRAIL'S EFFORT TO GAIN BETTER CONTROL OF ITS HIGH LABOR COSTS THROUGH AGREEMENTS WITH LABOR UNIONS WHICH ALTER OUT-MODED OR RESTRICTIVE WORK RULES. IN ORDER TO BECOME FINANCIALLY SELF-SUFFICIENT, CONRAIL MUST REDUCE ITS LABOR EXPENSES, WHICH, IN 1978, AMOUNTED TO 63 PERCENT OF ITS TOTAL REVENUES, COMPARED TO THE RAIL INDUSTRY AVERAGE OF 51 PERCENT. THESE HIGH LABOR COSTS CAN BE ATTRIBUTED TO THE POOR PHYSICAL CONDITION OF ITS EQUIPMENT, A LEGACY OF WEAK MANAGEMENT, AND LABOR AGREEMENTS. THE GENERAL ACCOUNTING OFFICE (GAO) REVIEWED CONRAIL'S ATTEMPTS TO IMPROVE LABOR PRODUCTIVITY AND DISCUSSED THESE PROGRAMS WITH CONRAIL OFFICIALS IN 1979. REPRESENTATIVES OF OTHER RAILROADS WERE ALSO INTERVIEWED TO OBTAIN INFORMATION ON COLLECTIVE BARGAINING IN THE RAILROAD INDUSTRY. CONRAIL'S LABOR COSTS DECLINED SLIGHTLY IN 1978 WHILE PRODUCTIVITY IMPROVED BECAUSE OF NEW COLLECTIVE BARGAINING AGREEMENTS. CONRAIL BELIEVES THAT IT CAN REDUCE LABOR EXPENSES TO 51 PERCENT BY 1983 AND OPERATE WITH 20,000 FEWER EMPLOYEES. WORK RULES ARE AN INDUSTRY-WIDE PROBLEM, AND ALTHOUGH LABOR AND MANAGEMENT CONCEDE THAT CHANGES COULD IMPROVE PRODUCTIVITY, THEY HAVE NOT BEEN ABLE TO AGREE ON HOW TO MAKE THESE CHANGES. THE GOVERNMENT COULD ENCOURAGE MODIFICATIONS THROUGH LEGISLATION, SUCH AS A PROPOSAL FOR LOANS TO RAILROADS THAT COMPENSATE WORKERS SUFFERING FINANCIAL LOSSES DUE TO CHANGES IN WORK RULES OR OPERATING PRACTICES. CONRAIL'S USE OF FEDERAL FUNDS UNDER TITLE V OF THE REGIONAL RAIL REORGANIZATION ACT (TO PAY SEPARATION ALLOWANCES TO WORKERS WHO GAVE UP THEIR JOBS AS A RESULT OF THE AGREEMENT WITH THE UNITED TRANSPORTATION UNION) IS NOT THE USE INTENDED BY CONGRESS, ACCORDING TO GAO. CONRAIL AND THE UNION CONTESTED GAO'S INTERPRETATION, ALTHOUGH THEY AGREED THAT IMPROVED LABOR PRODUCTIVITY IS CRUCIAL TO THE RAILROAD INDUSTRY'S SURVIVAL. THE APPENDICES CONTAIN COMMENTS FROM CONRAIL AND THE DEPARTMENT OF TRANSPORTATION ON GAO'S REVIEW. (AUTHOR ABSTRACT MODIFIED)

Supplemental Notes: REPORT BY THE COMPTROLLER GENERAL.

Availability: US General Accounting Office, Distribution Section, Room 4522, 441 G Street, NW, Washington, DC 20548. Stock Order No. CED-80-61.

82. **CONFLICT AND COOPERATION IN POLICE LABOR RELATIONS—THE PROCEEDINGS OF A SYMPOSIUM ON CANADIAN POLICE LABOR RELATIONS, HELD AT THE CANADIAN POLICE COLLEGE, OTTAWA, CANADA, DECEMBER 4-7, 1978.** B. M. DOWNIE and R. L. JACKSON, Eds. 246 p. 1980. NCJ-70702

THESE PROCEEDINGS OF A 1978 SYMPOSIUM ON CANADIAN POLICE-LABOR RELATIONS FOCUS ON THEIR HISTORY, THE BARGAINING STRUCTURE AND PROCESS, ADMINISTRATION OF THE COLLECTIVE AGREEMENT, DISCIPLINE, AND RELATED ISSUES. PROCEEDINGS INCLUDE BOTH COMMISSIONED PAPERS AND READINGS FROM AMERICAN LITERATURE. THE OPENING PRESENTATION EXAMINES THE UNSTABLE PUBLIC SECTOR ENVIRONMENT AND ITS IMPACT ON ECONOMIC AND NONECONOMIC ISSUES IN POLICE-LABOR RELATIONS. THE NEXT PAPER DISCUSSES THE HISTORY, STRUCTURE, AND CURRENT PROBLEMS OF CANADIAN POLICE BARGAINING, WITH EMPHASIS ON THE VANCOUVER EXPERIENCE. ADDITIONAL PAPERS FOCUS ON THE ARBITRATION PROCESS, NONECONOMIC ISSUES SUCH AS SHIFT ASSIGNMENT, THE STATE'S ROLE IN DISPUTE RESOLUTION, THE ROLE OF

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UNION AND MANAGEMENT IN THE POLICE-LABOR RELATIONS PROCESS, AND THE IMPACT OF DECISIONS REACHED UNDER THE BARGAINING PROCESS ON POLICE MANAGEMENT. FURTHER PRESENTATIONS EXAMINE THE MUNICIPALITY'S VIEW OF POLICE BARGAINING, RIGHTS ARBITRATION, POLICE ASSOCIATIONS' GOALS, EMPLOYER-EMPLOYEE RELATIONSHIPS, AND COMMUNICATIONS. SYMPOSIUM PARTICIPANTS CONCLUDED THAT POLICE UNIONISM IS PERMANENT AND HAS AN IMPRESSIVE SUCCESS RECORD, ALTHOUGH THE WORSENING ECONOMIC CLIMATE MAY PRODUCE NEW TENSIONS IN POLICE-LABOR RELATIONS. METHODS OF IMPROVING COMMUNICATIONS AMONG THE MAJOR SECTORS, SUCH AS THE USE OF JOINT CONSULTATION, ARE SUGGESTED FOR IMPROVING POLICE-LABOR RELATIONS, SINCE STRIKES WILL PROBABLY BECOME INCREASINGLY UNACCEPTABLE BOTH TO THE PARTIES INVOLVED AND TO THE PUBLIC. TABLES, CHARTS, FOOTNOTES, AND AN APPENDIX LISTING SYMPOSIUM PARTICIPANTS ARE INCLUDED.

Availability: Canadian Government Publishing Centre Supply and Services Canada, Hull, Quebec, Canada K1A 0S9. Stock Order No. JS62-35 1980 E.

83. **IMPROVED GRIEVANCE-ARBITRATION SYSTEM—A KEY TO BETTER LABOR RELATIONS IN THE POSTAL SERVICE.** US General Accounting Office General Government Division, 441 G Street NW, Washington, DC 20548. 71 p. 1979. NCJ-73529

THIS REPORT EVALUATES THE GRIEVANCE-ARBITRATION SYSTEM IN THE POSTAL SERVICE AND OFFERS RECOMMENDATIONS TO STRENGTHEN THE POSTAL SERVICE'S MANAGEMENT CONTROL OF GRIEVANCE ACTIVITIES. THE GRIEVANCE-ARBITRATION SYSTEM, ESTABLISHED THROUGH COLLECTIVE BARGAINING, PROVIDES A MECHANISM FOR THE PEACEFUL RESOLUTION OF DISAGREEMENTS BETWEEN MANAGEMENT AND EMPLOYEES OR UNIONS OVER WAGES, HOURS, AND EMPLOYMENT CONDITIONS. THE SYSTEM HAS BECOME CONGESTED WITH GRIEVANCES; AS A RESULT COSTS HAVE BEEN HIGHER THAN NECESSARY. PROGRESS TOWARD MORE EFFECTIVE MANAGEMENT CONTROL OF GRIEVANCES HAS BEEN HAMPERED BY INADEQUATE DOCUMENTATION OF GRIEVANCES, INSUFFICIENT LABOR RELATIONS STAFFING AND A LACK OF STAFF INDEPENDENCE, AND INADEQUATE GRIEVANCE PROCESSING AND LABOR RELATIONS TRAINING. FURTHER PROBLEMS INCLUDE INADEQUATE COMMUNICATION TO LOCAL LEVELS OF INFORMATION REGARDING LABOR RELATIONS AND CONTRACTS, A LACK OF GRIEVANCE MONITORING AT LOCAL FACILITIES, AND A LACK OF LOCAL ACCOUNTABILITY FOR LABOR RELATIONS PROBLEMS. BOTH POSTAL AND UNION OFFICIALS HAVE BEEN WORKING TOWARD THE COMMON GOAL OF A MORE EFFECTIVE LABOR-MANAGEMENT RELATIONSHIP, BUT THE POLITICAL NATURE OF SOME UNIONS AND THE INITIATION OF UNWARRANTED GRIEVANCES HAVE HAMPERED MUTUAL UNDERSTANDING. IT IS RECOMMENDED THAT THE POSTMASTER GENERAL PROVIDE GUIDELINES AND A FORM FOR DATA COLLECTION, STAFF FACILITIES WITH PERSONNEL QUALIFIED TO RESOLVE GRIEVANCES, AND LABOR RELATIONS AND GRIEVANCE PROCESSING TRAINING TO ALL RELEVANT PERSONNEL, AND REQUIRE THAT GRIEVANCE CONSIDERATIONS PROVIDE THE RATIONALE FOR THE DECISION. IN ADDITION, GRIEVANCE PROCESS EVALUATIONS SHOULD BE CONDUCTED, GRIEVANCE CONTROL LOGS SHOULD BE MAINTAINED AT EACH FACILITY, AND MANAGEMENT PERFORMANCE APPRAISALS SHOULD ASSESS THE HANDLING OF GRIEVANCES. AGENCY AND UNION COMMENTS AND LISTS OF CASES AND LABOR RELATIONS TRAIN-

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ING COURSES ARE INCLUDED IN APPENDICES. (AUTHOR ABSTRACT MODIFIED)

Availability: US General Accounting Office, Distribution Section, Room 4522, 441 G Street, NW, Washington, DC 20548. Stock Order No. GGD-80-12. (Microfiche)

84. **STALEMATE—A POLICE COLLECTIVE BARGAINING GAME.** University of Oklahoma Bureau of Government Research, 455 W Lindsey, Rm 304, Norman, OK 73019. 53 p. 1980.

NCJ-73540

THIS MANUAL PRESENTS BACKGROUND INFORMATION, PLAYING RULES, AND MATERIALS FOR THE SIMULATION GAME OF STALEMATE, DESIGNED TO INTRODUCE THE PLAYER TO COLLECTIVE BARGAINING IN THE PUBLIC SECTOR BY ALLOWING INDIVIDUALS TO TAKE PART IN THE NEGOTIATION OF A CONTRACT BETWEEN A MUNICIPALITY AND AN ORGANIZATION REPRESENTING THE POLICE DEPARTMENT. PLAYERS ARE INSTRUCTED TO READ BACKGROUND INFORMATION (E.G., THE NEWSPAPER, A DEMOGRAPHIC ESSAY, DATA ON POLICE AND POLICE CONTRACTS, ETC.) ON THE FICTIONAL TOWN OF MEIERVILLE AND TO SELECT A ROLE TO PLAY DURING THE SIMULATION GAME. THE FIVE TYPES OF ROLES INCLUDE ELECTED OFFICIAL ROLES, ADMINISTRATIVE ROLES, UNION ROLES, MEDIATOR AND ARBITRATOR ROLES, AND SPECIAL INTEREST GROUP ROLES. GAME RULES BRIEFLY DISCUSS VICTORY CONDITIONS, ROLE ANALYSIS, STRATEGY, AND THE SEQUENCE OF PLAY. DOCUMENTS NECESSARY TO THE PLAY ARE PROVIDED, INCLUDING THE EXISTING COLLECTIVE BARGAINING AGREEMENT, THE PREVIOUS YEAR'S BUDGET, AND APPLICABLE STATE STATUTES. SPECIAL FORMS FOR PLAY INCLUDE THE PLAYER SELECTION PREFERENCES, THE ROLE ANALYSIS WORKSHEET, THE BARGAINING WORKSHEET AND BUDGET PROPOSAL, AND THE PRESS RELEASE.

85. **POLICE AT THE BARGAINING TABLE.** By C. A. SALERNO. 237 p. 1981.

NCJ-78260

THIS BOOK DESCRIBES HOW TO NEGOTIATE A POLICE LABOR CONTRACT. IT FULLY DETAILS THE PROCESS OF COLLECTIVE BARGAINING TO PROVIDE BOTH LABOR AND MANAGEMENT WITH THE INFORMATION NEEDED TO SUCCESSFULLY NEGOTIATE THE INTERESTS AND DEMANDS OF BOTH SIDES. THE HISTORY OF POLICE UNIONS IS SUMMARIZED, AND THE RELATIONSHIP OF GROUP DYNAMICS WITHIN LAW ENFORCEMENT AGENCIES TO THE INDIVIDUAL OFFICER'S ATTITUDE TOWARD UNIONIZATION AND COLLECTIVE BARGAINING IS DISCUSSED. THE ADVANTAGES OF UNION AFFILIATION AND COLLECTIVE BARGAINING FOR LAW ENFORCEMENT OFFICERS ARE WEIGHED, AND INFORMATION IS PROVIDED ON THE FRATERNAL ORDER OF POLICE, THE LARGEST GROWING POLICE UNION, AND THE INTERNATIONAL CONFERENCE ON POLICE ASSOCIATIONS, A LOOSE CONFEDERATION OF INDEPENDENT POLICE ORGANIZATIONS. STATE LEGISLATION THAT HAS ENABLED LAW ENFORCEMENT OFFICERS TO ENGAGE IN COLLECTIVE BARGAINING WITH THEIR EMPLOYERS IS EXAMINED. SUMMARIES OF EACH STATE'S BASIC REGULATIONS ON LABOR NEGOTIATIONS ARE PRESENTED IN OUTLINE FORM, COVERING UNIT DETERMINATION, IMPASSE RESOLUTION, STRIKE PROVISIONS, GRIEVANCE PROCEDURES, SCOPE OF BARGAINING, CONTROLLING BODY, AND SPECIAL FEATURES RELATIVE TO INDIVIDUAL STATE LAWS. STEP-BY-STEP PROCEDURES ARE DELINEATED FOR THE PREPARATION FOR NEGOTIATIONS, THE PREPARATION OF DEMANDS, CONTRACT NEGOTIATIONS, AND GRIEVANCE HANDLING. APPROACHES ARE EXPLAINED FOR NEGOTIATING ECONOMIC AND NON-ECONOMIC ISSUES, PRODUCTIVITY ISSUES, AND RETROACTIVE ECONOMIC ISSUES. SUGGESTIONS ARE ALSO MADE FOR PREPARING DISCIPLINARY APPEALS AND RESOLVING CONTRACT-RELATED AND WORK-RELATED DISPUTES. THE POLICE OFFICER'S BILL OF RIGHTS LEGISLATION, PASSED IN

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FLORIDA AND MARYLAND, WHICH DETAILS THE RIGHTS AND PROTECTION OF LAW ENFORCEMENT OFFICERS ACCUSED OF INFRACTION OF POLICY, IS ALSO DISCUSSED. APPENDICES PRESENT SAMPLE CONTRACT CLAUSES, AN OUTLINE OF THE BILL OF RIGHTS STATUTES, AND AN ARTICLE ON THE NEW ORLEANS POLICE STRIKE OF 1979. (AUTHOR ABSTRACT MODIFIED)

Availability: Charles C. Thomas, 2600 South First Street, Springfield, IL 62717.

