

Casting a Wider Net:
Evaluation and the Neighborhood Justice Centers

by

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EVALUATION AND THE NEIGHBORHOOD JUSTICE CENTERS

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TIMOTHY JAMES ECKELS

Submitted to the Department of Urban Studies and Planning
on May 27, 1980 in partial fulfillment of the
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ABSTRACT

A powerful design for program evaluation is that which includes a pre-intervention analysis of social processes and systems operating within the program target area. As an integrated component of an assessment effort, this type of study will contribute to research design by alerting evaluators to the potential for unanticipated or unintended program effects.

Such a study has been conducted for "Neighborhood Justice Centers," alternatives to court which are to provide for the resolution of minor disputes through mediation. Both the program design and the evaluation design for these mediation centers were based on the assumption that few alternatives for the resolution of minor disputes exist within target neighborhoods. This assumption is tested through an analysis of disputing patterns. A case study of one neighborhood in particular demonstrates a lack of congruency between the program as designed and the actual existence of numerous dispute processing systems.

It is shown that this "pre-intervention process analysis" reveals a number of potential program consequences apparently not considered by evaluators of three Neighborhood Justice Centers already operating. Based on the study, recommendations are made for an expanded and more penetrating evaluation design. General implications for evaluation research are also discussed.

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CHAPTER I

Introduction: Pre-Intervention Process Study
as a Component of Evaluation

CHAPTER I

Comprehensive program evaluation should be concerned not only with characteristics of the planned intervention and anticipated outcomes, but with the context into which the program is to be placed. This chapter will argue that an analysis of existing social processes that are likely to affect or respond to the introduction of an intervention should be an integrated component of certain program evaluations. Such a study would be concerned with the institutions, social relationships, and norms operating within the target area of the proposed reform. What is to be called a "pre-intervention process study" will not always be feasible, but for evaluations of pilot studies and programs which are to be instituted widely, the analysis promises to guide evaluators and decision-makers in ways that are often lacking in an insular assessment of program variables and outcomes. The chapter will define more clearly the meaning of "pre-intervention process analysis" and will propose how such a study can become an integral part of program evaluation. It will also outline some of the advantages to be obtained by making such a study a component of comprehensive evaluation.¹ Later chapters will illustrate these arguments by presenting a case study on one emerging national policy, the Neighborhood Justice Center concept.*

*Neighborhood Justice Centers are to provide mediation, conciliation, and arbitration for the resolution of minor disputes between people with ongoing relationships. Sponsored by the U.S. Department of Justice, the Centers are seen as a community-based alternative to the courts. The disputes to be handled include interpersonal conflicts (such as harassment, assault or more minor disagreements) consumer complaints, landlord/tenant conflicts, and a range of other disputes often handled by the judicial system.

The discussion to follow is organized into three main sections. In the first, I will review some recent trends in evaluation research and argue that the prevailing evaluation approach is one which begins concurrently with, or sometime after the commencement of the program, and is concerned chiefly with anticipated outcomes and perhaps the events leading up to those outcomes. Some alternative evaluation approaches have been developed in recent years, and we will see that many of them have been concerned in one way or another with the social systems or processes which are to "receive" a new program. There has been limited discussion, however, concerned with integrating an analysis of existing processes with other components of evaluation. The literature has also given little attention to the type of information that such a pre-intervention analysis can feed into evaluation design.

In the second section I will offer a more complete definition of what I mean by a "pre-intervention process study." Briefly, such a study is concerned with the dynamics of institutions, social relationships, and normative structures existing within the target area or among the target group members of the proposed reform. Many of the concepts presented in the first part of the chapter will contribute to this definition.

The third section will present brief descriptions of four social programs in order to illustrate the potential benefits of a pre-intervention process study. The argument will be made that such an analysis carries the potential to improve the quality and usefulness of the overall assessment effort, and that it should be an integrated component of comprehensive program evaluation.

RECENT TRENDS IN EVALUATION RESEARCH

The last two decades have seen a blossoming of the evaluation field, in terms of both studies conducted and the development of evaluative guidelines, definitions and methodologies.² Beginning especially with the War on Poverty programs of the sixties and continuing through the seventies, there has been an increasing demand from governments that programs be thoroughly evaluated, and a whole new industry specializing in program evaluation has grown to meet this demand. Accompanying this growth there has been the publication of texts, books of readings, methodological guides and critiques, and discussions of the organizational and structural characteristics of evaluation.³ All of this has brought about a marked improvement in the methods and designs used to evaluate programs, but as I will attempt to show, there has been limited discussion of a potentially enhancing ingredient in the integrity and usefulness of a comprehensive program evaluation.

One significant shift in the quality of evaluation research has been in terms of program outcome measurement. Policies and innovations prior to the last decade were often accompanied by no more research than an inventory of inputs such as "dollars per pupil" or type and extent of training introduced to an unemployed population.⁴ Such studies are still occasionally submitted as evaluations⁵ but generally there has been a growing concern with the experimental, quasi-experimental, and other methods of measuring a program's impact along with the events and causal links leading to such impact.⁶ Concurrent with this development, there has been a concern with the establishment of the proper and feasible methodologies for measuring program effects; issues such as internal and external validity, randomization techniques, and alternative statistical techniques have taken the forefront in these discussions

and paved the way for (in some cases) a more careful and accurate assessment of outcomes.⁷

This concern for more scientific research design has often been embodied in what the Stanford Evaluation Consortium has referred to as the "mainstream view of evaluation."⁸ Hypotheses and measures are constructed at the beginning of the assessment effort, based on various political, ethical, and methodological factors such as the feasibility of randomization or alternative comparative designs. The evaluator then uses these predetermined measures to collect and analyze data, all with minimal involvement in the program processes themselves in order to avoid experimental "contamination."⁹

An alternative model of evaluation was spelled out by the Stanford Consortium in 1976 and has seen considerable development since that time.¹⁰ They saw increased use and discussion of a design in which:

- 1) Evaluation can constructively enter the picture earlier and can be seen as a continuing part of management rather than as a short-term consulting contract.
- 2) The evaluator, instead of running alongside the train making notes through the windows, can board the train and influence the engineer, the conductor, and the passengers.
- 3) The evaluator need not limit his concerns to objectives stated in advance; instead, he can also function as a naturalistic observer whose inquiries grow out of his observations.
- 4) The evaluator should not concentrate on outcomes; ultimately, it may prove more profitable to study just what was delivered and how people interacted during the treatment process.
- 5) The evaluator should recognize (and act upon the recognition) that systems are rarely influenced by reports received in the mail. (11)

These developing ideas do not negate the importance of outcome assessment, nor of the need for a prior intervention model linking program inputs and processes with desired impacts, but they have broadened the scope of evaluation and in many cases apparently may have impacted the way evaluations are being conducted.¹² Several elements contributing to this developing model will now

be discussed, for it is this further immersion of the evaluator into program dynamics and his or her earlier involvement which leads us to the concept of "pre-intervention process analysis."

First, there has been considerable discussion of and some guidelines offered for what most authors refer to as process evaluation. In general, these writers define process evaluation as the analysis of those program characteristics and dynamics which are to lead to some predetermined outcome. Such discussion grew at least partly out of the recognition that program and policy impacts may not be interpretable without a thorough knowledge of program dynamics. Furthermore, a growing concern with the issue of program implementation led evaluation researchers to place more emphasis on determining whether and how a program really happened.¹³ In addition to these factors, some observers noted that it was difficult to determine the generalizability and transferability of a program or policy without sufficient knowledge of what happened in the "black box" between inputs and outputs.¹⁴ There has been little consensus on what role a process analysis should take and how extensive it should be in the overall design of an evaluation. Some have defined a rather narrow slot for this type of work. Bernstein and Freeman, for instance, write that process evaluation generally centers on two questions:

1. Has the program been directed at the appropriate and specified target population or target area?
2. Were the various practices and intervention efforts undertaken as specified in the program design or derived from the principles explicated in that design? (15)

Freeman later makes the argument that a "comprehensive evaluation" is one which includes an analysis of both process, in this sense, and impact.¹⁶

Others have seen a much broader role for process evaluation, but they

have not defined this form of analysis as an integral part of the total evaluation effort.¹⁷ Suchman, for instance, suggests that

(t)he analysis of process may be made according to four main dimensions dealing with (1) the attributes of the program itself; (2) the population exposed to the program; (3) the situational context within which the program takes place; and (4) the different kinds of effects produced by the program. (18)

But he goes on to describe process evaluation as an optional, ancillary component:

Strictly speaking, this analysis of the process whereby a program produces the results that it does, is not an inherent part of evaluative research. An evaluation study may limit its data collection and analysis to determining whether or not a program is successful... without examining the why's and wherefor's (sic) of this success or failure. (19)

Later works than this have begun to outline both a broad role for process assessment and a more indispensable position for it in overall evaluation design. Weiss and Rein, for instance, advocate a "process-oriented qualitative research" for broadly aimed social action programs. They point to the misleading or inadequate results that may emerge from the insular use of experimental design and they urge a more holistic approach that will be less likely to neglect or ignore certain program variables.²⁰ For such "broad-aim programs" they saw this more qualitative concern with process as a possible alternative to classical outcome studies, but Weiss later suggests that such research can be complementary and integral to more narrowly focused program evaluations.²¹ In both cases, these authors saw the study of process as a crucial and informative approach.

Patton discusses process evaluation as it has come to be viewed in a more extensive role:

Under field conditions in the real world, people and unforeseen circumstances shape programs and modify initial plans in ways that are rarely trivial. The process evaluator sets out to understand and document the day-to-day reality of the setting or settings under study. He tries to unravel what is actually happening in a program, searching for the major patterns and important nuances that give the program its characterProcess evaluations look not only at formal patterns and anticipated outcomes, but also investigate informal patterns and unanticipated consequences in the full context of program implementation and development. (22)

In its broadest sense, then, process evaluation might be defined as that which describes and assesses the activities and conditions associated with an intervention and/or with the setting of an intervention.²³ One author or another has argued that such a study may be used to confirm and clarify program implementation, modify a program, discover unintended consequences, assess in a preliminary way the assumptions and potential of a program, or simply to understand program dynamics.²⁴ The tools for process evaluation might be ethnographic studies, surveys, interviewing, various forms of observation, document reviews, or any of a number of other field methods. Analysis is usually inductive, and the study is usually flexible enough to be developed as it is being conducted and as initial conclusions are drawn.²⁵

These discussions of process analysis introduce many of the components that I will argue should be included in a Pre-Intervention Process Study. First, the discussions give process assessment a "formative role" allowing it to feed modifying information about target population, goals, and design back into programmatic effort.²⁶ Second, some proponents of process evaluation have been explicit about the potential for such studies to reveal program side-effects or unexpected developments. Third, descriptions of process evaluation have advocated the use of holistic field research techniques

which stress not predetermined program variables (something better assigned to outcome evaluation) but the operations of the program as a totality.²⁷ Finally, the concept of setting or context has been introduced by process evaluators. Patton discusses the "day-to-day reality of the setting or settings under study" and Suchman describes program "context" as one concern of a process analysis.

What is not explicit in most discussions of process evaluation is that it can and should be conducted prior to the initiation of the intervention. Concern need not be only with the program operations expected to produce certain impacts, but with the dynamics of institutions, norms and social relationships existing before the program is implemented. I am proposing that a "pre-intervention process" study can produce many of the benefits already discussed by other authors, but at a stage early enough to allow for modification of both the program and the overall evaluation design. Such a study would ideally, of course, be a component of program planning. The task of this thesis, however, will be to demonstrate the potential of such research for the improvement of evaluation. Like the Stanford Consortium, I am proposing that the evaluation effort should, as a component of program planning, begin well before program operations.²⁸

Other evaluation models, similar to the idea of process evaluation, have been advocated in the literature. Some of these will also contribute basic concepts to a framework for a "pre-intervention process study."

Perkins, unlike most proponents of process evaluation, stresses the potential of evaluation effort occurring before program operations. He describes "strategic evaluation" as one class of analysis along with those aimed at

"compliance," "management," "intervention effort," and "program impact." He places "strategic evaluation" at the front end of the program development process, and describes it as a largely diagnostic process directed toward fuller understanding of the dimensions of a social problem.

Such strategic evaluations may be concerned with the etiology of social problems, focusing on the "implicit theories" that lie behind ameliorative programs. A strategic assessment, for example, might test Ryan's contention that social interventions typically blame the victim for problems that are systemic in character. Strategic evaluations may also suggest new legislative initiatives...as in the case of the Coleman et al. examination of educational opportunity, or Armor's research on the effects of busing. (29)

Another group of researchers have advocated greater concern in evaluation with the systems of organizations and human relations within which a program is imbedded. In what is often called a "systemic approach" to evaluation, program developments and effects are observed within the context of the total program effort rather than as separate entities. Tien stresses "systemic measures" as one way to evaluate a program, noting, for instance, that

it is important to view the program in terms of the organizational context within which it functions. Thus, the program's impact on the immediate organization and on other organizations must be assessed. (30)

Coates and Miller have developed a "system-model" approach for the evaluation of large scale social service systems in changing environments.³¹ They use correctional agencies as their case study and argue that a "goal-model approach" is concerned primarily with program inputs and outputs while the systemic method is more interested in the impact of "various intra- and extra-system linkages."

The hallmark of the system model is the attempt to depict the interrelationships of programs being evaluated within the larger social service system

and other impinging systems by increasing the number of variables under consideration. Evaluation then becomes the analysis of the shifting balance of forces operating on a system's clients, including both those forces under the control of the agency and those not under the agency's control. Thus, while evaluating service programs imbedded in larger social service systems, it is very important to consider the various linkages within the social service systems and the linkages between the service systems forming the community being served. (32)

In the case where correctional agencies are the "larger social service system" Coates and Miller recommend that the "social climate" or "environment" be one element of that system to be examined. They propose, for instance, that such an analysis should include information on relationships among staff, relationships between staff and clients, relationships among clients, and on the quality and extent of client and staff contact with the community. Such information, argue the authors, will help the evaluators determine and interpret program outcomes for clients.³³

Like process evaluation, these research schemes provide pieces for a description of "Pre-intervention process analysis." Strategic assessment stresses the value of work performed before program implementation and it makes a vital connection between understanding the problem and designing the intervention. It does not, however, focus on an understanding and interpretation of ongoing social processes, as I will argue should be the case. Systemic evaluation introduces the concept of organizational study into evaluation research. How do the pieces of an organization or organizations fit together and operate before a reform is introduced? How might the system change with the commencement of the program, and what effect will such changes have on eventual program impact? Moreover, the systemic approach has provided the concept of social climate or environment as defined by the relationships

between actors to be affected by the program. While Coates and Miller have written only in terms of previously existing social service systems, I am extending this concern with program environment to other types of intervention as well.

PRE-INTERVENTION PROCESS ANALYSIS: A DEFINITION

A pre-intervention process analysis is defined as that which analyzes the dynamics of institutions, social relationships, and normative structures existing within the target area or among the target group members of a proposed reform. Concern is not only with each of these elements, but with the interactions between them as well.* Use of the term "pre-intervention" does not preclude the possibility that such an analysis will continue as the program commences. The intention is, instead, to stress the importance of starting such a study during the program and evaluation planning stages. Like Patton's description of process evaluation, such a study sets out "to understand and document the day-to-day reality of the setting or settings under study."³⁴ Like the system-model approach to evaluation, the analysis is concerned with the "social climate" of a program, specifically the relevant relationships and norms operating between the people who are to be involved and the existing organizations that are likely to be affected. In much the same way that "strategic evaluation" tests the definition of a problem, a pre-intervention process component tests many of the assumptions carried into a program design about how existing institutions, relationships and norms will relate to and be affected

*These elements to be studied do not necessarily represent the only focus a pre-intervention study might take. The purpose here is not to show that institutions, social relationships, and norms are the important factors, but rather that an evaluation including some understanding of them will be much more "perceptive" than one without.

by the intervention.

A useful framework for developing the position of pre-intervention process analysis within a comprehensive evaluation is found in a recent paper by Larson and Berliner.³⁵ They suggest that an evaluation can be analyzed along the same dimensions that are ideally used to assess programs, i.e., inputs, processes, and outcomes. Thus an evaluation of an evaluation would begin by examining the study's "inputs" or the "inventory of resources and methodologies brought to bear on an evaluation, and a description of the evaluation setting."³⁶ It would continue with an assessment of the "process" components or the actual conduct of the evaluation as compared with what was planned, and it would also consider, where possible, the "outcomes" or impact of the evaluation on decision-making. As Larson and Berliner point out, an assessment of evaluation impact is normally infeasible initially, but the inputs and the processes composing the study should be accessible in the final report and can be examined in terms of completeness, suitability, and adaptability.³⁷

This scheme offers convenient categories for discussion of the elements of comprehensive evaluation. More importantly, it stresses the interrelationships and interdependence of these evaluation components; for outcomes of a study are rarely interpretable without an understanding of evaluation inputs and processes; likewise, the actual processes of an evaluation are very much dependent on the resources and the design comprising the evaluation inputs.³⁸

In advocating a more thorough assessment of existing processes or systems, I am calling for an expansion of what is predominantly a minimal effort at the inputs stage of an evaluation study. By bringing more information into the study at this point, evaluators will be prepared for a more sensitive, more encompassing, and more adaptive assessment effort during the stages to follow.

Thus, I would argue that the "inventory" of inputs should in some cases include not only program attributes and evaluation plans, but a basic knowledge of social systems which are likely to be crucial in the specification of the intervention model and the development of the evaluation design. The information from such a study can then be fed into the overall evaluation plan, calling perhaps for the measurement of certain variables, the use of certain methodologies, and a sensitivity to potential program side-effects.

Research Methods

Process evaluation in general is usually more dependent on qualitative field methods than is assessment of program outcomes. This will be the case particularly for a pre-intervention study where quantifiable and discrete variables may not yet be apparent. Thus the research proposed here will usually involve what Weiss has called a "holistic" approach to data collection and analysis.³⁹ Measurement of discrete variables will not be so important as will descriptions of organizational and behavioral patterns within the target area. Qualitative field techniques such as participant observation, interviewing, surveying, and various other forms of ethnographic research will be most common, and in this sense the methodology will look much like that described earlier for process evaluation. Results and data from previous studies may also be used where applicable. Parlett and Hamilton, in their description of "illuminative evaluation" offer an apt characterization of the research strategy advocated here. They describe it as both adaptable and eclectic:

The choice of research tactics follows not from research doctrine, but from the decisions in each case as to the best available techniques: the problem defines the methods

used, not vice versa.... (The evaluator) makes no attempt to manipulate, control, or eliminate situational variables, but takes as given the complex scene he encounters. His chief task is to unravel it, isolate its significant features, delineate cycles of cause and effect, and comprehend relationships between beliefs and practices and between organizational patterns and the responses of individuals. (40)

Process Analysis and Program Planning

The type of study proposed here is in many ways similar to what observers have referred to as program planning research.⁴¹ In the framework I am advocating, the evaluators of a program would be actively involved with planners in the design stages of a reform. Thus, under ideal conditions, there is little distinction between some components of research for program planning and a pre-intervention process study. For purposes of this paper, however, a pre-intervention analysis will be discussed primarily as a component of evaluation. To some degree, this creates an artificial distinction between planning and evaluative research, but two purposes will be served: 1) The particular implications of the proposed analysis for overall evaluation design can be better emphasized; and 2) there may be situations in which program planners are not conducting a study of the type proposed here and in which the evaluators themselves decide to conduct the research as a supplement to evaluation. The arguments in this paper will then be particularly relevant.

Moreover, discussions of program planning research have often failed to emphasize the role that pre-intervention research can play in the design and modification of the proposed assessment effort. Rossi and his associates, for instance, see program planning research as an effort to determine the nature, extent, and location of the problem, to identify the best method for defining

the target population involved, and to design a delivery system that can reach that target population effectively.⁴² A thorough analysis of these factors will help assure program designers that a program is effective and that the potential for negative side-effects is minimized. The authors also discuss various "requirements for program design" including the need for empirical assessment of "existing conditions" and the development of an "intervention model" that will translate theoretical notions about social behavior into hypotheses upon which an action can be based.⁴³

Yet Rossi and his associates are not very explicit about the role of such planning concepts in evaluation design. In fact, they define comprehensive evaluation only as that which includes monitoring (process), impact, and ex post facto cost-benefit or cost-effectiveness analyses.⁴⁴ I would argue that their "program planning research" be included in this definition as well. For a truly comprehensive evaluation includes and builds upon this pre-intervention effort.

THE POTENTIAL OF PRE-INTERVENTION PROCESS ANALYSIS

In this section of the chapter, I will illustrate the potential for a pre-intervention process study through four short examples of social programs. In the discussion to follow, I will attempt to show 1) that while such a study does not always lend itself to pre-established methods or design, researchers can focus the study by examining certain assumptions underlying program plans; 2) that such a study carries the potential to improve the quality and usefulness of the overall evaluation effort; and 3) that such an analysis can and should be not just ancillary to the more traditional components of a comprehensive program evaluation, but integrated with them. Some of the authors

discussed thus far have begun to address these points, I hope to build on their work by making the call for pre-intervention process analysis a more explicit and operational one.

Civilian Staff and the Police Dispatchers' Office. The police chief of the Seattle Police Force attempted at one time to introduce a new cadre of female, civilian dispatchers to what had previously been a male-dominated, officer-run dispatching team. The program was met with violent, negative reaction and resistance from the patrolmen who were tied to the dispatching team. Don Schon reports on an observational study by John Van Maanen which revealed just why this unexpected "boomerang" effect had occurred.

In the Seattle police force...patrol car policemen have certain formal relationships with central dispatchers which are specified in the task system of the police department. Patrolmen report their whereabouts to the dispatchers and respond to the dispatcher's calls; dispatchers monitor the patrolmen, receive calls for help, and assign patrolmen to situations. But, "draped over" these formal relationships (in Kadushin's phrase) is a complex of informal understandings and agreements. Dispatchers understand that when cops go into Charlie's (an informal meeting place), they are likely to be there for two hours or more. Dispatchers will then protect those patrolmen by calling on others for assignments during that two-hour period (though they know where to reach them in case of real emergency). In return, patrolmen are continually taking cups of coffee and cigarettes to the dispatchers who are trapped for long periods of time in their little rooms and have no other access to these amenities. (45)

The resistance to the innovation stemmed largely from these informal relationships and understandings.

Job Training Programs. One aim of many U.S. Department of Labor (MDTA) training programs sponsored since the early 1960s has been to reduce the overall unemployment rate for an area by placing newly trained clients in jobs.

Early in the history of such programs, evaluations tended to report success in terms of the proportion of trainees placed in jobs over a given amount of time. More recently, critics have pointed out that there are a number of deficiencies in such an outcome measure, including the absence of a job stability component in the definition of successful placement. Program staff members would often look to the most available and visible job positions for placement of their clients -- i.e., those usually associated with high turnover such as low-paying and menial jobs in service industries. Thus while the evaluations themselves showed high placement rates, the overall impact for the unemployed was minimal because they often ended up in positions paying less than minimum wage, making no use of the employees' newly acquired skills, and encouraging rapid turnover due to these and a number of other job characteristics. Evaluations of such programs have since been modified to include a job durability component in the outcome measures.⁴⁶

Neighborhood Health Centers. The establishment of Neighborhood Health Centers in low income communities was a widespread reform movement during the 1960s and early 1970s. The U.S. Office of Economic Opportunity provided original grant support for a "research and demonstration" endeavor which then expanded into a large-scale nationwide effort aided by the Mental Health Administration of HEW. A number of studies were conducted in conjunction with this movement outlining such program shortcomings as "inadequate implementation, an inability on the part of the centers to attract the staffs anticipated, and low levels of program acceptance and use by community members."⁴⁷

One goal of the health centers was to provide comprehensive and effective health services -- including preventative, early, and long-term care -- to

community members. A part of this goal was the concept of "continuity of care," for it was felt, especially in the case of prenatal and child care, that effectiveness depended partly on regular and frequent attention.

