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PRIVATE COMPLAINT PROGRAM

CINCINNATI, OHIO

Technical Assistance Report

Vera Institute of Justice  
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## PRIVATE COMPLAINT PROGRAM - CINCINNATI, OHIO

The Private Complaint Program is a federally funded demonstration project administered by the Municipal Court Prosecutor's Office, Cincinnati, Ohio. The program was established in December, 1974 to provide a mediation alternative to the traditional criminal justice system processing of disputes between private citizens.

The program was established in response to a study, conducted by the Cincinnati Police Division's Criminal Justice Section, of the court processing of cases resulting from private citizens complaints. The study demonstrated that nearly three quarters of all warrants filed by private citizens against private citizens were either dropped because the complainant failed to prosecute or resulted in acquittals in court. The report further indicated that the processing of these complaints consumed a substantial portion of court and police resources and, based on case disposition, it suggested that the traditional criminal justice process was not resolving these citizen conflicts in an effective manner.

As a result of that study, a project design was developed and LEAA funding obtained. Project operations began in December, 1974 and continue to this date. Current funding for the program expires in May of 1978. At the present time, a major evaluation of the program is being conducted for the Municipal Court Prosecutor's Office by the Cincinnati Institute of Justice, pursuant

to a separate evaluation grant. This report is submitted to supplement that evaluation. It is intended to provide a summary look at the program by persons far removed from its operation. It is not intended to duplicate the work of the primary evaluation, but to provide augmentation to that work.

This report is divided into two parts: An observations and findings section, and a recommendations section. The first section is the result of a three day on-site inspection and observation of the program by two representatives of the Vera Institute of Justice. The recommendations section includes suggested changes in the organization and procedures of the program. For the benefit of those readers not familiar with the criminal justice process in the City of Cincinnati, an Appendix is attached which provides a summary review of the role of the Private Complaint Program in the Cincinnati criminal justice system.

Because the primary purpose of this study was to provide recommendations which would assist in improving program operations, the consultants concentrated on identifying program weaknesses, and the report may have a more negative impact than was intended. In fact, the consultants were impressed by the original concept and design of the program, and believe that its weaknesses arose as a result of operational expediency. As an organizational and programmatic model, the consultants found the Program to be better in some respects than those existing in some other jurisdictions. The intake process has been designed to insure maximum utilization of the Program's resources within

the constraints of existing policy. One benefit of this is that it permits a fairly accurate estimate of the program's cost-effectiveness, a matter which will be dealt with in depth in the C.I.J. evaluation. The Program's purpose and goals demonstrate a great deal of sensitivity to the plight of persons involved in interpersonal disputes on the part of the Prosecutor's Office. The program's staff are, in general, intelligent, conscientious and highly professional. The program clearly has the potential for providing a constructive alternative to the traditional criminal justice process for the settlement of private disputes.

However, the program appears to suffer from a lack of clear administrative policy and procedures and thus frequently falls short of attaining its goals. Project staff members do not appear to be adequately trained in the techniques of mediation and dispute resolution and, as a result, while the program may be successful in reducing the number of criminal warrants issued, true mediation in difficult cases appears to happen only incidentally.

Following is a summary of the major findings and recommendations contained in this report:

#### Findings

- ° The Program's current orientation appears to be more concerned with the reduction of warrant issuance than with the resolution of interpersonal disputes.
- ° This orientation is attributable, in large measure, to the absence of mediation and dispute resolution training for the Program staff.

- The Program lacks an adequate entry-level training program for staff members.
- There is no formal program to evaluate staff personnel performance.
- The Program does not provide adequate information as to its purpose to either complainants or defendants.
- A significantly high failure to appear rate diminishes the usefulness of the Program.
- The Program does not maintain adequate records for administrative purposes.
- The current Program Procedure and Policy Manual is outdated.
- Hearing scheduling practices result in occasional duplicate offense reporting by the City's Police Division.
- The Program does not make use of available social service resources when dealing with client problems.
- The Program is underutilized by the criminal justice system.

#### Recommendations

- The primary orientation of the Program should be changed from one of warrant screening to dispute mediation.
- Dispute resolution and mediation training should be provided to all staff.
- An effective multi-level training program should be introduced.
- An employee evaluation system should be introduced.
- Consideration should be given to designating the Program Coordinator as an Assistant Municipal Court Prosecutor.
- A proactive notifications procedure to reduce the failure to appear rate of both complainants and defendants should be established.