86. **NO NONSENSE BARGAINING CAN WORK.** By C. R. THAYER, F. SEMELSBERGER, J. ADAMS, and D. J. SALTARELLI. *POLICE CHIEF*, V 48, N 8 (AUGUST 1981), P 68-72.

NCJ-78401

RECENTLY CONCLUDED SUCCESSFUL RENEGOTIATION OF THE WAGE AND BENEFIT CONTRACT BETWEEN THE CITY OF TUSTIN, CALIF., AND ITS POLICE DEPARTMENT ARE REVIEWED BY REPRESENTATIVES OF THE NEGOTIATING PARTIES. THE MUTUALLY SATISFYING AGREEMENTS WERE REACHED THROUGH THE USE OF A CITY NEGOTIATING TEAM CONSISTING OF THE MAYOR AND COUNCIL MEMBERS, WITH STAFF SUPPORT FROM THE DIRECTORS OF FINANCE AND PERSONNEL AND OF THE CHIEF OF POLICE. THE POLICE ASSOCIATION, REPRESENTED BY A TEAM OF ITS MEMBERS AND A PROFESSIONAL LABOR NEGOTIATOR, SUBMITTED A 'NO-NONSENSE' PROPOSAL PRIOR TO THE NEGOTIATIONS. INFORMAL DISCUSSIONS HAD DELINEATED NEGOTIATING PROCEDURES, AND THREE PRELIMINARY SESSIONS WITH THE CHIEF OF POLICE HAD SERVED TO SMOOTH THE WAY FOR THE EVENTUAL, DIGNIFIED AGREEMENT UPON 'REASONABLE' DEMANDS. THE FORMAL NEGOTIATIONS TOOK LESS THAN 2 HOURS AND LEFT BOTH SIDES SATISFIED WITH THE PACKAGE. THE ASSOCIATION ACHIEVED A 12.35 PERCENT PACKAGE, AND THE CITY SAVED THOUSANDS OF DOLLARS IN PROFESSIONAL NEGOTIATOR FEES. POSITIVE COMMENTS ENDORSING THIS NOVEL APPROACH ARE EXPRESSED BY THE PRESIDENT OF THE TUSTIN POLICE EMPLOYEES' ASSOCIATION, THE LABOR NEGOTIATOR, THE CITY MAYOR, AND THE CHIEF OF POLICE. ALL PRAISE THE ADVANTAGES OF FORGOING OUTSIDE NEGOTIATORS, THE REASONABLE FORMULATION OF DEMANDS BY THE ASSOCIATION, AND THE COORDINATING EFFORTS PERFORMED BY THE CHIEF OF POLICE. PHOTOGRAPHS OF THE PARTICIPATING PERSONALITIES ARE INCLUDED.

Availability: National Institute of Justice National Criminal Justice Reference Service Microfiche Program.

87. **COLLECTIVE BARGAINING—PERSPECTIVE FOR THE 1980'S.** By D. J. BELL. *JOURNAL OF POLICE SCIENCE AND ADMINISTRATION*, V 9, N 3 (SEPTEMBER 1981), P 296-305.

NCJ-80103

THIS ARTICLE DISCUSSES COLLECTIVE BARGAINING WITH POLICE UNIONS, INCLUDING THE VIEWS OF BOTH MANAGEMENT AND THE UNIONS. ABOUT ONE-THIRD OF ALL POLICE EMPLOYEES ARE UNIONIZED. POLICE OFFICERS HAVE ELECTED UNION REPRESENTATIVES WHENEVER THEY PERCEIVED THEIR STATUS AS ERODED OR THEIR TRADITIONS AND VALUES AS THREATENED. TO REDUCE FRICTION BETWEEN MANAGEMENT AND UNION EMPLOYEES, THERE MUST BE COMMUNICATION AND PARTICIPATION IN THE DECISIONMAKING PROCESS. A DETERMINATION MUST BE MADE BEFORE CONTRACTUAL AGREEMENTS ARE SIGNED OF THE LONG-RANGE EFFECTS AND COSTS OF THE ITEMS IN THE AGREEMENT. UNIONS HAVE EMPHASIZED THAT THEY SHOULD HAVE A DIRECT VOICE IN THEIR ORGANIZATION'S POLICIES, AS THESE POLICIES DIRECTLY AFFECT THE EMPLOYEES. BY NOT SEEKING IMPROVED FINANCIAL BENEFITS AND EMPLOYMENT CONDITIONS FOR THEIR EMPLOYEES, MANAGEMENT HAS CREATED A LEADERSHIP VACUUM THAT HAS BEEN FILLED BY EMPLOYEE ORGANIZATIONS. ADE-

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QUATELY MANAGED COLLECTIVE BARGAINING PROCESSES CAN ACTUALLY ENHANCE THE MERIT SYSTEM BY REQUIRING AN EXAMINATION OF PERSONNEL POLICIES AND THE ESTABLISHMENT OF GRIEVANCE PROCEDURES TO RESOLVE EMPLOYEE DISSATISFACTIONS. ONE POSSIBLE PROGRAM THAT WILL LEAD TO COMPATIBLE LABOR RELATIONS IS PROVIDING MEMBERS OF EMPLOYEE ORGANIZATIONS A STAKE IN MANAGEMENT AFFAIRS. EVALUATION OF COLLECTIVE BARGAINING IN THE 1970'S INDICATES THAT UNIONS HAVE ATTEMPTED TO REPLACE PROCEDURES FOR CONSULTATION THAT HAD BEEN PREVIOUSLY INFORMAL, TACIT, AND VERBAL WITH PROCEDURES THAT ARE FORMAL, EXPLICIT, AND CONTRACTUAL. FIVE FOOTNOTES AND ABOUT 35 REFERENCES ARE GIVEN.

88. **CRIMINAL JUSTICE HUMAN RESOURCES PLANNING PROJECT, VOLUME 4—AN EXPLORATORY AND DESCRIPTIVE ANALYSIS OF GRIEVANCE PROCEDURES IN LAW ENFORCEMENT COLLECTIVE BARGAINING.** By A. D. SAPP. Sam Houston State University Criminal Justice Center, Huntsville, TX 77340. 133 p. 1980.

NCJ-81918

THIS STUDY ANALYZES THE SCOPE, NATURE, AND PROCEDURES IN GRIEVANCE CLAUSES OF POLICE COLLECTIVE BARGAINING AGREEMENTS TO DETERMINE RELATIONSHIPS BETWEEN TYPES OF GRIEVANCE PROCEDURES AND POLICE UNION AND DEPARTMENT CHARACTERISTICS. A TOTAL OF 289 LAW ENFORCEMENT BARGAINING AGREEMENTS AND THE GRIEVANCE PROCESS IN EACH WERE ANALYZED. THE AGREEMENTS WERE COLLECTED THROUGH A MAIL SURVEY OF 677 LAW ENFORCEMENT AGENCIES THAT YIELDED A RETURN RATE OF 73.6 PERCENT. A TOTAL OF 324 OF THE RESPONDING AGENCIES INDICATED THEIR AGENCY PARTICIPATED IN COLLECTIVE BARGAINING, AND 289 CURRENT COLLECTIVE BARGAINING AGREEMENTS WERE USED IN THE STUDY. TEN VARIABLES ASSOCIATED WITH THE GRIEVANCE PROCESS WERE ANALYZED FOR SIGNIFICANT RELATIONSHIPS AND PERTINENT FACTORS. TYPOLOGIES WERE DEVELOPED TO CATEGORIZE THE GRIEVANCE PROCEDURE AND THE SCOPE OF GRIEVANCE TOPICS. GRIEVANCE SCOPE WAS DIVIDED INTO SIX CATEGORIES BUILT AROUND THE CONCEPTS OF NEGOTIATED ISSUES, ADMINISTRATIVE ACTIONS, AND ADVERSE PERSONNEL ACTIONS. SLIGHTLY OVER ONE-HALF OF THE GRIEVANCE PROCEDURES STUDIED LIMIT GRIEVANCES TO NEGOTIATED ISSUES, WHILE NEARLY ONE-FOURTH PERMIT ALMOST ANY ISSUE TO BE THE SUBJECT OF A FORMAL GRIEVANCE. IN ADDITION TO DISCOVERING RELATIONSHIPS BETWEEN THE THREE VARIABLES ENCOMPASSING THE ATTRIBUTES OF THE GRIEVANCE PROCESS, ALL THREE WERE FOUND TO BE CLOSELY RELATED TO THE VARIABLES OF GEOGRAPHICAL LOCATION, LEAA REGION, AND CENSUS REGION. THE FINDINGS ALSO INDICATE A RELATIONSHIP BETWEEN THE TYPE OF LAW ENFORCEMENT AGENCY (STATE, COUNTY, OR MUNICIPAL), THE TYPE OF LABOR ORGANIZATION, AND GRIEVANCE PROCEDURES. POSSIBLE EXPLANATIONS FOR THE FINDINGS AND RECOMMENDATIONS FOR FUTURE RESEARCH ARE PROVIDED. A BIBLIOGRAPHY CONTAINS ABOUT 60 LISTINGS, AND TABULAR DATA ARE PROVIDED.

Sponsoring Agency: US Department of Justice National Institute of Justice Office of Criminal Justice Education and Training, 633 Indiana Avenue, Washington, DC 20531.

Availability: National Institute of Justice National Criminal Justice Reference Service Microfiche Program.

89. **POLICE AND FIREFIGHTER COLLECTIVE BARGAINING IN FLORIDA.** Florida State University College of Law Center for Employment Relations and Law, Tallahassee, FL 32306. 129 p. 1979.

NCJ-86091

THIS STUDY OUTLINES THE COLLECTIVE BARGAINING EXPERIENCE IN FLORIDA PROTECTIVE SERVICES AS REFLECTED IN POLICE AND FIREFIGHTER CONTRACTS NEGOTIATED FROM 1976-82. THE SAMPLE OF 58 POLICE AND 58 FIRE-

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FIIGHTER AGREEMENTS FORMING THE BASIS FOR ANALYSIS REPRESENTS A CROSS-SECTION OF EMPLOYEE UNIT SIZES, EMPLOYER SIZE, AND GEOGRAPHICAL DISTRIBUTION. THE SURVEY COVERS, STATE, COUNTY, AND MUNICIPAL JURISDICTIONS. APPROXIMATELY TWO-THIRDS OF THE TOTAL NUMBER OF EMPLOYEES IN POLICE AND FIREFIGHTER COLLECTIVE BARGAINING UNITS IN THE STATE ARE COVERED BY THE AGREEMENTS SELECTED FOR THE PROTECTIVE SERVICES STUDY. THE STUDY FOCUSES ON THE MAJOR PROVISIONS, QUOTING REPRESENTATIVE ARTICLES FROM THE AGREEMENTS, CITING APPLICABLE STATUTORY PROVISIONS, AND HIGHLIGHTING DEVELOPMENTAL TRENDS OVER THE STUDY PERIOD. SPECIAL ATTENTION IS GIVEN TO THE FACTORS THAT DISTINGUISH POLICE AND FIREFIGHTER PROVISIONS FROM STANDARD CLAUSES ON THE SUBJECT AREAS IN WHICH THE TWO PROTECTIVE SERVICES GROUPS DIFFER AND THOSE IN WHICH THEY PARALLEL. THE CITED PROVISIONS AND TABULATIONS REFLECT GENERAL PRACTICE IN HANDLING THE SUBJECT AREA IN POLICE AND FIREFIGHTER AGREEMENTS AS UNDERSTOOD FROM THE WRITTEN PROVISIONS. WAGES, HOURS, AND TERMS AND CONDITIONS OF EMPLOYMENT ARE ADDRESSED. A REFERENCE SUMMARY OF STUDY FINDINGS IS APPENDED, AND 193 FOOTNOTES ARE PROVIDED. (AUTHOR SUMMARY MODIFIED)

Supplemental Notes: CERL MONOGRAPH, NUMBER 2 (NOVEMBER 1979).

Availability: Florida State University, College of Law Center for Employment Relations and Law, Tallahassee, FL 32306.

90. **POLICE COLLECTIVE BARGAINING AGREEMENTS—A NATIONAL MANAGEMENT SURVEY (REVISED AND EXPANDED EDITION).** By S. B. RYNECKI and M. J. MORSE. Police Executive Research Forum, 1909 K Street, NW, Suite 400, Washington, DC 20006; National League of Cities, 1301 Pennsylvania Avenue NW, Washington, DC 20004. 90 p. 1981.