Evaluators and other researchers found, however, that many clients used the centers only sporadically, often depending for their health needs on other facilities and sources of care. There was apparently an assumption among program designers that regular and adequate medical care was missing for most members of the target population. This may have been true in some cases, but as Zwick points out in a synthesis of evaluation findings:

Patterns of health care among poor families appear to be a good deal more complex and sophisticated than has been generally recognized, involving a variety of providers to meet different needs and conditions. As health centers begin services, they "intervene" into the existing patterns; it appears that, in most cases, they do not deal with nonexistent or wholly disorganized arrangements. Further analysis is needed to understand better how poor families incorporate a health center into their previously established health care patterns. (48)

Inmate Group Counseling Program. Kassebaum and his associates performed a comprehensive evaluation of the correctional treatment program known as "group counseling" as it was implemented at a California State Prison. Through a sophisticated evaluation design, including a follow-up period of 36 months, it was found that the program generally failed to reach such goals as improved discipline among inmates, less hostility between inmates, and between inmates and staff, and fewer inmates returning to prison after treatment.⁴⁹ The evaluation is unusual, however, in that it includes a careful documentation and assessment of the program, and provides a thorough description of how and why group counseling did little to change inmate behavior and recidivism rates.⁵⁰

Among problems encountered with program staff training, program implementation, and the actual dynamics of the counseling groups, there is a revealing analysis of those characteristics of the prison environment and the relationships between inmates and staff which apparently doomed the program almost from the start. Among these was a tendency on the part of inmates to display "model behavior" for prison authorities in order to obtain the earliest possible release on parole. While group counseling depended in part for its effectiveness on voluntary participation, Kassebaum found through interviews that the prisoners saw participation as more-or-less obligatory and that they generally perceived the counseling sessions themselves as useless:

Interviews conveyed the strong impression that relatively few inmates entered group counseling with the conviction that they were participating in a meaningful treatment program. The usual advice new inmates received from others was to the effect that counseling was not adequately nor honestly run, but that participation looked good to the Adult Authority, and, in fact, counseling was one of the measurable items of an inmate's experience in prison (like school attendance, trade training, and disciplinary reports) that could be considered. Although participation may not help inmates to make parole, in its absence, generally noticed by the Adult Authority, is often interpreted as a lack of interest in helping oneself and getting involved in the treatment program. For the Adult Authority, the record of length of participation in group counseling is a useful index of prisoner experience because it joins that relatively small list of activities that can be quantified and used in plus-or-minus fashion in determining parole eligibility. (57)

In addition to this reality of prison life, Kassebaum related many of the program failures to a more general contradiction between the tenets of group counseling and the imperative of prisons to maintain control and discipline over their wards both while they are confined and after they are released. The counseling efforts were based on the notion that greater insight and self-responsibility could be instilled in clients, while the regulations and proce-

dures of the prison are obviously aimed at promoting habits of compliance and docility in inmates. As the authors note,

(t)o the extent that obedience is the goal of correctional efforts, attempts to implement a treatment program that seeks insight into emotional determinism of conduct and increase in the sense of individual responsibility may be perceived by both staff and inmates to be somewhat beside the point. (52)

Other contradictions between program design on the one hand and the particular set of relationships and behaviors engendered by a correctional environment on the other hand, led Kassebaum and his associates to question the integrity of any prison counseling program:

The most fundamental requirement for further research on the effectiveness of prison...programs would seem to us to be a frank recognition that psychological treatment programs involve assumptions about the causes of the crime, the informal and formal organization of the prison ...and the nature of the postrelease experience, all of which may be quite unrealistic when applied to actual existing conditions.... To the extent that prison holds a heterogeneous collection of persons, including men who have been labeled criminal without possessing abnormal emotional or personality attributes, the manipulation of such attributes, even if successful, will not affect the probability that men from prison will be again labeled criminal subsequent to their release from custody. (53)

In each of these examples, some system or set of social processes in the "receiving" environment of the program or innovation was significantly related to the shape and outcomes of the program. A thorough and accurate evaluation in each of these examples would have included an understanding of the institutions, social relationships, and norms comprising such processes.

In the case of the Seattle Police Force, evaluators would at least initially be at a loss to explain the resistance to the introduction of civilian dispatchers unless they were aware of the existing informal relationships.

Participant observation, interviewing, and other ethnographic field work techniques conducted either prior to or during the program implementation might have prepared the evaluators for an explanation and possible recommendations concerning this program side-effect. Similarly, a better understanding of a region's labor market might have prepared evaluators of the MDTA programs for the self-defeating cycle of job placement in high turnover positions. In the case of the Neighborhood Health Clinic, there was certainly a need to know more about the existing patterns of health care sought out by the poor in hospital emergency rooms, outpatient units, and other existing facilities. Evaluators with such information in hand might have been prepared to explain and make recommendations concerning the failure of the clinics to attract patients on a regular and ongoing basis.

The evaluators in the prison group counseling program did actually analyze elements of existing processes such as inmate-staff relationships, the prison subculture or "underlife," and those goals of the receiving institution which conflicted with program goals. It was due to this investigation that they were able to explain program outcomes and be alerted to such unintended developments as the apparent obligatory participation of inmates seeking to impress correctional authorities.

Making use of these narratives, I will describe how the focus for a pre-intervention process study might be determined. I will also argue that this analysis of program context should be an integrated component of selected comprehensive evaluations because the findings may: 1) contribute to the design of the remaining evaluation components, especially by expanding the design to account for possible unintended effects; 2) inform evaluators about the potential need for flexibility and adaptability in the evaluation; 3) help with

the explanation of causality operating within a program, whether or not that causality is intended or anticipated; and 4) provide timely formative information to program planners and managers. We will see that all of these potential benefits depend not on a detached research endeavor undertaken without program evaluation in mind, but on an integrated component of comprehensive evaluation feeding vital information into both program operation and the remaining evaluation design.

Focus for the Study: Questioning Underlying Assumptions

Evaluators will never know everything about the context of an intervention, but they can be guided by the basic assumptions underlying design of the program and the objectives to be achieved. A pre-intervention analysis might be designed, in fact, to test program planners' notions about social processes operating in the target area. In the case of the Neighborhood Health Centers, for instance, there was an assumption that health care systems were either unavailable to or underutilized by the target population. It turned out, however, that the proposed clients used a range of providers, and the performance of the Neighborhood Clinics was very much affected by this reality. A pre-intervention study would have tested this assumption before implementation of the Centers. This is how such a study could be brought into focus. The aim would be to test for the degree of congruency between underlying assumptions about existing processes and the reality of program context.

Expanding the Scope of Evaluation Design

I have been making the argument that pre-intervention process analysis should be an integrated component of a comprehensive evaluation. There are

at least five reasons why this is so. First, an examination of established processes may prompt the researchers to expand the scope of the evaluation design by including more variables or by enlarging the repertoire of evaluation techniques. Such a step may be taken as the evaluators begin to look beyond the desired and anticipated outcomes set forth by program designers. An assessment of program context will often raise a number of possible additional side-effects -- both positive and negative -- for which the evaluators will want to be prepared. They can then include in the study design particular measures and techniques aimed at testing for such effects or at the very least they can "sensitize" themselves to signs of such effects. The latter option might be achieved by framing the evaluative research hypothesis in terms of contingencies and consequences that may occur during the course of the program and that may require the collection of new or additional data.⁵⁴

The evaluators of prison group counseling, for instance, built much of their research design around the knowledge that they had gathered on program context. Kassebaum and his associates declared at the beginning of their report, that "(i)n setting up a study design to assess the efficacy of...group counseling...the following have been taken into account:

1. That the distinctive feature of correctional group treatment compared to psychotherapeutic treatment in the free world is the involuntary nature of the recruitment of subjects.
2. That the treatment program is operated within a setting that contains sources of strong resistance to the program; one of these sources is the inmates, another the custody staff members, and another is the nature of the system itself.
3. That the prison setting itself is imbedded in a complex and far-flung organization so that changes in one part of the system have implications for the other parts. (55)

Based on such information, the authors included in the study not only measures of anticipated program impact, but extensive process measures on the dynamics of counseling sessions and on the attitudes of prison inmates participating in the program. The evaluators hypothesized in advance the potential for certain inmate reactions to the program (in addition to other possible developments) and then constructed interview and observation designs aimed at gathering information on such "unintended effects."

Pre-intervention process analysis may lead evaluators to expand the scope of the study design for more general reasons than the potential for unplanned developments and effects. Authors such as Hawkridge and Deutscher have pointed out that, in pursuit of clearcut measures and a distinct design, outcome-oriented evaluators may concentrate their efforts only on those program developments which are related to narrowly defined, circumscribed impacts. This tendency can lead to a "reductionism" of program goals into a series of outcome measures which do not fully reflect or elucidate the actual accomplishments (or failures) of the program.⁵⁶ A greater awareness of the institutions and the relationships to be affected by the proposed program may prompt evaluators to include a larger number or different set of variables in the study design.

Contributing to Adaptive Evaluation

A second expediency stemming from an examination of existing processes may be the introduction of a strategy for evaluation adaptiveness. Larson and Berliner point out that program evaluations too often follow a rigid, "straight jacket" approach when a certain degree of flexibility could enhance the effort in a number of ways.

Adaptability may be reflected in the elements of process evaluation such as the allocation of participant observers and/or interviews to various parts of the program. Or it could relate to the sequential adaptive generation and testing of alternative hypotheses regarding program operation. (57)

As the authors observe, evaluators are more likely to make ongoing modifications if a strategy or set of rules can be outlined at the "input" stage of the assessment effort.⁵⁸

In the case of the neighborhood health center, this planning for adaptiveness might have been guided by an examination of social processes operating within the program environment. If a study during the evaluation planning stages revealed that the target population was already relying on a network of health care facilities, the evaluators would have at least one plausible explanation in the event that the new centers generated low or sporadic attendance. (The study would ideally, of course, prompt modification in program design; but necessary changes may not always be apparent at this stage.) Once this potential effect is hypothesized, a contingent design might be developed. The researchers may specify, for instance, that after attendance and effectiveness measures have been applied for some period of time, they will check the data for initial signs of low or inconsistent use by the target population. If the problem is not apparent, the researchers will continue with data collection; if it is, they will initiate a study aimed at learning more about the use of alternative health care facilities and the non-use of the health centers. The centers themselves may then be modified to fulfill the needs not met by these alternative sources, more concentrated outreach efforts may be introduced, or some other change may be instituted.

Contributing to an Explanation of Causality

An optimal form of process analysis may be that which continues beyond the input or planning stage of an evaluation and runs concurrently with data collection on program operations. Even if this does not occur (and in certain cases it may be infeasible or unwise) some advantages of pre-intervention analysis may emerge well after the program itself has been implemented and has come under study. Most of such advantages will be continuations of those just presented. Information on program setting may help evaluators continue the search for unintended or unanticipated consequences, add more program variables or measures to the study, and otherwise adapt the evaluation design as new hypotheses or findings are generated.

In addition, the information on program setting may guide evaluators as they attempt to verify the causality operating behind certain anticipated outcomes, or to determine the causes of unexpected effects. Social program outcomes are rarely generated by a singular and insular cause, and the evaluation of such programs can rarely ascertain causal factors by observing outcomes alone. Consequently, as Suchman observes, there is a need for information on the circumstances and events surrounding an intervention:

The effect of any single factor will depend upon other circumstances also being present and will itself reflect a host of antecedent events. These surrounding circumstances become an essential part of the "explanation" of the success or failure of attempts to influence any particular causal factor and combine to increase or decrease the probability but not the certainty of effective action.... This approach to social causation has tremendous implications for prevention and intervention, and hence for program evaluation. It means, for one thing, that public service or social action programs must be evaluated within the context of other programs or events which may also affect the desired objective -- either in a cumulative or cancelable way. It means that one must look at the preconditions or

factors which influence the type of program activity that may be initiated and the intervening events that may include other effects than the desired one, some of which may be negative by nature. (59)

A simple example of the role an assessment of processes may play in clarifying causality comes from the Seattle Police example. If an evaluation of the new dispatching policy had entailed some measure of the continuing or improved effectiveness of patrol assignment, researchers may have found that the effectiveness declined after the introduction of civilian dispatchers. The immediately obvious explanation for this might be poor performance on the part of the new dispatchers, but armed with the knowledge that the patrolmen had enjoyed a mutually beneficial, informal relationship with the original dispatchers, the evaluators would search for rival explanations. They may find, as a result, that the patrolmen were intentionally underperforming as a resistance or protest to the personnel change.

Modifying Program Design

A final profit to be gained through a pre-intervention process study is the modification of the program design. In the health center example, the initial study of alternative health care sources and their use may yield enough information to prompt changes in the program plan even before center implementation. In this sense the evaluation component advocated here adds a whole new dimension to program evaluation, for the reform is assessed once in this proposed state, and once again during its operative stages. This affords not only the opportunity for cost-saving and time-saving modifications in the program, but for a recommendation to abandon the reform itself if it becomes apparent that success is unlikely or that potential side-effects will be exceedingly detrimental.

I have attempted to show here how a thorough assessment of processes or systems operating within a program environment can provide formative information to both the program and the overall evaluation. I have also demonstrated how it can alert researchers to the potential for certain program side-effects, how it can support a healthy flexibility in the conduct of evaluation, and how it can clarify the important issue of causality. It is because of the feedback role such research plays in the overall evaluation effort that I am defining it as a vital component of program evaluation and not as a separate or unrelated study.

We have seen that, while the concept of process evaluation has been developed by a number of authors, few have described how and why it might begin prior to program implementation. It is probably reasonable to assume that most actual program evaluations have also paid minimal attention to pre-existing environmental conditions. This can be inferred, for instance, from the results of a recent study of evaluations in the criminal justice field Larson et al. found that only 5% of a sample of 200 studies were actively engaged in research before program implementation. The remainder of these studies began sometime during program operations or even after program termination.⁶⁰ It would seem that the "traditional model" of evaluation as outlined by the Stanford Evaluation Consortium is still the predominant mode when it comes to research timing; yet frequently there is a need for more complete information about existing conditions before program operations begin.⁶¹

Conclusion

This chapter has attempted to show the need for the examination of processes or systems operating within the environment of a proposed program,

and it has begun the task of building a place for such a study in the framework of comprehensive evaluation. Optimally, this type of research is a part of program planning and the evaluation itself is a part of the design efforts. I have argued that both the literature on evaluation and actual program evaluations have neglected to include pre-intervention process analysis as a component of a comprehensive study. While such an analysis may not be appropriate for every evaluation, large-scale innovations and pilot programs warrant its use for the long-term pay-offs that are likely to ensue. The shape and boundaries of such a study will be determined through the testing of certain underlying assumptions regarding the relationships, norms, and institutions associated with the client group of a program.

A process study is seen here as one of several "inputs" feeding into a comprehensive evaluation. If it is applied effectively it can contribute to the modification of evaluation design, the flexibility and adaptability of evaluation, the interpretation of program events, and the improvement of program operations. The study is seen not as something that necessarily terminates as the program begins, but as an ongoing endeavor that will continue to update program and evaluation efforts.

Many of these points will be illustrated more fully in the case study of the Neighborhood Justice Center concept. In the next chapter I will draw out and question one of the assumptions made by reform designers regarding dispute handling institutions and the patterns of disputing in urban neighborhoods. In an effort to test this assumption, "dispute processing systems" will be examined in an empirical study of a neighborhood, and while the results of that study are still very preliminary, some of the potential benefits of a full-scale pre-intervention analysis will be outlined. We will see

that such a study cannot produce clear-cut, indisputable guidance about potential program side-effects, causality, or program design. But we will see that hypotheses regarding such factors can be raised, thereby improving the scope and quality of the overall program evaluation.

FOOTNOTES

Chapter 1.

1. Many of the concepts to be discussed here were first raised by Professor Richard C. Larson in conversations held in February of 1979 (M.I.T.: Operations Research Center). I have discussed the role of pre-intervention process analysis in: Timothy J. Eckels, "Toward a Framework for Process Evaluation" (Working Paper written for LEAA sponsored research project: "An Empirical Study of Methods Used in Criminal Justice Evaluations," Richard C. Larson, Principal Investigator), 1979. As will be shown in this chapter, many authors have discussed the concept of process evaluation, and some have introduced the idea of performing evaluation activities prior to the implementation of a program.
2. Howard E. Freeman, "The Present Status of Evaluation Research" in Evaluation Studies Review Annual, Volume 2, ed. Marcia Guttentag (Beverly Hills: Sage Publications), 1977, pp. 17-51.

Richard C. Larson, "Evaluation of Public Programs," Class Lectures presented at M.I.T., Fall, 1978.
3. Freeman, pp. 17-24.
4. Edward A. Suchman, Evaluative Research (New York: Russell Sage Foundation, 1967), pp. 19-20.

Leonard and Suzann Thomas Buckle, Discussions, April, 1980.
5. Richard C. Larson, et. al., "Interim Analysis of 200 Evaluations on Criminal Justice," from the Research Project: "An Empirical Study of Methods Used in Criminal Justice Evaluations" (Cambridge: M.I.T., 1979).
6. Ilene Nagel Bernstein and Howard E. Freeman, Academic and Entrepreneurial Research (New York: Russell Sage Foundation, 1975), pp. 83-99.

Donald T. Campbell, "Reforms as Experiments," Handbook of Evaluation Research, Volume I, eds. Guttenburg and Struening, (Beverly Hills: Sage Publications, 1975), pp. 71-137.

Peter H. Rossi, Howard E. Freeman, and Sonia R. Wright, Evaluation: A Systematic Approach (Beverly Hills: Sage Publications, 1979).

Suchman, pp. 91-126.
7. Campbell (1975).

Robert Boruch, "On Common Contentions About Randomized Field Experiments," in Evaluation Studies Review Annual, Volume I, ed. G.V. Glass (Beverly Hills: Sage Publications, 1976), pp. 158-194.

8. Stanford Evaluation Consortium, "Evaluating the Handbook of Evaluation Research," in Evaluation Studies Review Annual, Volume I, ed. G.V. Glass (Beverly Hills: Sage Publications, 1976), p. 210.
9. Stanford Evaluation Consortium, pp. 212-213.
10. Stanford Evaluation Consortium, p. 212.
Freeman, pp. 29-30.
11. Stanford Evaluation Consortium, p. 212.
12. Stanford Evaluation Consortium, pp. 211-213.
13. Bernstein and Freeman, pp. 65-82.
Freeman, pp. 30-39.
Suchman, pp. 66-68; 107-108.
14. Shirley S. Angrist, "Evaluation Research: Possibilities and Limitations," The Journal of Applied Behavioral Science 11, No. 1 (1975), p. 88
Robert S. Weiss, "Input Studies and Process Studies as Alternatives and Complements to Outcome Evaluation," Unpublished Manuscript, n.d.
15. Bernstein and Freeman, p. 19.
16. Freeman, pp. 26-29.
17. Michael Quinn Patton, Utilization-Focused Evaluation (Beverly Hills: Sage Publications, 1978), pp. 166-167.
18. Suchman, p. 67.
19. Suchman, p. 67.
20. Robert S. Weiss and Martin Rein, "The Evaluation of Broad-Aim Programs: Experimental Design, Its Difficulties, and An Alternative," Administrative Science Quarterly (March 1970), pp. 107-120.
21. Weiss, n.d.
22. Patton, p. 165.
23. This is a composite definition derived in Eckels (1979) from Patton, pp. 163-168; Rossi et al., p. 81; Suchman, pp. 66-68; 107-108.
24. See sources in Footnote 23, and:

- Malcom Parlett and David Hamilton, "Evaluation as Illumination: A New Approach to the Study of Innovatory Programs" in Evaluation Studies Review Annual, Volume I ed. G.V. Glass (Beverly Hills: Sage Publications, 1976), pp. 140-155.
25. Patton, pp. 165-167.
 26. Stanford Evaluation Consortium, p. 213.
Suchman, p. 88.
Rossi, et al., p. 37.
 27. Robert Weiss, "Alternative Approaches in the Study of Complex Situations," Human Organization 25 (Fall 1966), p. 198.
Parlett and Hamilton.
 28. Stanford Evaluation Consortium, pp. 211-213.
 29. D.N.T. Perkins, "Evaluating Social Interventions: A Conceptual Schema," Evaluation Quarterly I (November 1977), pp. 642-645. (Quoted in Rossi, et al.)
 30. James M. Tien, "Toward a Systematic Approach to Program Evaluation Design," IEEE Transactions on Systems, Man, and Cybernetics 9, No. 9 (September 1979), p. 505.
 31. Robert B. Coates and Alden D. Miller, "Evaluating Large Scale Social Service Systems in Changing Environments: The Case of Correctional Agencies," Journal of Research in Crime and Delinquency 12, No. 2 (July, 1973), pp. 92-106.
 32. Coates and Miller, p. 94.
 33. Coates and Miller, pp. 99-105.
 34. Patton, p. 165.
 35. Richard C. Larson and Leni S. Berliner, "On Evaluating Evaluations" (Working Paper prepared as part of research project: "An Empirical Study of Methods Used in Criminal Justice Evaluations," M.I.T. Operations Research Center, 1979).
 36. Larson and Berliner, p. 5.
 37. Larson and Berliner, pp. 7, 8, 13.
 38. Larson and Berliner, pp. 3-4.

39. Weiss (1966).
40. Parlett and Hamilton, p. 147.
41. Rossi, et al., pp. 62-98.
42. Rossi, et al., p. 84.
43. Rossi, et al., pp. 66-68.
44. Rossi, et al., p. 45.
45. Donald Schon, "Network Related Intervention," Unpublished Manuscript, M.I.T., 1977, p. 1.
46. Bennett Harrison, "Employment and Economic Development Policy and Planning," Lectures delivered at M.I.T., Fall, 1979.
47. Robinson Hollister and Tunny Lee, "Neighborhood Planning," Lectures delivered at M.I.T., Fall, 1979.

Daniel I. Zwick, "Some Accomplishments and Findings of Neighborhood Health Centers," Milbank Memorial Fund Quarterly 50, No. 4. (October, 1972), pp. 387-420.
48. Zwick, p. 397.
49. Gene Kassebaum, et al., Prison Treatment and Parole Survival: An Empirical Assessment (New York: John Wiley and Sons, 1972).
50. Kassebaum, et al., pp. 1-57; 285-326.

H.C. Quay, "The Three Faces of Evaluation: What Can be Expected to Work," Criminal Justice Behavior 4 (1977) pp. 341-354.
51. Kassebaum, p. 131.
52. Kassebaum, p. 322.
53. Kassebaum, pp. 320-321.
54. Rossi, et al. discuss this possibility briefly, p. 63. Also:

Suchman, p. 88.
55. Kassebaum, p. 15. (NOTE: Not all of the factors listed by Kassebaum, et al. have been reported here.)
56. David Hawkridge, "Designs for Evaluation Studies," Evaluation Research Strategies and Methods (Washington, D.C., 1970).

Irwin Deutscher, "Toward Avoiding the Goal-Trap in Evaluation Research," in Readings in Evaluation Research (Second Edition), ed. Francis G. Caro (New York: Russell Sage Foundation, 1977), pp. 221-239.

57. Larson and Berliner, pp. 9-10.
58. Larson and Berliner, pp. 6-7.
59. Suchman, p. 85.
60. Larson, et al., (1979), p. 19.
61. Eckels.

CHAPTER II

The Neighborhood Justice Center Concept:

An Introduction to the Policy

and the Methodology to be Used

CHAPTER II

Pre-intervention analysis of processes or systems will be illustrated here by an on-going study concerned with the Neighborhood Justice Center concept. Proposed by the U.S. Department of Justice, Neighborhood Justice Centers (NJC) are community-based alternatives to adjudication which are to resolve minor, interpersonal disputes through mediation. Three such Centers have been implemented and evaluated recently as a "Field Test," to be followed by nationwide expansion of the NJC concept.¹ The analysis to be presented here is directed toward the communities which are to host these new Centers. Specifically, one particular urban neighborhood of the type which is likely to be served by an NJC has been the subject of what could be called a pre-intervention process analysis. In the most simple of terms, the study is attempting to determine how neighborhood residents deal with their disputes. The potential for improvement and expansion of NJC evaluation will be demonstrated through the findings of this study. Possible unintended or unanticipated program effects will be derived from the analysis, and recommendations will be made for an NJC evaluation more penetrating and informative than that which was performed for the DOJ Field Test.