- A Social Services Unit should be established within the Program.
- The Program's Procedures and Policy Manual should be revised.
- Program records and forms should be revised and new forms introduced.
- A procedure for formal complaint withdrawal prior to hearing date should be developed.
- A procedure to eliminate duplicate offense reporting to the Police Division should be implemented.
- Program resources should be more fully utilized by the Criminal Justice System. Consideration should be given to mediating arrest cases, both felony and misdemeanor, on a court referred basis.



## OBSERVATIONS AND FINDINGS

In compliance with the Cincinnati/C.I.J.-Vera Contracts, two representatives of the Vera Institute visited Cincinnati and observed program operations during the period between June 14th and 16th, 1977. In addition, interviews were held with various Private Complaint Program staff personnel, representatives of the Municipal Court Prosecutor's Office, Cincinnati Police Division and Municipal Court Clerk. The consultants also reviewed the data gathered as part of the C.I.J. evaluation of the program and, in some instances, use that data to formulate findings and recommendations.

### Organization

The Private Complaint Program is a federally funded demonstration project administered by the Municipal Court Prosecutor's Office. While the prosecutor serves as the Program Director, the day-to-day administration of the program is the responsibility of the program coordinator who reports directly to the prosecutor. The permanent staff consists of 16 persons including the coordinator, one secretary, and fourteen part-time law students who function both as intake officers during the screening process and as hearing officers. In addition to the permanent staff, the project uses the services of one off-duty police officer and one Assistant Prosecutor from the Prosecutor's Office during hearing hours.

Duties of staff members are as follows:

- a. Project Coordinator: The project coordinator is responsible for the overall administration of the program. He selects and hires staff and is responsible for their training and supervision. The coordinator formulates program policy and oversees its implementation.
- b. Program Secretary: The program secretary is responsible for all the clerical functions which support project operations. She reviews each day's work and takes appropriate follow-up actions which include sending hearing notices to defendants for cases accepted during the previous day, and filing the projects's records on cases which were heard during the previous day. The secretary is also responsible for preparing periodic program activity reports.
- c. Hearing/Intake Officers: The law students employed as hearing/intake officers alternate between these two functions. In addition, they may also serve as receptionist during the hours in which hearings are conducted.
- d. Police Officer: The police officer employed by the project maintains the peace during hearing hours.
- e. Assistant Prosecutor: The assistant prosecutor is assigned by the Prosecutor's Office to be available to confer with the hearing officers on cases which cannot be resolved by mutual agreement. He reviews the facts of these cases and determines if sufficient probable cause exists to justify a project recommendation that a warrant be issued.

### Program Operations

The principal operations of the program are intake, hearing and referral. During the on-site portion of this study, the consultants reviewed the written procedures governing these operations and observed the process in action. Following are the results of these observations.

Intake. All referrals to the Private Complaint Program are by the Municipal Court Clerk's Office, although persons knowing of the program may appear at its intake window without first going to the clerk's office. The court clerk's office is open on a 7-day, 24-hour basis, while the P.C.P. intake operates from Sunday through Thursday between the hours of 8:00 A.M. and 12 Midnight, and on Friday and Saturday between 8:00 A.M. and 3:00 A.M. Persons appearing at the court clerk's office on cases appropriate for P.C.P. intake during the hours when P.C.P. is closed are requested by the court clerk to return after 8:00 A.M.

The intake function for the Private Complaint Program is performed by the law students who also alternate as hearing officers. These intake officers are responsible for selecting cases for program processing. Alternatives available to the intake officer include: acceptance of the case for program processing, referral to the court clerk for warrant issuance when appropriate, referral to the Cincinnati Police Division Criminal Investigation Section if the facts alleged constitute a felony, or referral to another court or social service agency.

Observations of the intake process indicate the following: When a complainant appears at the intake window requesting warrant issuance, the intake officer asks for the specifics of the incident. If he determines that the case is an appropriate one for the program to handle, he fills out a P.C.P. Preliminary Complaint form and schedules a hearing 7 to 10 days later, at the convenience of the complainant. The complainant is then given a notice informing him to appear for the hearing and he is advised that this is the only hearing notice he will receive. The intake officer maintains a log of open hearing times and schedules in accordance with hearing officer availability.