NCJ-87047

A SURVEY OF 140 POLICE COLLECTIVE BARGAINING AGREEMENTS FROM MORE THAN 100 JURISDICTIONS NATIONWIDE PROVIDES EXAMPLES OF STATE-OF-THE-ART CONTRACT LANGUAGE FOR 17 KEY ISSUES. THIS ANALYSIS INVESTIGATES IMPLICATIONS FOR MANAGEMENT DECISIONMAKING. THE STUDY CONSIDERS HOW VARIOUS JURISDICTIONS HAVE TRIED TO BALANCE MANAGEMENT AND LABOR INTERESTS IN DELIVERING POLICE SERVICES AND EXAMINES WHETHER THE CONTRACT LANGUAGE FOUND IN ALMOST ALL POLICE COLLECTIVE BARGAINING AGREEMENTS UNDULY LIMITS THE LEGITIMATE PREROGATIVES OF POLICE MANAGERS. THE ANALYSIS INDICATES THE INADEQUACIES OF SOME CLAUSES, THE DANGERS OF OTHERS, AND THE MERITS OF MORE PREFERABLE LANGUAGE. FOR IMPORTANT SUBJECTS, VARIATIONS IN CLAUSES ARE RANK-ORDERED BY PREFERENCE. THE CLAUSES STUDIED ADDRESS MANAGEMENT RIGHTS, MAINTENANCE OF STANDARDS, GRIEVANCE PROCEDURES, DISCIPLINE AND THE POLICE OFFICER'S BILL OF RIGHTS, CIVIL SERVICE AND THIRD-PARTY ENTITIES, STAFFING REQUIREMENTS, REDUCTIONS IN FORCE, SENIORITY, TRANSFERS AND ASSIGNMENTS, SICK LEAVE, COST-OF-LIVING ADJUSTMENTS, AND EDUCATION AND TRAINING. THE STUDY ALSO LOOKS AT CLAUSES FOR SUBCONTRACTING AND INVESTIGATES NO-STRIKE, ZIPPER (STATING THAT THE EXECUTED AGREEMENT IS THE SOLE AGREEMENT BETWEEN PARTIES), AND DURATION AND REOPENER CLAUSES. CASE CITATIONS AND ABOUT 60 REFERENCES ARE PROVIDED. IN ADDITION, A CHART PROVIDES INFORMATION ON KEY CLAUSES FOR ALL JURISDICTIONS STUDIED.

Availability: Police Executive Research Forum, 1909 K Street, NW, Suite 400, Washington, DC 20006.

91. **STUDY OF POLICE MANAGEMENT LABOR RELATIONS IN LOS ANGELES COUNTY—FINAL REPORT.** By W. C. LEWIS, T. C. ESENSTEN, K. L. FRANCIS, S. WARD, and J. CHAPMAN. Ross, Lewis and Associates, 53 East Huntington Drive, Arcadia, CA 91006. 12 p. 1982. NCJ-87822

THIS SYNOPSIS OF A 1980-81 ANALYSIS OF POLICE MANAGEMENT-LABOR RELATIONS IN LOS ANGELES COUNTY, CALIF., FOCUSES ON RECOMMENDATIONS TO FACILITATE NEGOTIATIONS, IMPROVE MANAGEMENT UNITY AS WELL AS RELATIONS WITH EMPLOYEES, AND CLARIFY THE ROLES OF THE POLICE CHIEF AND CITY COUNCIL. RECOMMENDATIONS FIRST ADDRESS THE NEGOTIATING PROCESS, NOTING THAT BOTH THE CITY AND THE POLICE ASSOCIATION NEED TO DEVELOP LONG-TERM GOALS REGARDING WAGES, BENEFITS, AND PRODUCTIVITY LEVELS AND SHOULD ENGAGE IN THOROUGH PRENEGOTIATION PLANNING. SECOND, CITY MANAGEMENT PERSONS—THE COUNCIL, CITY MANAGER, POLICE CHIEF, AND PERSONNEL DIRECTOR—MUST ACCEPT COLLECTIVE RESPONSIBILITY FOR POLICE MANAGEMENT-LABOR RELATIONS AND FUNCTION AS A SINGLE UNIT. POLICE MANAGERS SHOULD RECOGNIZE THE IMPORTANCE OF EMPLOYEE INVOLVEMENT IN POLICY FORMULATION AND CREATE BOTH FORMAL AND INFORMAL MECHANISMS TO MEET REGULARLY WITH THE ASSOCIATION. THE CHIEF MUST BE A VISIBLE AND ACTIVE PART OF THE MANAGEMENT TEAM AND ASSUME AN ACTIVE ROLE IN MAINTAINING GOOD RELATIONS WITH THE POLICE ASSOCIATION. ON THE OTHER HAND, THE CITY COUNCIL SHOULD BE INVOLVED IN SETTING LABOR RELATIONS POLICY, BUT REMAIN APART FROM THE NEGOTIATION PROCESS. SUGGESTIONS REGARDING NEGOTIATIONS EMPHASIZE THE NEED FOR A CLEAR UNDERSTANDING OF THE DEFINITIONS, TIME FRAME, AND RULES OF BARGAINING. BOTH PARTIES SHOULD BRING ONLY LEGITIMATE ISSUES TO THE TABLE, SHARING PROPOSALS INFORMALLY PRIOR TO NEGOTIATIONS. FINALLY, THE REPORT RECOMMENDS THAT BOTH THE CITY AND THE POLICE ASSOCIATION DEVELOP THE CAPACITY TO HAVE INTERNAL NEGOTIATORS. DIAGRAMS ARE INCLUDED.

Supplemental Notes: PROJECT NUMBER A4475-1-80.

Sponsoring Agencies: US Department of Justice Law Enforcement Assistance Administration; California Office of Criminal Justice Planning, 9719 Lincoln Village Drive, Sacramento, CA 95827.

92. **COLLECTIVE BARGAINING AND LABOR UNREST (FROM NEW PERSPECTIVES ON PRISONS AND IMPRISONMENT, P 142-159, 1983, BY JAMES B. JACOBS—SEE NCJ-90529).** By J. B. JACOBS and L. ZIMMER. 18 p. 1983. NCJ-90531
- COLLECTIVE BARGAINING IN THE PRISON SYSTEM MAY CREATE OPPORTUNITIES FOR INCREASED COMMUNICATION BETWEEN LABOR AND MANAGEMENT, BUT IT HAS LIMITS, AS SHOWN BY THE HISTORY OF THE 1979 STRIKE BY THE PRISON GUARDS IN NEW YORK STATE. THE STRIKE, WHICH INVOLVED ABOUT 7,000 PRISON GUARDS, WAS THE LARGEST AND MOST DRAMATIC GUARD STRIKE IN AMERICAN HISTORY. IT LASTED 17 DAYS. THE STRIKE AROSE ULTIMATELY FROM STRAINS WITHIN THE CORRECTIONAL GUARD'S ROLE AND FROM AN INCREASING DIVISION OF INTEREST BETWEEN THE RANK AND FILE AND TOP DEPARTMENTAL ADMINISTRATORS. THE STRIKE RESULTED IN A STATE OF EMERGENCY THAT REQUIRED DEPLOYMENT OF THE NATIONAL GUARD. ULTIMATELY, WITH CRUCIAL ASSISTANCE FROM THE COURTS IN THE FORM OF FINANCIAL PENALTIES, STATE OFFICIALS WERE ABLE TO IMPOSE THEIR CONTRACT TERMS. HOWEVER, THE STATE'S USE OF THE ANTISTRIKE PENALTIES MAY HAVE INTENSIFIED THE RESENTMENTS THAT CAUSED THE STRIKE. COLLECTIVE BARGAINING WAS NOT WELL SUITED FOR SOLVING THE EMOTIONAL AND DEEP-SEATED DISCONTENTS THAT CAUSED THE STRIKE. TRYING TO USE COLLECTIVE BARGAINING TO SOLVE ALL

PERSONNEL PROBLEMS MAY UNDERMINE ITS POTENTIAL TO DO WHAT IT CAN DO BEST, WHICH IS TO NEGOTIATE WAGES AND BENEFITS AND SOLVE CLEAR GRIEVANCES OVER CONTRACT ADMINISTRATION. PRISON OFFICIALS NEED TO CREATE NEW MECHANISMS FOR DEALING WITH GUARDS' DISSATISFACTIONS AND SHOULD EMPHASIZE PROFESSIONALISM AMONG CORRECTIONAL STAFF. OTHER ISSUES NEEDING ATTENTION ARE RACIAL TENSIONS AMONG CORRECTIONAL STAFF AND THE NEED FOR MORE CONSTRUCTIVE LABOR-MANAGEMENT RELATIONS. THE UNION MUST ALSO REDUCE WORKER EXPECTATIONS ABOUT THE POTENTIAL OF COLLECTIVE BARGAINING.

Supplemental Notes: REPRINTED AND REVISED FROM INDUSTRIAL AND LABOR RELATIONS REVIEW, V 34, N 4 (JULY 1981), P 531-544.

Availability: Cornell University Press, 124 Roberts Place, Ithaca, NY 14850.

93. **AMERICAN LABOR ARBITRATION—THE EARLY YEARS.** By D. R. NOLAN and R. I. ABRAMS. UNIVERSITY OF FLORIDA LAW REVIEW, V 35, N 3 (SUMMER 1983), P 373-421. NCJ-92198

CONTRARY TO THE COMMON VIEW, LABOR ARBITRATION DEVELOPED IN LARGE PART AS A RESPONSE TO OUTSIDE LEGAL AND POLITICAL FORCES RATHER THAN AS AN AUTONOMOUS EFFORT BY LABOR AND MANAGEMENT TO DEVELOP A PRIVATE DISPUTE RESOLUTION SYSTEM TO KEEP THE LAW OUT OF THEIR AFFAIRS. THE OUTSIDE INFLUENCES WERE EVIDENT AS EARLY AS THE 1870'S AND 1880'S, WHEN MANY STATES ESTABLISHED BOARDS OF ARBITRATION. THE SAME FORCES WERE AT WORK WHEN CONGRESS PASSED LEGISLATION TO PREVENT RAILROAD LABOR DISPUTES, WHEN PRESIDENT ROOSEVELT CREATED THE ANTHRACITE BOARD OF CONCILIATION, AND WHEN BOTH FEDERAL AND STATE GOVERNMENTS MOVED TOWARD COMPULSORY ARBITRATION DURING AND AFTER THE FIRST WORLD WAR. HOWEVER, ONCE PARTIES DECIDED TO USE ARBITRATION THEY HAD GREAT FREEDOM TO STRUCTURE THE FORM, SCOPE, AND JURISDICTION OF THEIR ARBITRATION SYSTEM. MOREOVER, THE LAW SELDOM ENFORCED AND ONLY RARELY INTERFERED WITH AGREEMENTS MADE DURING ARBITRATION. IN THIS SENSE, LABOR ARBITRATION CAN BE SAID TO BE AUTONOMOUS. HOWEVER, A MORE WIDESPREAD MISCONCEPTION IS THAT THE EXISTENCE, WIDESPREAD ACCEPTANCE, AND PRESENT FORM OF LABOR ARBITRATION DATE FROM THE WAR LABOR BOARD OF WORLD WAR II. IN FACT, WELL BEFORE THE START OF THE WAR, LABOR AND MANAGEMENT WERE LARGELY CONVINCED THAT GRIEVANCE ARBITRATION COULD BE MUTUALLY ADVANTAGEOUS. NEARLY THREE-QUARTERS OF ALL COLLECTIVE BARGAINING AGREEMENTS CONTAINED ARBITRATION CLAUSES. THUS, THE EARLY HISTORY OF AMERICAN LABOR ARBITRATION ENDED IN 1941, WHEN ITS MODERN HISTORY BEGAN. A TOTAL OF 256 CASE NOTES ARE PROVIDED.

94. **IMPACT OF COLLECTIVE BARGAINING AND INTEREST ARBITRATION ON POLICING—FINAL REPORT.** By P. FEUILLE, W. HENDRICKS, and J. T. DELANEY. University of Illinois Institute of Labor and Industrial Relations, Champaign, IL 61820. 354 p. 1983. NCJ-92685
- THIS NATIONAL STUDY FOUND THAT, AMONG POLICE DEPARTMENTS AND POLICE UNIONS, COLLECTIVE BARGAINING AND THE AVAILABILITY OF INTEREST ARBITRATION ARE CLEARLY ASSOCIATED WITH HIGHER SALARIES, HIGHER FRINGE BENEFITS, AND MORE FAVORABLE CONTRACTS. THE PRIMARY OBJECT OF THE STUDY WAS TO ISOLATE THE IMPACT COMPULSORY INTEREST ARBITRATION HAS HAD ON POLICE EMPLOYMENT CONDITIONS. THE DATA COLLECTED CAME FROM 1,015 CITIES FOR VARYING YEARS DURING THE 1971 TO 1981 PERIOD. THE RESEARCH TOOK THE FORM OF

A MAIL SURVEY SENT TO ALMOST ALL U.S. CITIES WITH A POPULATION OVER 25,000. COLLECTIVE BARGAINING IS A POSITIVE FACTOR IN POLICE SALARIES, AND IT IS ENHANCED BY THE AVAILABILITY OF ARBITRATION. THE AVAILABILITY OF ARBITRATION HAS AN INDEPENDENT AND POSITIVE ASSOCIATION WITH POLICE SALARIES, BUT IT IS NOT THE CAUSE. CONTROLLING FOR CRITICAL FACTORS, ARBITRATED SALARIES ARE NOT SIGNIFICANTLY DIFFERENT IN ANY YEAR FROM NEGOTIATED SALARIES. ARBITRATION CAUSED VERY LITTLE LEVELING OF SALARIES TO OCCUR. ARBITRATION'S GREATEST BENEFIT FOR POLICE OFFICERS MAY BE THE PROTECTION IT PROVIDES AGAINST MANAGEMENT ATTEMPTS TO HOLD DOWN THE RATE OF INCREASE IN SALARIES. COLLECTIVE BARGAINING HAS A STRONGER ASSOCIATION WITH FRINGE BENEFITS. POLICE UNIONS IN ARBITRATION CITIES ARE ABLE TO OBTAIN BOTH FAVORABLE CONTRACTS AND ADEQUATE SALARIES TO A MUCH GREATER EXTENT THAN POLICE UNIONS IN OTHER CITIES. POLICE BARGAINING CORRELATES WITH MORE PRODUCTIVE OFFICERS AND LESS PRODUCTIVE CIVILIAN EMPLOYEES. ARBITRATION SEEMINGLY PRODUCES THE OPPOSITE EFFECT. STATISTICAL TABLES ARE INCLUDED. APPENDIXES INCLUDE A COPY OF THE MAIL SURVEY, A LISTING OF DATA SOURCES, THE SCORING METHODOLOGY, AND STATISTICAL TABLES. OVER 70 REFERENCES ARE NOTED.

Sponsoring Agency: US Department of Justice National Institute of Justice, 633 Indiana Avenue NW, Washington, DC 20531.

Availability: National Institute of Justice National Criminal Justice Reference Service Microfilm Program; National Institute of Justice National Criminal Justice Reference Service Paper Reproduction Sales, Box 6000 Department F, Rockville, MD 20850.