This chapter will describe the Neighborhood Justice Field Test and the methodology to be used in the analysis of existing systems. I will open with a summary of the NJC movement, along with a brief description of the three Field Test Centers and the recently completed evaluation of them. This will be followed by a discussion of several debates which have emerged in the literature in response to the growing popularity of mediation-oriented alternatives to the courts, and which provide a number of guiding questions for the

neighborhood analysis. Then, adhering to the model presented in Chapter One, I will document a basic assumption underlying design of the NJCs. We will see that program planners assumed that, other than the courts, there were few alternatives available to people for the processing of their disputes. The analysis of existing processes will be designed to test that assumption.

This introduction to the program, relevant issues, and underlying assumptions will be followed by the study plan. The description of the plan will begin with an introduction to a study which is essentially a pre-intervention analysis presently being conducted by Professors Leonard and Suzann Thomas Buckle of M.I.T.² The Buckles and their assistants are addressing the assumption (among others) about available dispute processing mechanisms. I will be taking the preliminary data from that project and analyzing them for signs of institutions, social relationships, and norms which bring into question the alleged void in dispute remedy systems. I will later demonstrate, in fact, that a neighborhood of the type likely to be served by an NJC can be rich in dispute processing alternatives, and that as a result, there may not be an adequate "fit" between the intervention as designed and the environment which is to receive it. How the study was conducted and how that conclusion is to be reached will be the topic of discussion in this chapter.

The next section of this chapter will outline the plan for deriving implications of the study for evaluation design. My aim is to suggest potential program consequences or causal relationships that may, in the absence of a pre-intervention study, remain unrecognized or unexplained by program evaluators. This chapter will describe how these possible developments are to be deduced from the process study, and how modifications in evaluation design will be recommended.

In sum, this chapter is to present the methodology for an analysis of existing dispute remedy systems in a program target neighborhood. It will also outline the plan for demonstrating why such an analysis should be an integrated component of comprehensive evaluation. The upcoming chapters will perform the following tasks:

- Chapter III. Analysis of the data from an urban neighborhood called Parkhurst Square. Demonstration that alternative dispute remedy systems do exist.
- Chapter IV. Potential program consequences and causal relationships revealed by the analysis.
- Chapter V. Conclusions: Implications of this pre-intervention knowledge for the design and modification of the evaluation.

THE NJC FIELD TEST PROGRAM

Beginning in March of 1978, three mediation programs known as Neighborhood Justice Centers (NJs) opened their doors to people needing to resolve minor disputes. Funded by the National Institute of Law Enforcement and Criminal Justice (NILECJ) of the U.S. Department of Justice, these Centers comprise a field test designed to explore the use of mediation and arbitration as alternatives to formal adjudication. Located in Atlanta, Kansas City, and Los Angeles, the Centers are designed to deal with a whole range of minor disputes including those between Landlord and tenant, merchant and customer, family members, and neighbors. This introduction to the pilot studies will begin with a brief description of the issues revolving around alternatives to formal adjudication. I will then review some of the reform efforts and literature contributing to the NJC program, and conclude with a brief history of program design and implementation.³

"The Problem" As Outlined by Program Designers

The Neighborhood Justice Centers were developed in response to a number of problems that scholars have discussed regarding the use of the courts for the resolution of minor disputes.⁴ First, according to the evaluation and the documents feeding into program development, the courts have become increasingly burdened with the task of resolving minor disputes. People have turned to the courts, according to these documents, as the dispute resolution role played by institutions such as the family, the church, and informal community leadership has diminished.⁵

This dependence on the courts, argue the NJC designers,⁶ is related to at least four additional problems. First, there is limited access to and utilization of the courts. Adjudication is not an affordable option for a broad spectrum of the American populace, and the system itself is an alien, complex, and foreboding one for many groups. Second, the court system is wrought with costly and frustrating delays, and many cases within the system are dismissed after only partial processing.⁷

A third issue concerns the suitability of adjudication for disagreements in which the question is not simply one of who is right or wrong, but of what accommodations and agreements can be worked out. A fight with a noisy neighbor, a disagreement about where a fence should go, or a claim of faulty merchandise by a consumer are the types of issues that better lend themselves to compromise and mediation according to the program planners. Conventional adjudication is highly adversarial in nature, says this view, and its winner-take-all approach is inappropriate where disagreements can be worked out.

The fourth problem discussed is that the court system is part of a centralized bureaucracy which has become alien and distant for the average

citizen. A more appropriate mechanism for dispute resolution would be one which is valued as an integral element of neighborhood or community life.⁸ There have been a number of proposed remedies to problems such as these, coming from a growing field of literature concerned with issues of decentralized justice, mediation, and alternatives to the court system. Danzig initiated discussion with a proposal to establish "community moots" as one component of a decentralized system of justice. These neighborhood-based, non-coercive fora would settle a range of disputes without attempting to determine guilt or innocence. The moots would be staffed by community members trained in conciliation and mediation, and decisions would be enforced through pressure brought to bear by the community itself.⁹ Fisher has argued that "community courts" would have to wield some degree of coercion, and he recommends the use of elected community members who could exercise a variety of sanctions from restitution to eviction.¹⁰ An intermediate proposal between those of Danzig and Fisher has been offered by Sander, who suggests that the community courts be government agencies with close ties to the courts. He recommends that mediation be the primary dispute resolution mode along with a contingent option of binding arbitration.¹¹

Such proposals were discussed extensively at the 1976 meeting of the National Conference on the Causes of Popular Dissatisfaction with the Administration of Justice.¹² Much of the attention there focused on the development of alternatives for dispute resolution as means of relieving the burden on the courts and a recommendation was made that Neighborhood Justice Centers be developed.

Development of the NJC Field Test

Soon after this National Conference, Attorney General Griffin Bell directed the DOJ Office for Improvements in the Administration of Justice to begin the design of a pilot NJC program. Plans for the study were then finalized by the National Institute's Office of Development, Testing and Dissemination, and an announcement of the program was issued July 11, 1977.*

It was expected by program designers that each of the pilot programs would enjoy some flexibility in setting up the NJCs, but the "overall" goals were stated as follows in the NILECJ "guidelines."

- A. To establish in the community an efficient mechanism for the resolution of minor criminal and civil disputes which stresses mediation and conciliation between the parties in contrast to the findings of fault or guilt which characterizes the traditional adjudication process.
- B. To reduce court caseload by redirecting cases that are not appropriate for the adversarial process.
- C. To enable the parties involved in the disputes to arrive at fair and lasting solutions.
- D. To serve as a source of information and referral for disputes that would be more appropriately handled by other community services or government agencies. (14)

As we will see in discussion of the evaluation, these goals were altered somewhat and augmented in later consultations between the DOJ administrators, the selected DOJ directors, and the evaluators of the pilot program.

*The DOJ program was certainly not the first of its kind. Before and during operation of the NJCs, there were a number of programs involving various forms of alternative third-party dispute resolution techniques (e.g., mediation, arbitration). Most of these have been affiliated with the courts and other criminal justice agencies, while a few have been more dependent on community referrals for their caseloads. At least 100 formal dispute processing projects similar to the NJCs have been funded within the last ten years; several hundred more can be included if one broadens the definition to include programs specifically concerned with single issues such as housing or consumer problems. (13)

Each NJC was to serve a heterogeneous, identifiable segment of a city that did not represent extremes in wealth or poverty. The host "neighborhood" was to consist of between 50,000 and 200,000 people, and the project could be sponsored by either a public or a private agency. The guidelines also called for a "steering board" which "should be broadly representative of the community."¹⁵

The NJCs were to be located within a neighborhood, and they were to be both identifiably separate from the formal court system and easily accessible to the community population. A broad range of disputes between individuals with "on-going" relationships were to be served by the NJCs. More specific criteria for case eligibility could be determined by the individual programs, but the DOJ guidelines did provide that the key criteria be "suitability of cases for settlement through mediation."¹⁶

Referral sources for the NJCs were to include the courts, prosecutors, police agencies, other public or private agencies, and self-referrals. As clients were directed to the NJC, they were to be briefed on the voluntary nature of the process. "The only coercion used to induce the appearance of the respondent," stated the guidelines, "should be the threat inherent in an explanation of the complainant's right to pursue more formal processes."¹⁷

Professional mediators could at first staff the Centers, but the hope was that trained mediators from the community would eventually take over that role. "Clearly," explained the guidelines, "in a model which seeks neighborhood justice, a primary source of candidates would be the community itself."¹⁸ Conciliation and mediation were designated as the initial methods of dispute resolution, backed up by arbitration in the event that they failed. Dispute settlements were to be reduced to writing, including the signatures of

both disputants.

Characteristics of the Three NJCs

The Department of Justice solicited proposals for NJCs beginning in July of 1977 and by March of 1978 the three cities had been selected and the NJCs were "open for business."¹⁹ The three projects vary from each other along several dimensions and their final form sometimes deviated substantially from the guidelines set down by the DOJ staff. This was not necessarily considered undesirable, for the planners did view the program as an experiment and they were hoping to see the local programs exercise some degree of initiative as well as adaptiveness to local conditions.²⁰ The following are some of the program characteristics noted by the program evaluators.²¹

The sponsoring agencies for the three cities were a private non-profit organization in Atlanta, the City itself in Kansas City, and the County Bar Association in Los Angeles. The project staffs were basically similar, with a Director, a Deputy Director, intake workers, and administrative/clerical staff. These five to six core staff members were charged with operation of the centers along with mediators and volunteers. In accordance with the DOJ guidelines, the mediators came primarily from the target communities; they were trained through varying methods, and paid small "stipends" for their services.

Contrary to the intentions of the NJC designers, the Centers did not restrict their caseloads to the immediate neighborhoods or "groups of neighborhoods" within which they were located. Atlanta and Kansas City each essentially enlarged their target areas to include the entire city because that was the territory covered by their major referral source, the courts.

The Los Angeles Center, located in the Venice/Mar Vista area, adopted a more community-oriented approach than the others by deemphasizing the courts as a source and by concentrating on agency referrals and walk-ins. They still, however, often accepted cases from outside the defined target area. Referral sources varied among the three Centers, but Atlanta and Kansas depended most heavily on the criminal justice system (judges, prosecutors, civil/criminal warrants desks, and police), while the L.A. Center received only about 35% of its cases from that source. Methods of referral from criminal justice agencies also varied from Center to Center. A description from the Evaluator's Implementation Study of Atlanta's referral system is illustrative of the various channels utilized:

The Atlanta NJC's primary referral source...was the State Court of Fulton County, which has jurisdiction in the target area and entire city of Atlanta. Intake workers (staff, mediators, volunteers, and interns) attended bindover hearings in the criminal division and covered a desk in the civil warrants filing room; they conducted intake interviews on the spot, then turned the case into the NJC for further processing. Disputants were directed to the intake workers by the bailiff before criminal court began or by the judge during court proceedings, or by the civil warrants clerks (and infrequently, the criminal warrants clerks). These cases were intercepted at different points in the adjudication process. The cases from bindover hearings were referred after formal charges and arrests were made; the judges usually continued the case in the hopes that mediation would bring about a satisfactory resolution. If this occurred, the case was dismissed. In contrast, the cases from the court clerks were referred to the NJC prior to the filing of formal charges and thus were diverted from the court system. (22)

Cases received by the NJCs fell fairly evenly into two large groups:

- 1) interpersonal disputes in domestic, neighbor, family, and other close relationships which are largely criminal in nature, and 2) civil disputes between tenants and landlords, consumers and merchants, employees and employers,

and others. The former category included a wide range of cases illustrated by the following: assault and battery between family members or friends; harassment; domestic settlements such as child support and visitation rights in cases of divorce or break-up; family disagreements over money or goods; neighborhood nuisances such as barking dogs, encroaching tree limbs, vandalism, and teenage "gangs;" and various disagreements between friends. The more civil type category included: monetary disputes between merchants and customers; disagreements about repairs made or services rendered; disagreements between employer and employee over salary, sick leave, etc.; and charges of employer discrimination.

The primary method of dispute resolution used by the Centers was mediation through a structured hearing conducted by a "neutral third party." The mediator(s) would encourage both parties to discuss the conflict, facilitate communication, and attempt to guide both parties toward mutual resolution. The aim of the mediator was to understand the "underlying issues" of a dispute and to help the parties reach an agreement that they themselves would uphold. The sessions involved both individual caucuses with each party to negotiate terms, and periods of discussion between all parties.

THE NATIONAL EVALUATION

The Institute for Social Analysis performed what is in many ways a strong and informative evaluation of the Neighborhood Justice Field Test.²³ The study began "well before the NJC openings" in order to document implementation developments, and continued through the first 15 months of program operation. Not only were summative impact data produced, but continual feedback and formative information was provided to program staffs in the form of monthly reports.

This introduction to the assessment effort* will include a review of the "evaluation issues" noted by the Institute, a description of the NJC goals along with the process by which they were determined, and a description of the structure and methodology utilized. Results of the study will then be presented.

Evaluation Issues

The evaluators outline five issues or concerns important to the NJC movement which become guiding principals for the design of the assessment effort.²⁴ First, there was the hope that each NJC would be accessible to and utilized by a broad range of socio-economic and ethnic groups reflecting the composition of the host community. Second, the NJCs were to offer efficient and lasting dispute resolution, the process and outcome of which would be viewed as just and fair by the clients. Third, there was an expectation that the NJCs would reduce court caseloads and otherwise improve the established justice system, although not all architects of the program were convinced this would happen.²⁵ A fourth issue was the degree to which the Centers should be invested with coercive powers for the purposes of enforcing resolutions and compelling disputants to negotiate. The evaluators note that the three NJCs possess these powers only to the degree that they are implicit in referral from prosecutors, judges, and police. Finally, there were at least some proponents of the program who felt that the NJCs would contribute to an overall reduction of conflict in the community and a feeling among citizens that the

*In November of 1979, a First Draft of the final evaluation report was issued on a limited basis. This analysis is based on that draft. As noted earlier, certain portions of the report had not been completed at that time and there will undoubtedly be some changes in the final draft.

quality and responsiveness of the legal-judicial system had been enhanced. Contrary to this view was the argument that "NJs deal with a relatively restricted range of community problems and can have little impact on the broad social conditions of residents."²⁶

Program and Evaluation Goals

As was mentioned earlier, the original NILECJ goals of the NJCs were modified somewhat when evaluators consulted with the numerous parties involved in the Field Test. At this stage, as was the case earlier, there was not complete agreement on which goals should receive the greatest emphasis.²⁷ Through a group process of weighting the goals and objectives, however, the evaluators were able to determine which ones in general should receive greater attention. The final list of goals is presented below in the order of "rated" importance. While objectives were included for some of the other goals, I have listed them here for the top two only:

- A. Goal: To establish an effective community mechanism (NJC) for the relatively inexpensive, expeditious and fair resolution of citizen disputes through the processes of conciliation, mediation, and/or arbitration. The Centers are expected to enhance the quality of justice delivered to the community without diminishing the effectiveness of the existing criminal justice system.
 1. The Centers should be accessible to, and utilized by, a cross-section of the community.
 2. The costs of case dispositions through the Center should compare favorably with the costs of selected existing adjudication procedures.
 3. The speed of dispute resolution through the Centers should compare favorably with that of selected existing adjudication procedures.
 4. The Centers should help the disputing parties to agree upon resolutions which are fair, long-

lasting, and satisfactory to the disputants.

5. The Centers should have a beneficial impact on the ability of the formal justice system (including courts, police and prosecutors) to handle its workload.
- B. Goal: The Centers should attract a variety of civil and criminal dispute cases drawn from different sources in the community and the criminal justice system.
1. The Centers should deal with a variety of inter-personal disputes involving ongoing relationships, including certain types of landlord/tenant disputes and appropriate consumer complaints.
 2. Dispute cases should be referred from the major components of the justice system, such as the police, prosecutor, and courts.
 3. Dispute cases should be referred from social service agencies.
 4. Centers should receive self-referrals from the community.
 5. The Centers should generate information which indicates the types of cases and forms of dispute resolution which work most effectively.
 6. The Centers should generate information which helps to determine the social and demographic characteristics of disputants who benefit most from the utilization of the Centers.
- C. Goal: To provide information to the Law Enforcement Assistance Administration and the Department of Justice on the progress and effectiveness of the Centers as this relates to future planning for the expansion of the NJCs and their concept.
- D. Goal: To institutionalize the Neighborhood Justice Center concept and procedures.
- E. Goal: To contribute to the reduction of tension and conflict in the community.
- F. Goal: The key elements of the community -- the residents, the criminal justice agencies, the other major community organizations -- should be aware of and have a positive view of the Neighborhood Justice Center. (This later goal was tied with 'E' on the ratings.) (28)

The first two of these goals became the center of the evaluation effort.

The researchers themselves established the following goals for their own work:

1. Determine to what extent the NJCs have established an effective alternative in the community to resolve minor disputes.
2. Determine how well the Centers are attracting a variety of cases from both criminal justice and community sources of referral.
3. Explore whether or not the mediation process contributes to a reduction of conflict in the community.
4. Analyze the process by which the concept and procedures of Neighborhood Justice Centers are institutionalized.
5. Assess the responses to the NJCs from the community and the criminal justice system. (24)

Evaluation Design

There were three major components to the evaluation project: 1) an Implementation Study concerned with the events leading up to and including the establishment of the Centers; 2) a Process Study assessing the resolution procedures and initial case dispositions, the nature of the target population, and the flow of clients to and through the Centers, (this study did not include a pre-intervention component, however, and was not, for the most part, concerned with existing processes or relationships); and 3) an Impact Study.³⁰

The latter of these comprised the bulk of the final report and included several measures. Disputant satisfaction and resolution longevity were two main areas of concern. Short-term follow-up of mediated cases was conducted by NJC staff members and six-month "long-term" measures were taken by analysts who were assigned to each of the NJCs. Sample cases representing three disposition categories were selected for

long-term follow-up: mediated settlements, those resolved prior to a hearing (but after initial contact with the NJC), and those unresolved by the center either because mediation failed or because the case never reached a hearing. Disputants were selected randomly (representing both complainants and respondents), reached by telephone, when possible, and asked the following closed-ended questions:

1. Are you satisfied with the terms of the agreement?
2. Have you kept all terms of the agreement?
3. Has the other party kept all terms of the agreement?
4. Have you had any more problems with the other party?
5. Were you satisfied with the mediation process?
6. Were you satisfied with the mediator?
7. Were you satisfied with the overall experience at the NJC?
8. Where would you go in the future with a similar dispute? (Options: NJC, Court, Attorney, Nowhere, Other.) (31)

"Face-to-face Household Interviews" were conducted with a limited subset of this sample in order to verify the phone results and gather greater detail on client responses. Because of an emphasis placed by one of the centers (Venice/Mar Vista, L.A.) on out-referrals to other community and governmental agencies, a phone survey was conducted to ascertain the eventual outcomes of these cases as well.³²

Two court comparison studies were conducted in order to obtain some idea of NJC impact on caseloads. By selecting a cohort of cases within two of the courts associated with the NJCs, the evaluators obtained information on the following:

Case processing data, with an emphasis on those points at which cases similar to those found in the NJCs either drop out of the courts or are adjudicated.

Individual case tracking and follow-up, including interview data from the complainant parties regarding their experiences while in court. (33)

The evaluators hoped to determine whether or not the cases being handled by the NJCs were of the type that actually congested court dockets and added significantly to judicial costs. Due to limitations on the amount and type of data that could be collected, there was no conceivable method for a more direct measurement of NJC impact on the courts. As the evaluators themselves point out, these court comparison studies were less than ideal methods for securing the desired information.³⁴

While the evaluators noted that impact of the NJCs on host communities was not likely to be significant so early in program development, they did conduct a survey of residents. A "random systematic" sample of both residences and businesses at one NJC site were drawn from the target area phone directory, and whomever answered the phone (over the age of 16) was interviewed. Respondents were asked several questions about their knowledge of and attitudes toward the program.³⁵

Approximately 18 months after the NJCs had opened, a series of "impact interviews were conducted with NJC staff members, board members, mediators, and referral sources from the courts and community agencies. Respondents were asked a range of questions about their perceptions of case handling procedures, reasons for referring or not referring cases, suggestions for program improvement, etc.³⁶ A very limited cost analysis of the NJCs was also conducted as a component of the impact study.³⁷

Results of the Evaluation

Data from the Process Study and the various components of the Impact Study led evaluators to draw the conclusions listed below. It should be noted that these conclusions are presented in brief form here and in no way represent the more lengthy and complete explanations presented by the evaluators. In order to keep this summary of the evaluation short, I have inserted relevant figures and descriptions (in parentheses) into the author's conclusions:

- Neighborhood Justice Centers provide a needed and effective alternative mechanism for the resolution of minor disputes.
- The Centers have attracted and handled a respectable -- and in Atlanta, quite impressive -- number of cases during their first year of operations. These caseloads indicate that the NJCs are responding to a genuine public need (caseloads varied considerably, however, between referral sources and case types).
- A wide variety of cases from many different sources were processed effectively by the NJCs. (But there was considerable variation between case types.)
- Cases were processed quickly and efficiently: Hearings typically occurred within one-two weeks of intake and required only about two hours.
- Nearly half (45.1%) of all cases referred to the NJCs reached an agreement through mediation (28.6%) or conciliation (16.5%). (The latter refers to cases that were resolved prior to a hearing, often through initial contacts and phone calls. It is not clear to what degree NJC intervention actually played a role in these resolutions.)
- A large majority of both complainants and respondents found virtually all aspects of the NJC experience satisfactory -- the mediation process (84% for both groups), the mediators, the agreement terms, and the overall experience -- and would return to the NJC if they should have a similar dispute in the future. (Note: these results refer only to successfully mediated cases.)

- A large majority of agreements (according to self-reports: Complainant: 79%; Respondent: 87%) were still holding six months after the agreement was established, and most disputants reported having no more problems with the other party.
 - Nearly all the officials from the courts and from social service agencies in the community viewed the NJCs as a helpful service and one which has helped them perform their job better....
 - On the negative side, it appears that the NJCs' observable impact on reducing court caseloads and community tensions has been negligible; although we hasten to add that in the current effort, the impact in these areas...has not been assessed with the appropriate level of resources.
- Neighborhood Justice Centers need to develop more effective ways for improving public awareness about NJCs, and for bringing cases to mediation or conciliation.
 - NJCs appear to handle most minor interpersonal disputes more effectively than the courts. (Results from the court comparison studies were actually mixed. NJC disputants expressed "greater satisfaction" than did those who had been in the court, but the resolution rates for court cases were the same or higher.)
 - NJCs with firm connections to the local justice system will attract and resolve more disputes than Centers without such referral sources. (Court referrals consistently showed higher mediation and resolution rates.)
 - The three NJCs differed in caseload size, type of disputes handled, and, to a lesser extent, in resolution effectiveness. The most probable source of these differences are (1) Center philosophy/approach; (2) Center socio-cultural context; and (3) Center organization and management.
 - NJC disputants tend to reflect the ethnic characteristics of its surrounding community, but represent a disproportionate number of low income people. (38)

It should be noted that the data supporting these conclusions are sometimes subject to question, for as the authors themselves mention, self-reported outcomes are not always completely reliable. In the six-month follow-up, for

instance, there is no way of knowing how "resolved" self-reported cases actually were. Furthermore, the interviews only elicited "Yes," "No," or "Somewhat" responses to the questions on how satisfied clients were. This gives us little basis on which to make comparisons implied by such questions as "how satisfied?" or "satisfied compared to what?" In cases where comparisons were made between NJC users, there is some doubt as to whether the data collected were actually comparable.³⁹

Particular components of the evaluation design can be challenged on such issues, and while this may happen occasionally, the Chapter V discussion will emphasize instead shifts or expansions that might be made in the overall research plan. Using the Parkhurst Square Study as a hypothetical pre-intervention analysis, I will suggest how a similar evaluation effort could be modified in preparation for unanticipated or unintended effects.

ISSUES RAISED BY THE NJC PROGRAM DESIGN

Development and evaluation of the NJCs has been much more controversial than this brief introduction might suggest. A number of competing viewpoints contributed to program and evaluation design, and there is a host of unresolved issues which have received considerable attention and discussion.⁴⁰ The resulting debates have not been limited to the actual DOJ program, but have been developing around the more general movement toward community-based alternatives to adjudication. I will now present a brief introduction to some of these issues, for they will help guide the analysis of data in the following chapters. This section will also present the underlying program assumption concerning the availability of dispute processing systems. This assumption is to provide the primary basis for analysis of the case study data.