During the intake process, the intake officer makes no distinction between the program's operation and the court process. The goals and philosophy of the program are not fully explained to the complainant. If the complainant asks "what happens?," he is then advised that this program is part of the Municipal Prosecutor's Office and that both parties will appear before a hearing officer who will inquire into the facts of the alleged incident. He is further advised that the hearing could result in court action being taken.

During the intake proceedings witnessed, no attempt was made to refer any clients to any social service agencies, although it appeared to the consultants that this would have been appropriate in some cases.

Hearings. The hearing process must be regarded as the single most important function of the Private Complaint Program. For this reason, the consultant spent most of their on-site time observing the conduct of case hearings.

Hearings are scheduled each half-hour between 6:00 P.M. and 9:00 P.M., Tuesday through Friday, and on Saturday morning between 9:00 A.M. and 12 Noon. Periodic adjustments are made in response to seasonal fluctuations in workloads. Three hearings are scheduled for each half-hour period, although 4 hearing officers are scheduled to work. The fourth hearing officer acts as program receptionist during the hearing hours, and this function is rotated among those working any given session. The program coordinator is normally present during hearing hours as is an assistant municipal court prosecutor. However, it was reported that due to attrition in the ranks of the assistant prosecutors, the Municipal Prosecutor's Office has been unable to assign an assistant prosecutor to the program during the past several months. Despite that fact, there was an assistant prosecutor present during the days on which the on-site observations were made. In addition, an off-duty police officer, employed by the project through the police department, was present to maintain the peace.

Following are the results of the consultants observations of the hearing process.

During the two days of hearings observed, a significantly high number of both complainants and defendants failed to appear.

At no time did it appear that three hearings were being conducted during any half-hour period. When a complainant fails to appear, the hearing officer would, after a 15-minute wait, take the defendant into a hearing room and explain that unless the complainant came forth with a reasonable explanation of his absence, the charges against the defendant would be dropped by the prosecutor's office. When only the complainant appeared, the hearing officer, after waiting 15 minutes, would take the complainant into one of the hearing rooms and review the facts of the complaint with him/her. It would appear that at this point the hearing officer had several options: refer the complainant to the court clerk for warrant issuance; reschedule the case and make another attempt to contact the defendant; if the facts warranted, inform the complainant that there was no probable cause for the issuance of a warrant (a fact which would be confirmed by the program coordinator or assistant prosecutor); or, as was witnessed in every such circumstance monitored, discourage the complainant from taking further action. This last action appeared to be the primary goal of the hearing officers observed. (It is possible that other options were implemented in those complainant conferences not monitored by the consultants during the two days).

To determine the magnitude of the non-appearance problem, program statistics for the months of April and May, 1977 were

examined. During this two-month period, a total of 945 hearings were scheduled. Failure of one or more parties to appear resulted in aborting the hearings in a total of 399 cases, 42.2% of those scheduled. Defendants failed to appear in cases in which the complainant appeared on 61 occasions, or in 6.5% of the cases scheduled. Complainants failed to appear in cases in which the defendant appeared on 147 occasions, or in 15.5% of the cases scheduled. Both complainant and defendant failed to appear on 191 occasions, 20.2% of the scheduled cases. In total, complainants failed to appear on 338 occasions (35.7%) and defendants failed to appear on 252 occasions (26.6%).

During the observed hearings, the consultants identified two major problems regarding the conduct of the hearing officers: (1) an apparent lack of understanding of the program's objectives and goals, and (2) a lack of adequate training in conflict resolution techniques.

The primary goal of the hearing officer should be dispute settlement, regardless of the criminal charge alleged. Instead, many of the hearing officers emphasized the charges and used the hearing to determine who was really at fault and if there was probable cause for a warrant to be issued. In fact, they used the issue of probable cause as a threat against the parties to settle the dispute; either against the defendant if there was probable cause, or if there was no probable cause, against the complainant. In any case, the hearing officers appeared more

interested in dissuading people from pursuing a warrant in court than in settling the dispute.