95. **MANAGER'S GUIDE AND PROGRAM EVALUATION OF ARBITRATION IN THE FEDERAL SECTOR.** By J. C. DAVIS III. 82 p. 1982. Dissertation. NCJ-93380
- ARBITRATION OF DISPUTES BETWEEN LABOR AND MANAGEMENT IN FEDERAL AGENCIES HAS BENEFITS AND COSTS TO BOTH THE TAX-PAYING PUBLIC AND TO THE PUBLIC EMPLOYEES WHO USE THE PROCESS AS PART OF THE COLLECTIVE BARGAINING SYSTEM. ARBITRATION SAFEGUARDS EMPLOYEE INTEREST BY PROVIDING A MEANS OF GRIEVANCE SETTLEMENT THAT USES NEUTRAL THIRD PARTIES. IT ALSO PROMOTES THE PUBLIC INTEREST BY PROVIDING A WAY TO RESOLVE CONFLICT WITHOUT STRIKES OR SERVICE INTERRUPTIONS. GRADUALLY, THE USE OF ARBITRATION HAS INCREASED, INDICATING AN INHIBITION OF THE USE OF THE PREARBITRATION PHASE FOR SETTling GRIEVANCES. NEVERTHELESS, THE PROPORTIONS OF CASES REACHING ARBITRATION AND THOSE SETTLED AT THE PREARBITRATION PHASE HAVE REMAINED ALMOST CONSTANT. HOWEVER, ARBITRATION MAY HAVE ENHANCED FEDERAL EMPLOYEES' CHANCES FOR GREATER WAGE RATES THAN THEIR PRIVATE COUNTERPARTS, SINCE THE WAGES OF PUBLIC EMPLOYEES HAVE INCREASED FASTER THAN THOSE OF PRIVATE EMPLOYEES FROM 1955 TO 1973, AND THIS INCREASE HAS COME AT LESS COST TO THE INDIVIDUAL EMPLOYEE. ALTHOUGH THE EXISTENCE OF ARBITRATION IN THE PUBLIC SECTOR HAS NOT ELIMINATED BARGAINING, COMPULSORY ARBITRATION IS LIKELY TO SUBVERT AND WEAKEN COLLECTIVE BARGAINING IF DISPUTING PARTIES VIEW THAT PROCESS AS THE LEAST COSTLY ALTERNATIVE FOR RESOLVING GRIEVANCE ISSUES. DATA TABLES, FIGURES, DISTRIBUTION LIST, AND 30 REFERENCES ARE PROVIDED.

Supplemental Notes: NAVAL POSTGRADUATE SCHOOL, MONTEREY CALIFORNIA—MASTER'S THESIS.

96. **EMPLOYER'S DILEMMA—THE IMPLICATIONS OF OCCUPATIONAL SAFETY AND HEALTH IN THE ARBITRAL PROCESS—CONFLICTING CONTRACTUAL AND STATUTORY COMMANDS.** By R. M. DURAN. SYRACUSE LAW REVIEW, V 34, N 4 (FALL 1983), P 1067, 1105. NCJ-93493

AN AGGRIEVED EMPLOYEE MAY BRING AN ACTION UNDER THE OCCUPATIONAL SAFETY AND HEALTH ACT (OSH ACT) EVEN IF THE GRIEVANCE PREVIOUSLY HAD BEEN SUBMITTED TO FINAL ARBITRATION. THERE IS NO COMPARABLE RECOURSE FOR THE EMPLOYER ONCE A SAFETY AND HEALTH DISPUTE IS BOUND OVER TO THE ARBITRATION PROCESS. GIVEN THE DEFERENCE THE FEDERAL JUDICIARY ACCORDS AN ARBITRATOR'S DECISION, AN EMPLOYER CURRENTLY MAY OBTAIN JUDICIAL REVIEW OF AN AWARD ONLY ON A SHOWING OF FRAUD, PREJUDICE, LACK OF JURISDICTION, OR VIOLATION OF THE LAW. AN EMPLOYER MUST ALSO COMPLY WITH THE HEALTH AND SAFETY REGULATIONS PROMULGATED BY THE OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION (OSHA) OR BE SUBJECT TO THE ENFORCEMENT PROCEDURES OF THE ACT. ARBITRATORS' AWARDS ARE VIRTUALLY NONREVIEWABLE; WHEN ONE CONFLICTS OR EXCEEDS AN OSHA REGULATION, THE EMPLOYER IS WITHOUT A VIABLE ALTERNATIVE FOR RELIEF FROM THE EXCESSIVE OR CONFLICTING CONTRACTUAL AND STATUTORY COMMANDS. WHILE THE ARBITRATOR CANNOT RENDER A DECISION THAT IS EXPRESSLY CONTRARY TO THE OSH ACT, NEITHER DOES THE ARBITRATOR HAVE TO PERFORM A COST-BENEFIT OR FEASIBILITY ANALYSIS. TO REDUCE THE INEQUITY CREATED BY THE INTERPLAY OF THE ARBITRAL PROCESS AND THE OSH ACT, WHICH GIVES THE EMPLOYEE CONTRACTUAL AND STATUTORY FORUMS IN WHICH TO PURSUE GRIEVANCES, THE FEDERAL JUDICIARY MUST ALSO REVIEW AWARDS WHEN THE REQUEST IS INITIATED BY THE EMPLOYER. WHEN THE EMPLOYER CLAIMS THAT AN ARBITRATOR'S AWARD CONFLICTS WITH OR EXCEEDS OSHA STANDARDS, THE COURT MUST NOT DEFER TO THE AWARD; RATHER, THE EMPLOYER SHOULD BE ALLOWED TO DEMONSTRATE THAT IMPLEMENTATION OF THE AWARD WOULD BE TECHNOLOGICALLY OR ECONOMICALLY INFEASIBLE OR THAT COMPLIANCE WOULD OTHERWISE BE IMPOSSIBLE. THE COURT SHOULD THEN REVIEW THE AWARD. ANOTHER POSSIBLE SAFEGUARD WOULD BE TO AMEND THE COLLECTIVE BARGAINING AGREEMENT TO RESTRICT THE ARBITRATOR AND THE REVIEWING COURT TO THE EXPRESSED OSHA REGULATION. OVER 210 NOTES ACCOMPANY THE TEXT. (AUTHOR SUMMARY MODIFIED)

97. **SIX STATE STUDY OF IMPASSE PROCEDURES IN THE PUBLIC SECTOR.** By P. F. GERHART and J. E. PROTNING. Case Western Reserve University, 10900 Euclid Avenue, Cleveland, OH 44106. 261 p. 1980. NCJ-93686

THIS STUDY EXAMINES THE EFFECTIVENESS OF A VARIETY OF POLICIES AND PROCEDURES USED TO RESOLVE PUBLIC-SECTOR LABOR DISPUTES IN IOWA, MICHIGAN, NEW YORK, PENNSYLVANIA, OHIO, AND WISCONSIN. THE STUDY IS LIMITED TO MUNICIPAL AND SCHOOL DISTRICTS AND FOUR KEY PUBLIC-SECTOR OCCUPATIONS: POLICE, FIRE, SANITATION, AND TEACHERS. THE GENERAL RESEARCH HYPOTHESIS IS THAT IF AN IMPASSE PROCEDURE PROVIDES FOR CERTAIN STATUTORY GUIDES, IS ADMINISTERED ALONG PARTICULAR LINES, AND THE INTERVENOR HAS PARTICULAR QUALITIES AND USES PARTICULAR TACTICS IN A GIVEN DISPUTE, THE DISPUTE OR IMPASSE WILL BE RESOLVED SOONER RATHER THAN LATER. PART OF THE RESEARCH FOCUS IS THE NATURE OF THE STATUTORY GUIDES, THE ADMINISTRATIVE APPROACHES, THE EFFECTIVE TACTICS, AND INTERVENOR QUALITIES. THE KEY ISSUE, HOWEVER, IS WHETHER ANY OF THESE FACTORS MAKE AN IMPACT ON THE TIMING OF DISPUTE SETTLEMENT. USING THE CASE STUDY APPROACH, THE RESEARCHERS IDENTIFIED 22 SCHOOL DISTRICTS AND 32 CITIES FOR INVESTIGATION AS TO THE EFFECTIVENESS OF THE IMPASSE PROCEDURES AVAILABLE TO THE PARTIES. THE INVESTIGATION CONSISTED OF OPEN-ENDED PERSONAL INTERVIEWS WITH 189 PERSONS ON BOTH SIDES OF THE BARGAINING TABLE

LABOR

AS WELL AS MEDIATORS. MEMBERS AND STAFF OF FIVE STATE AGENCIES WERE INTERVIEWED FOR THEIR VIEWS ON THE DIFFICULTY OF IMPASSES, THE VARIATIONS IN IMPASSE PROCEDURE ADMINISTRATION AND ON THE QUALITIES OF THE NEUTRAL INTERVENTION MOST LIKELY TO YIELD SUCCESS. THE STUDY CONCLUDES THAT EFFECTIVE IMPASSE PROCEDURES ARE THOSE THAT PRODUCE PEACEFUL, TIMELY, BILATERAL SETTLEMENTS BY EITHER (1) INCREASING THE 'COSTS' TO THE PARTIES FOR CONTINUED DISAGREEMENT OR (2) ENHANCING RATIONAL BARGAINING BY PROVIDING EXPERTS TO ASSIST THE PARTIES IN DEVELOPING ALTERNATIVE SOLUTIONS TO PROBLEMS. IT APPEARS THAT THE QUALITIES AND BEHAVIORS OF THOSE CHARGED WITH THE ADMINISTRATION OF A STATE'S IMPASSE POLICY ARE MORE INFLUENTIAL THAN THE POLICIES THEMSELVES IN DETERMINING THE EFFECTIVENESS OF THE IMPASSE PROCEDURES. THE APPENDIXES CONTAIN THE SITE SELECTION FORM AND INTERVIEW FORMATS, THE ANALYSIS OF STATE STATUTES, AND THE DATA SUMMARY.

Sponsoring Agency: US Department of Labor Labor Management Services Administration, Washington, DC.

Availability: NTIS. Accession No. PB81-130718. (Microfiche)

98. **STRIKES AND STRIKE PENALTIES IN THE PUBLIC SECTOR.** By C. A. OLSON, J. L. STERN, J. M. NAJITA, and J. M. WEISBERGER. University of Wisconsin Industrial Relations Research Institute, Madison, WI 53706. 513 p. 1981. NCJ-93776

STRIKES BY PUBLIC EMPLOYEES ARE ANALYZED IN THIS STUDY. THE REPORT INCLUDES AN OVERVIEW OF THE ISSUES RAISED BY PUBLIC EMPLOYEE STRIKES, THE DESIGN OF THE STUDY, A HISTORICAL ANALYSIS OF TRENDS IN THE NUMBER OF PUBLIC EMPLOYEE STRIKES, THE THEORETICAL IMPACT OF STRIKE PENALTIES ON STRIKES AND BARGAINING OUTCOMES, AND A LEGAL ANALYSIS OF STRIKE PENALTIES. AN ANALYSIS OF THE STRIKE EXPERIENCE AND POLICIES IN HAWAII, ILLINOIS, INDIANA, NEW YORK, PENNSYLVANIA, OHIO, AND WISCONSIN AND THE RESULTS OF A STATISTICAL ANALYSIS OF STRIKES BY TEACHERS, FIREFIGHTERS, POLICE, AND NONUNIFORMED MUNICIPAL EMPLOYEES IN A SAMPLE OF GOVERNMENTS FROM SIX OF THE SEVEN STATES ARE ALSO COVERED. ALTHOUGH NUMEROUS QUALIFICATIONS APPLY TO EACH FINDING, THE MAJOR CONCLUSIONS FROM THE STUDY ARE (1) STRIKE PENALTIES THAT ARE CONSISTENTLY ENFORCED CAN DECREASE THE NUMBER OF PUBLIC EMPLOYEE STRIKES; (2) INTEREST ARBITRATION CAN ALSO SIGNIFICANTLY REDUCE THE NUMBER OF STRIKES; (3) UNION RECOGNITION DISPUTES RESOLVED THROUGH STATE MANDATED ELECTION PROCEDURES APPEAR TO REDUCE UNION RECOGNITION STRIKES; (4) STATE EDUCATIONAL POLICY THAT DETERMINES HOW SCHOOL AID AND LOST SCHOOL DAYS ARE TO BE HANDLED WHEN TEACHERS STRIKE HAS AT LEAST AS GREAT AN IMPACT ON TEACHER STRIKES AS STRIKE PENALTIES INCLUDED IN COLLECTIVE BARGAINING LEGISLATION; (5) NO LONG LASTING, DETRIMENTAL EFFECTS OF PUBLIC EMPLOYEE STRIKES WERE DETECTED IN THE ANALYSIS OF LEGAL STRIKES IN HAWAII AND PENNSYLVANIA; (6) ALTHOUGH NO EMPIRICAL EVIDENCE WAS PRESENTED, THE THEORETICAL ANALYSIS OF STRIKE PENALTIES SUGGESTS THAT THEY LOWER BARGAINING OUTCOMES BELOW WHAT

TECHNIQUES AND APPLICATIONS

THEY WOULD BE IN THE ABSENCE OF PENALTIES.(NTIS ABSTRACT)

Sponsoring Agency: US Department of Labor Labor Management Services Administration, Washington, DC.

Availability: NTIS. Accession No. PB 81-249914. (Microfiche)

99. **ARBITRATION AND CONFLICT RESOLUTION IN LABOR-MANAGEMENT BARGAINING.** By V. P. CRAWFORD. *AMERICAN ECONOMIC REVIEW*, V 71, N 2 (MAY 1981), P 205-210. NCJ-93981

THIS PAPER CLASSIFIES THE THEORETICAL PROBLEMS THAT MUST BE RESOLVED BEFORE A MORE CAREFUL COMPARISON OF COMPULSORY ARBITRATION SCHEMES IS POSSIBLE, PROVIDES A BRIEF OVERVIEW OF THE WORK THAT HAS BEEN DONE, AND INDICATES WHAT APPEAR TO BE THE MOST PROMISING DIRECTIONS FOR FUTURE RESEARCH. THE STUDY COMPARES COMPULSORY ARBITRATION WITH FINAL-OFFER ARBITRATION. RESEARCH UTILIZED SEPARATE ANALYSES OF THE QUALITY OF ARBITRAL SETTLEMENTS, THE BIAS OF NEGOTIATED SETTLEMENTS, AND THE PROBABILITY OF A NEGOTIATED SETTLEMENT. THE RESULTS SUGGEST STRONGLY THAT FINAL-OFFER ARBITRATION STATUTES INTEND ONE THING, WHILE ACTUAL ARBITRATION BRINGS ABOUT SOMETHING QUITE DIFFERENT. ULTIMATELY, THIS KIND OF ARBITRATION LEADS TO WHAT THE ARBITRATOR WANTS, COMPLETELY INDEPENDENT OF THE PARTIES' PREFERENCES EXCEPT AS THEY AFFECT THE ARBITRATOR'S PREFERENCES. COMPULSORY ARBITRATION DOES NOT YIELD TO THE SAME INCENTIVES TO GO ALONG WITH THE ARBITRATOR'S WISHES. AN EXAMINATION OF MODELING AND THEORETICAL CONSIDERATIONS CONCLUDES THAT TO DESIGN BETTER ARBITRATION SCHEMES, IMPASSES MUST BE AVOIDED AS OFTEN AS POSSIBLE. ONE NOTE AND 12 REFERENCES ARE INCLUDED.