Mediation and American Society

One overarching issue subject to much debate in recent years has centered on the potential for a reform with roots in other cultures and societies to function in the United States. Proposals for non-adjudicative alternatives were often derived from studies of tribal communities characterized by frequent and concentrated interaction, and common norms among members.⁴¹ Authors such as Felstiner, however, have asked if mediation can be adapted to a specialized, technologically complex society like ours, where relationships are less "dense" than those of tribal culture. People will have little incentive to negotiate and uphold an agreement, argues Felsteiner, in a society as atomized as that of the United States.⁴²

Hofrichter makes a similar argument, asserting that

(a)n assumption of NJCs that disputing parties will know each other or have contact on a regular basis, in many instances, denies the fact that conflicts increasingly occur between strangers and organized bureaucracies, public and private. A community model cannot be easily superimposed where no real community exists, except in jurisdictional or ethnic terms. (43)

Many NJC proponents were also aware that mediation may not be easily transplanted from one culture to another. Sander, for instance, asserts that "(w)hether, in our alienated and divisive society, these institutions are hopelessly out of place or whether they represent the last hope of a regained sense of community, remains to be seen."⁴⁴

Coercion

Some of the more particular arguments about reform design have stemmed from this recognition of societal and cultural differences. There has been an ongoing debate, for instance, concerning the degree of coercion necessary

in the U.S. to induce and enforce resolutions among disputants. We saw that Danzig's proposal depended for this primarily on the incentives of participants to find agreement and on pressures brought to bear by the community itself.⁴⁵ Fisher, on the other hand, has argued that a non-coercive model reflects a naive view of American behavior. He proposes that a "community court" should be staffed by elected community members empowered with a variety of sanctions such as restitution and eviction.⁴⁶

Projects similar to the NJCs have actually been ambivalent about coercion, according to Felstiner and Williams. On the one hand, agreements should last because they originate with the disputants themselves, but behind the negotiation is the implicit threat of adjudication in the event that resolution is not reached. Moreover, clients of the NJCs may feel compelled to participate in mediation because they are referred from the courts.⁴⁷

Suitability of Mediation

Another area of debate has centered around whether or not all minor disputes are suited to a mediative process. As we saw earlier, NJC proponents have argued that mediation is an appropriate alternative for a whole range of disputes between parties with "ongoing relationships."⁴⁸ There have been several arguments to the contrary, however, Abel points out that not all disputes are equally conducive to negotiation because "the very characteristics that make negotiation an attractive process in controversies dominated by a utilitarian calculus (where both parties seek to optimize some instrumental good, usually money) make it inappropriate where matters of principle are at stake."⁴⁹ Those who complain about discrimination, for instance, usually seek vindication of ultimate values.⁵⁰ Aubert also makes this distinction when he

notes that there is a greater potential for compromising on conflicts over interest (i.e., "Both A and E want 'the same thing,' but there is not enough of it available for each to have what he wants.") than conflicts over values (i.e., "a dissensus concerning the normative status of a social object.")⁵¹ Moreover, points out Aubert, the object of a dispute may be "indivisible" and hence not lend itself to a give-and-take resolution.⁵²

Commentators have also questioned the potential effectiveness of mediation in situations where the disagreement is not about what issues are involved in the dispute, but about facts. Best and Andreasen, for instance, conducted a large-scale survey of consumer complaint processing and concluded that

(s)ellers probably reject those voiced complaints in which there is a real disagreement over facts or their legal implications. These cases of real disagreement are least likely to be amenable to mediation...since facilitating communication will not help where the parties already know what their dispute involves. Therefore, the most useful third parties for consumers with problems that involve real disagreements would be those empowered to decide the facts and enforce a remedy.... (53)

Another group of scholars have maintained that mediation is unlikely to work where the bargaining power between disputants is unequal. Nader concludes in her study of consumer complaints that "...disputes between people of unequal power are unlikely to be settled fairly by mediation or arbitration unless the force of law is available as a last resort."⁵⁴ Sally Merry points out that other types of disputes may suffer from this imbalance. She offers as an example those between two parties in which one is clearly infringing on the rights of the other by beating or assault, yet the other is powerless to protect him or herself.⁵⁵ The people in these situations are involved in "ongoing relationships" as defined by NJC guidelines, yet the ability of mediators to compell an equal settlement is questionable. Merry concludes that

(u)nless mediation centers address this problem or decide to deal only with disputes between equals, they run the risk of serving the weaker parties poorly, accomodating their demands with inadequate compensation while inhibiting their appeal to courts where they could, at least in theory, demand a legally just settlement. (56)

There are also viewpoints in the literature which tend to challenge these arguments.⁵⁷ Johnson, for instance, reaffirms that one of the central aims of a mediation project is to bring some balance to a dispute. He argues that mediation will, if anything, dilute discrepancies in the amount of power held by disputants and equalize their bargaining positions.⁵⁸ Other proponents have maintained throughout the debate that mediation can deal with all types of disputes, provided the conflict is between individuals.⁵⁹

Individualized Conflict Resolution

Another realm of debate is concerned with the appropriateness of a case-by-case approach to conflict reduction. One of the goals of the NJC, and of similar projects, is to ameliorate tension and conflict in a community by resolving individual disputes. As Daniel Meador testified during hearings for the Dispute Resolution Act,

(s)mall, unresolved disputes in society can fester, grow, and eventually erupt in various forms of anti-social, undesirable conduct. Indeed, if there are enough unresolved disputes nationwide, we could eventually have a fairly serious social problem affecting the stability of society. So, there is a preventive feature in all of this to resolve these mattters at an early stage when they are still at a low level and have not yet festered and erupted to a greater dimension. (60)

Critics have charged that by concentrating on individual cases, the reforms will ignore larger or more fundamental problems basic to many disputes.⁶¹ In this sense, argues Steele, individual case management may not always be as appropriate as more general, proactive law enforcement.⁶² He observes that for

consumer complaints, dispute resolution tends to ignore the need to sanction systemic or repetitive incursions of the law. An NJC-type reform would focus not on the deviant normative quality of the seller's behavior, but on the specific dispute presented by a dissatisfied buyer and on what can be done about it.⁶³

As several studies on consumer grievances have pointed out, there is a tremendous need for a more preventative and encompassing strategy.⁶⁴ Through their survey study, Best and Andreasen found that voiced complaints are a distorted representation of consumer problems in general, and that complaints to third parties are in turn a small and unrepresentative selection from all voiced complaints. They conclude that organizations charged with enforcing consumer protection laws should implement more systematic, proactive methods to uncover buyers' real problems, and that they should avoid "excessive preoccupation" with individual complaints when enforcement strategies could help many more people.⁶⁵

Critics also argue that a case-by-case approach to dispute management diminishes the opportunity for policy change and rule-making. The presence of NJCs, in this view, may actually deflect needed reforms.⁶⁶ As Hofrichter observes,

...the need for a collective response or policy transformation cannot be achieved through individualized dispute resolution.... The prevention of repeated fraudulent activities, for example, housing code violations or excessive rates charged by finance companies, requires a substantive reordering of property rights. The political dimension of these injustices is excluded when translated into a misunderstanding resolvable by negotiation and the avoidance of conflict. Where consumers are complainants, resolution by accommodation conceals the inequality between parties in bargaining power, and does nothing to restrict repeated fraudulent activity against the same or other complainants, while actually satisfying an individual's monetary claim of the moment. (67)

Rebuttals to these arguments have included the assertion that mediation programs may actually expose recurring infringements by bringing them to public attention. This would be a positive contribution of the mediation programs, according to this viewpoint, especially if the great majority of cases never would have been aired by some other mechanism.(68)

Learning to Cope with Conflict

A final issue of contention in the dispute mediation field concerns the long-run ability of community members to contend with conflict. Danzig has argued that a "community moot" would actually engender a learning process in the community, whereby its members would become more proficient at regulating and controlling conflict. This concept was further developed by McGillis and Mullen who explained that an NJC would teach citizens unilateral and dyadic approaches to dispute resolution. In this way, the Center could eventually reduce disputant dependence on official third-party intervention.⁶⁹

Some observers, however, have alleged that the reforms will actually displace an important process through which communities learn to deal with tension. "By taking over ownership of the dispute and the records involved," says Warhaftig, "the professionals have removed the community's chance to both learn from its individual disputes and see patterns of behavior developing over which collective action could be taken to improve the situation."⁷⁰

This inadvertent consequence, according to the critics, stems from an assumption in the design of the program that conflict is inherently dysfunctional and destructive to a community, and that the key to social harmony is the resolution of intermittent disruptions as they arise.⁷¹ While such negative aspects of conflict are undeniably important, say the authors, the assumption

ignores the potential for conflict to serve some positive functions in the long run. One such function is development of the residents' ability, mastered over time, to seek solutions and work out for themselves agreements and compromises for living with each other. Coser (1956) notes this and other functional attributes of social conflict.⁷² Felstiner and Williams (1978) discuss it in their critique of dispute mediation, and observe that

(i)n this alternate view, conflict is seen as an integral part of social relations. Social relations function well not if they are undisturbed, but if they succeed in integrating diverging interests through continual confrontation and discussion of the issues, and if they control the explosive force of diverging interests through a continuous modification of the condition of the relationship. (73)

Summary

The upcoming analysis will not resolve these ongoing debates, but this brief review of the issues provides us with a number of guiding questions. The following will be regarded as a backdrop for analysis of the neighborhood data:

- 1) Are American urban neighborhoods characterized by norms uniform enough and interactions rich enough to support mediation?
- 2) To what degree does mediation in the U.S. require that "authority" or coercive power be present to induce participation and adherence to agreements?
- 3) Are all types of disputes suitable for mediation, or will there be some problem with those involving principles, indivisible objects, agreed-upon facts, or unequal bargaining power between disputants?
- 4) Is the case-by-case approach to conflict resolution always appropriate, or are there conditions under which collective action, proactive law enforcement, or rule changes are more desirable?

- 5) Will mediation centers tend to be supportive of a community's ability to cope with conflict, or will they detract from the learning process?

AN ASSUMPTION ABOUT DISPUTING SYSTEMS

Reflecting the plan for a pre-intervention study outlined in Chapter One, this analysis will focus on a questionable assumption about systems operating within the program environment. I will now document this assumption and present a brief review of recent research bringing it into question. One basic assumption underlying the NJC concept is that disputants have few options available for the resolution of their conflicts other than to take them to court or to practice avoidance. Neither the literature on program design nor the evaluation devote more than a passing word to the possible existence of other mechanisms or processes for the management of disputes. This deficiency is not surprising given that the roots of the reform are imbedded in a long standing desire to ameliorate the myriad problems associated with formal adjudication of minor disputes. In the eyes of many scholars, the overcrowding of courts has signified a declining prevalence and effectiveness of alternative mechanisms and processes whereby minor disputes can be resolved.⁷⁴ Whether or not this is actually true, program designers have acted, in fact, as if such alternatives are virtually absent from the disputing terrain. The result has been a focus on the need to fill a vacuum rather than to augment or complement existing systems.

The assumption that disputants are faced with a choice between the courts and avoidance has been especially apparent in the call to improve justice for those whose conflicts will otherwise persist and worsen. Daniel Meador of the DOJ's Office for Improvements in the Administration of Justice, for instance,

offered the following as part of testimony before congressional hearings on the Dispute Resolution Act which is to provide funding for NJCs and similar projects.

In decades gone by, citizens in this country have turned to such informal dispute settling means as the justice of the peace down the road, the policeman on the neighborhood beat, the minister or the priest, and the family elder. There have been institutions that were stronger in the past than they are now such as churches, schools, and the family within which many controversies were considered and resolved. Regrettably, in contemporary American life, many of these persons and institutions have either been diminished in influence and authority or, indeed, many have disappeared altogether. Social conditions have changed. Today there is a void in the means available for settling citizen disputes.... (75)

Meador goes on to proclaim that "(o)nly recently has it become widely recognized that in the mobile, atomized society of the present day there is a need and popular demand for new institutions for resolving minor everyday disputes. If government is to remain responsive to the needs of the people this demand must be met."⁷⁶ A DOJ description of the program offers arguments similar to those expressed by Meador and presents the NJCs as an essential alternative for those whose disputes may either clog the courts or find no outlet at all.⁷⁷ "In the absence of adequate alternatives," says a more recent DOJ policy brief, "the court is expected to resolve (minor disputes)."⁷⁸

In their description of the problem, the evaluators also reiterate this theme of limited dispute processing mechanisms:

The courts have not actively sought to become the central institution for dispute resolution; rather the task has fallen to them by default as the significance and influence of other institutions has waned over the years. Many of the disputes which are presently brought to the courts would have been settled in the past by the family, the church or the informal community leadership. While the current role of these societal institutions in resolving interpersonal disputes is in

doubt, most individuals take their cases to the courts.... (79)

The evaluators go on to describe various alternative dispute resolution techniques including unilateral actions on the part of the disputant and dyadic options in which the two disputants confront one another, but they give little credence to these modes as present alternatives to the courts:

Although the unilateral and dyadic responses to disputes may be workable and effective approaches to dispute resolution under certain circumstances, they do not appear to offer the stable forum required for an alternative to conventional adjudication. In this regard, third party resolution techniques -- short of adjudication -- have been viewed as the most feasible and satisfactory alternatives to the judicial system. (80)

The discussion of third-party techniques which then ensues includes no reference to or consideration of third-party techniques which may already be processing disputes in urban neighborhoods.

Beyond statements such as these, there is an assumption inherent in the very design of the alternatives to adjudication. Little work was conducted before the NJCs were implemented to investigate dispute processing within neighborhoods, and the vast majority of disputes handled by the centers were recognized as disputes only because they had reached court. More generally, there was no attempt by designers to understand patterns of disputing within neighborhoods and then "mold" the program around such patterns. The closest the plans came to such an effort was to call for appropriate referral of certain cases to existing community agencies and services. As we will see in the examination of the evaluation, however, even this effort fell short of intentions. In brief, documented plans for the NJCs and their actual implementation represented not an adapted, complementary addition to existing disputing patterns but a more standardized effort based on the perceived needs

to close a gap and divert burdensome cases from the courts.

How might this assumption about limited resources for the processing of disputes be investigated? One tack would be to question the tenet that the diminishment of more traditional resolution methods has led to an increased reliance on the courts. There has, in fact, been considerable discussion about what factors underlie the growing congestion of courts, and not all scholars agree that a swelling of unresolved disputes per se is responsible for the condition. Friedman and Percival, for instance, performed an historical study of two trial courts and found that between 1890 and 1970, their dispute settlement function declined and was replaced by routine administrative functions. "We must ask," they conclude, "what are the institutions that have replaced the courts and how do they operate?"⁸¹ The issue of court congestion is a complex one, however, and one that is not likely to find certain solution soon.

A more promising tack would be to examine the existing patterns of dispute processing in urban neighborhoods. How numerous and how prevalent are present alternatives to avoidance and formal adjudication? A discovery that communities are, in fact, characterized by rich sources and processes for the resolution of disputes would not necessarily discredit the need for a formal alternative to adjudication, but it would draw into question the rather narrow view that disputes are "festering" within communities because of the backlog in the court system. To some extent, and in some communities, such a view is undoubtedly quite accurate. The concern would be with the degree to which the assumption does not hold and with the possible program-related consequences that could result where alternative processes and mechanism are vital components of urban community life.

This second tack will be used here. As a pre-intervention analysis, the Buckle Dispute Project has begun the task of "mapping" the processes and mechanisms whereby people with ongoing relationships cope with minor forms of conflict. Preliminary data from this effort will certainly not provide a conclusive image of neighborhood disputing, but it will offer examples and patterns indicating the possible conclusions of a completed study. We will see that the disputing patterns of a neighborhood can indeed be rich and complex, with significant implications for program and evaluation design.

Some Recent Research on Alternative Remedy Systems

A number of researchers have raised questions about non-judicial disputing options, and some have begun to investigate a recognized gap in knowledge about such systems. "Although we have always known," says Steele, "that not all disputes are processed by lawyers and judges, the image of formal adjudication as the modal response to disputes has had amazing potency, and not only in academic legal circles."⁸² As Steele goes on to point out, reformers have been preoccupied with courts, and litigation at the expense of information about which of the population of adjudicable disputes actually are litigated, and what becomes of non-litigated disputes.⁸³

Authors such as Abel (1973) and Galanter (1974) have challenged the concentration on litigated conflict and have begun to outline some of the alternative systems available to disputants.⁸⁴ Galanter, for instance, suggests that because the courts may represent only "the tip of the iceberg" when it comes to available systems, our negligence of the remaining "iceberg" may lead to unforeseen circumstances during reform efforts.⁸⁵ He suggests that a number of alternatives to the court system are available to disputants, including

"appended" and "private" remedy systems. The first category refers to unofficial options which somehow use or depend upon the official courts or laws. Disputants may, for instance, reach a settlement by invoking the threat of litigation or by using the rules of litigation as a guide to dispute resolution. "Private" remedy systems are those which are relatively independent in norms and sanctions from the official legal system, such as religious courts, the internal regulatory aspects of universities, or the informal, yet highly articulated, system of regulation and control within Chinese groups and the Mafia.⁸⁶

Some researchers have found that the use of remedy systems falling within Galanter's "private" and "appended" categories are utilized quite frequently. Sarat, for instance, has investigated the common practice by disputants of filing claims in Small Claims Court without the intention of following through with a trial. He found that many are able to reach an out-of-court settlement through this invocation of the formal system.⁸⁷ At the more "private" end of the scale studies have been concerned with particular systems, such as Doo's documentation of internal regulation within Chinese communities,⁸⁸ or they have had a more general focus, such as some projects now under way to "map" or document the more obscure portions of the dispute processing iceberg.⁸⁹

So far this discussion has focused on the mechanisms which may facilitate dispute resolution in an urban community. But what about the social relationships and interactions that may help residents process disputes? For instance, won't some urban dwellers be more proficient in the use of certain mechanisms if there are people within the neighborhood who can provide information on the use of those mechanisms? The literature on "social networks" offers us a

framework for thinking about the facilitative role of human interaction.

Schon offers a broad typology for "Informal Social Networks," or

patterns of relationships and interaction among persons or collectivities. These patterns are regular and persistent and, in that sense, law-like, but they are not governed by formal rules. They lie outside the boundaries of formal contract, formal regulation, formal organization. (90)

He discusses a number of such arrangements including "Helping Networks" in which members provide each other with support or assistance as they deal with various problems or as some kind of need arises. In a study of one community, Schon found a fairly elaborate informal network for the care of elderly people, providing such services as transportation, visitations, assistance when problems arose, introduction into formal activities, and just plain companionship. This rather loose arrangement of friends, acquaintances, and relatives plays an important role in the lives of the community elderly, and as Schon observes, social service planners who are not sensitive to this informal form of help risk the development of an ineffectual program or one which provides services already being delivered.⁹¹

Informal networks can provide "help" in two senses of the word.⁹² First, members may give each other direct aid or support as illustrated by the case of the elderly in which visitations were made or services provided. A second form of assistance may be less direct but equally important: members may provide each other with information or guidance about the existence and offerings of formal helping organizations. Schon reports that such "information networks" may actually develop around a formal institution, and he offers the example of friends who facilitate (through information and transportation) the participation of an elderly person in the local Moose Club activities.⁹³

Such informal social networks may have much to do with dispute processing within a community. We can infer from the empirical work of researchers such as Schon and Warren that problem-oriented helping networks -- or particular individuals within them -- may play a key role in the development and management of "minor disputes." Along with the spectrum of alternative mechanisms described by Galanter, the concept of informal networks will help guide the search for alternative dispute remedy systems in the study of an urban community. Next we will turn to the strategy for that search.

THE BUCKLE PROJECT: DISPUTING IN URBAN COMMUNITIES

The data to be presented here comes from a research project presently being conducted by Professors Leonard and Suzann Thomas Buckle.⁹⁴ Sponsored by the German Marshall Fund, their work is concerned with patterns of disputing in urban neighborhoods. As a research assistant on that project, I have been conducting interviews, analyzing results, and helping to formulate project conclusions.

The Buckles are attempting to determine to what degree there is a "match" between NJCs as designed and the patterns of disputing within the types of neighborhoods which are to receive them. The planners of the Center concept have made certain assumptions about how urban residents engage in minor disputes and by what avenues they choose to seek remedy. In order to test the accuracy of such assumptions, the "Disputing Process Project" is seeking to learn more about what people now do with their disputes or potential disputes, what choices for action are available to them, and how they choose a course of action and select and evaluate the institutions to which they turn.

The Buckles, myself, and four other research assistants are conducting a series of interviews within four neighborhoods of a large metropolitan area.⁹⁵ Thus far neighborhoods have been selected so that they represent some variation along dimensions such as socio-economic class, ethnicity, and history, but the study is not (at this stage, at least), attempting to control systematically for certain variables and neighborhood characteristics. Rather, the effort is more exploratory in nature, attempting to discern patterns and to determine testable hypotheses for a more involved study possibly to be conducted at a later time.

Even in its limited form, however, the project represents what I have advocated as an analysis of existing systems or processes among which an innovation is to be placed. The results from one neighborhood in particular --hereafter to be called Parkhurst Square -- suggest ways that an NJC design might be modified or that potential program consequences might be anticipated by evaluators. I will attempt to show that a study such as this performed for a "hypothetical" NJC in the Parkhurst Square area would provide guidance for a number of modifications in the evaluation design used for the DOJ Field Test. Ideally of course, this type of research would be conducted as a part of program design as well, but the focus here will be on the significance of the project's preliminary results for program evaluation.

A Case-study Neighborhood: Parkhurst Square

The data to be presented for this case study come from a series of 22 interviews conducted by myself and three other research assistants in an urban neighborhood we are calling Parkhurst Square. The study of this particular neighborhood has not yet been completed (we expect to conduct a

total of around 35 interviews) and the studies in other neighborhoods have progressed enough to provide only some comparative data. For these reasons, the discoveries and implications to be offered in the following chapters are only suggestive in nature. The information reaped from the interviews thus far have been analyzed for patterns, trends, and possible generalizations about disputing behavior, and it is these very preliminary results that will be used to illustrate the evaluative potential of an analysis of existing systems. Thus, arguments presented here should not be construed in any sense as definitive conclusions from the Buckle project.

The areas selected for study are small -- only two or three blocks. While it is recognized that disputing behavior may reach beyond such a small area, the benefits to be gained include a very rich data base. In effect, we can "saturate" each neighborhood, and cross-check reported disputes and apparent patterns of disputing.

Our entry into this particular neighborhood was facilitated by people already known to us in the area. They provided us with the names of initial contacts who were called and asked if they would allow us to interview them for a period of forty-five minutes to an hour. The general nature of the proposed NJC program was explained to them along with our interest in learning "how people go about resolving disputes." If the respondent agreed to an interview, we would come to their home at an appointed time, and, if given their permission, record the interview. At the end of each session we asked the respondent for additional names of neighbors and in this way continued to collect possible contacts. We also solicited some interviews by "knocking on doors" in the neighborhood and explaining the project to whom-ever answered. Contacts have so far yielded about a 75% rate of agreement on

the part of people to participate in the study.

The interview, usually conducted by two researchers, followed an open-ended format and varied from respondent to respondent. Generally, however, we attempted to ascertain information on the following topics:

- I. Information about the respondent and his/her interaction with others.
- II. "Troubles," i.e., incipient disputes or disputes that the respondent might have had, including such issues as:
 - A. Details of what happened and what was done.
 - B. Why certain resolution processes were selected.
 - C. Why the trouble was seen as a problem or dispute.
 - D. Participants involved in the trouble and attempts to resolve it.
 - E. How and why people or mechanisms were chosen to help with attempted resolution.
 - F. How the trouble or dispute developed and changed through time.
- III. The Neighborhood or Community(ies) of which the respondent is a member and their relationship to dispute processing. Issues included:
 - A. Is the community geographically defined or does it take some other form (e.g., a geographically dispersed religious group).
 - B. Do there seem to be networks of individuals repeatedly involved in the processing of certain dispute types?
- IV. Respondent use of and satisfaction with the courts, police, and other formal mechanisms for dispute resolution.

Interviewing was selected as the primary mode in this study because of the promise to provide information about the behavior of disputants, whether or not the issue of contention had been taken to a formal third party. Another option, of course, would be to collect information on recognized dispute processing "mechanisms," but we would then miss the opportunity to hear how

and by what norms disputes which never reach such mechanisms are handled. Furthermore, we are interested in potential disputes which may never develop beyond the point of "discontent" on the part of a resident.