The goal of mediation is to arrive at an agreement satisfactory to all, and the mediator's role is to serve as a facilitator of communication between the parties to assist them in reaching an agreement. Mediation itself is a process which involves a number of techniques that can be learned and which prove extremely effective in assisting parties to reach their own agreement. Because of the lack of adequate training, these hearing officers do not know how to structure a hearing so that the end result is a satisfactory agreement. They dwell on the alleged criminal offense; fail to explore the underlying problems; and often appear judgemental, using terms such as "I believe," "I feel," "You should not have," etc.

The following examples of two hearings observed during the on-site visit, illustrate the above observations. The first case involved a young husband's allegedly assaulting his wife and her younger brother. The couple had been separated for a month but were still in constant contact. Although there was a lot of hostility between them because of the assault, it was obvious from their cross-talk that they both still cared about each other and that



a reconciliation was possible. This fact was later confirmed by the woman's mother who said that the day the assault had taken place, she had left the house to allow the couple to talk privately.

Instead of helping the couple determine the underlying cause of their dispute and separation, the hearing officer concentrated on the assault charge in order to determine probable cause; this exacerbated an already hostile situation. Furthermore, the hearing officer did not allow the parties to express their hostilities and discuss their differences, but instead, continually injected his opinion into the session. The officer told them that their domestic situation was not relevant to the dispute and asked the woman if she was planning a divorce. When the woman said yes, the officer told her to go to the domestic relations court.

The hearing officer spent the rest of the hearing discouraging the complainant's mother from issuing a warrant for her son-in-law. Although he had agreed to make restitution and pay the medical bills, the mother still wanted a warrant issued. The hearing officer then called an assistant prosecutor who succeeded in convincing her not to have a warrant issued.

The second case involved a dispute between two co-workers arising from mutual insults which caused their boss to suspend both of them from work for three days. The hearing officer did not interfere with the parties during the session and he allowed

them to speak, but was unable to direct the parties toward an agreement. The complainant wanted restitution for the three days he was suspended from work; he requested and received an apology from the defendant but no restitution.

At the end of the session, the complainant was still angry and still wanted a warrant issued. The hearing officer then asked the assistant prosecutor if there was probable cause for a warrant and since there was none, told the complainant there there was nothing that could be done unless he wanted to pursue the matter in civil court.

In both cases, no real mediation had taken place; the complainants left the sessions as angry as they had entered. The hearing officers were unable to negotiate an acceptable compromise so that both parties could save face and leave the session satisfied.

One mediation technique, which the hearing officers appeared to be aware of but which they failed to use in any of the hearings observed, is the caucus. A caucus requires the hearing officer to ask one party to leave the room while he confers with the other party, and generally will not be employed until each person has been given the opportunity to tell his story in front of the other. The purpose of the caucus is to permit the hearing officer to determine the complainant or defendant's bottom-line - what he would be satisfied

with as a resolution to the problem. It frequently permits the mediator to discover motives which are never made known in the presence of the other party and permits him to establish a game-plan for the remainder of the session. Caucuses serve many purposes, one of which is to permit face saving by one or both parties to the hearing. If the person's bottom line is not achieved as a result of the hearing, that person will generally be more receptive to further compromise if the other party was never aware of what was actually sought. It appeared to the observers that the caucus technique could have been used effectively in several of the hearings monitored, including those cited above.

When the assistant prosecutor talked to the participants, he too appeared most concerned with preventing the issuance of a warrant, rather than settling the dispute. In this regard he was effective and although the complainants appeared less than satisfied, they consented to leave without warrants. It should be noted that in the interests of justice, this was an appropriate decision on the part of the prosecutor. While probable cause may have existed in the cases observed, little good would have been accomplished by criminal prosecutions.

#### Service Referrals

The original goal of the program is to reduce the number of warrants issued in private complaint cases and thereby keep these matters out of the courts. Underlying this goal is the recognition by the various members of the criminal justice system that the court often represents a poor forum for the

resolution of interpersonal disputes. If it is to provide a meaningful alternative to the traditional criminal justice process, the program should respond to the underlying problems that caused the dispute as well as the alleged offense which brought the parties to seek legal action.