Sponsoring Agency: National Science Foundation, 1800 G Street, NW, Washington, DC 20550.

100. **JOINT LABOR-MANAGEMENT COMMITTEES—A FORUM FOR INNOVATIVE DISPUTE RESOLUTION.** By G. B. FRANK. *HOSPITAL AND HEALTH SERVICES ADMINISTRATION*, V 27, N 3 (MAY JUNE 1982), P 119-134. NCJ-94194

THIS PAPER MAINTAINS THAT THE ISSUE OF SEPARATION OF THE FUNCTIONS OF COLLECTIVE BARGAINING FROM JOINT COMMITTEE DELIBERATION HAS BEEN GREATLY OVERSTATED. IN 24 MINNESOTA HOSPITALS, INTERVIEWS WITH PERSONNEL, UNION, AND MEDIATION DIRECTORS FOCUSED ON THE PRESENCE, USE, AND SUBJECT MATTER OF JOINT COMMITTEES WITHIN INDIVIDUAL HOSPITALS. THERE APPEARS TO BE AN ARTIFICIAL DIFFERENTIATION OF ISSUES SUBJECT TO COLLECTIVE BARGAINING AS OPPOSED TO JOINT COMMITTEE ACTION. IN COMPLEX WORK SETTINGS, ORGANIZED PROFESSIONALS WILL STRONGLY RESIST ATTEMPTS TO NARROWLY LIMIT THEIR ABILITY TO GAIN INPUT INTO DECISIONS THAT AFFECT BOTH THE QUALITY OF WORK LIFE AND THE CONTRACTUAL RELATIONSHIP BETWEEN THE EMPLOYEE ORGANIZATION AND MANAGEMENT. JOINT COMMITTEE FORMATION MAY FULFILL THE REQUIREMENTS FOR SUCCESSFUL ORGANIZATION INNOVATION. THE LEGITIMACY OF JOINT COMMITTEE ACTION AS AN EXTENSION OF COLLECTIVE BARGAINING ACTIVITIES MUST DERIVE FROM THE PARTIES' ACCEPTANCE OF THE DESIRABILITY OF DEVELOPING AS MANY AVENUES OF COMMUNICATION AS POSSIBLE. A TOTAL OF 33 REFERENCES ARE INCLUDED.

LEGAL ISSUES

101. **DISPUTE RESOLUTION ACT—AMENDMENT.** American Bar Association Division of Public Service Activities, 1800 M Street NW, Washington, DC 20036. 32 p. 1979. NCJ-65827

INCLUDED IN THIS S. 423 AMENDMENT CITED AS THE DISPUTE RESOLUTION ACT ARE FINDINGS AND PURPOSE OF THE ACT, DEFINITION OF KEY TERMS, CRITERIA FOR DISPUTE RESOLUTION MECHANISMS, AND ESTABLISHMENT OF A PROGRAM. THE PURPOSE OF THE ACT IS TO HELP THE STATES AND OTHER INTERESTED PARTIES PROVIDE CONVENIENT ACCESS TO DISPUTE RESOLUTION MECHANISMS FOR ALL PERSONS. THESE MECHANISMS SHOULD BE EFFECTIVE, FAIR, INEXPENSIVE, AND EXPEDITIOUS. IN ADDITION, GRANT RECIPIENTS OF FINANCIAL ASSISTANCE RECEIVED UNDER THE ACT SHOULD BE ABLE TO DEMONSTRATE THAT THE DISPUTE RESOLUTION MECHANISM PROVIDES ASSISTANCE, RESOLVES DISPUTES AT TIMES AND LOCATIONS CONVENIENT FOR THE PEOPLE SERVED, ASSISTS PERSONS LIMITED BY LANGUAGE BARRIERS OR OTHER DISABILITIES, AND PROVIDES FAIR AND REASONABLE PROCEDURES. INFORMATION DISSEMINATION, CONSULTATION WITH OTHER GOVERNMENTAL AGENCIES, AND PROGRAM PROCEDURES FOR MAKING THE MECHANISMS MORE ACCESSIBLE ARE ALSO REQUIRED. STATES ARE ENCOURAGED TO DEVELOP THESE DISPUTE MECHANISMS AND TO TELL PEOPLE ABOUT THEM. THE ACT ALSO PROVIDES FOR THE ESTABLISHMENT OF A DISPUTE RESOLUTION PROGRAM IN THE DEPARTMENT OF JUSTICE, INCLUDING A DISPUTE RESOLUTION RESOURCE CENTER AND ADVISORY BOARD; FINANCIAL ASSISTANCE OR GRANTS FOR IMPROVING EXISTING DISPUTE RESOLUTION MECHANISMS OR ESTABLISHING NEW ONES; RECORDKEEPING REQUIREMENTS FOR GRANT RECIPIENTS; AND AUTHORIZATION OF APPROPRIATIONS. VOTING ROSTERS AND MEMORANDA ON THE DISPUTE RESOLUTION ACT ARE INCLUDED.

Availability: National Institute of Justice National Criminal Justice Reference Service Microfiche Program.

102. **NINETEEN EIGHTY DISPUTE RESOLUTION ACT.** By P. NEJLSKI. American Bar Association Press, 1155 East 60th Street, Chicago, IL 60637. *JUDGES' JOURNAL*, V 19, N 1 (WINTER 1980), P 33-35, 44-45. NCJ-65884

THE NEW DISPUTE RESOLUTION ACT OF 1980 OFFERS JUDGES AND LAWYERS A UNIQUE OPPORTUNITY TO SHARE THEIR EXPERTISE WITH OTHERS TO JOINTLY DEVELOP INNOVATIONS IN DISPUTE RESOLUTION. THE PASSAGE OF THE 1980 DISPUTE RESOLUTION ACT REFLECTED THE INTER-

ESTS OF DIVERSE CONSTITUENCIES WHO SOUGHT TO IMPROVE THE RESOLUTION OF SO-CALLED MINOR OR ECONOMICALLY SMALL DISPUTES. IT PROVIDES \$1 MILLION ANNUALLY FOR 5 YEARS TO CREATE A CLEARINGHOUSE TO DEVELOP NEW INFORMATION, COLLECT EXISTING STUDIES, AND SERVE AS A RESOURCE TO INDIVIDUALS AND PUBLIC OFFICIALS INVOLVED IN DISPUTE RESOLUTION. AN ADDITIONAL \$10 MILLION WILL BE PROVIDED ANNUALLY TO FUND EXPERIMENTS AT THE STATE AND LOCAL LEVELS. STRONG SUPPORT FOR THE ACT CAME FROM PRACTITIONERS, ACADEMICS, COURT SYSTEMS REPRESENTATIVES, COURT ALTERNATIVES DIRECTORS, THE OFFICE OF CONSUMER AFFAIRS OF THE WHITE HOUSE, AND THE DEPARTMENT OF JUSTICE. IN THE MEDIATION-BASED NEIGHBORHOOD JUSTICE CENTERS ESTABLISHED BY THE DEPARTMENT OF JUSTICE, THE MOST COMMON CASES ARE INTRAFAMILY, NEIGHBORHOOD, LANDLORD-TENANT, AND MERCHANT-CUSTOMER. MEDIATORS ARE OFTEN OF THE SAME RACIAL OR ETHNIC BACKGROUND AS THE DISPUTANTS, AND HAVE DIVERSE OCCUPATIONS. COMMUNITY JUSTICE PROGRAMS STRESS MEDIATION OR CONCILIATION RATHER THAN AN ADVERSARY PROCESS, AND THEY ARE LESS COSTLY, MORE PRIVATE, AND SOMETIMES MORE INFORMAL THAN THE COURTS. AT THE SAME TIME, COURTS IN THE LAST TWO DECADES HAVE IMPROVED THE SELECTION, REMOVAL, AND DISCIPLINE OF JUDGES AND HAVE ESTABLISHED MORE AND BETTER PROFESSIONAL COURT ADMINISTRATION. QUESTIONS REGARDING THE COST EFFECTIVENESS OF COMMUNITY JUSTICE SYSTEMS AND THE POSSIBLE DANGERS OF COERCION NEED TO BE ANSWERED. ALSO, IT IS IMPORTANT THAT JUDGES AND LAWYERS PLAY SOME ROLE IN THE CONTROL OF THESE CENTERS BY HELPING SET GUIDELINES, MONITORING PERFORMANCE, AND PARTICIPATING IN DECISIONS ABOUT CREATION OR CONTINUANCE. FOOTNOTES ARE PROVIDED.

Supplemental Notes: EARLIER VERSION PRESENTED TO A CONFERENCE ON 'COUNTY GOVERNMENT AND NEIGHBORHOOD JUSTICE' AT WINGSPREAD, RACINE, WISCONSIN, MAY 1979.

103. **ARBITRATION OF SMALL BUSINESS DISPUTES—THE POTENTIAL FOR NEBRASKA.** By F. S. FORBES. American Arbitration Association, 140 West 51 Street, New York, NY 10020. *ARBITRATION JOURNAL*, V 35, N 1 (MARCH 1980), P 17-24. NCJ-66370

LEGAL ISSUES

THROUGH A REVIEW OF NEBRASKA LAW AND SURVEYS OF ATTORNEYS AND SMALL BUSINESSES, THE AUTHOR SUGGESTS MODIFYING THE NEBRASKA ARBITRATION LAW TO MAKE THE PROCEDURE A MORE ATTRACTIVE ALTERNATIVE TO COURT LITIGATION. THE DIFFERENCE BETWEEN SUBMITTING A DISPUTE TO ARBITRATION UNDER THE NEBRASKA STATUTE AND UNDER COMMON LAW IS DESCRIBED. PARTICULAR FEATURES OF THE LAW, INCLUDING THE INITIATION OF ARBITRATION PROCEEDINGS, SUBMISSION TO ARBITRATION OF MATTERS ALREADY IN LITIGATION, RULES OR STATUTES APPLICABLE TO REFEREES, REVOCATION OF SUBMISSION, AND DEFAULT AWARDS ARE EXPLAINED. RESULTS OF A 1978 SURVEY ARE DISCUSSED IN WHICH A SAMPLE OF 766 SMALL BUSINESSES WAS DRAWN FROM THE DIRECTORY OF NEBRASKA SMALL BUSINESSES. AN 18-PERCENT RESPONSE RATE WAS RECEIVED TO A LETTER ASKING ABOUT THE PAST USE OF ARBITRATION AS A METHOD OF DISPUTE RESOLUTION AND ABOUT ATTITUDES TOWARD ITS FUTURE USE. RURAL AREAS ACCOUNTED FOR 36 PERCENT OF RESPONSES AND URBAN AREAS 64 PERCENT. A TOTAL OF 21 PERCENT HAD BEEN INVOLVED IN SOME FORM OF ARBITRATION, LARGELY LABOR DISPUTES. RESPONDENTS DID NOT USE ARBITRATION BECAUSE THEY EITHER FELT THERE WAS NO NEED TO USE IT OR WERE UNAWARE OF THE METHOD AS A PRACTICAL ALTERNATIVE. HOWEVER, 68 PERCENT INDICATED A WILLINGNESS TO SERVE ON A CITIZEN'S ARBITRATION PANEL APPROXIMATELY 95 PERCENT OF THE RESPONDENTS STATED THEY DID NOT BELIEVE THAT ONLY ATTORNEYS SHOULD SERVE AS ARBITRATORS. IN ANOTHER RANDOM SURVEY OF 232 NEBRASKA LAWYERS WITH A RESPONSE RATE OF 29 PERCENT, 62 PERCENT SAID THEY DID NOT AGREE WITH THE LAW (I.E., THEY THOUGHT AGREEMENTS TO ARBITRATE FUTURE DISPUTES SHOULD BE ENFORCEABLE). THE ARTICLE SUGGESTS THAT LEGISLATIVE AND POSSIBLY CONSTITUTIONAL CHANGES MAY BE NECESSARY. LEGISLATIVE AMENDMENT OF THE PRESENT ARBITRATION STATUTE, CONSISTENT WITH THE UNIFORM ARBITRATION ACT, FOR THE ENFORCEABILITY OF SUCH AGREEMENTS, IS SEEN AS THE BEST APPROACH. FOOTNOTES ARE PROVIDED.

Sponsoring Agency: Small Business Administration, 1441 L Street, NW, Washington, DC.

104. **FEDERAL MAGISTRATES ACT OF 1979, S 237 (HEARING BEFORE THE SUBCOMMITTEE ON IMPROVEMENTS IN JUDICIAL MACHINERY, 96TH CONGRESS, 1ST SESSION, MARCH 30, 1979).** US Congress Senate Subcommittee on Improvements in Judicial Machinery, Washington, DC 20510. 134 p. 1979. NCJ-66896
- CONGRESSIONAL TESTIMONY ON LEGISLATION THAT WOULD EXPAND THE CIVIL AND CRIMINAL JURISDICTION OF FEDERAL MAGISTRATES IS RECORDED. THE TESTIMONY CONCERNS THE MAGISTRATES ACT OF 1979, PART OF A LEGISLATIVE PACKAGE DESIGNED TO IMPROVE ACCESS TO THE FEDERAL COURTS. THE ACT WOULD ALLOW CIVIL CASES AND MINOR CRIMINAL CASES TO BE TRIED BEFORE A MAGISTRATE, WITH THE CONSENT OF THE PARTIES INVOLVED. TESTIMONY IS PRESENTED BY DISTRICT COURT JUDGES, MAGISTRATES, LAW PROFESSORS, A STATE SUPREME COURT JUSTICE, AND OTHER WITNESSES, WHO ASSESS THE STRENGTHS AND WEAKNESSES OF THE BILL. SOME OF THE WITNESSES ALSO EXPRESS VIEWS ON ANOTHER COMPONENT OF THE LEGISLATIVE PACKAGE WHICH WOULD ENABLE FEDERAL COURT JUDGES TO REQUIRE LITIGANTS TO SUBMIT THEIR CASES TO OUT-OF-COURT ARBITRATION. IN ADDITION TO THE RECORD OF TESTIMONY, THE REPORT ALSO INCLUDES A COPY OF THE MAGISTRATES ACT AND AN EVALUATION OF A PILOT ARBITRATION PROJECT. TABULAR DATA ARE INCLUDED.