The results of the interviews were supported with participant observation to the degree possible. In particular, members of the research staff spent extensive time in Parkhurst Square, developing an impression of its qualities from observing, engaging in casual conversation, and collecting documentary descriptions of the area, its history, and its current character.

Weekly staff meetings were held to analyze the results as they came in, to build hypotheses from continuing research, and to draw preliminary conclusions to be compared with upcoming neighborhood studies. Generally, we would rely on four-to-ten page "write-ups" on the interviews and observations in order to sort out and piece together (among other findings) patterns of dispute processing in the neighborhood.

As outlined in the model of study presented in Chapter I, I will present data in terms of the institutions, social relationships and norms associated with disputing in the subject neighborhood. The analysis will be brought into focus through the challenge of the underlying assumption discussed earlier and the results will be conveyed in terms of unanticipated program effects and causal relationships. First, Chapter III will present the case study of disputing patterns in Parkhurst Square.

FOOTNOTES

Chapter II

1. David I. Sheppard, Royer Cook and Janice A. Roehl, National Evaluation of the Neighborhood Justice Centers Field Test: Final Report (First Draft). Prepared for the National Institute of Law Enforcement and Criminal Justice, Law Enforcement Assistance Administration, U.S. Department of Justice, by the Institute for Social Analysis, December, 1979.

United States Department of Justice. "Neighborhood Justice Center Program." Document issued by the Office for Improvements in the Administration of Justice, July 11, 1977.

2. Leonard G. Buckle and Suzann R. Thomas Buckle, "The Disputing Process: An Analysis of the Neighborhood Justice Center Concept," Research Project sponsored by the German Marshall Fund (Harvard University) 1979-1980. (Note: Several people involved with this project have assisted me in this analysis: Leonard G. Buckle, Suzann R. Thomas Buckle, Scott Cook, Allen Lee, Nancy Reichman, and Dvora Yanow.)

3. The following documents were used in the analysis of the Field Test:

Institute for Research, "Evaluation of the Neighborhood Justice Center Pilot Program." A Grant Application submitted to the Office of Evaluation, National Institute of Law Enforcement and Criminal Justice, October, 1977.

Kansas, City of. "Neighborhood Justice Center Application of Kansas City, Missouri." Proposal submitted to the National Institute of Law Enforcement and Criminal Justice, Law Enforcement Assistance Administration, U.S. Department of Justice, 1977.

Los Angeles County Bar Association, "Neighborhood Justice Center Project." Proposal submitted to the National Institute of Law Enforcement and Criminal Justice, LEAA, U.S. Department of Justice, n.d.

McGillis, Daniel and Joan Mullen. Neighborhood Justice Centers: An Analysis of Potential Models. Prepared for the National Institute of Law Enforcement and Criminal Justice, Law Enforcement Assistance Administration, U.S. Department of Justice by Abt Associates, Inc., 1977.

Neighborhood Justice Center of Atlanta, Incorporated. "Neighborhood Justice Center Project." Proposal submitted to the National Institute of Law Enforcement and Criminal Justice, LEAA, U.S. Department of Justice, 1977.

David I. Sheppard, Royer Cook, and Janice A. Roehl, National Evaluation of the Neighborhood Justice Centers Field Test: Final Report (First Draft). Prepared for the National Institute of Law Enforcement and Criminal Justice, LEAA, U.S. Department of Justice, November, 1979. (NOTE: The final draft

of this report will be more complete and may show considerable change from this First Draft. Conclusions to be drawn here and in later chapters are hence somewhat tentative in nature.)

David I. Sheppard, Royer Cook, and Janice A. Roehl, National Evaluation of the Neighborhood Justice Centers Field Test: Interim Report. Prepared for the U.S. Department of Justice by the Institute for Social Analysis, 1978.

David I. Sheppard, Royer Cook, and Janice A. Roehl. "National Evaluation of the Neighborhood Justice Centers Field Test: Work Plan." Prepared for the U.S. Department of Justice by the Institute for Social Analysis, May, 1978.

United States Department of Justice, "Neighborhood Justice Center Program." Document issued by the Office for Improvements in the Administration of Justice, July 11, 1977(a).

United States Department of Justice, "National Institute of Law Enforcement and Criminal Justice Design for Neighborhood Justice Centers." Reprinted in McGillis and Mullen, 1977(b).

United States Department of Justice, "Neighborhood Justice Centers." Information packet prepared by the Law Enforcement Assistance Administration, National Institute of Law Enforcement and Criminal Justice (National Criminal Justice Reference Service). Washington, D.C., n.d.

4. McGillis and Mullen, pp. 204.

Sheppard, et al., (1979), pp. 5-7.

U.S. Department of Justice (1977a), p. 1.

5. Sheppard, et al., p. 5.

Frank E. Sander. "Varieties of Dispute Processing," F.R.D.: The Pound Conference, Volume 70 (1976), p. 114.

6. NOTE: "Designers" refers to the D.O.J. personnel and others, including McGillis and Mullen, who developed the broad guidelines for the NJC program. See Footnote #3.

7. Sheppard, et al., (1979), pp. 5-7.

8. Sheppard, et al., (1979), pp. 5-7.

9. Richard Danzig, "Toward the Creation of a Complementary, Decentralized System of Criminal Justice," Stanford Law Review 26 (1973), pp. 1-54.

10. Eric Fisher, "Community Courts: An Alternative to Conventional Criminal Adjudication," The American University Law Review 24 (1975) pp. 1253-1291.

11. Sander.
12. American Bar Association. "Report on the National Conference on Minor Disputes Resolution, 1977." Reprinted in Dispute Resolution Act: Hearings before the Subcommittee on Courts, Civil Liberties, and the Administration of Justice of the Committee on the Judiciary, U.S. House of Representatives, 1978.
13. Sheppard, et al., (1979), p. 10.
14. McGillis and Mullen, p. 146.
15. McGillis and Mullen, p. 197.
16. McGillis and Mullen, p. 197.
17. McGillis and Mullen, p. 198.
18. McGillis and Mullen, p. 199.
19. U.S. Department of Justice, n.d., p. 35.
20. Sheppard, et al., pp. 35-50.
21. Sheppard, et al.
22. Sheppard, et al., p. 53.
23. See References listed under Footnote #3.
24. Sheppard, et al., (1979), pp. 18-20.
25. See, for instance, Testimony of Frank E.A. Sander, in: United States House of Representatives, Dispute Resolution Act, Hearings Before the Subcommittee on Courts, Civil Liberties, and the Administration of Justice of the Committee on the Judiciary, July 27, August 2, 1978, p. 29.
26. Sheppard, et al., (1979), p. 20.
27. Sheppard, et al., (1979), pp. 21-22.
Daniel McGillis, Discussions. April 1980.
28. Sheppard, et al., (1979), Appendix.
29. Sheppard, et al., (1979), p. 24.
30. Sheppard, et al., (1979), pp. 24, 35-170.
31. Sheppard, et al., (1979), pp. 105-106.

32. Sheppard, et al., (1979), pp. 30-31, 103-135.
33. Sheppard, et al., (1979), p. 32.
34. Sheppard, et al., (1979), pp. 30-33, 135-163.
35. Sheppard, et al., (1979), p. 33.
36. Sheppard, et al., pp. 34, 167-170.
37. Sheppard, et al., (1979), p. 34.
38. Sheppard, et al., (1979), pp. 171-186.
39. Leonard G. Buckle and Suzann R. Thomas Buckle, "Toward an Assessment of the Neighborhood Justice Center: An Outline of Issues and Literature," (Draft), Document prepared for German Marshall Fund project: "The Disputing Process: An Analysis of the Neighborhood Justice Center Concept." March, 1980.
40. McGillis, Discussions.

Linda R. Singer, "The Growth of Non-Judicial Dispute Resolution: Speculations on the Effects on Justice for the Poor and on the Role of Legal Services." Paper prepared for the Legal Services Corporation, n.d. (1980?).
41. See, for instance:

Danzig.

Richard Danzig and Michael J. Lowy, "Everyday Disputes and Mediation in the United States: A Reply to Professor Felstiner," Law and Society Review 9 (Summer 1975), pp. 675-694.
42. William L.F. Felstiner, "Influences of Social Organization on Dispute Processing," Law and Society Review 9, No. 1 (Fall 1974), pp. 63-94.

See also, Lawrence Friedman, "Access to the Legal System and the Modern Welfare State: An American Report." Paper prepared for the Colloquium on Access to Justice, After the Publication of the Florence Project Series: Prospects for Future Action, 1979.
43. Richard Hofrichter, "Justice Centers Raise Basic Questions," New Directions in Legal Services 11 (November-December 1977), p. 171.
44. Sander (1976), p. 130.
45. Danzig.

See also, Paul Warhaftig, "Citizen Dispute Resolution: A Blue Chip Investment in Community Growth," Pretrial Services Annual Journal (1978), pp. 153-161.

46. Fisher.
47. William L.F. Felstiner and Lynne Williams, "Mediation as an Alternative to Criminal Prosecution: Ideology and Limitations," Law and Human Behavior 2, No. 3 (1978), pp. 223-244.
48. U.S. Department of Justice, 1977(a).
U.S. Department of Justice, 1977(b).
49. Richard L. Abel, "From the Editor," Law and Society Review 12, No. 2 (Winter 1978), p. 189.
50. Abel, p. 189.
51. Vilhelm Aubert, "Competition and Dissensus: Two Types of Conflict and of Conflict Resolution," Conflict Resolution 7, No. 1, pp. 27, 29.
52. Aubert.
53. Arthur Best and Alan R. Andreasen, "Consumer Response to Unsatisfactory Purchases: A Survey of Perceiving Defects, Voicing Complaints, and Obtaining Redress." Law and Society Review 11, No. 4 (1977), p. 732.
54. Laura Nader, "Disputing Without the Force of Law," The Yale Law Journal 88, (1979), p. 1020.
55. Sally Engle Merry, "Can Community Dispute Settlement Centers Work? A Comparison with Anthropological Models of Mediation," Unpublished paper. Wellesley College, 1979, p. 15.
56. Merry, p. 15.
57. Singer, pp. 22-29.
58. Earl Johnson with Elizabeth Schwartz, A Preliminary Analysis of Alternative strategies for Processing Civil Disputes. Washington, D.C.: National Institute of Law Enforcement and Criminal Justice, U.S. Department of Justice, 1978, p. 4.
59. Daniel Meader, Testimony reported in: U.S. House of Representatives, 1978, pp. 59-71. (See footnote #25.)
Singer, pp. 23-25.
60. Daniel Meader, Testimony reported in: U.S. House of Representatives, 1978, p. 69. (See footnote #25.)
61. Hofrichter.

- Austin Sarat, "Alternatives in Dispute Processing: Litigation in a Small Claims Court," Law and Society Review 10, No. 3 (Spring 1976), pp. 339-375.
62. Eric Steele, "Fraud, Dispute and the Consumer: Responding to Consumer Complaints," University of Pennsylvania Law Review 123 (1975).
 63. Steele, p. 109.
 64. Best and Andreasen.
Nader.
 65. Best and Andreasen.
 66. Laura Nader and Linda R. Singer, "Dispute Resolution and Law on the Future: What Are the Alternatives?" California State Bar Journal 51 (July 1976), pp. 313-315.
Steele.
 67. Hofrichter, p. 170.
 68. Singer, pp. 30-31.
 69. McGillis and Mullen, p. 31.
 70. Warhaftig, p. 155.
 71. Felstiner and Williams, p. 241.
Meader, Testimony reported in: U.S. House of Representatives, 1978, pp. 59-71. (See footnote #25.)
 72. Lewis Coser, The Functions of Social Conflict (New York: The Free Press, 1956), pp. 7-38.
 73. Felstiner and Williams, p. 241.
 74. See, for instance, Sander (1976), pp. 111-116.
 75. Daniel Meader, Testimony reported in: U.S. House of Representatives, 1978, p. 60. (See footnote #25.)
 76. Daniel Meader, Testimony reported in: U.S. House of Representatives, 1978, p. 60. (See footnote #25.)
 77. United States Department of Justice, 1977(a).
 78. Daniel McGillis, "Neighborhood Justice Centers," Policy Brief prepared for the National Institute of Justice, U.S. Department of Justice by Abt Associates, Cambridge, 1980, p. 1.

79. Sheppard, et al., (1979), p. 6.
80. Sheppard, et al., (1979), p. 8.
81. Lawrence Friedman and Robert V. Percival, "A Tale of Two Courts: Litigation in Alameda and San Benito Counties," Law and Society Review 10, No. 2 (Winter 1975), p. 301.
82. Eric Steele, "Two Approaches to Contemporary Behavior and Consumer Problems," Law and Society Review 11, No. 4 (Spring 1977), p. 668.
83. Steele (1977), p. 668.
84. Richard L. Abel, "A Comparative Theory of Dispute Institutions in Society," Law and Society Review 8, No. 2 (Winter 1973) pp. 219-303.

Marc Galanter, "Why the 'Haves' Come Out Ahead: Speculations on the Limits of Social Change," Law and Society Review 9, No. 1 (Fall 1974), pp. 95-160.
85. Galanter (1974), p. 144.
86. Galanter (1974), pp. 127-129.
87. Sarat, pp. 344-347.
88. Leigh Wai Doo, "Dispute Settlement in the Chinese Community," American Journal of Comparative Law 21 (1973), p. 627.
89. Daniel McGillis, for instance, is conducting a study concerned with formal dispute institutions outside the court, and Jack Ladinski, of the University of Wisconsin, is pursuing a more comprehensive "mapping" of dispute systems.
90. Donald Schon, "Network-Related Interventions," Unpublished Manuscript, M.I.T., 1977, p. 1.
91. Schon, pp. 4-5.
92. Donald I. Warren, "The Multiplexity of Urban Social Ties: An Integrative Analysis," paper presented at the Ninth World Congress of Sociology, Uppsala, Sweden, August, 1978.
93. Schon, pp. 1-5.
94. Buckle and Buckle (1979-1980). See footnote #2.
95. See Footnote #2 for names of the other research assistants. Nancy Reichman, especially, has been involved with me in the study of the neighborhood to be reported here. The description presented here has been derived partly from: Leonard G. Buckle and Suzann R. Thomas Buckle, "Bringing Justice Home: Some Thoughts About the Neighborhood Justice Center Concept." DRAFT project description, 1979 (see footnote # 2).

CHAPTER III

Dispute Processing in an Urban Community:

A Case Study

CHAPTER III

The residents of Parkhurst Square engage in a wide variety of disputes and rely on a range of organizations and relationships for the processing of those disputes. This introduction to patterns of disputing in an urban community will begin with a brief geographical and demographic description of the area. I will also explain some recent economic changes affecting the neighborhood. Then I will outline several categories of conflict which became prominent in the course of our interviews, and I will highlight some special characteristics of the relationships between disputants.

The discussion will then turn to the dispute remedy or processing systems utilized by the residents of Parkhurst Square. My particular interest in the assumption underlying the NJCs that there are few alternatives to the judicial system will guide analysis of the data. Adhering to the model presented in Chapter One, these remedy systems will be portrayed along three dimensions: institutions, social relationships, and the norms or values governing dispute processing. These categories are by no means exhaustive or mutually exclusive, but they do provide a useful framework for describing how and why people seem to choose particular paths as they deal with conflict. The chapter will close with a description of one shortcoming, perceived by many respondents, in the dispute remedy systems presently available to Parkhurst residents.

THE PARKHURST SQUARE NEIGHBORHOOD

The area selected for study is well defined by geographical boundaries. Roughly triangular in shape, it is bounded on one side by a major artery and shopping complex and on another by a set of railroad tracks. The territory is composed of about three square blocks, defined on the third side by a residential street. Some of the respondents described these very boundaries as the extent of their "neighborhood," while others described a much larger geographical space.

Dating from around the turn of the century, the neighborhood is composed mostly of two-and-three family, wood-frame houses. There are also three apartment buildings varying from six to twenty units, and a number of commercial establishments. The latter include warehouses, light industries, stores, and restaurants.

The area is characterized by a mixture of renters and owners, long-term residents and transients, and people whose socioeconomic status could be described as poor working class to lower middle class. The neighborhood was at one time dominated by a group of French Canadians and their culture. Over the years their concentration has diminished, but there are still a number of French residents who have lived in the area their entire lives, who still attend a nearby National Church, and who still send their children to a French Parochial School. There is also a core group of Irish Catholics whose roots in the neighborhood seem to go back many years.

The group of residents who have been in the neighborhood all or most of their lives I will refer to as the "long-timers." They tend to see themselves as a very distinct group from the transients, who are generally defined as those who "aren't planning to stay and raise a family here." The long-timers

know each other from church, from raising children together, and from other occasions, but they do not comprise a close-knit community with any high degree of social interaction. They greet each other on the street but they have often never entered each others' homes. They attend one another's weddings and funerals, but they don't spend a lot of time socializing. As one respondent described it: "our neighbors don't come in and visit. That's what makes me a city person. City people are not coffee clatchers; that's something that people do in the suburbs."

The transients (as defined above by the long-timers) are only vaguely aware of the neighborhood history and know very little about the "core" group of long-timers. Some are acquainted with each other if they live in a common apartment building, but they typically know almost no one outside their own building (except perhaps "by face") and as we shall see, they are usually only vaguely aware of the community-wide conflicts which seem to be so important to the long-timers.

The area is in the midst of considerable economic and social change, partly because a major transportation project is taking place nearby. The square is expected to boom economically with the completion of the project, so there is growing speculative and expansion activity by local businesses and investors (and by outside interests as well). Long-timers are generally distressed with the changes taking place and the economic pressures that threaten to force them out. Beneath many of the more concrete disputes to be described here, in fact, there seems to be an uncertainty and anxiety about the future of what has been "home" for people who were born and raised in Parkhurst Square.

TYPES OF DISPUTES

The conflicts described to us by neighborhood residents can be summarized by a number of categories. I will provide brief descriptions here, to be illustrated by more complete accounts of actual disputes in the section to follow. There is nothing special about these categories other than their descriptive convenience, and it should be noted that there is considerable overlap in the dispute cases which might be placed under each one.

First, there are a series of disputes in Parkhurst Square characterized by their community-wide impact. Local businesses, for instance, create a parking problem in the area, and a pinball arcade attracts "undesirable," disruptive teenagers to the neighborhood. These disputes are usually described by the long-timers as "us-against-them" issues, and the actions taken to resolve them are often collective in nature. Some residents prefer to deal with the issues individualistically (i.e., by confronting the store-owners or teenagers themselves), but there is still general agreement that the problems affect the whole neighborhood.

Among the disputes more limited in nature, there is a set characterized by property-related issues. One resident, for instance, is struggling with the owner of a neighboring restaurant to be reimbursed for damage inflicted on his fence by restaurant patrons.

Another group is characterized not so much by property as by disagreements over procedures or behavior. A few of these take place between friends or neighbors as in the case of complaints about noise. Others involve a resident versus a business establishment or organization. These include, for instance, an attempt by a resident to compel restaurant personnel to keep their daily trash inside until garbage day. Still others take place between residents

and strangers, as in the case of a respondent attempting to induce a non-resident to park outside the neighborhood.

A fourth category of conflict is that between service providers or sellers and the respective users or buyers. In particular, we encountered a number of landlord/tenant disagreements over such issues as rent increases and maintenance issues.

One category of disputing handled by the NJCs, but not encountered in our study, was more interpersonal conflict between family members, relatives, roommates, or close friends. There were, for instance, no specific reports of assault, harassment, or fighting between such people. Unfortunately, it is difficult to know whether this actually represents a low rate of disputing in this area or if it is a function of our data collection methods.

There are some notable differences in the disputes of Parkhurst Square if one thinks in terms of the parties involved. First, not all conflicts are limited to the Square, nor even to the East End as a geographical area. "The other party" in many cases belongs to some network of relationships having no direct affiliation with the immediate neighborhood.

Another contrast is apparent between the dissensus most often discussed by long-timers as opposed to that mentioned by people who have lived in Parkhurst Square for only a few years and plan to "move on." As mentioned earlier, the former group tends to be more involved in the community-wide issues whereas the transients are more likely to describe tenant/landlord issues and disputes not confined to the immediate area. Apparently, this results partly from the difference in outlook between owner and renter (although not all of the long-timers are owners), for as respondents from both groups often pointed out, "you just don't have that much interest in the area if you don't

own property and you don't plan on stayin'."*

DISPUTE PROCESSING SYSTEMS

Dispute remedy or processing systems utilized by the residents of Parkhurst Square will now be described, along with many of the particular "trouble cases" conveyed to us. As I outlined in Chapter II, my concern is primarily with the methods of dispute resolution which were not explicitly considered by the NJC planners. Hence, the emphasis of the presentation will be on alternatives to the judicial system, although no particular parts of the "picture" will be intentionally excluded. The dispute processing systems will be presented in terms of the institutions playing a third-party role in disputes, the social relationships associated with disputes and facilitating their management, and the norms or values guiding residents through the disputing process.

Institutions Playing a Role in Dispute Processing

The institutions or organizations facilitating conflict management in Parkhurst Square range from judicial law enforcement agencies to a more informal "planning council" organized by East End residents. First of all, we encountered considerable use of the official justice system, especially the police. The long-term residents, in particular, seem to feel no hesitation about relying on the police when noise from the patrons of local restaurants is excessive, when teenagers are "causing trouble," or when cars in the area are parked illegally. There is also some use of the Small Claims Courts, and

*The distinction in disputing is not always a clear one, however. A few respondents have lived in Parkhurst Square for a considerable length of time, have no plans to leave, and still show minimal knowledge of or interest in the community-wide tensions.

we can safely infer that, with a larger scale study, there would be evidence of direct reliance on other components of the official court system. As will become evident below, however, use of the legal system -- whether via the police or the courts -- was far from the only avenue selected by disputants in Parkhurst Square.

Agencies and departments of the City are also frequently utilized by residents in the effort to resolve controversies. There was a feeling conveyed to us -- especially by the long-timers -- that "The City" represents a responsive package of authority and services to which the residents are unquestionably entitled. The ward coucilor, for instance, is frequently involved with neighborhood battles (e.g., zoning to regulate businesses) or with more limited problems (e.g., the towing of illegally parked cars), and there is a matter-of-fact impression communicated by respondents that his job as their "elected representative" is to take care of his constituents in these various ways. The City Council is one body within the city government which plays an active role in the processing of neighborhood disputes. Appeals are made to the Council to deal with parking problems and a number of issues between the neighbors and local businesses. Contention between the owner of one particular restaurant and the residents is illustrative of how and under what circumstances the City Council becomes a "third party."

Geppeto's is a restaurant which caters almost exclusively to patrons from outside the Parkhurst Square area. According to respondents, the Geppeto's owner refuses to respond or is slow to respond to complaints from them about illegally parked cars belonging to patrons, the shoveling of snow from his sidewalks, and the poor appearance of a nearby vacant lot. The center of most

disputes is the lot, upon which the owner's old restaurant stood before it burned down. The owner's intention was to leave the "pit" from the foundation of the destroyed building as a depressed parking lot for his new restaurant. The residents wanted to see the "pit" filled in, paved, and landscaped so that the sightliness of the neighborhood would no longer be marred and so as to eliminate the danger to children posed by the precarious walls of the pit. Through a community organization called the East End Planning Council, meetings were held, information was gathered, petitions were passed, and several appeals were made to the City Council. Over the course of time, the Council ordered the owner to place a fence around the pit for the safety of children, and eventually ordered him to fill and pave the pit as requested by the residents.

The City Council has also been the source of amelioration on issues that tend not to be limited to the Parkhurst Square area. Several years ago, in response to appeals made by residents in congested areas like the Square, the City Council provided for "residential permit parking only" on residential streets. In Parkhurst Square, the parking issue had been (and continues to be) the source of frequent altercations and aggravation. There was an assumption, at least among the long-timers, that they were entitled to street parking in front of their homes. Commercial establishments in the area, however, generated considerable congestion, and a number of respondents reported to us that verbal disputes between residents and outsiders competing for spaces were not uncommon. While the Council's response to this city-wide issue could not be called a "resolution," many residents report that the system improved the situation considerably. Now when residents complain to the local commercial establishments about unlawfully parked patrons there is common knowledge that the police can be summoned for towing and ticketing.