Although a genuine attempt was made by the hearing officers to identify and deal with client problems, it appeared that the intake/hearing officers were not properly trained in identifying client needs, nor did they refer clients frequently enough to available service agencies which could better assist them. A services resource manual, available to the hearing officers, was rarely used. While some training in this area took place at the beginning of the program, there does not appear to have been any follow-up training, and apparently hearing officers hired after the initial staffing have received no service referral training at all.

Consequently, the program fails to utilize available community and City resources for referrals. Prior to April, 1977, statistics maintained by the program failed to isolate data on the number of social service referrals made. The reporting format was changed in April, 1977 and in that month three service referrals were recorded. Given the type of the cases in the program, a one percent rate of social service referrals indicates an underutilization of available resources. This underutilization is due to the unfamiliarity of the intake/hearing

officers with the different social service agencies, their intake procedures and the services they offer. This lack of knowledge while understandable, deprives the clients access to these important resources.

The need for social service training was clearly demonstrated during the portions of the intake and hearing processes observed.

During one intake session, a woman who had been beaten by her husband came into the office. She had already had one hearing at the PCP. The mediation process had apparently failed but issuing a warrant might exacerbate the situation. At first the intake worker was unsure of how to proceed -- the woman wanted a restraining order which is issued by the Domestic Relations Court, but the intake worker thought that she would need an attorney to get the order. Because the woman intended to initiate divorce proceedings through the public defender's office the following week, the intake worker felt that they would get her the restraining order and, therefore, took no further action.

Another case involved the payment of moving expenses and back rent by a welfare recipient. At the hearing, the defendant gave the name and phone number of his "welfare worker" to the hearing officer who passed the information on to the complainant and told him to see what he could work out for himself.

Program Policy

When the Private Complaint Program was established in December, 1974, a Procedure Manual (for the intake and hearing officer) was developed and issued to all employees. In addition to detailing the procedures to be followed at the intake and hearing phases, the manual established program policy in many areas: eligibility requirements for program acceptance; procedures to be followed in the event of non-appearance by the complainant and/or defendant, rescheduling of cases, etc. In the past two and one-half years, some of these policies have been revised and new policies have been created. However, neither the revisions nor the new policies appear in the manual. Consequently, the consultants observed that the hearing/intake officers exercised a great deal of individual discretion in the absence of available uniform policy statements. Staff members often disagreed on specific policies and procedures and would respond in different and, at times, contradictory ways to the same problems. Each hearing/intake officer interviewed was asked to whom he/she refers questions concerning policy or procedure. Although some directed their questions to the program coordinator, the majority referred such problems to another hearing/intake officer for resolution. This practice promotes lack of uniformity.

Apparently no systematic review of existing policy has yet been undertaken; and certain policies adopted at the programs outset should be reviewed and possibly changed.

The lack of clearly delineated policy promotes arbitrary decision making which acts to the detriment of the program. In several instances, employees were observed to have made policy decisions which may be described as arbitrary. In one instance, a complainant was denied rescheduling of a hearing when it was obvious that the complainant would merely file a new complaint and reinitiate the process. In another instance, a complainant who had already been through the hearing process with one defendant, and who had received a recommendation for warrant issuance, was denied that recommendation for two co-defendants who were identified subsequent to the original hearing. In both of these instances, if the complainant proceeded to reinitiate the case by filing a new complaint, two crime reports would be recorded by the Cincinnati Police Division, rather than just one. As both reports would have arisen out of the same incident, the City would be unfairly penalized with respect to the amount of criminal offenses recorded.

### Recruitment and Selection of Personnel

Personnel for the hearing/intake officer position are recruited from law schools in the Cincinnati area. Turnover does not appear to be unusually high but staff vacancies are most likely to occur at the end of the school year or after the results of the bar examination are published. The project coordinator interviews prospective employees and makes the final selections. The quality of personnel employed appears to be uniformly high. However, only three of the fourteen hearing/intake officers employed are minority group members even though persons from this minority group constitute between 50 and 70 percent of the project's clientele. And while no evidence exists of any bias in hiring practices, no affirmative action program, designed to increase minority group representation among the hearing officers, exists either.