Availability: National Institute of Justice National Criminal Justice Reference Service Microfiche Program.

TECHNIQUES AND APPLICATIONS

105. **CALIFORNIA RENT-A-JUDGE EXPERIMENT—CONSTITUTIONAL AND POLICY CONSIDERATIONS OF PAY-AS-YOU-GO COURTS.** HARVARD LAW REVIEW, V 94, N 7 (MAY 1981), P 1592-1615. NCJ-77917

THE USE OF REFEREES, AS PRESENTED IN ONE CALIFORNIA STATUTE, HAS SEVERAL CONSTITUTIONAL AND INSTITUTIONAL PROBLEMS THAT MAKE IT AN UNSATISFACTORY SOLUTION TO THE PROBLEM OF OVERCROWDED DOCKETS AND, HENCE, AN UNSUITABLE MODEL FOR OTHERS TO FOLLOW. IN CALIFORNIA, A REFERENCE PROCEDURE ALLOWS LITIGANTS TO BYPASS THE FORMAL COURT SYSTEM; CASES ARE TRIED BEFORE A REFEREE SELECTED AND PAID BY THE LITIGANTS AND EMPOWERED BY STATUTE TO ENTER DECISIONS HAVING THE FINALITY OF TRIAL COURT JUDGMENTS. ADVANTAGES OF FULL REFERENCE TRIALS INCLUDE SPEED, THE FREEDOM TO SELECT THE REFEREE WHO HAS PARTICULAR EXPERIENCE OR EXPERTISE IN THE SUBJECT MATTER OF THE LITIGATION, THE SECRECY OF PRIVATE HEARINGS, AND THE POTENTIAL TO AVOID THE SORT OF COMPROMISE VERDICT THAT ARBITRATION CAN PRODUCE. FINALLY, REFEREE TRIALS MAY CONTRIBUTE TO A REDUCTION IN THE TOTAL DISPUTE-RESOLUTION COST TO SOCIETY. HOWEVER, TRIALS CONDUCTED BY PRIVATELY PAID JUDGES RAISE ISSUES OF EQUAL PROTECTION AND DUE PROCESS. THE USE OF REFEREES PAID BY THE PARTIES, IN EFFECT, CREATES TWO CLASSES OF LITIGANTS: THE WEALTHY WHO CAN AFFORD THE PRICE OF A REFEREE AND THE POORER WHO CANNOT. MOREOVER, THE USE OF REFEREES MAY HINDER THE FUTURE DEVELOPMENT OF THE LAW TO ALLOW POSSIBLY IMPORTANT PUBLIC ISSUES TO BE LITIGATED IN A COMPLETELY PRIVATE CONTEXT. A CHART PRESENTS THE RANGE OF POSSIBLE REFERENCE PROCEDURES BY STATE; 119 FOOTNOTES ARE INCLUDED.

106. **PROTECTION OF CONFIDENTIALITY IN THE MEDIATION OF MINOR DISPUTES.** By E. P. FRIEDMAN. CAPITAL UNIVERSITY LAW REVIEW, V 11, N 2 (WINTER 1981), P 181-213. NCJ-84075

A RECURRING PROBLEM IN EXISTING MEDIATION PROGRAMS IS THE UNCERTAIN NATURE OF THE CONFIDENTIALITY OF SUCH PROCEEDINGS; LEGISLATION TO PROVIDE FOR CONFIDENTIALITY IN OHIO IS PROPOSED. MEDIATION PROGRAMS FOR THE RESOLUTION OF MINOR CRIMINAL DISPUTES ARE A NEEDED ADDITION TO AN OVERCROWDED COURT SYSTEM. THE NIGHT PROSECUTOR PROGRAM (NPP) OF COLUMBUS, OHIO, SERVES AS A MODEL FOR THE USE OF MEDIATION IN CRIMINAL CASES. THE PROGRAM SUPPLEMENTS THE SYSTEM BY FOCUSING ON UNDERLYING PROBLEMS AS WELL AS THE CRIMINAL INCIDENT IN DISPUTE. HOWEVER, UNLIKE ESTABLISHED MEDICAL MALPRACTICE PANEL PROGRAMS AND DIVORCE MEDIATION PROGRAMS, LITTLE HAS BEEN DONE TO ENSURE CONFIDENTIALITY OF THE RECORDS AND PROCEEDINGS. RELIANCE BY ANALOGY TO LABOR MEDIATION AND THE FEDERAL RULES OF EVIDENCE PROVIDE SOME PROTECTION, BUT MORE OFTEN GOOD RELATIONS WITH THE LOCAL BENCH AND BAR ARE THE PRIMARY MEANS OF ENSURING CONFIDENTIALITY. STATUTORY PROTECTION FOR THE CONFIDENTIALITY OF NPP-TYPE PROGRAMS IS ESSENTIAL FOR OHIO TO PROTECT THE INDIVIDUAL'S CONSTITUTIONAL RIGHTS. KEY ELEMENTS OF THE PROPOSED LEGISLATION ARE CONFIDENTIALITY FOR THE MEDIATION SUBJECT MATTER, THE REQUIREMENT OF WRITTEN CONSENT BY ALL PARTIES, AND THE BROAD SCOPE OF THE DEFINITION OF INFORMATION. A SIMILAR STATUTE IS CURRENTLY IN EFFECT IN NEW YORK, AND ITS PASSAGE IS RECOMMENDED. THE ARTICLE INCLUDES 214 FOOTNOTES.

Availability: National Institute of Justice National Criminal Justice Reference Service Microfiche Program.

1978 - 1982

107. **LEGAL ISSUES ARISING IN MEDIATION—THE BOSTON MUNICIPAL COURT MEDIATION PROGRAM.** By R. E. MCGINNESS and R. J. CINQUEGRANA. Massachusetts Bar Association, One Center Plaza, Boston, MA 02108; Crime and Justice Foundation, 19 Temple Place, Boston, MA 02111. MASSACHUSETTS LAW REVIEW, V 67, N 3 (FALL 1982), P 123-129, 132-136. NCJ-89130

THIS PAPER CONSIDERS DISPUTANTS' CONSTITUTIONAL RIGHTS THAT MAY BE AFFECTED BY THE MEDIATION PROCESS, NONCONSTITUTIONAL ISSUES, PROBLEMS THAT MAY ARISE SUBSEQUENT TO A MEDIATION AGREEMENT, AND ETHICAL CONSIDERATIONS THAT MAY CONFRONT A LAWYER ACTING AS MEDIATOR. VOLUNTARY PARTICIPATION THROUGHOUT THE MEDIATION PROCESS IS NOT ONLY CRUCIAL TO THE EFFECTIVENESS OF THE MEDIATION PROCESS, BUT IS ESSENTIAL TO CONSTITUTE A DISPUTANT'S DEFERRAL OF HIS/HER RIGHT TO JUDICIAL PROCESS WITH ITS ASSOCIATED PROTECTION RIGHTS AND AUTHORITATIVE DISPOSITIONS. ALTHOUGH THE DUE PROCESS GUARANTEES OF THE 14TH AND FIFTH AMENDMENTS GOVERN MANY CHARACTERISTICS OF THE JUDICIAL PROCESS WHEN A PERSON'S 'DUE PROCESS INTEREST' IN LIFE, LIBERTY, OR PROPERTY IS AFFECTED, THE BOSTON MUNICIPAL COURT MEDIATION PROGRAM (BMC) CANNOT BE CONSIDERED A 'STATE ACTION' SUBJECT TO DUE PROCESS REQUIREMENTS, AND FURTHER, NEITHER OF THE DISPUTANTS IS COERCED BY THE MEDIATION PROCESS TO SUFFER ANY HARM THAT MAY NOT BE REMEDIED THROUGH SUBSEQUENT JUDICIAL PROCESS. NONCONSTITUTIONAL LEGAL ISSUES THAT MAY BE INVOLVED IN MEDIATION ARE CONFIDENTIALITY AND STATUTE-OF-LIMITATION CONSIDERATIONS. THE MEDIATION AGREEMENT USED IN THE BMC PROGRAM PROVIDES THAT NO PARTICIPANT IN THE MEDIATION PROCESS WILL REVEAL ANY MEDIATION COMMUNICATION IN ANY SUBSEQUENT PROCEEDING INVOLVING THE SAME SUBJECT MATTER, AND THE PROMPTNESS OF MEDIATION PROCEEDINGS IS SUCH AS TO NOT THREATEN VIOLATION OF ANY STATUTE OF LIMITATIONS SHOULD SUBSEQUENT LITIGATION OR JUDICIAL PROCESSING OF THE MATTER BE BROUGHT. LAWYERS ACTING AS MEDIATORS SHOULD AVOID ANY APPEARANCE OF ADVISING DISPUTANTS IN DRAFTING A MEDIATION AGREEMENT OR BECOMING INVOLVED AS COUNSEL IN ANY SUBSEQUENT COURT ACTION THAT MAY INVOLVE THE DISPUTANTS. THE APPENDIXES CONTAIN THE FORM OF THE BMC AGREEMENT TO PARTICIPATE IN MEDIATION AND DATA ON THE BMC PROGRAM. FIFTY-EIGHT FOOTNOTES ARE PROVIDED.

108. **STATE LEGISLATION ON DISPUTE RESOLUTION.** By L. FREEDMAN and L. RAY. American Bar Association Special Committee on Resolution of Minor Disputes, 1800 M Street, NW, Washington, DC 20036. 164 p. 1982. NCJ-89152

THIS REPORT PRESENTS THE SUBSTANCE AND CURRENT STATUS OF LEGISLATION IN 14 STATES DEALING WITH MEDIATION, ARBITRATION, AND CONCILIATION. THE 14 STATES HAVING PROPOSED AND PENDING BILLS AS WELL AS ENACTED LAWS ON DISPUTE RESOLUTION ARE NEW YORK, CALIFORNIA, COLORADO, FLORIDA, MINNESOTA, OKLAHOMA, TEXAS, HAWAII, DELAWARE, OHIO, IOWA, CONNECTICUT, NORTH CAROLINA, AND MICHIGAN. THROUGH LEGISLATION, THE STATES HAVE GENERALLY ATTEMPTED TO PROVIDE FUNDING FOR THE ESTABLISHMENT OF PROGRAMS AND ONGOING OPERATIONS. NEW YORK HAS APPROPRIATED MORE THAN \$1 MILLION TO DISPUTE RESOLUTION PROGRAMS, AND PROPOSALS IN TEXAS WOULD AUTHORIZE INCREASES IN COURT FEES TO FINANCE THESE PROGRAMS. LEGISLATION HAS ALSO SOUGHT TO RESOLVE LEGAL ISSUES RELATED TO DISPUTE RESOLUTION. CONFIDENTIALITY IS THE PRIORITY ISSUE. NEW YORK'S CONFIDENTIALITY PROVISION SPECIFICALLY PROTECTS THE MEDIATION PROCESS. OTHER PROPOSALS DEAL WITH THE LIABILITY OF MEDIATORS AND THE ENFORCEABILITY OF AGREEMENTS. LEG-

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ISLATION SEEKS THE LEGITIMIZATION OF DISPUTE RESOLUTION MECHANISMS AS WELL. THIS IS OFTEN SOUGHT THROUGH THE INTEGRATION OF MEDIATION PROGRAMS INTO THE LOCAL COMMUNITY OR LEGAL SYSTEM. A CALIFORNIA LAW ESTABLISHES MANDATORY MEDIATION IN THE AREAS OF CHILD CUSTODY AND VISITATION. THE APPENDIX INCLUDES RELEVANT LEGISLATION FROM NEW YORK, CALIFORNIA, COLORADO, FLORIDA, MINNESOTA, OKLAHOMA, TEXAS, DELAWARE, CONNECTICUT, AND NORTH CAROLINA. THE APPENDIX ALSO INCLUDES THE FEDERAL DISPUTE RESOLUTION ACT (P.L. 96-190) AND AN EXAMPLE OF A FOREIGN LAW (NEW SOUTH WALES, AUSTRALIA).

Supplemental Notes: MONOGRAPH SERIES NO. 1.

Availability: American Bar Association Special Committee on Resolution of Minor Disputes, 1800 M Street, NW, Washington, DC 20036.