A number of city agencies and officials are called upon by the residents of Parkhurst Square when it is perceived that official intervention can make a difference in a dispute. The Street Department, transportation officials, the Health Department, the Fire Department, and the City Attorney's Office are among the institutions utilized by respondents. Sometimes the agency is a source of information, as in the case of the Attorney's Office which has responded to resident inquiries about the status of a local pinball establishment and the steps needed to expell it from the neighborhood.

At other times, an agency is used as a law enforcing and dispute resolution mechanism. One family, for instance, was incensed with the Geppeto's personnel for placing their daily garbage out onto the sidewalk. Family members called and talked in person with the restaurant personnel and owner, explaining that the garbage smelled and attracted rats. No amount of protesting and arguing seemed to make any difference, so the complainants began calling various city agencies. A visit from the Health Authority finally helped to put an end to the practice and apparently helped to resolve the dispute.

Another group of dispute processing alternatives are utilized to some degree by the apartment dwellers of the Parkhurst Square area. There happens to be a strong and active Tenant's Union in the City of Farmington along with a reputable and frequently utilized Housing Court. The former is apparently a particularly good source of information for aggrieved tenants, and the court is often used for the adjudication of renter-related disputes. In addition to these mechanisms, there is a city-wide Rent Control Board with the authority to establish rent ceilings, and grant increases or order reductions in rent for any given unit in the city.

One group of respondents in a six-unit building made use of both the Tenant's Union and the Rent Control Board to prevent an unreasonable rent increase. They initially attempted to block the increase through discussions with the landlord, then consulted the Tenant's Union who advised them on the best course of action, and then presented their case to the Control Board where a decision was made in their favor. The Tenant's Union has since referred residents of other buildings owned by the same Landlady to these respondents for advice.

Perhaps the most influential institution on the disputing "map" of the Parkhurst Square area is the East End Planning Committee (EEPC). Organized and run by East End residents, the Committee covers a geographical area much larger than, but including, our case study blocks. Elected representatives from several small sections within the East End are paid a small stipend and meet periodically along with an elected Committee president and a full-time community organizer. The Committee is funded through a variety of sources, including private foundations, and serves as an organizing and informational nucleus for community issues.

The Parkhurst area studied by us happens to be one of the committee "sections" of the East End, and, as the representative and others repeatedly told us, many of the neighborhood problems have been confronted through the organizing efforts of the EEPC. A good example is the issue of "Gameland," a local pinball and game establishment catering to teenagers. Parkhurst Square residents, especially those near the establishment, are furious about the vandalism, noise, threatening demeanor, and "corruption" associated with the teenagers who are said to be attracted by Gameland and who "hang out" in

the area. Several respondents have had direct altercations or confrontations with the kids, and others have been victims of minor crimes. The contentious history of Gameland includes numerous EEPC-organized meetings between neighbors, the Gameland owner, and city officials. The Committee has also collected information on the relevant legal and regulatory issues, and recently organized a petition drive in an effort to block the relicensing of the establishment. Similarly, the vacant lot contention with Geppeto's did not go directly to the City Council but was first discussed and established as a community issue through EEPC meetings.

One source of aggravation and contention for the residents of the area was apparently eliminated quite successfully through efforts of the EEPC. A "tot lot" or playground located near a local school was no longer serving its original purpose because so few young children remained in the neighborhood. In recent years it had become a "hang-out" for teenagers who generally came from outside the immediate area and who were often noisy, disruptive, and abusive to residents. The EEPC representatives called the issue to the attention of the Committee which investigated alternative solutions to the problem. Some of these alternatives were listed on a questionnaire which was administered to residents on the block. The neighbors elected to transform the tot lot into a community garden, and apparently the teenagers are no longer congregating in this particular area.

This discussion of dispute processing institutions in the Parkhurst Square area has thus far been concerned with the direct utilization of various organizations. Galanter points out to us, though, that remedy systems may be "appended" in the sense that official or formal institutions are used

indirectly in the bilateral negotiation of conflict.¹ I cited earlier Sarat's findings that dispute settlement is often facilitated just by the filing of a complaint with a Small Claims Court.² It is easy to see how in Parkhurst Square a threat to call the Health Authority, to appeal an issue to the City Council, or to file a complaint with the Housing Court might facilitate dyadically negotiated solutions to a whole range of controversies. It is also conceivable that official institutions provide a backdrop of information and rules against which disputants in Parkhurst Square can negotiate.

At times, this form of disputing was used quite clearly by respondents. One woman was engaged in an involved and long-term disagreement with the phone company over the charges appearing on her monthly bill. She attempted several times to work out a solution with the phone company personnel over the phone, but was finally told that she "would simply have to pay the full amount." At this point she informed the phone company representative that it would be necessary for her to contact the state utility regulatory commission in order to pursue the case through official channels. The representative responded by connecting the complainant's call with a higher level management person who immediately negotiated a compromise settlement.

Social Relationships and Dispute Processing

Another element of dispute remedy systems in Parkhurst Square is the set of social relationships contributing to conflict management. Two patterns were prominent. First, there were several instances of dyadic negotiation over disputes. Second, there was considerable evidence that informal "helping networks" facilitated dispute processing in the neighborhood.

While people in Park Square do not interact extensively, they do manage to negotiate and work out on their own solutions to some minor disputes. Dyadic approaches to dispute resolution are given little consideration by the NJC designers.³ Yet such methods may comprise a substantial portion of the "disputing map" in a place like Parkhurst Square. In one trouble case, for instance, the owner of a corner bar was frequently outraged because the residents were placing their garbage in his dumpster. He and the apartment dwellers exchanged angry words over the issue several times, and in frustration the bar owner finally dumped a bag of garbage into the alcove of the apartment building. An involved and heated argument ensued between the owner and the apartment dwellers, resulting finally in an agreement on the part of the residents to stop using the bin. According to one respondent, the problem has never reappeared and the relationship with the bar owner has been much more "amicable" ever since.

Other disputes over issues such as noise and apartment repairs were also frequently ameliorated through two-party negotiations. One respondent who grew up in the neighborhood felt that this was a basic way of coping among residents:

There are those petty problems...at times when someone will move a fence of theirs a foot and then someone will say, well God, you're taking a foot...we have only seven feet between our house and the fence; that type of thing ...that's something that's just basically left to be worked out between people.

So far there have been few examples of direct dispute resolution assistance provided by networks in the Parkhurst Square area, but facilitative patterns of information brokerage seem fairly strong. In this sense there

seem to be "informal helping networks" related largely to conflict in the community.* Neighborhood action over the parking lot "pit" and other controversies with the Geppeto's owner, for instance, were at times spearheaded and guided by particular members of the community. Mrs. Martin, who is the EEPC representative for Parkhurst Square, encouraged people by phone and in person to attend meetings on the issue. She is generally known by residents in the area as an "organizer," and some of the other residents on her street often assist her, leading one respondent on a different street to tell us: "you should talk to the people over on Barker Street -- they're the real activists over there."

Another resident, Mr. Richards, apparently provided some of the legal and regulatory information needed to engage the restaurant owner in a battle. At one point, the residents thought they might attempt to prevent the owner from constructing an additional building, and Mr. Richards came forth at a Planning Council meeting with information on zoning regulations and possible legal avenues that the neighbors might take. "Mr. Richards can quote the laws and regulations like a bible," one respondent told us.

A different case occurred before the existence of the EEPC, illustrating the potential of an "informal helping network" even without the presence of an organizing structure. Many of the residents on Barker Street became concerned when a building on the block began to undergo conversion to an auto body shop. They were afraid that the enterprise would be unsightly and disruptive to the neighborhood, and as they discussed the issue with each other, they decided that it would be appropriate to hold a meeting. Two women, in particular, organized the meeting (one of them apparently active in a number

* See Chapter II for an explanation of the concept, "Informal Helping Networks."

of such causes) and invited various city officials, as well as the owner of the establishment. The neighbors were assured by the city officials and by the owner that the body shop would actually be an orderly and neat operation with no detrimental effect on the neighborhood. The respondents we spoke with have had no complaints about the shop ever since. This simple case shows how informal networks may develop around and make use of formal establishments, in this case, the city agencies represented by the officials at the meeting.

Apparently, then, dispute processing is partly a function of dyadic relationships and networks in Parkhurst Square. A description of alternative processing systems is not complete without this portion of the picture, for the wide usage of non-judicial organizations is often guided and informed by distinctive patterns of social interaction.

Norms and Dispute Processing

The final "piece" in the disputing map of Parkhurst Square is composed of the norms or values governing social interaction and the use of dispute processing mechanisms. Norms held in common by the people of Parkhurst Square or by subgroups within the area have already been presented to some degree. There seems to be a fair amount of agreement, for instance, about what is threatening or "bad" for the neighborhood. I will describe two other values here which seemed particularly consistent in our study.

First, a pattern of responses in our interviews indicates, at least among the more established residents, that there is a desire for authoritative, enforceable decisions for a whole range of disputes. This was manifested in the cases described earlier, in which the residents turned to the City Council for legislation, to the Landlord/Tenants Court for a decisive legal outcome,

and to the health authority for an enforceable mandate. "It's the law" or "it's what's right" were expressions heard often by us as respondents described merchant/customer, landlord/tenant, and some more interpersonal conflicts. The only foreseeable solution to the series of problems with the Geppeto's owner was described, for instance, by one respondent: "If he's pushed to the wall and feels that he has to do it, you know, accordin' to the law, he'll do it."

This perceived need for authority was also apparent in the complaint by several respondents that even the mandates declared by formal organizations were sometimes not enforced. At the end of our interviews, we would ask respondents an open question about what they would like to see in a new organization designed to help them work out their disputes. This was well after the concept of mediation had been described by us, but several respondents still went straight to the need for enforcement of the rules and regulations that had already been won by organized neighborhood efforts. Also frequent was the comment that a mediation center would almost certainly need "binding power" in order to be effective.

Another possible norm, common among both the long-term residents and the transients, was the expressed desire to negotiate a dispute without the help of a third party whenever possible. This, coupled with a common desire to just "ignore a situation if it's not too bad," indicated that there might be some common perception about when it is appropriate to take a dispute to a third party and/or a formal mechanism. The preference for self-help was evidenced in a number of actions taken by people, such as a successful complaint by one woman to a business establishment about patrons parking in front of her house. One respondent made the following remark about a rent increase

dispute:

...if you had your choice, you'd rather resolve things... on your own...especially in this situation where we have this (good) relationship with the landlord. That's a good case...I would not go to a mediation center for something like this.... I mean, I could barely have gone to the Rent Control Board, 'cause I would rather just work things out with him.

PROVISION OF INFORMATION: A MISSING SERVICE

This description of dispute remedy systems in Parkhurst Square would not be complete without some indication of what needs were apparently not met by mechanisms and networks. When asked about the service they would like to see for help in resolving conflict, residents suggested an array of options, but one response was expressed repeatedly. This was a need for easily accessible and accurate information about how formal dispute processes can be utilized. While several formal fora were used quite successfully and while much had been learned about information gathering, respondents still expressed frustration at not knowing how they could obtain a lawyer, what options were available to them to pursue a claim, or what was legally permissible in terms of codes and regulations. One respondent, for instance, described an ideal "center":

If you could immediately...say like a health clinic...you walk in and say..."I hurt in my rent" or something like that.... you state your thinking and they can discuss with you immediately the alternatives and what kind of treatment to expect; then there would be like immediate gratification in some kind of way.

CONCLUSION

As we will see in the next two chapters, this expressed need can provide program planners and evaluators with valuable insight into how an NJC should

be designed and assessed. Similarly, the knowledge provided here about alternative systems will contribute to recommendations for program modification and improvements in evaluation design. For an NJC implemented in the Parkhurst Square area, a number of unplanned or unanticipated effects may occur if the reform is not adapted to fit the existing conditions. Chapter IV will outline these potential effects and the concluding chapter will make use of them to redesign an evaluation for a hypothetical East End NJC.

FOOTNOTES

Chapter III

1. Marc Galanter, "Why the 'Haves' Come Out Ahead: Speculations on the Limits of Social Change," Law and Society Review 9, No. 1 (Fall 1974), pp. 95-160.
2. Austin Sarat. "Alternatives in Dispute Processing: Litigation in a Small Claims Court," Law and Society Review 10, No. 3 (Spring 1976), pp. 339-375.
3. This mode is discussed, however, in:

Daniel McGillis and Joan Mullen. Neighborhood Justice Centers: An Analysis of Potential Models. Prepared for the National Institute of Law Enforcement and Criminal Justice, Law Enforcement Assistance Administration, U.S. Department of Justice by Abt Associates Inc., 1977.

CHAPTER IV

Findings: Potential Consequences of
a Neighborhood Justice Center

CHAPTER IV

Issues and questions raised about the NJC reform in Chapter II, combined with the data just presented will lead us to a number of possible unintended or unanticipated program effects. It is apparent from the Parkhurst Square Study that the notion of a "void" in dispute processing options is far from an accurate one. What potential program consequences and causal relationships should be considered during the planning and execution of an NJC evaluation, given what we now know about the systems utilized by neighborhood residents? Three general types of consequences will be discussed here, along with the potential for several accompanying repercussions. First, the existence of highly valued and functional dispute processing systems may prevent an NJC from attracting the caseload anticipated. Second, existing processing systems may be displaced by the NJC leading to any of several undesirable effects. Third, the existence of rich dispute processing systems may lead to a number of unplanned positive effects.

The outcome of this analysis will not be a condemnation of the proposed reform, for there are probably many disputes and communities for which the program will perform very successfully and without detrimental consequences, especially as the program is fine-tuned. This analysis will instead point to a number of potential shortcomings and unplanned developments that may apply to certain types of dispute cases or communities.

EXISTING SYSTEMS AND LOW NJC USE

The first possibility to be discussed here is that some neighborhoods may already be equipped with a range of dispute processing institutions which

are being utilized quite successfully, both directly and indirectly by the residents. This would not necessarily negate the need for an NJC, but it might bring into question the potential for the reform to attract cases outside of those referred by the court system.¹ For a program which strives to "...attract a variety of civil and criminal dispute cases drawn from different sources in the community and the criminal justice system,"² there would have to be some explanation for failure to generate non-judicial referrals. As we saw in Chapter II, the National Evaluation did indeed find that non-court referrals were infrequent, yet among the hypotheses for this development the authors did not consider that existing institutions were previously serving the purpose for a given range of disputes.

Two functions presently served by the disputing institutions in Parkhurst Square make the transferral of certain cases to an NJC seem particularly unlikely. First, some of the organizations used by residents do not seek mediated solutions to conflicts, but operate by imposing legal or legislated mandates. Second, the provision of information enabling residents to act is a prominent role played by existing organizations.

We saw that legislation from the City Council, mandates from governmental authorities (e.g., the Rent Control Board), and adjudication by courts were apparently often preferred by the residents of Parkhurst Square because their own bargaining positions were feeble. Some people commented, for instance, that it would have been difficult to obtain and enforce a concession from the owner of Geppeto's because there was no incentive or exchange that could be offered by the complainants. The establishment catered primarily to outsiders, and the owner himself was not from the community. He shared none of the values about parking and neighborhood appearances with the people of the Square, and

he was in no way threatened by their requests. In short, the residents lacked the leverage over Geppeto's that they might have had with an establishment that depended on them for business or that was owned by a community resident sharing in community values.

The non-monetary or non-material value of an issue was also raised by our respondents at times, which brings into question the utility of a mediation forum under such circumstances. One woman involved in a dispute over a rent increase, for instance, indicated that the "principle" of the matter was just as important to her as the amount of money involved. She felt that "legally" she was right about the issue and that a compromise was inconceivable. This particular respondent's rights could be vindicated in the Court of Farmington, whereas a system of mediation would reduce the dispute to one of monetary interests and in this sense prove unsatisfactory to the complainant.

This preference for mandated decisions was also manifested in the frequent remarks concerning "authority." Respondents often couldn't imagine a dispute resolution center without "clout" and their own description of trouble cases often revealed a preference for authoritative decisions. If this preference is indeed strong for many of the disputes NJCs are hoping to attract, program managers may be faced with a low rate of referrals from the community (e.g., self-referrals). This would be especially probable in a center where the mediators do indeed come from the target community and are not perceived to have the necessary amount of coercive power.

Another function served by the present organizations was that of information gathering and dissemination. The apartment dwellers involved in the rent dispute were able to obtain procedural information from the Tenant's Union, for example, and the EEPC collected and provided information on the

options available to residents concerning Gameland and Gepetto's. If this facilitative, informational role is indeed common and highly valued by people in an area like Parkhurst Square, and if an NJC does not fulfill this role, then once again there is a risk of low community referral rates.

DISPLACEMENT OF EXISTING DISPUTE PROCESSING SYSTEMS

A second set of potential consequences would stem from the displacement by the NJC of the remedy systems composed of social relationships and built around these existing institutions of Parkhurst Square. Disputants may find the NJC to be a more appealing mechanism because it appears to carry more "trappings of authority," because it is more convenient, or because it promises to render more absolute and satisfactory resolutions to their conflicts. A primary aim of the program is to attract a large number of cases, but with this aspiration comes the danger of dislodging previously established channels and developing a reliance among client group members on a different remedy system. I will argue that among the possible consequences of this development are: a failure to provide satisfactory resolution to conflicts that were better suited to the forum in use; a dissolution of repeat problems into individual dispute cases; an overall increased dependence on and overcrowding of the augmented justice system; and a disruption of social relationships.

Poor Program Performance

One set of consequences of remedy system displacement is implicit in the previous discussion on low NJC use. Some of the very advantages of the utilization of existing institutions may not be available in the reform. Disputants guided by values or "the principle of the matter" may find mediation

and compromise unsatisfactory. Likewise, disputants in unequal bargaining positions who find themselves in an NJC may face slim chances for a balanced settlement.³ Such outcomes would be especially undesirable in instances where former institutions could have provided more equitable outcomes. The most troubling consequence of such developments would be an inability of an NJC to bring about satisfactory resolution for clients, either because the mediation sessions fail or because both disputants cannot be brought to the bargaining table. Categories of disputing in Parkhurst Square seem particularly vulnerable to this problem. Both the user/provider and community-wide issues were often characterized by an imbalance in power and/or incentive to compromise. Unless the courts (through referral) provide some degree of coercion, for instance, the Geppeto's owner or an absentee landlord may feel no compulsion to attend an NJC hearing in response to a complaint. Again, for a mechanism attempting to bring about successful resolutions for a wide range of disputes, this would be an issue of serious concern.

Disaggregation of Larger Issues

A second effect of displacement would be a shift in the level at which conflict is handled. One function served by some of the remedial institutions of Parkhurst Square which may not be served by an NJC is the recognition of more basic, fundamental problems underlying numerous individual conflicts. The NJCs are designed to minimize community tension by dealing with disputes on a case-by-case basis, and because the mediation sessions are confidential, it is difficult to detect recurrent patterns of abuse or conflict. Attention is therefore focused on the individual controversy rather than on the causal factors common to a number of controversies.⁴ This recognition of and response

to the larger issues behind individual complaints seemed to be one of the primary advantages to the use of certain institutions and informational networks in Parkhurst Square.

A simple example is found in the "tot lot" trouble case. Until the issue came to the attention of the EEPC, members of the community were engaging in individualized disputes with the teenagers who congregated at the playground. Informal networks were "activated" in discussion of the problem and it was brought to the attention of the Planning Council. An organized, collective effort then led to agreement that something should be done to remedy a problem shared by many people, and the decision was made to transform the lot into a community garden. Some of the respondents themselves admitted that this was not a solution to the even more fundamental problem of teenagers having no place for recreation, but the development of the case does contrast with what might have happened in the presence of an NJC. Mediation sessions between individual neighbors and the teenagers may have retarded recognition that a more comprehensive solution was required. (Mediation in this case would have been difficult anyway because the youths were not always of the same group and were rarely from the Parkhurst Square area.)

Similarly, participants in the EEPC are now attempting to block licensing of Gameland, recognizing that individual confrontations with rowdy kids is not so much "the problem" as is the presence of the pinball arcade there to attract them. This awareness was no doubt initiated through the networks of interaction in Parkhurst Square as residents discussed the issue among themselves. Another example is provided by the city-wide move to institute permit parking as a solution to the individual disputes and annoyances caused by congestion. Members of the Parkhurst Square community were active in the appeal to the

City Council, for they were particularly troubled by the recurring parking problems caused by the high number of adjacent commercial establishments. It is conceivable that an NJC in this area would have preempted or dissipated collective action and basic change on such issues. Parking-related disputes, for instance, would in all likelihood have been handled on a case-by-case basis through an NJC.

Inherent in the disaggregation of larger issues facing the community are two other undesirable consequences discussed in Chapter II. First, the need for proactive law enforcement may not be met if patterns of illegality or recurring abuses are rarely recognized. The scale of our study was not large enough to detect such a problem, but the apparent frequency with which the balance of bargaining power was lopsided in the Square should alert evaluators to the possibility. Secondly, there is the risk that situations calling for policy or rule changes will remain undetected, as may have been the case with the City-wide parking problem.

Expanded Caseload

A final set of consequences made apparent by this preliminary analysis of existing institutions has to do with the impact of the NJCs on the overall justice system. If existing institutions are replaced by an NJC in their role as dispute processing mechanisms, the overall burden on the expanded justice system may increase at a rate that will soon nullify any hope of creating more efficient and less costly case processing. This expansion of demand will prove especially troubling if many of these newly mediated cases are not resolved, and then move on to the courts. A growth of cases within the official system may be acceptable, but an inadvertent expansion of the tradi-

tional court caseload obviously counters one of the reform's primary goals. I will suggest three contributing factors to this possibility: 1) cases handled through indirect use of institutions may be transferred to the NJCs; 2) cases presently processed through informal networks may be extended; and 3) there may be a decline in community "competence" in handling disputes.

As Galanter observes, this possibility of system overload is especially apparent when we consider "appended" remedy systems, or indirect use of existing institutions.⁵ Some number of adversaries are settling within an "appended" system or otherwise reaching a solution "in the shadow of the law."⁶ This disputant subset has found a coping technique that is built around the formal system, while incurring little in the way of cost and burden on either the justice system or other dispute processing institutions. The possibility that a substantial number of these cases may now be processed within the official system may be ^acondition that reformers are willing to accept, but one that should be carefully considered given that this subset of dispute cases may be reaching a state of satisfactory resolution within the informal framework of "private ordering."

The review in Chapter III of social interactions suggests other ways in which the goal of reduced caseload may be thwarted. Just as the use of existing dispute processing institutions may fade in urban neighborhoods, so might the informational networks built around those institutions. One or two of the neighbors in the case of the Auto Body Shop, for instance, might have gone directly to the NJC, thereby circumventing the interactions and information-gathering that finally led to an understanding and satisfactory outcome. Likewise, dyadic interactions around disputes may be supplanted as people become

more dependent on direct utilization of the NJC.

One possibility raised by this scenario is that many disputes or incipient disputes are resolved through informal networks earlier than would be the case if an NJC were available. In such a case, the presence of the reform might extend the life of trouble cases and possibly escalate the degree and amount of disputing in a neighborhood. This, too, would contribute to an inadvertent expansion of the burden on the justice system. The residents on Barker Street were able to call meetings informally and make use of various city officials to clarify the status of the auto body shop. They were also able to convey their concerns to the owner who assured them that the operation would be "clean," and who even invited one of the organizers over for an inspection of the premises. It is conceivable that a NJC could pre-empt the type of informal organizing and negotiating that occurred. If the residents saw the NJC as the mechanism of "first resort," they might have waited until the initial appearance of an unsightly car and then initiated proceedings with the NJC. Admittedly, this is only one of a number of possible scenarios, but it does illustrate the possibility that NJCs could unintentionally "slice out" this informal negotiating and information gathering stage of disputing.

Another factor leading to justice system overload might be a decline in the learning process inherent in existing dispute processing systems of Parkhurst Square. Over the years, residents have undoubtedly developed a degree of competence in the management of neighborhood discord. A "short-circuiting" of this learning process by the NJC is entirely possible, and would be of particular concern if the intervention itself were not successful at "teaching" community members how to handle conflict. Once again, the conceivable long-term consequence is a greater-than-anticipated dependence on the NJC and the

justice system.