### Training of Personnel

The level of training received by the hearing/intake officers appeared to depend upon when they joined the project. Those who joined the project at its inception, received intensive training in the project's procedures, which included role playing exercises. Those who joined at a later date received primarily on-job-training, consisting of observation of both intake and hearing sessions. Moreover, the on-job-training period appears to have been reduced over the years. People who began work one year ago were given a longer training period than



those who were employed within the past two months. In many cases, the length of training appeared to depend more on the willingness of the new employee to make observations on his/her own time rather than any prescribed period mandated by the project. All employees are given a copy of the Private Complaint Program Procedure Manual for the Intake and Hearing Officer, which includes a detailed description of how the intake and hearing processes should be conducted.

Follow-up training would appear to be non-existent. While the project coordinator may occasionally sit-in on a hearing to supervise the hearing officer, there does not appear to be any regularized in-service training program. Staff conferences are limited to discussion of new procedures or policies and their frequency was difficult to determine. Most hearing/intake officers interviewed remembered only one staff meeting being held in 1977, while others seemed to recall several.

While overall training procedures are inadequate, the most serious shortcoming is the lack of training in the techniques of mediation and dispute resolution. While each employee received some training in the procedures followed by the program, none received any training in mediation skills, the lack of which was evident in the hearings which were monitored.

These informal training methods create a lack of uniformity in employee performance. A largely unsupervised apprenticeship system serves to perpetuate error and prevents stan-

standardization of both policy and practice.

#### Personnel Policies and Evaluation of Employee Performance

Personnel policies governing the conduct of project employees are apparently lacking. The Private Complaint Program Manual refers only to the hearing officer's responsibility for arranging a substitute should he/she be unable to appear when scheduled. The project coordinator attributed the lack of a personnel policy manual to the fact that the City does not have a personnel manual for part-time employees, and stated that any personnel policy questions arising are resolved in accordance with standard City policies.

The Program also does not appear to have any formal employee evaluation program. Although the project coordinator may occasionally observe a hearing and discuss its handling with the hearing officer, no formal mechanism exists to measure employee performance on a regular basis and to inform the employee how closely his performance matches job requirements.

#### Employee Scheduling

The schedule for intake/hearing officers is normally established for the entire school semester and adjustments are made only for new employees or changes in scheduled hearing hours. The schedule is prepared either by the coordinator or the project secretary and approved by the coordinator. While an attempt is made to have each employee rotate between intake and hearing duties, school imposed limitations frequently prevent a balance rotation. As a result, some employees spend unequal times

on either hearing duty or intake duty. As stated earlier, each employee is responsible for providing for substitute coverage for scheduled tours.

In general, the staff scheduling system employed appears adequate. While there is some current staff resentment concerning reduced working hours, this would appear to be unjustified in terms of the needs of the program. In anticipation of staff vacancies in the fall, the project coordinator has hired additional staff and, as a result, must spread the available hours out among a greater number of persons.

#### Program Office Management

Day-to-day office management is a responsibility shared by the project coordinator and the secretary. While the coordinator is responsible for the management of the program, out of necessity he delegates portions of that responsibility to the only other full-time program employee, the program secretary. The administrative office of the program is open from 9:00 A.M. to 5:00 P.M., Monday through Friday. Other project activities, however, take place over a 19 hour period. Project intake occurs from 8:00 to 12 Midnight, five days a week, and between 8:00 A.M. and 3:00 A.M. on the other two days. Hearings are conducted on Tuesday through Friday, between 6:00 P.M. and 9:00 P.M., and on Saturday mornings between 9:00 A.M. and 12 Noon. (Hearing days and hours may change periodically to reflect fluctuations in workload).

While no portion of the program's operation should exist without periodic supervision by the coordinator, it appears to the consultants that his presence is most necessary during the days and hours when hearings are conducted. Recognizing this, the current coordinator normally schedules himself for 1:00 P.M. to 9:00 P.M. tours. This may facilitate effective program operations, but places a heavy burden on the program's secretary. In addition to the secretary's clerical duties stated above, she must also serve as receptionist. The current secretary stated that she spent a large portion of the morning on the telephone, answering questions of defendants who have received notices to appear for a hearing and this interferes with the performance of her other duties.

During the morning hours, the secretary is the only available person to answer policy questions from either staff or the public. Given the absence of written policy guidelines, she is frequently unable to answer these questions and they are often left unanswered or left for the coordinator's consideration.

In addition, while budget administration is clearly the responsibility of the program coordinator, the secretary maintains the fiscal records of the program and prepares the monthly budgetary reports.