109. **THREATS TO FAIR TRIAL RIGHTS (FROM JURYWORK—SYSTEMATIC TECHNIQUES—SECOND EDITION, P 12.1-12.11, 1983, BETH BONORA AND ELISSA KRAUSS, ED.—SEE NCJ-90582).** By J. SCHULMAN, N. BUSH, W. GOLDFRANK, and M. GREENFIELD. 11 p. 1983. NCJ-90593

CALLS FOR LAW AND ORDER COMBINED WITH DEMANDS FOR COST CUTTING HAVE ERODED THE U.S. JURY SYSTEM'S ABILITY TO FULFILL ITS TRADITIONAL DEMOCRATIC GOALS, AS EXEMPLIFIED BY SUPREME COURT DECISIONS ALLOWING SIX-PERSON JURIES AND NONUNANIMOUS VERDICTS, THE WITHDRAWAL OF THE RIGHT TO TRIAL BY JURY FOR SOME MISDEMEANORS, MANDATORY ARBITRATION, AND ATTACKS ON LAWYER-CONDUCTED VOIR DIRE. THE ONE EXCEPTION TO THIS TREND IS THE SUPREME COURT'S STRENGTHENING OF THE DEFENDANT'S RIGHT TO A JURY REPRESENTATIVE OF THE COMMUNITY. THE COURT HAS DISTINGUISHED SERIOUS OFFENSES FOR WHICH THERE IS A FEDERAL CONSTITUTIONAL RIGHT TO TRIAL BY JURY AND PETTY OFFENSES FOR WHICH THERE IS NOT. THE COURT HAS DETERMINED THAT A SERIOUS OFFENSE IS ONE WITH A PENALTY OF 6 MONTHS OR MORE INCARCERATION, BUT OTHER FEDERAL COURTS USING FINES AS CRITERIA HAVE RENDERED VARYING DECISIONS. STATE COURTS ARE NOT BOUND BY THESE RULINGS, BUT RELY ON THEIR OWN CONSTITUTIONS, WHICH OFTEN GIVE MORE EXPANSIVE RIGHTS TO TRIAL BY JURY THAN THE FEDERAL CONSTITUTION. THE SUPREME COURT IN WILLIAMS V. FLORIDA HELD THAT THE RIGHT TO TRIAL BY JURY WAS SATISFIED BY A 6-PERSON RATHER THAN A 12-PERSON JURY AND ENUNCIATED STANDARDS TO DETERMINE WHETHER A JURY SIZE IS UNCONSTITUTIONAL. HOWEVER, SMALLER JURIES REDUCE THE LIKELIHOOD OF OBTAINING A CROSS-SECTION OF THE COMMUNITY AND LIMIT THE ROLE PLAYED BY PERSONS IN THE MINORITY. THE COURT HAS ALSO UPHELD NONUNANIMOUS VERDICTS IN CRIMINAL TRIALS, ALTHOUGH THIS PRACTICE PERVERTS THE GIVE-AND-TAKE OF JURY DELIBERATIONS AND MAKES THE DOCTRINE OF REASONABLE DOUBT MEANINGLESS IF A FEW JURORS' DOUBTS CANNOT BE RESOLVED BY THE MAJORITY. COALITIONS OF INDIVIDUALS, LAWYERS' ASSOCIATIONS, AND PUBLIC DEFENDERS MUST DEVELOP MECHANISMS FOR MONITORING LEGISLATION THREATENING JURY RIGHTS AND TESTIFY PERSUASIVELY ON BEHALF OF THE JURY SYSTEM. THE PAPER INCLUDES 30 FOOTNOTES.

Availability: Clark Boardman Company, Ltd, 435 Hudson Street, New York, NY 10014.

110. **LEGAL IMPLICATIONS OF THE MEDIATION ARBITRATION ALTERNATIVE TO CONVENTIONAL CRIMINAL ADJUDICATION (FROM ALTERNATIVES TO LITIGATION AND ADJUDICATION, P 42-58, 1982—SEE NCJ-91480).** By P. RICE. 17 p. 1982. NCJ-91483

THIS DISCUSSION OF SOME OF THE LEGAL IMPLICATIONS OF MEDIATION AND ARBITRATION CONSIDERS THE CONFIDENTIALITY OF MEDIATION AND THE ENFORCEABILITY OF AGREEMENTS.

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DENTIALITY OF COMMUNICATIONS AND RECORDS WITHIN THE PROGRAMS, THE EQUAL PROTECTION IMPLICATIONS OF SCREENING CRITERIA, AND PROCEDURAL DUE PROCESS IMPLICATIONS OF ACTIONS TAKEN WITHIN THE PROGRAMS. MANY STATEMENTS MIGHT BE MADE DURING MEDIATION AND ARBITRATION DISCUSSIONS THAT COULD LATER PROVE EMBARRASSING IF NOT OTHERWISE DAMAGING TO THE PARTIES IN BOTH CIVIL AND CRIMINAL LITIGATION. CONSEQUENTLY, IF THE PARTIES ARE NOT PROTECTED FROM THE USE OF SUCH STATEMENTS, THEY MAY BE DISCOURAGED FROM PARTICIPATING. ALSO, THE RECORDS MAINTAINED BY THE PROGRAM MAY BE REVEALING WITH REGARD TO THE ISSUES EXPLORED AND RESOLVED EITHER BY THE PARTIES OR AN ARBITRATOR. SOME PROTECTION FOR THE ORAL STATEMENTS MADE DURING THE NEGOTIATION SESSIONS MIGHT BE FOUND IN THE COMMON LAW EVIDENTIARY RULE, WHICH GIVES LIMITED PRIVILEGED STATUS TO OFFERS OF COMPROMISE REGARDING WRITTEN

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RECORDS, IN THE ABSENCE OF LEGISLATION MAKING THE RECORDS PRIVILEGED, THE DEGREE TO WHICH THEY WILL BE OPEN TO PUBLIC SCRUTINY WILL TURN ON WHETHER THE PROGRAMS ARE CONSIDERED STATE AGENCIES. IF SCREENING CRITERIA FOR DIVERSION PROGRAMS ARE TO MEET THE CONSTITUTIONAL REQUIREMENT OF EQUAL PROTECTION, EACH SCREENING FACTOR SHOULD HAVE SOME LOGICAL RELATIONSHIP TO THE FURTHERANCE OF THE STATED GOALS OF THE DIVERSION PROGRAM. THE ISSUE OF PROCEDURAL DUE PROCESS ARISES AT THE CONFLICT HEARING AND LATER WHEN REVOCATION AND REFERRAL BACK TO THE CRIMINAL COURT IS CONTEMPLATED BECAUSE OF COMPLAINTS OF NONCOMPLIANCE WITH MEDIATION OR ARBITRATION AGREEMENTS. DUE PROCESS ACTIONS DO NOT APPLY TO ACTIONS OF PRIVATE AGENCIES AND INDIVIDUALS, SO THE STATE DOES NOT HOLD ANY POTENTIAL FOR DEPRIVING ANY PARTY OF FREEDOM, LIFE, OR PROPERTY.

TRAINING AND DIRECTORIES

111. **ALTERNATIVE METHODS OF DISPUTE SETTLEMENT—A SELECTED BIBLIOGRAPHY.** F. E. A. SANDER and F. E. SYNDER, Eds. American Bar Association Special Committee on Resolution of Minor Disputes, 1800 M Street, NW, Washington, DC 20036. 64 p. 1979. NCJ-65228

THIS AMERICAN BAR ASSOCIATION BIBLIOGRAPHY ORGANIZES DOCUMENTS ON ALTERNATIVE DISPUTE RESOLUTION BOTH BY METHOD OF DISPUTE PROCESSING AND BY SUBJECT MATTER OF DISPUTES. THE NEARLY 800 JOURNAL ARTICLES, PAPERS, BOOKS, AND OTHER DOCUMENTS CITED WERE GATHERED INTO THIS BIBLIOGRAPHY FOR USE BY SCHOLARS, RESEARCHERS, POLICY ANALYSTS, AND LEGISLATIVE AND JUSTICE SYSTEM OFFICIALS. CATEGORIES INCLUDE GENERAL ISSUES, BASIC APPROACHES TO RECHANNELING DISPUTES, SPECIFIC ALTERNATIVE MECHANISMS, INSTITUTIONAL APPLICATIONS, SUBJECT MATTER APPLICATIONS, EVALUATION AND METHODOLOGY, AND SPECIFIC SYSTEM STUDIES OR REPORTS. ALTHOUGH THE FOCUS IS PRIMARILY ON CIVIL LITIGATION (MANY OF THE DETAILED ISSUES OF CRIMINAL ADJUDICATION ARE AVOIDED), THE DISPOSITION OF LOWER-LEVEL CRIMINAL CASES BY CIVIL ALTERNATIVES SUCH AS NEIGHBORHOOD JUSTICE CENTERS IS A BASIC CONCERN. THUS THE DOCUMENTS, THE MAJORITY OF WHICH WERE PUBLISHED IN THE 1970'S, COVER SMALL CLAIMS AND COMMUNITY COURTS, LAY TRIBUNALS, CONSUMER DISPUTES, MEDICAL MALPRACTICE, NEGOTIATION, ARBITRATION, MEDIATION AND CONCILIATION, OMBUDSMEN, AND MANY OTHER SUBJECTS RELEVANT TO CIVIL AND CRIMINAL DISPUTE SETTLEMENT.

Availability: American Bar Association, 1800 M Street, NW, Washington, DC 20036.

112. **MEDIATION TRAINING MANUAL.** Crime and Justice Foundation, 19 Temple Place, Boston, MA 02111. 56 p. 1980. NCJ-81592

THIS DOCUMENT DESCRIBES THE MEDIATION SERVICES OFFERED WITHIN THE BOSTON MUNICIPAL COURTS BY THE CRIME AND JUSTICE FOUNDATION AND THEN PRESENTS A DETAILED GUIDE TO MEDIATION PROCEEDINGS AND TECHNIQUES. FOLLOWING A BRIEF HISTORY OF COURT MEDIATION PROGRAMS IN THE UNITED STATES, THIS REPORT SUMMARIZES THE ORGANIZATION OF THE BOSTON COURT SYSTEM AND TYPES OF CASES EXPECTED TO ENTER THE MEDIATION PROJECT. ALSO REVIEWED ARE REFERRAL AND INTAKE PROCEDURES, CASE PREPARATION, THE HEARING, AGREEMENT MONITORING SERVICES, STAFF, AND RECORD-

KEEPING. REFERRALS ORIGINATE FROM JUDGES AND COURT OFFICIALS, AND PERSONS ARE ELIGIBLE FOR MEDIATION IF THE DISPUTE INVOLVES TWO OR MORE IDENTIFIABLE PARTIES WHO HAVE A PRIOR RELATIONSHIP OR BASIS FOR NEGOTIATION. THE TRAINING GUIDE BEGINS WITH DEFINITIONS OF DISPUTE RESOLUTION METHODS AND A GLOSSARY OF MEDIATION TERMS. STEPS IN THE MEDIATION HEARING ARE REVIEWED, ACCOMPANIED BY PROCEDURAL RULES AND SUGGESTIONS REGARDING THE MEDIATOR'S RESPONSIBILITIES AND BEHAVIOR. A DISCUSSION OF MEDIATION TECHNIQUES EMPHASIZES THAT MEDIATORS MUST OVERCOME TENDENCIES TO JUDGE OR COUNSEL PARTIES AND FOCUS ON WAYS TO FACILITATE AN AGREEMENT ACCEPTABLE TO BOTH PARTIES. PROCEDURES THAT MUST BE FOLLOWED AND SKILLS THAT MUST BE PRACTICED ARE DESCRIBED, WITH EXAMPLES, FOR THE STEPS IN A HEARING: THE PRELIMINARY CONFERENCE, THE INTRODUCTION AND PROGRAM EXPLANATION, THE OPENING JOINT SESSION, RECESS, PRIVATE SESSIONS WITH DISPUTANTS, SETTLEMENT DISCUSSIONS, THE WRITTEN AGREEMENT, AND CLOSING THE HEARING. THE GUIDE ALSO ADDRESSES SOCIAL SERVICE NEEDS THAT THE MEDIATOR MAY IDENTIFY IN THE COURSE OF A HEARING. A LIST OF MEDIATION RESOURCES IN MASSACHUSETTS AND THE NORTHEAST STATES IS APPENDED.

Availability: Crime and Justice Foundation, 19 Temple Place, Boston, MA 02111.

113. **OUT OF COURT—A SIMULATION OF MEDIATION.** By E. KATSH and J. RIFKIN. Legal Studies Simulations, 42 Elwood Drive, Springfield, MA 01108. 1982. NCJ-82708

THIS INSTRUCTIONAL PACKET CONTAINS THE SIMULATION MATERIALS FOR OUT-OF-COURT MEDIATION PROCEDURES. A STUDENT GUIDE DESCRIBES MEDIATION, EXPLAINING ITS ORIGINS, USE IN OTHER CULTURES, AND THE CURRENT NEED FOR DISPUTE RESOLUTION PROCEDURES AS ALTERNATIVES TO THE FORMAL JUDICIAL PROCESS. MEDIATION IS QUICKER AND CHEAPER THAN COURT PROCEDURE AND PRESERVES RELATIONSHIPS BETTER THAN COURT ORDERS. ALSO, MEDIATED AGREEMENTS USUALLY LAST LONGER. A SUMMARY OF CHARACTERISTICS OF CASES SUITED FOR MEDIATION EMPHASIZES THAT THE DISPUTANTS' ONGOING RELATIONSHIP IS THE PRINCIPAL INCENTIVE TO SETTLEMENT. A DISCUSSION OF THE MEDIATOR'S ROLE POINTS OUT THE NEED TO ACHIEVE IMPARTIAL JUSTICE WHILE

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SEEKING A MUTUALLY AGREEABLE SETTLEMENT. THE PACKET ALSO CONTAINS A DIRECTOR'S MANUAL, WITH GENERAL INSTRUCTIONS FOR MANAGING THE SIMULATION, AND A MEDIATOR'S MANUAL, WITH ATTITUDINAL TIPS FOR MEDIATION AND SIMULATION PERFORMANCE GUIDELINES. THE SIMULATION PROCEEDS FROM AN INTRODUCTORY SESSION TO A PUBLIC FACT-FINDING WITH BOTH PARTIES, PRIVATE CAUCUSES WITH EACH PARTY, AND CONTINUED PUBLIC SESSIONS UNTIL AN AGREEMENT IS REACHED. FIVE CASES ARE PROVIDED FOR SIMULATION: A LANDLORD-TENANT DISAGREEMENT, A SCHOOL DISCIPLINE AND VANDALISM INCIDENT, AN INSTANCE OF SPOUSE ABUSE, A CONFLICT RESULTING IN ASSAULT AND DISORDERLY CONDUCT BETWEEN TWO EMPLOYEES, AND A DISPUTE BETWEEN NEIGHBORS. FOR EACH CASE, CUE CARDS SUMMARIZE RESPONDENTS' AND COMPLAINANTS' ROLES. THE COMPLETE PACKET CONTAINS 30 COPIES OF THE STUDENTS' GUIDE, ONE DIRECTOR'S GUIDE, TWO COPIES OF A MEDIATOR'S GUIDE, AND ONE CARD FOR EACH OF THE 11 DISPUTANTS' ROLES.

Supplemental Notes: KIT INCLUDES INSTRUCTIONS, FIVE CASE DESCRIPTIONS, AND GUIDEBOOKS FOR STUDENTS, DIRECTORS, AND MEDIATORS.