The process of learning through both dyadic relationships and network interaction is certainly evident in Parkhurst Square. One respondent described a struggle spearheaded by herself to prevent the construction of a fast-food restaurant on the street. This was before the creation of the EEPC and she recalls that she and her neighbors almost "lost the fight" because they knew so little about where to go for information and how to best mobilize their limited resources against the developer. In fact, she related, it was only through an accidental discovery in a newspaper article of an ordinance against such establishments (under certain conditions) that the neighbors finally "got somewhere" with the issue.

A comparison with more recent activities in the area is striking. People such as this particular respondent, Mrs. Martin, and Mr. Richards carry considerable knowledge about how best to cope with Gameland and Geppeto's. The network of individuals gathered around the EEPC have apparently determined over time what agencies can be called for information and how effective formal organizations such as the City Council can be in legislating favorable mandates. Additionally, as we saw earlier, residents of such a community may learn to recognize the larger problems underlying minor disputes and to utilize certain institutions in the struggle against organizations or more powerful members of the community. Controversy may not always be reduced, but Parkhurst Square has certainly acquired a degree of knowledge and ability in coping with its changing environment. Reformers need to ask if they are dislodging this learning process for either community-wide issues or more interpersonal disputes.

Disruption of Social Relationships

A final consequence related to the displacement effect would be range of possible repercussions impacting on the interpersonal relationships and community life of the neighborhood. If, during the course of the reform, informal dispute processing mechanisms are altered significantly, there may be damage inflicted upon the "social fabric" of the community. Consider, for example, the argument by Warren that "Problem Anchored Helping Networks" may serve a function beyond that of giving aid to its members. He draws on a number of previous studies and uses data from a project of his own to outline several varieties of informal social ties defined by such dimensions as size, duration, degree of intimacy, frequency of interaction, and extent of shared values.⁷ With such variables as guides, various networks can be characterized as either "Loose knit" or Close Knit," the former involving marginal, transitory relationships and the latter being composed of close friends, family members, and various forms of critical social support.

Warren argues that one particular type of network -- "Problem Anchored Helping Networks" -- will often serve a "bridging" role between the "loose-knit" and the "close-knit" ties of a neighborhood or community. He describes Problem Anchored Helping Networks as those characterized by "(s)ocial contacts that an individual makes with any number of other persons (not necessarily intimates or status equals) with the result that a particular 'problem' or 'concern' or 'crisis' is discussed and advise or help provided."⁸ Such a network can reinforce both strong and weak ties in an urban community thereby increasing the overall degree of contact and interaction. This consolidation around a crisis or problem, for instance, might "keep alive" certain relationships that would otherwise have faded, spawn new close-knit ties that otherwise

would not have existed, and generally strengthen social interaction by creating a "base for reciprocity" upon which people can continue to help each other.⁹

This secondary function of networks, whereby the existing social ties are reinforced and nurtured, should also be of concern to program planners and evaluators. An NJC in Parkhurst Square may displace the clustering of activity and social interaction which has apparently developed around various issues through time. Indeed, we found that disputing in this neighborhood is one of the few activities that engenders significant social interaction and community-wide meetings. Several respondents commented that "neighbors around here don't talk much" and many indicated that they wouldn't have known certain residents had it not been for the Planning Council meetings. This symbiotic relationship between social interaction and coping may be a vital part of community life in Parkhurst Square, and we come to a value junction about whether or not the displacement of that relationship should be condoned. Through a preliminary study such as ours, evaluators would at least know of these possibilities and be in a position to bring them to the attention of program planners and managers.

THE POTENTIAL FOR POSITIVE EFFECTS

The examination of neighborhood dispute processing systems raises the possibility of certain positive program effects unpredicted by the reformers. For many of the problematic scenarios presented here there is a complementing, beneficial development that could conceivably occur. Instead of being supplanted, for instance, the existing helping networks in a neighborhood may be supplemented and strengthened by the entrance of a new dispute processing mechanism. An NJC staff could, for example, concentrate on the more inter-

personal disputes that are perhaps not handled through informal networks, leaving the present "caseload" of the other institutions and accompanying networks intact. In such a case, the networks themselves may enfold the NJC as one more source of assistance, and as a result, expand in size and influence. Under these conditions, the NJC might enjoy a substantial referral rate while at the same time contributing to the influence and success of the social relationships which already serve to reduce or contend with dissensus. An NJC might not only resolve disputes on a case-by-case basis, as outlined in its design, but indirectly assist neighborhood efforts to resist the incursion of commercial establishments or remedy the recurring exploitation by a Landlord.

Likewise, there may be positive attributes to the shifting of disputing activity from existing formal mechanism to the NJC. If, for instance, only some of the incidents and controversies make the transition, then perhaps the previously existing organizations would be better able to serve their remaining "caseloads."

These and other positive developments were not explicitly planned by the reformers, but it is apparent that an evaluation could conduct a surveillance for them, thereby expanding the usefulness of a final report to decision-makers. Furthermore, as we will see in the next chapter, the evaluators and the program planners both may want to encourage such positive spillovers in the course of ongoing program development.

CONCLUSION

By examining the institutions, social relationships, and norms related to disputing in Parkhurst Square, I have attempted to test the assumption that disputants have recourse only to the courts and to avoidance as means of

copied with conflict. Contrary to this belief, it is apparent that people have access to and make use of a series of remedy systems ranging from dyadic negotiation, to direct utilization of alternative official organizations. The possible consequences of introducing an NJC into this rich environment of processing or remedy systems were then outlined. These included: a low rate of community referrals to the NJC; unsatisfactory processing of certain disputes (e.g., unequal outcomes for unequal disputants); a dissolution of awareness of and action toward the larger issues facing a community; further congestion of the overall court system; a decline in the positive functions of disputing such as community learning; and a strengthening or weakening of informal helping networks. Other evaluation and program design issues were raised, and the stage was otherwise set for the analysis to follow of the National NJC Evaluation.

FOOTNOTES

Chapter IV

1. The possibility that the NJCs will be dependent primarily on court referral cases also has been discussed by:

William Felstiner and Lynne Williams, "Mediation as an Alternative to Criminal Prosecution: Ideology and Limitations," Law and Human Behavior 2, No. 3 (1978), pp. 223-244.

Paul Warhaftig, "Citizen Dispute Resolution: A Blue Chip Investment in Community Growth," Pretrial Services Annual Journal (1978), pp. 153-161.

Raymond Shonholtz, "Neighborhood Justice Centers: A Critique." Paper submitted to the U.S. Department of Justice: June, 1977.

NOTE: Daniel McGillis is presently conducting a study of existing dispute processing agencies.

2. David . Sheppard, Royer Cook, and Janice A. Roehl, National Evaluation of the Neighborhood Justice Centers Field Test: Final Report (First Draft) (Prepared for the U.S. Department of Justice by the Instiutte for Social Analysis, December, 1979), p. 21. NOTE: The final draft of the evaluation was not available at the time of this writing. The final draft may vary from this First Draft document.
3. McGillis also discusses this possibility in Daniel McGillis, "Testimony for House Hearings on the Dispute Resolution Act." June 14, 1979.
4. See references on this issue in Chapter II.
5. Galanter, Marc, "Why the 'Haves' Come out Ahead: Speculations on the Limits of Social Change," Law and Society Review 9, No. 1 (Fall, 1974), pp. 74, 144.
6. Robert H. Mnookin and Lewis Kornhauser, "Bargaining in the Shadow of the Law: The Case of Divorce," Yale Law Journal 88 (1979), p. 950.
7. Donald Warren, "The Multiplexity of Urban Social Ties: An Integrative Analysis," Paper presented at the Ninth World Congress of Sociology, Uppsala, Sweden, August, 1978, pp. 1-5.
8. Warren, p. 15.
9. Warren, pp. 15-18.

CHAPTER V

Conclusion: Toward Improvement
in Evaluation Design

CHAPTER V

This chapter will draw on the potential consequences and causal relationships outlined in the preceding analysis to recommend an expanded and modified version of the National Evaluation. The attempt will be to answer the question: If an evaluation of an NJC in the East End were to be performed, how might its scope be widened and its design be made more adaptable as compared to the Field Test Evaluation?* Each of several arguments will begin with a discussion of the degree to which the National Evaluation was prepared to illuminate a particular consequence or causal relationship. Design modifications will then be proposed for a more informative evaluation in the case of the East End. In some instances, program alterations will be suggested as well.

This discussion is presented with the realization that evaluators are almost always operating with limited resources. Some of the suggested changes may be feasible while others may not. Ultimately, the decision to implement such changes would be dependent on the expected insights and benefits to result. As we will see, however, even when design changes are impractical, the evaluators can at the very least become sensitized to signs of unintended or unanticipated consequences and causal relationships.

Below are many of the potential program effects and causes discussed in the analysis of dispute remedy systems. For the most part, these possibilities were not explicitly considered by the Institute for Social

*While it is recognized that Parkhurst Square may not be representative of the East End area, the preliminary results have been generalized "hypothetically" for purposes of the case study. See explanation in Chapter II.

Analysis staff.¹ "Dispute processing systems" will be abbreviated as DPSs, and, as in previous discussions, will refer to the combination of institutions and social relationships which help disputants or potential disputants take action of one form or another.

Conducting a thorough version of the study presented in the last chapter, evaluators may have revealed the following possible scenarios with regard to certain types of disputes:

- 1) Suitability and attractiveness of existing DPSs contributes to low NJC caseloads.
- 2) NJC displacement of present DPS use is responsible for:
 - a) Case attrition and low resolution rate due to inability of NJC to fulfill DPS role.
 - b) Disaggregation and obfuscation of larger issues.
 - c) Increased caseload for the overall justice system.
 - d) Disruption of informal helping networks built around dispute processing.
- 3) Present DPSs are strengthened leading to:
 - a) More effective resolution of disputes due to expanded DPSs brought about by presence of NJC.
 - b) More effective processing of disputes because NJC has relieved DPSs of some cases.
(See Chapter IV)

EXISTING SYSTEMS AND LOW NJC USE

The first of the potential program consequences -- low caseload resulting from the attractiveness of alternative DPSs -- offers evaluators a causal explanation in the event that caseload does become an issue. I will suggest here that this might well have been the reason for case recruitment problems

experienced by one of the Field Test NJCs. Yet the evaluators were for the most part unprepared to test such a proposition. By contrast, I will argue that evaluators in the case of an East End NJC could design their study to account for this development.

For the two pilot NJCs receiving a high proportion of their cases from judicial and law enforcement sources, caseload did not appear to be a problem. In the Venice/Mar Vista area of Los Angeles, however, the NJC found itself in competition with a similar mediation program run by the local prosecutor's office. As a result, Center operators stressed community outreach as a means of attracting cases through community agencies, legal aid organizations, and governmental agencies. The effort was not entirely successful as pointed out by the evaluators:

When selected, the Venice/Mar Vista area appeared to be a good place for testing the community approach; the neighborhoods are well-defined, have a strong sense of community, and are populated with politically active and socially aware people. In retrospect, however, the target area, especially Venice, may have been a poor choice. The area is made up of several ethnic groups without common values, there are many community agencies fighting for turf and many who resent the intrusion of "yet another federal program," and the population is very transient. It has been very difficult for the NJC to overcome the skepticism and wait-and-see attitude of the target area population. Community agencies, thought to be excellent sources of cases, have been resistant to the NJC, unwilling to refer their clients (and ultimate source of income) to the Center; community agencies account for only 6% of the total NJC caseload.... (2)

Efforts to discover why, exactly, the NJC was experiencing difficulty with case recruitment were apparently limited.³ There may have been more to community agency "resistance" than the "source of income" issue, and there may have been identifiable reasons for skepticism among the target group members. One contributing factor may have been a perceived need for

"authoritative decisions" similar to that found in Parkhurst Square. Yet the evaluation tells us little. The household interviews were limited in number and the only hint of an explanation comes through in a summary by the authors: "When negative comments were made they were typically about the lack of enforcement powers of the NJC. Some part of an agreement breaks down and the NJC can do little about it."⁴ The evaluators did attempt, through their "impact interviews," to determine attitudes held by representatives of other community agencies,⁵ but if particular issues such as this one were raised, it was not made explicit in the draft final report. While the role of authority was presented as a concern at the beginning of the evaluation report, interviewing efforts apparently dealt with it in only a limited fashion.*

An evaluation of an East End NJC, on the other hand, could have anticipated the low caseload issue. We found that in many instances disputants sought an authoritative third-party for the resolution of disputes and for the enforcement of decisions. If concerted outreach efforts were implemented by NJC personnel while non-court referrals remained inadequate, this could become a possible explanation to be presented by evaluators.

The evaluation design itself might be equipped with a contingency study plan to be implemented if initial results reveal a problem with case recruitment. Such a plan could entail two components. First, more intensive interviewing would be conducted with a number of groups, including the parties

*This observation is based only on the summary of the Household interviews presented by the authors, for more detailed versions of these interviews have not yet been published. Hence, it may be a premature critique. Moreover, it should be noted that this discussion is based primarily on evaluation documents. Evaluators may have explored these and other issues without fully discussing their efforts in the report.

who were dissatisfied with the processes and outcomes of the NJCs. Given the pre-intervention study, evaluators could design questions to elicit information specifically concerned with the authority issue. Another group of informative respondents would be those who manage to resolve their cases before an NJC hearing is held. An interviewing effort more detailed than that conducted by the Field Test Evaluators⁶ may reveal that many of these disputants are relying either directly or indirectly on alternative remedy systems vested with authoritative powers. A third group of respondents for this more directed and intensive interviewing process would be representatives of the community and other agencies who would have some awareness of what disputants are seeking in a third party.

The second component of the contingency study would be a more rigorous analysis of the conditions and dispute types which seem more compatible with authoritative decisions than with mediation. NJC personnel could then be advised to concentrate their outreach efforts on those disputants and case-types most likely to respond to and benefit from the program. Based on the pre-intervention study, this two-phased plan would prepare the evaluators for a more thorough analysis in the event that program designers need to know why cases are not being drawn to the NJC through non-court referrals.

DISPLACEMENT OF EXISTING DISPUTE PROCESSING SYSTEMS

Another set of consequences is related to the possibility of DPS displacement by the NJCs. Referrals from the pilot Centers to other agencies were given considerable attention by the program staffs and the evaluators,⁷ but little was done to detect diminishing use of alternative mechanisms. While it may not be necessary for evaluators of an East End NJC to monitor

the caseloads of alternative DPSs during program operations, they should at least be alerted to the possible repercussions raised during the pre-intervention study. Some possible alterations are discussed below.

Low Case Resolution Rate and Attrition

The Field Test NJCs together yielded the following resolution rates:

Cases With Hearings, Resolved:	28.6% (1127)
Cases Resolved Without a Hearing:	16.5% (650)
Cases With Hearings, Unresolved:	6.3% (250)
Cases Unresolved, No Hearings (no shows, withdrawals, respondent refusals, and no-contacts with respondents)	48.7% (1920) ⁸

The overall conclusion presented by the evaluators is that these and other results show satisfactory performance on the part of the NJCs which "...are capable of handling a wide variety of minor interpersonal disputes, including interpersonal/criminal cases as well as civil/consumer cases."⁹

Whether or not one argues that such findings represent a high success rate, there are some important issues raised by further review of the Evaluation. Most prominent is the question of dispute resolution compared by case type. The evaluators found that a much higher percentage of "interpersonal/criminal" disputes (domestic conflicts, neighbor conflicts, and family and friend disputes) reached a hearing than did "civil/consumer disputes" (Landlord/Tenant, Consumer/Merchant, Employer/Employee).¹⁰ As the evaluators report,

(t)his probably occurred for two reasons. First the interpersonal disputes carry a higher level of implicit coercion because they are more often referred from the courts. Second, in civil cases, the respondent often refuses to show. (11)

There was also an imbalance in the proportion of cases finally resolved in these two categories: 54% for interpersonal disputes and 38% for civil cases.¹² This trend was manifested especially by the Venice/Mar Vista NJC where civil cases composed 73% of the total caseload. Partly because such cases experienced a comparatively low success rate, only 35% of the cases brought to this NJC eventually reached a resolution. (Many such resolutions occurring without a hearing.)¹³

A predominant reason for the failure of many such cases to reach a hearing was a refusal on the part of respondents to participate in the process. Half of the unresolved cases for the Venice/Mar Vista Center, for instance, were dropped because the respondent refused to appear.¹⁴ For some of the civil categories, this figure was even higher, bringing into serious question the ability of the program to ameliorate this type of dispute without a sufficient form of coercion. (The vast majority of these cases were initiated by the consumer, tenant, or employee.)¹⁵

The pre-intervention study performed for an East End NJC would prepare evaluators for such lopsided outcomes and suggest possible changes in the evaluation design used for the Field Test. It is possible, for instance, that Landlord/Tenant cases will be channeled from various branches of the Farmington Rent Control Authority to the NJC where they stand a much reduced chance of resolution. In order to avoid such a development altogether, program designers might exclude such civil cases from NJC domain, requiring that they be referred to the more effective mechanism.

For an experimental program, however, such a change may be premature. Instead, the evaluators might plan an intensive interview study similar to the one presented in the previous section. Under these conditions, there

would be one additional component. If initial program results reveal a high attrition rate and low resolution rate for a given class of cases (e.g., "civil" or merchant/customer), evaluators could initiate a comparison study of case results for the more "authoritative" institutions in the environment of the East End residents. (Indeed, results from the pre-intervention analysis may be strong enough to justify this component in the evaluation design from the outset.) Such a study was actually performed for the courts in the National Evaluation,¹⁶ but in a place like the East End, where non-judicial, formal alternatives apparently hold a strong position on the local disputing "map" knowledge should be gathered on the impact of the City Council, the Health Authority, the Rent Control Board, and other relevant agencies.

Unlike the court comparison study of the Field Test Evaluation, which aggregated all minor disputes, such a study would be concerned with particular categories of cases. The aim would be to determine which of the case types are handled most effectively by the NJCs and which of those least amenable to mediation are already finding reasonable resolution via an alternative DPS. The East End NJC might then be restructured to manage a limited range of cases while providing referral for others.

Another possible design change would be the introduction of mechanisms aimed at compelling more powerful disputants into a mediation session. Dan McGillis reports, for instance, that in Fairfax County, Virginia, merchants are required to agree that they will process consumer complaints through a mediation forum as a precondition for membership in the local Chamber of Commerce.¹⁷ Through the study of existing dispute remedy systems in the East End, evaluators would be in a position to make such recommendations.

Disaggregation of Larger Issues

There are signs in the National Evaluation that some larger issues -- such as recurring patterns of exploitation by organizations or landlords -- could have been individualized through the case-by-case approach of the NJCs. First, despite DOJ Guideline recommendations to the contrary, the NJCs accepted consumer/merchant cases not only from local stores, but from large organizations and corporations as well (although such cases may not have been large in number).¹⁸ This, of course, increases the possibility of recurring infringements by a single establishment. Second, the vast majority of civil cases were between a consumer, tenant, or employee complainant (often poor and a minority) and a "corporate representative" respondent.¹⁹ This is the combination most susceptible to the recurring pattern problem. If this issue of repeated, widely distributed problems is a significant one among the landlord/tenant, consumer/merchant, employee/employer group, the implications are especially grave given the tendency of these disputes to show a comparatively low resolution rate.²⁰

Of course, the benefits to be gained by resolving individual consumer and civil cases are not to be underestimated. But the program and the evaluation both have been biased away from recognition of wider patterns. Case details are kept confidential, preventing detection of repeated issues, and the evaluators themselves were concerned almost exclusively with resolution and satisfaction rates for individual cases.²¹

If an NJC were introduced to the East End, this problem may be significant. Given what is apparently fairly frequent aggregation of cases through the EEPC, we might expect to see cases shifting to the NJC, thereby becoming "individualized." With the knowledge of this pattern in mind, evaluators

would set out to design an evaluation quite different from the one for the three cities. They might, for example, arrange to have individual cases coded in such a way that confidentiality is maintained while the repeated appearances of any one landlord, organization, or particular problem is detected. If the number of such cases appears large, the evaluators might then recommend a number of options, including: that the confidentiality rule be modified so that proactive, enforcement measures can take place; that an independent, community-wide proactive strategy be directed toward the type of respondent involved (e.g., monitoring the selling practices of stores over a certain size); that laws be passed or new agencies be created which would stifle recurring occurrences for a certain type of case (such as the Farmington Parking Permit resolution to the city-wide parking problem).²²

This component of evaluation design could be augmented by a monitoring study of those DPSs which presently tend to handle issues on an aggregated basis. Cases moving through the EEPC would be analyzed, for instance for a period continuing through the implementation and operation of the NJCs. One finding might be a decline in EEPC caseload, while individualized versions of the same issues appear in the NJC. The researchers could not be certain that presence of the NJC is the cause of such an effect, but its occurrence should be detected and reported nonetheless. Some of the options mentioned above could again be considered. In addition, evaluators might recommend that the NJC be limited to cases such as interpersonal, family, and domestic disputes for which the disaggregation problem is not as likely, and for which the probability of individual resolution is higher.

Expanded Caseload

We saw earlier that the NJCs may attract cases which otherwise would have been resolved through existing institutions, networks, or dyadic negotiations. The possibility is rendered all the more likely by the pressure undoubtedly felt by personnel of the NJCs to produce large caseloads. As a result, the courts, or at least the courts and the NJC combined, may take on a greatly expanded caseload. This conceivably could become a problem if the costs and case processing time of the system then increased as well.

A controlled method of tracking caseload trends would be an extremely difficult task, but evaluators could at least watch for the undue burden of inappropriate cases. It would seem possible, for instance, that cases otherwise suited to dyadic negotiation would be attracted to the Center by extensive outreach efforts. Yet the Pilot Study evaluators performed little explicit analysis of the suitability of cases for mediation and the NJCs.

In preparation for such a trend in the East End, evaluators could introduce an observation component aimed at monitoring the types of cases that come through the Centers. If a large number of disputes are similar to those which were negotiated dyadically before implementation of the Center, evaluators may recommend that the NJC intake personnel be more discriminating. This risk of "overuse" or overdependence on the NJC was one often discussed by proponents of the program, but, as they sometimes pointed out, one that could probably be remedied through case monitoring and intake guidelines.²³

DISRUPTION OR ENHANCEMENT OF NETWORKS AND SOCIAL RELATIONSHIPS

The potential for an NJC to disrupt or enhance existing relationships presents a much more difficult task for evaluators. Nonetheless, it could be

argued that this concern -- which was nowhere explicit in the Field Test Evaluation -- should be included in an assessment of an East End NJC. A continuation of the Parkhurst study during operation of the NJC might reveal shifts in the way information is conveyed through resident networks or in the frequency of interpersonal contact. A discovery that Parkhurst Square interaction and activism over community-wide issues declines with the introduction of the NJC might be of vital concern to program planners, especially if the issues are generally not finding satisfactory resolution in the Center. On the positive side, continuing interviews may reveal the development of a more vital dispute handling "network" with the introduction of the NJC. The "activists" in the neighborhood may help to channel mediatable disputes to the new agency while retaining the community-wide issues for collective organizing through the EEPC. Such developments -- both positive and negative -- are certainly consequences of the NJC and should be a part of the conclusion "package" presented to program designers and managers by the evaluation team.

Program design and operation could well benefit from an awareness of the shifting neighborhood "ecology," spurred by the NJC. Program staff, for instance, might be sensitized to neighborhood informational networks so as to improve their own outreach efforts. In the National Evaluation it was noted that the Venice/Mar Vista NJC seemed to generate few cases in return for a substantial publicity effort.²⁴ Staff of an East End NJC might avoid such a problem if they are aware of existing brokerage networks to begin with and if they are kept current by evaluators on how (if at all) those networks are changing over time.

Similarly, existing networks in combination with the EEPC could supplement and complement the NJC if the staff is informed enough to refer

appropriate case types to these DPSS. In the words of Schon, the NJC could become a "network-sensitive intervention,"²⁵ perhaps augmenting rather than ignoring or disrupting the existing remedy systems. Again, however, the NJC staff would need to know how, if at all, their work was changing the shape of neighborhood networks. This could be the profit of continuing interviews conducted by the evaluators.