Availability: Legal Studies Simulations, 42 Elwood Drive, Springfield, MA 01108. (Kit)

114. **DIRECTORY OF PRETRIAL SERVICES, 1980-1981.** N. WAGGNER, Ed. Pretrial Services Resource Center, 918 F Street NW, Suite 500, Washington, DC 20004. 449 p. 1981. NCJ-82761

THIS DIRECTORY PROVIDES MORE THAN 1,000 INFORMATION OUTLINES OF PRETRIAL SERVICES PROGRAMS—RELEASE, DIVERSION, MEDIATION ARBITRATION, TREATMENT ALTERNATIVES TO STREET CRIME (TASC)—IN THE 50 STATES, THE DISTRICT OF COLUMBIA, AND PUERTO RICO. DATA OUTLINED FOR EACH PROGRAM INCLUDE PROGRAM TYPE, STAFFING, BUDGET, INTERAGENCY AGREEMENTS, AUTHORIZATION, LOCUS OF RESPONSIBILITY, PRIMARY SERVICE AREA AND TARGET GROUPS, CLIENT DATA, ELIGIBILITY AND EXCLUSION CRITERIA, AND REFERRAL AND SELECTION PROCEDURES. INFORMATION UNIQUE TO INDIVIDUAL PROGRAMS IS ALSO INCLUDED—OUTLINES FOR PROGRAMS PROVIDING A RELEASE SERVICE (WHETHER RELEASE RECOMMENDATIONS, INFORMATION TO THE COURT, OR BAIL REDUCTION FUNDING) DISCUSS EACH PROGRAM'S AUTHORITY TO RELEASE BEFORE COURT APPEARANCE, TYPES OF RECOMMENDATIONS, ACTIONS TAKEN AT FAILURE-TO-APPEAR, AND FAILURE-TO-APPEAR AND REARREST RATES. DESCRIPTIONS OF ADULT DIVERSION PROGRAMS COVER DIVERSION PERIOD, DEFENSE ATTORNEY INVOLVEMENT, AND SUCCESSFUL COMPLETION. OUTLINES FOR MEDIATION, ARBITRATION, AND DISPUTE RESOLUTION SERVICES NOTE SPECIFIC APPROACHES FOR RESOLVING DISPUTES, WHILE THOSE FOR TASC PROGRAMS DISCUSS DIAGNOSIS MECHANISMS AND CRITERIA FOR SUCCESS. MAPS IDENTIFY PROGRAM LOCATIONS WITHIN STATES. AN INDEX IS PROVIDED.

Supplemental Notes: LIMITED QUANTITY AVAILABLE FROM PRETRIAL SERVICES RESOURCE CENTER.

Availability: Pretrial Services Resource Center, 918 F Street NW, Suite 500, Washington, DC 20004; National Institute of Justice National Criminal Justice Reference Service Microfiche Program.

115. **NEIGHBORHOOD JUSTICE CENTER—TRAINING MANUAL FOR MEDIATORS.** By L. BURTON. Neighborhood Justice Center, 1320 Santa Monica Mall, Santa Monica, CA 90401. 84 p. NCJ-83719

THIS TRAINING MANUAL DESCRIBES THE PROCEDURES TO BE USED BY VOLUNTEERS WHO MEDIATE DISPUTES THROUGH THE LOS ANGELES NEIGHBORHOOD JUSTICE CENTER (NJC), A PROGRAM SPONSORED BY THE LOS ANGELES COUNTY BAR ASSOCIATION TO PROVIDE ALTERNATIVE DISPUTE SETTLEMENT FOR BOTH CIVIL AND CRIMINAL DIS-

TECHNIQUES AND APPLICATIONS

PUTES. IN 1981, NJC CHANGED ITS EMPHASIS FROM A COMMUNITY-BASED DISPUTE RESOLUTION MODEL TO A MODEL THAT WILL ACCEPT REFERRALS DIRECTLY FROM THE CRIMINAL JUSTICE SYSTEM. NJC IS A FREE SERVICE THAT PROVIDES A CONFIDENTIAL AND SIMPLE PROCESS FOR RESOLVING DISPUTES. ALTHOUGH PARTICIPATION IS VOLUNTARY, MOST MEDIATIONS RESULT IN WRITTEN OR VERBAL AGREEMENTS THAT ARE PERFORMED WITHOUT ANY PROBLEMS IN OVER 85 PERCENT OF THE CASES. MEDIATION IS PROVIDED BY VOLUNTEER MEDIATORS WHO RECEIVE TRAINING AND SUPERVISION BY NJC STAFF. NJC DOES NOT DEAL WITH SERIOUS CRIMES, CASES WHERE ONE PARTY INSISTS ON COURT ADJUDICATION, CASES WHERE THE BASIC PROBLEM APPEARS TO INVOLVE EXTENDED EMOTIONAL THERAPY FOR AT LEAST ONE PARTY, AND CASES WHERE ONE PARTY DOES NOT CONSENT TO ATTEMPT MEDIATION. THE SEVEN STAGES OF THE MEDIATION PROCESS INCLUDE PREPARATION, THE OPENING STATEMENT BY THE MEDIATOR, THE INITIAL STATEMENTS BY THE DISPUTANTS, THE CAUCUS OR INDIVIDUAL INTERVIEW, THE NEGOTIATION MEETING BETWEEN BOTH PARTIES, THE WRITING OF THE AGREEMENT, AND THE CLOSING STATEMENT. DETAILED INSTRUCTIONS ARE GIVEN FOR EACH STAGE. PROCEDURES FOR CRIMINAL CASES AND FOR CASES INVOLVING SMALL CLAIMS COURT ARE ALSO PRESENTED. A LIST OF TERMS, SAMPLE AGREEMENTS, A DISCUSSION OF COMMUNICATION TECHNIQUES, AND STATISTICS ON THE USE OF NJC ARE PROVIDED.

Sponsoring Agency: US Department of Justice National Institute of Justice, 633 Indiana Avenue NW, Washington, DC 20531.

116. **MEDIATION PRIMER—A TRAINING GUIDE FOR MEDIATORS IN THE CRIMINAL JUSTICE SYSTEM.** By D. E. PEACHEY, B. SNYDER, and A. TEICHROEB. Community Justice Initiatives of Waterloo Region, 27 Roy Street, Kitchener, Ontario, Canada N2H 4B4. 84 p. 1983. NCJ-88694

THIS MANUAL GIVES LAY OR VOLUNTEER MEDIATORS IN DISPUTE RESOLUTION PROGRAMS AND IN VICTIM-OFFENDER RECONCILIATION PROGRAMS A GENERAL CONCEPTUAL UNDERSTANDING OF MEDIATION, AS WELL AS EXPOSURE TO SPECIFIC STRATEGIES OF PRACTICAL USE IN MEDIATING CONFLICT AT BOTH PRETRIAL AND POSTTRIAL STAGES OF CRIMINAL AND CIVIL COMPLAINTS. BACKGROUND INFORMATION FOCUSES ON HOW THE ADVERSARY APPROACH USED IN AMERICAN AND CANADIAN COURTS HANDLES CONFLICT, POINTING OUT THE LAW'S LIMITATIONS IN DEALING WITH INTERPERSONAL CONFLICT. THE REPORT SHOWS HOW MEDIATION DIFFERS FROM ARBITRATION AND ADJUDICATION AND INDICATES IN WHAT TYPES OF SITUATIONS MEDIATION IS PREFERABLE. THE MEDIATOR'S FUNCTIONS ARE DISCUSSED (I.E., INSTILLING MOTIVATION, REGULATING INTERACTION BETWEEN PARTIES, AIDING COMMUNICATION, AND MONITORING), AS ARE WAYS OF EXERTING CONTROL OVER THE MEDIATION PROCESS. SPECIFIC GUIDELINES FOR CONDUCTING A MEDIATION EMPHASIZE PRACTICAL SKILLS IN IDENTIFYING ISSUES, NEGOTIATING, BUILDING AN AGREEMENT, AND REVIEWING THE PROCESS. EFFECTIVE COMMUNICATION TECHNIQUES ARE ESPECIALLY IMPORTANT HERE. CHAPTER REFERENCE NOTES AND APPENDIXES PRESENTING SAMPLE AGREEMENTS, 13 REFERENCES, AND A DISCUSSION OF LEGAL ISSUES RELATED TO PRETRIAL MEDIATION IN CANADA ARE INCLUDED.

Sponsoring Agency: Canada Solicitor General Consultation Center, Ottawa, Ontario, Canada K1A 0P8.

Availability: Community Justice Initiatives of Waterloo Region, 27 Roy Street, Kitchener, Ontario, Canada N2H 4B4.

1978 - 1982

117. **DISPUTE RESOLUTION PROGRAM DIRECTORY, 1983.** L. RAY, B. DAVIS, M. SHUFFLETON, and A. L. CLARE, Eds. American Bar Association Special Committee on Resolution of Minor Disputes, 1800 M Street, NW, Washington, DC 20036. 211 p. 1982. NCJ-89612

THIS DIRECTORY PROFILES OVER 200 ALTERNATIVE DISPUTE RESOLUTION PROGRAMS ACROSS THE COUNTRY. THE FOCUS IS ON PROGRAMS DEALING WITH INTERPERSONAL DISPUTES, SUCH AS MARITAL AND CHILD CUSTODY CASES, LANDLORD-TENANT PROBLEMS, DOMESTIC VIOLENCE, AND SMALL MONETARY MATTERS. EACH PROGRAM PROFILE, ORGANIZED BY STATE (INCLUDING THE DISTRICT OF COLUMBIA), LISTS TYPES OF CASES HANDLED, REFERRAL SOURCES, STAFF AND TRAINING ACTIVITIES, PROGRAM PROCEDURES, AND PUBLIC RELATIONS ACTIVITIES. CASE DISPOSITIONS (I.E., THE PERCENT RESOLVED OR PENDING) ARE CITED, IF INFORMATION IS AVAILABLE. EACH PROFILE ALSO MENTIONS THE COMMUNITY SERVED, THE PROGRAM'S START-UP DATE, ITS ANNUAL BUDGET AND FUNDING SOURCES, AND ITS ANNUAL CASELOAD. OVERALL, 50 PERCENT OF THE PROGRAMS ARE LOCATED IN CITIES OF MORE THAN 500,000 POPULATION, AND 47 PERCENT HAVE BEEN IN EXISTENCE BETWEEN 2-6 YEARS. SLIGHTLY MORE THAN HALF HAVE ANNUAL BUDGETS OF BETWEEN \$25,000 AND \$100,000, THE LARGEST PROPORTION IS FUNDED BY LOCAL GOVERNMENT, AND MORE THAN HALF HANDLE LESS THAN 500 CASES ANNUALLY. MANY PROGRAMS USE LAY CITIZENS AS MEDIATORS AND RELY ON THE COURTS, JUDGES, AND CLERKS FOR MOST CASE REFERRALS. EIGHT PROGRAMS IN CANADA ARE ALSO PROFILED. APPENDIXES LIST DISPUTE RESOLUTION RESOURCES, FAMILY AND ENVIRONMENTAL DISPUTE CENTERS, AMERICAN ARBITRATION ASSOCIATION CENTERS, AND CONSUMER DISPUTE CENTERS. AN INDEX TO PROGRAMS IS APPENDED.

Sponsoring Agencies: 3M Corporation, 3M Center, St. Paul, MN 55101; TRW Foundation, 23555 Euclid Avenue, Cleveland, OH 44117; American Bar Association Litigation Section, 1800 M Street NW, Washington, DC 20036.

Availability: American Bar Association Special Committee on Resolution of Minor Disputes, 1800 M Street, NW, Washington, DC 20036.

118. **DISPUTE RESOLUTION RESOURCE DIRECTORY.** National Institute for Dispute Resolution, 1901 L Street, NW Suite 600, Washington, DC 20036. 129 p. 1984. NCJ-92819

TRAINING AND DIRECTORIES

THIS EDITION PROFILES 100 ORGANIZATIONS ACTIVELY ENGAGED IN A VARIETY OF DISPUTE RESOLUTION ACTIVITIES. THE DIRECTORY INCLUDES ORGANIZATIONS THAT PROVIDE DIVERSE SPECIALIZED SERVICES, SUCH AS PUBLICATIONS AND INFORMATION RESOURCES, DISPUTE RESOLUTION COURSES AND DEGREE PROGRAMS, TECHNICAL ASSISTANCE TO THOSE WHO PROVIDE SERVICES, AND RESEARCH AND EVALUATION OF DISPUTE RESOLUTION EFFORTS. EACH ENTRY CONTAINS THE ORGANIZATION'S NAME, WHEN IT WAS FOUNDED, THE ADDRESS AND TELEPHONE NUMBER, ANNUAL BUDGET AND FUNDING SOURCES, THE DIRECTOR'S NAME, THE CONTACT PERSON'S NAME, NUMBER OF STAFF, NUMBER OF MEMBERS, OBJECTIVES, INFORMATION RESOURCES, AND PUBLICATIONS. APPENDIXES PRESENT PROGRAM CHARTS, A LEXICON, ABOUT 80 SELECTED READINGS, AND AN EXPLANATORY DIRECTORY FORM.

Availability: National Institute for Dispute Resolution, 1901 L Street, NW Suite 600, Washington, DC 20036.

119. **RESOLVING COMMUNITY CONFLICT—AN ANNOTATED BIBLIOGRAPHY.** By A. O. KILPATRICK. University of Georgia Institute of Community and Area Development Publications Program, 300 Old College, Athens, GA 30602. 88 p. 1983. NCJ-93777

DEVELOPED TO SERVE AS A RESOURCE IN COMMUNITY CONFLICT MANAGEMENT AND CONFLICT RESOLUTION, THIS DOCUMENT CONTAINS A SELECTED ANNOTATED BIBLIOGRAPHY OF 156 CITATIONS AND A MULTIDISCIPLINARY BIBLIOGRAPHY OF MORE THAN 620 CITATIONS AS ASPECTS OF CONFLICT. THE FIRST SECTION—THE ANNOTATED BIBLIOGRAPHY—IS ORGANIZED ALPHABETICALLY AND CATALOGED IN MATRIXES. AMONG THE PUBLICATIONS ARE REPORTS OF APPLICATIONS OF NEW OR DIFFERENT METHODS TO RESOLVE DISPUTES AND POSSIBLE AREAS FOR FUTURE USE AND RESEARCH. MOST PUBLICATIONS ARE DATED FROM 1974, BUT IMPORTANT EARLIER WORKS ARE ALSO INCLUDED. PUBLICATIONS INCLUDE BOOKS, LAW REVIEW ARTICLES, GOVERNMENT DOCUMENTS, MONOGRAPHS, AND PROFESSIONAL JOURNAL ARTICLES. THE SECOND SECTION—THE MULTIDISCIPLINARY BIBLIOGRAPHY—EMPHASIZES WORKS PUBLISHED SINCE 1974, BUT INCLUDES KEY WORKS FROM EARLIER YEARS AS WELL. (AUTHOR SUMMARY MODIFIED)

Availability: University of Georgia Institute of Community and Area Development Publications Program, 300 Old College, Athens, GA 30602.

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