SUMMARY

Several recommendations have been made here for the expanded scope of a hypothetical NJC evaluation in the East End. I have attempted to demonstrate how the Field Test evaluation design could be modified to match those conditions and probable effects uncovered during the analysis of Parkhurst Square. Recommendations included: more intensive interviewing in the event of low NJC caseload; further analysis of alternative dispute remedy systems in the event of high attrition or low case resolution rates; a more detailed monitoring of NJC cases in order to detect the disaggregation problem and a similar strategy to detect inappropriate use of the intervention; and a continuing analysis of networks in order to keep program personnel informed about the effect of their work on neighborhood interaction.

These are not necessarily the most important changes to be made in evaluation strategy, nor do they make up an exhaustive list. Instead, the analysis has aimed to be suggestive of the useful information to be generated from a more complete analysis of existing systems. Nor will all of the program consequences and causal relationships raised by the analysis appear with the implementation of the NJC. But even if only one or two developments occur, the evaluation will be that much stronger due to the awareness of the

evaluators and due to the additional components grafted into the evaluation design.

CONCLUSION

A potentially powerful design for evaluation is that which includes a pre-intervention analysis of processes and systems operating within the program target area. The scope of the evaluation can then be expanded beyond a concern with planned outcomes and anticipated causal links to include an informed analysis of additional program consequences. An attempt has been made here to illustrate this component of comprehensive program evaluation through a case study on the Neighborhood Justice Center concept.

The NJC evaluation performed for the U.S. Department of Justice was in many ways an informative and potentially useful analysis. The evaluators collected vital information on the effectiveness, efficiency, implementation, and processes of the new centers. In addition, they pointed out differences in center design and approach which seemed to influence the comparative performance of the three programs.

I have proposed that a more encompassing and informative evaluation would include a study of the institutions, social relationships, and norms existing within the target neighborhood of an NJC. The preliminary results of such a study were presented here as a part of the case study. Major concern was with the alternative dispute processing systems utilized by the proposed clients of the program, a focus based on the argument that evaluators (as well as program planners) should test for congruency between the basic assumptions underlying a reform and the reality of existing processes or systems. In the case of the neighborhood under study, there were signs that

such a congruency did not always exist. The notion of limited dispute processing mechanism was called into question by the existence and use of several such mechanism and networks.

Further analysis of the inconsistency between the assumption underlying program design and the actual existence of "dispute processing systems" revealed that there may be a "mismatch" between the reform and its proposed context, and that there may be at least three types of unintended or unanticipated program consequences: 1) failure of the program to work in some instances because of the services already being provided by other systems; 2) displacement of or damage to those systems; and 3) a strengthening or improvement of the existing dispute processing functions. Related to each of these general effects were other, more particular repercussions and causal relationships which may have escaped detection in the actual NJC evaluation.

The final component of this case study was a series of proposed changes in the NJC evaluation design. I argued that a full-scale study of the type illustrated here could at the very least sensitize evaluators to potential effects and causal explanations. More importantly, the pre-intervention study suggested ways that the evaluation be expanded, and designed in a more flexible and adaptive fashion.

A study of the type proposed here would not be performed for every new NJC or for every new intervention. Clearly, an analysis of program environment can be expensive, and there is a need to assess when the probably benefits will outweigh such cost. An argument can be made, however, that for both design and evaluation purposes, this component of analysis should be included in the development of programs to be implemented widely. In the case of the NJCs, such research might be conducted for only some of the neighborhoods

receiving the reform. As information is produced, that which appears generalizable can be passed on for the more effective design and assessment of programs not preceded by a pre-intervention study. Researchers might conclude, for instance, that NJCs should be adapted in certain ways for communities with certain kinds of characteristics. Similarly, evaluators might be warned about the potential for some set of unplanned consequences in a given type of neighborhood.

Information from this research would also be cumulative in nature. Initial studies might be aimed primarily at generating hypotheses, as was the case here. Systematic testing of such hypotheses through a more controlled research design might then be used to confirm -- in the case of the NJCs -- notions about the nature of dispute processing systems. Knowledge would be accumulated with time until designers and evaluators are more certain about program characteristics and the range of potential program effects. This cumulative approach to pre-intervention analysis, along with its selective application, would make it both feasible and promising for programs to be widely implemented.

This proposal for more comprehensive program evaluation echoes arguments others have made in the evaluation literature. Rossi and his associates stress that evaluators should prepare for unplanned program consequences by prespecifying possible developments and side-effects. Potentially useful evaluation research, they say, is that designed to detect and explain much more than just the outcomes indicated by program goals.²⁶ Suchman makes a similar argument for broad vision in evaluation, asserting that "...one must formulate the evaluative research hypotheses in terms of contingencies and developments that may occur during the course of the program and that may require

the collection of new or additional data."²⁷ I have attempted to build on such arguments by describing and illustrating the potential of pre-intervention process analysis. By knowing more about the processes operating within the environment of a proposed program, evaluators can plan for and produce a more complete portrait of outcomes. By "casting a wider net," they can provide decision-makers and managers with a richer account of program performance.

FOOTNOTES

Chapter V

1. NOTE: Conclusions in this chapter are based on the documents listed under Footnote #3 of Chapter II, and on discussions with Daniel McGillis, April, 1979.
2. David I. Sheppard, Royer Cook, and Janice A. Roehl. National Evaluation of the Neighborhood Justice Centers Field Test: Final Report (First Draft). Prepared for the National Institute of Law Enforcement and Criminal Justice, LEAA, U.S. Department of Justice, December 1979. (NOTE: The Final Draft of this report will be more complete and may show considerable changes from this First Draft. Conclusions to be drawn here and in later chapters are hence somewhat tentative in nature.)
3. Sheppard, et al. (1979), p. 49.
4. Sheppard, et al. (1979), p. 170.
5. Sheppard, et al. (1979), p. 170.
6. Sheppard, et al. (1979) pp. 135-165.
7. Sheppard, et al. (1979), pp. 94, 128-129.
8. Sheppard, et al. (1979), p. 66.
9. Sheppard, et al. (1979), p. 178.
10. Sheppard, et al. (1979), p. 178.
11. Sheppard, et al. (1979), p. 178.
12. Sheppard, et al. (1979), p. 178.
13. Sheppard, et al. (1979), pp. 90-94.
14. Sheppard, et al. (1979), p. 93.
15. Sheppard, et al. (1979), p. 92.
16. Sheppard, et al. (1979).
17. Daniel McGillis, "Recent Developments in Dispute Processing," Unpublished paper, n.d., p. 3.

See Also: Linda R. Singer, "The Growth of Non-Judicial Dispute Resolution: Speculations on the Effects on Justice for the Poor and on the Role of Legal Services," Paper prepared for the Legal Services Corporation, n.d. (1980?), pp. 27-28.

18. Sheppard, et al. (1979), p. 72.
19. Sheppard, et al. (1979), pp. 95-98.
20. Sheppard, et al. (1979), p. 69.
21. Sheppard, et al. (1979), p. 103.
22. Singer, pp. 32-33.
23. For instance:

Frank Sander, Testimony presented before the House of Representatives, Resolution of Minor Disputes: Hearings Before the Subcommittee on Courts, Civil Liberties, and the Administration of Justice of the Committee on the Judiciary, House of Representatives, July 27, August 2, 1978, pp. 25-31.
24. Sheppard, et al. (1979), p. 169.
25. Donald Schon, "Network-Related Intervention," Unpublished Manuscript, M.I.T., 1977.
26. Peter H. Rossi, Howard E. Freeman, and Sonia R. Wright, Evaluation: A Systematic Approach (Beverly Hills: Sage Publications, 1979), pp. 66-68.
27. Edward A. Suchman, Evaluative Research (New York: Russell Sage Foundation, 1967), p. 88.

BIBLIOGRAPHY

BIBLIOGRAPHY

1. Abel, Richard L. "From the Editor." Law and Society Review 12, No. 2 (Winter 1978): pp. 189-198.
2. American Bar Association. "Report on the National Conference on Minor Disputes Resolution," 1977. Reprinted in Dispute Resolution Act, Hearings Before the Subcommittee on Courts, Civil Liberties, and the Administration of Justice of the Committee on the Judiciary, U.S. House of Representatives, July 27, August 2, 1978.
3. Angrist, Shirley S. "Evaluation Research: Possibilities and Limitations." The Journal of Applied Behavioral Science 11, No. 1 (1975): pp. 78-92.
4. Aubert, Vilhelm. "Competition and Dissensus: Two Types of Conflict and of Conflict Resolution." Conflict Resolution 7, No. 1.
5. Aubert, Vilhelm. "Courts and Conflict Resolution." Conflict Resolution 9, No. 1 (1967): p. 40.
6. Bernstein, Ilene Nagel and Howard E. Freeman. Academic and Entrepreneurial Research. New York, 1975.
7. Best, Arthur and Alan R. Andreasen. "Consumer Response to Unsatisfactory Purchases: A Survey of Perceiving Defects, Voicing Complaints, and Obtaining Redress." Law and Society Review 11, No. 4 (1977): pp. 701-742.
8. Black, Donald and M.P. Baumgartner. "Self Help in Modern Society." Law and Human Behavior 2, No. 3 (1978): pp. 223-244.
9. Boruch, Robert. "On Common Contentions About Randomized Field Experiments." Evaluation Studies Review Annual, Volume I, edited by G.V. Glass, Beverly Hills, 1976: pp. 158-194.
10. Buckle, Leonard G. and Suzann R. Thomas Buckle. "Bringing Justice Home: Some Thoughts About the Neighborhood Justice Center Policy." DRAFT Research Project Description prepared for the German Marshall Fund sponsored project: "The Disputing Process: An Analysis of the Neighborhood Justice Center Concept." 1980.
11. Buckle, Leonard G. and Suzann R. Thomas Buckle. "The Disputing Process: An Analysis of the Neighborhood Justice Center Concept." Research Project sponsored by the German Marshall Fund, Harvard University. 1979-1980.
12. Buckle, Leonard G. and Suzann R. Thomas Buckle. "Empirical Analysis of Dispute Resolution in America: A Proposal." Discussion Draft of proposal submitted to German Marshall Fund. 1979.

13. Buckle, Leonard G. and Suzann R. Thomas Buckle. "Toward an Assessment of the Neighborhood Justice Center: An Outline of Issues and Literature." (DRAFT) Prepared as part of German Marshall Fund sponsored project: "The Disputing Process." March, 1980.
14. Campbell, Donald T. "Reforms as Experiments." Handbook of Evaluation Research, Vol. I. Beverly Hills, 1975: pp. 71-137.
15. Caro, Frances G. Readings in Evaluation Research (Second Edition). New York, 1977.
16. Coates, Robert B. and Alden D. Miller. "Evaluation Large Scale Social Service Systems in Changing Environments: The Case of Correctional Agencies." Journal of Research in Crime and Delinquency. (July 1973): pp. 92-106.
17. Coser, Lewis. The Functions of Social Conflict. New York, 1956. pp. 7-38.
18. Cover, Robert M. "Dispute Resolution: A Foreword." Yale Law Journal 88 (April 1979): p. 910.
19. Danzig, Richard. "Toward the Creation of a Complementary, Decentralized System of Criminal Justice." Stanford Law Review 26 (1973): pp. 1-54.
20. Danzig, Richard and Michael J. Lowy. "Everyday Disputes and Mediation in the United States: A Reply to Professor Felstiner." Law and Society Review 9 (Summer 1975): pp. 675-694.
21. Deutscher, Irwin. "Toward Avoiding the Goal-Trap in Evaluation Research." Readings in Evaluation Research (Second Edition), edited by Francis G. Caro, New York, 1977, pp. 221-239.
22. Doo, Leigh Wai. "Dispute Settlement in the Chinese Community." American Journal of Comparative Law 21 (1973): p. 627.
23. Eckels, Timothy J. "Toward a Framework for Process Evaluation." Working Paper prepared for LEAA sponsored research project: "An Empirical Study of Methods Used in Criminal Justice Evaluations." Richard C. Larson, Principal Investigator, 1979 (M.I.T. Operations Research Center).
24. Felstiner, William L.F. "Influences of Social Organization on Dispute Processing." Law and Society Review 9, No. 1 (Fall 1974): pp. 63-94.
25. Felstiner, William L.F. and Lynne Williams. "Mediation as an Alternative to Criminal Prosecution: Ideology and Limitations." Law and Human Behavior 2, No. 3 (1978): pp. 223-244.
26. Fisher, Eric. "Community Courts: An Alternative to Conventional Criminal Adjudication." The American University Law Review 24 (1975): pp. 1253-1291.

27. Freeman, Howard E. "The Present Status of Evaluation Research" in Evaluation Studies Review Annual, Volume 2, Edited by Marcia Guttentag. Beverly Hills, 1977, pp. 17-51.
28. Friedman, Lawrence. "Access to the Legal System and the Modern Welfare State: An American Report." Paper prepared for the Colloquium on Access to Justice, After the Publication of the Florence Project Series: Prospects for Future Action. Florence, 1979.
29. Friedman, Lawrence and Robert V. Percival. "A Tale of Two Courts: Litigation in Alameda and San Benito Counties." Law and Society Review 10, No. 2 (Winter 1976): pp. 267-301.
30. Galanter, Marc. "Afterword: Explaining Litigation." Law and Society Review 9, No. 2 (Winter 1975): pp. 345-368.
31. Galanter, Marc. "Why the 'Haves' Come Out Ahead: Speculations on the Limits of Social Change." Law and Society Review 9, No. 1 (Fall 1974): pp. 95-160.
32. Glass, Gene V. (ed.) Evaluation Studies Review Annual, Volume I. Beverly Hills, 1976.
33. Harrison, Bennet, et al. A Manual for CETA Prime Sponsors on the Monitoring and Evaluation of Title I Programs for Employment and Training. (Second Edition). Cambridge, 1976
34. Harrison, Bennett. "Employment and Economic Development Policy and Planning." Lectures delivered at M.I.T., Fall, 1979.
35. Hawkridge, David. "Designs for Evaluation Studies," Evaluation Research Strategies and Methods. Washington, D.C., 1970.
36. Hofrichter, Richard. "Justice Centers Raise Basic Questions." New Directions in Legal Services 11 (November-December 1977) pp. 168-172.
37. Hollister, Robinson and Tunny Lee. "Neighborhood Planning." Lectures delivered at M.I.T., Fall, 1979.
38. Institute for Research. "Evaluation of the Neighborhood Justice Center Pilot Program." A Grant Application submitted to the Office of Evaluation, National Institute of Law Enforcement and Criminal Justice, October, 1977.
39. Johnson, Earl and Elizabeth Schwartz. A Preliminary Analysis of Alternative Strategies for Processing Civil Disputes. Washington, D.C.: National Institute of Law Enforcement and Criminal Justice, U.S. Department of Justice, 1978.
40. Kansas, City of. "Neighborhood Justice Center Application of Kansas City, Missouri." Proposal submitted to the National Institute of Law Enforcement and Criminal Justice, Law Enforcement Assistance Administration, U.S. Department of Justice, 1977.

41. Kassebaum, Gene et al., Prison Treatment and Parole Survival: An Empirical Assessment. New York, 1972.
42. Ladinski, Jack. "The Milwaukee Dispute Mapping Project." National Science Foundation Project Summary, n.d.
43. Larson, Richard C. "Evaluation of Public Programs." Class Lectures delivered at M.I.T., Fall, 1978.
44. Larson, Richard C. et al. "Interim Analysis of 200 Evaluations on Criminal Justice." Report prepared for the National Institute of Law Enforcement and Criminal Justice, Law Enforcement Assistance Administration, U.S. Department of Justice, 1979 (M.I.T. Operations Research Center).
45. Larson, Richard C. and Leni S. Berliner. "On Evaluating Evaluations." Working Paper prepared as part of research project, "An Empirical Study of Methods Used in Criminal Justice Evaluations," sponsored by the National Institute of Law Enforcement and Criminal Justice, Law Enforcement Assistance Administration, U.S. Department of Justice, 1979 (M.I.T. Operations Research Center).
46. Los Angeles County Bar Association. "Neighborhood Justice Center Project." Proposal submitted to the National Institute of Law Enforcement and Criminal Justice, Law Enforcement Assistance Administration, U.S. Department of Justice, n.d.
47. McEwen, Craig. "The Mediation of Small Claims Disputes: An Empirical Assessment of a Natural Experiment." National Science Foundation Project Summary, n.d.
48. McGillis, Daniel. Conversations, April, 1980.
49. McGillis, Daniel. "Neighborhood Justice Centers." Policy Brief prepared for the National Institute of Justice, U.S. Department of Justice by Abt Associates, Cambridge, 1980.
50. McGillis, Daniel. "Proposal for a Study of Dispute Processing Networks." Unpublished paper, n.d.
51. McGillis, Daniel. "Recent Development in Dispute Processing." Unpublished paper, n.d.
52. McGillis, Daniel. "Testimony for House Hearings on the Dispute Resolution Act." June 14, 1979.
53. McGillis, Daniel and Jean Mullen. Neighborhood Justice Centers: An Analysis of Potential Models. Prepared for the National Institute of Law Enforcement and Criminal Justice, Law Enforcement Assistance Administration, U.S. Department of Justice by Abt Associates Inc., 1977.

54. Merry, Sally Engle. "Can Community Dispute Settlement Centers Work? A Comparison with Anthropological Models of Mediation." Unpublished paper. Wellesley College, 1979.
55. Mnookin, Robert H. and Lewis Kornhauser. "Bargaining in the Shadow of the Law: The Case of Divorce." Yale Law Journal 88 (1979): p. 950.
56. Nader, Laura. "Disputing Without the Force of Law." The Yale Law Journal 88 (1979): pp. 998-1021.
57. Nader, Laura and Linda R. Singer. "Dispute Resolution and Law in the Future: What Are the Alternatives?" California State Bar Journal 51 (July 1976): pp. 281-319.
58. Nader, Laura and Harry F. Todd, Jr. "Introduction: The Disputing Process." in The Disputing Process--Law in Ten Societies. Edited by Laura Nader and Harry F. Todd. New York, 1978, pp. 1-21.
59. Neighborhood Justice Center of Atlanta, Incorporated. "Neighborhood Justice Center Project." Proposal submitted to the National Institute of Law Enforcement and Criminal Justice, Law Enforcement Assistance Administration, U.S. Department of Justice, 1977.
60. Parlett, Malcom and David Hamilton. "Evaluation as Illumination: A New Approach to the Study of Innovatory Programs." in Evaluation Studies Review Annual, Volume I, edited by Gene V. Glass. Beverly Hills, 1976, pp. 140-155.
61. Patton, Michael Quinn. Utilization-Focused Evaluation. Beverly Hills, 1978.
62. Perkins, D.N.T. "Evaluating Social Interventions: A Conceptual Schema." Evaluation Quarterly I (November 1977): pp. 642-645.
63. Quay, H.C. "The Three Faces of Evaluation: What Can be Expected to Work." Criminal Justice Behavior 4 (1977): pp. 341-354.
64. Rossi, Peter. "Issues in the Evaluation of Human Services Delivery." Evaluation Quarterly 2, No. 4 (November 1978): p. 580.
65. Rossi, Peter H., Howard E. Freeman and Sonia R. Wright. Evaluation: A Systematic Approach. Beverly Hills, 1979.
66. Sander, Frank E.A. "Varieties of Dispute Processing." F. R. D.: The Pound Conference 70 (1976): pp. 111-134.
67. Sarat, Austin. "Alternatives in Dispute Processing: Litigation in a Small Claims Court." Law and Society Review 10, No. 3 (Spring 1976), pp. 339-375.

68. Schon, Donald. "Network-Related Intervention." Unpublished Manuscript, M.I.T., 1977.
69. Scriven, Michael. "Maximizing the Power of Causal Investigations: The Modus Operandi Method." Evaluation Studies Review Annual, Volume I, Edited by G.V. Glass, Beverly Hills, 1976, pp. 101-118.
70. Sheppard, David I., Royer Cook, and Janice A. Roehl. National Evaluation of the Neighborhood Justice Centers Field Test: Final Report (First Draft). Prepared for the National Institute of Law Enforcement and Criminal Justice, Law Enforcement Assistance Administration, U.S. Department of Justice by the Institute for Social Analysis, December, 1979.
71. Sheppard, David I., Royer Cook, and Janice A. Roehl. National Evaluation of the Neighborhood Justice Centers Field Test: Interim Report. Prepared for the National Institute of Law Enforcement and Criminal Justice, Law Enforcement Assistance Administration, U.S. Department of Justice by the Institute for Social Analysis, 1978.
72. Sheppard, David I., Royer F. Cook, and Janice A. Roehl. "National Evaluation of the Neighborhood Justice Centers Field Test: Work Plan." Prepared for the National Institute of Law Enforcement and Criminal Justice, Law Enforcement Assistance Administration, U.S. Department of Justice by the Institute for Social Analysis, May, 1978.
73. Shonholtz, Raymond. "Neighborhood Justice Centers: A Critique." Paper submitted to the U.S. Department of Justice. June, 1977.
74. Singer, Linda R. "The Growth of Non-Judicial Dispute Resolution: Speculations on the Effects on Justice for the Poor and on the Role of Legal Services." Paper prepared for the Legal Services Corporation: n.d. (1980?).
75. Snyder, Frederick. "Legal Implications of Mediation." Perspective 3 (Fall, Winter 1979).
76. Stanford Evaluation Consortium. "Evaluating the Handbook of Evaluation Research," in Evaluation Studies Review Annual, Volume I, edited by Gene V. Glass. Beverly Hills, 1976, pp. 195-218.
77. Steele, Eric. "Fraud, Dispute and the Consumer: Responding to Consumer Complaints." University of Pennsylvania Law Review 123 (1975).
78. Suchman, Edward A. Evaluative Research. New York, 1967.
79. Tien, James M. "Toward a Systematic Approach to Program Evaluation Design." IEEE Transactions on Systems, Man and Cybernetics 9, No. 9 (September 1979).
80. Trubek, David M. "Understanding Courts in Context: An Introduction to the Civil Litigation Research Project." (Draft Copy) University of Wisconsin, 1980.

81. United States Department of Justice. "Neighborhood Justice Centers." Information packet prepared by the Law Enforcement Assistance Administration, National Institute of Law Enforcement and Criminal Justice (National Criminal Justice Reference Service), Washington, D.C., n.d.
82. United States Department of Justice. "Neighborhood Justice Center Program." Document issued by the Office for Improvements in the Administration of Justice, July 11, 1977(a).
83. United States Department of Justice. "National Institute of Law Enforcement and Criminal Justice Design for Neighborhood Justice Centers." Reprinted in McGillis and Mullen, 1977(b).
84. United States House of Representatives. Resolution of Minor Disputes: Joint Hearings Before the Subcommittee on Courts, Civil Liberties and the Administration of Justice of the Committee on the Judiciary and Subcommittee on Consumer Protection and Finance of the Committee on Interstate and Foreign Commerce, House of Representatives, June 6,7,14, and 18, 1979.
85. United States House of Representatives. Resolution of Minor Disputes: Hearings Before the Subcommittee on Courts, Civil Liberties, and the Administration of Justice of the Committee on the Judiciary, House of Representatives, July 27, August 2, 1978.
86. Warhaftig, Paul. "Citizen Dispute Resolution: A Blue Chip Investment in Community Growth." Pretrial Services Annual Journal (1978): pp. 153-161.
87. Warren, Donald I. "The Multiplexity of Urban Social Ties: An Integrative Analysis." Paper presented at the Ninth World Congress of Sociology, Uppsala, Sweden. August, 1978.
88. Weiss, Robert S. "Input Studies and Process Studies as Alternatives and Complements to Outcome Evaluation." Unpublished Manuscript, n.d.
89. Weiss, Robert S. "Alternative Approaches in the Study of Complex Situations." Human Organization 25 (Fall 1966): pp. 198-210.
90. Weiss, Robert S. and Martin Rein. "The Evaluation of Broad-Aim Programs: Experimental Design, Its Difficulties, and An Alternative." Administrative Science Quarterly (March 1970): pp. 107-120.
91. Yngvesson, Barbara and Patricia Hennessey. "Small Claims, Complex Disputes: A Review of the Small Claims Literature." Law and Society Review 9, No. 3 (Spring 1975): pp. 219-274.
92. Zucker, Lynne G. "Evaluation Research: Standards for Judging Research Quality." Sociological Practice 2, No. 2 (Fall 1977): pp. 107-124.
93. Zwick, Daniel I. "Some Accomplishments and Findings of Neighborhood Health Centers." Milbank Memorial Fund Quarterly 50, No. 4 (October 1972) pp. 387-420.