#### Program Records and Forms

During the observation period, the consultants reviewed the records maintained by the program and the forms used in its operation. In general the observers thought that the program

does not maintain sufficient records to permit meaningful evaluation. Further, the absence of adequate records precludes internal evaluation and hampers the planning and control processes. Following are the principal forms and records of the program:

a. Private Complaint Program Preliminary Complaint.

The P.C.P. Preliminary Complaint form is the most important form used by the program and constitutes its primary record. The form is prepared at intake and lists on its front, the identities of the complainant and defendant, and a brief summary of the facts of the alleged offense. On the reverse of the form, space is provided for a record of the intake disposition of the case, and for the hearing disposition. The form is initially prepared in duplicate by the intake officer, time stamped, and forwarded to the program secretary for additional processing. The duplicate copy of the form is forwarded to the Cincinnati Police Division or other police agency in the County for inclusion in the municipality's crime statistics. If the case is disposed of at intake, i.e., referred to another agency, referred for warrant issuance, etc., it is filed.

If a hearing is scheduled, the program secretary uses it as a source document to initiate a Notice of Hearing form which is sent to the defendant advising him of the scheduled hearing; it is then placed in a tickler file for the hearing date.

The form is next used to record the hearing disposition. If a hearing has been conducted and an agreement reached, the

terms of the agreement are summarized on the form. When all actions on the case have been completed, statistical information is extrapolated from the form and it is filed.

Given the importance of the form, it is believed that the information recorded on it is insufficient for its present purposes and for those additional uses which may be envisioned.

b. Private Complaint Program Complainant Notice. The P.C.P. Complainant Notice provides the complainant with a written notice of a scheduled hearing. It informs the complainant of the time, date and location of the hearing, and advises that his failure to appear will result in the charges being dropped. The form is issued in the name of the Municipal Court Prosecutor and contains the phone number of the program.

It is believed that the form should provide additional information to the complainant.

c. City of Cincinnati, Private Complaint Program, Notice of Hearing. The notice of hearing form is used to advise defendants of scheduled hearing: their time, date and location; the nature of the charges made against him/her; and the identity of the complainant. The form is issued in the name of the Municipal Court Prosecutor and contains the telephone number of the program. The form is prepared by the program secretary from information provided on the Preliminary Complaint Form and is mailed to the defendant at the address given by the complainant.

Again, it is believed that the form should provide additional information to the defendant. At the present time, many defendants must telephone the project to obtain additional needed data.

d. Private Complaint Program Police Felony Referral.

The P.C.P. Police Felony Referral form is used during the intake phase of the program to refer complainants to the Cincinnati Police Division Criminal Investigation Section when the complainant alleges a felony.

e. Private Complaint Program Warrant Recommendation.

The Warrant Recommendation form is used to refer a complainant to the court clerk in those cases in which the program recommends the issuance of a warrant either at intake, or after a hearing.

f. Private Complaint Program General Referral Form.

The General Referral form is used to refer complainants to other agencies. Typical referrals would be to agencies such as: Legal Aid, Small Claims Court, Social Services, Welfare, Domestic Relations Court, etc.

The referral forms were, until recently, filed with the P.C.P. Preliminary Complaint File. A separate file of General Referrals was begun on May 1, 1977 and between that date and June 14, 1977, 14 cases were referred from intake.

g. Private Complaint Program Referral Form(Hub Services).

The Hub Referral form is used in referring complainants or defendants to Hub Services, Inc., a community based social services agency. The form was formerly filed with the P.C.P. Preliminary Complaint, but is now filed separately.

## RECOMMENDATIONS

This section presents recommendations for the Private Complaint Program. These recommendations are based on the consultants' observations, as well as reference to preliminary results of the Cincinnati Institute of Justice evaluation of the program.

As indicated earlier in this report, both representatives of the Vera Institute of Justice were genuinely impressed with the organization and operation of the Private Complaint Program. While we have found fault with aspects of its administration and operation, we believe that these are correctable.

### Program Orientation

The dual goals of the Private Complaint Program are clear: (1) to lessen the case-load of the Municipal Court by screening out cases that could be more appropriately handled by another forum; and (2) providing an appropriate forum for the settlement of interpersonal disputes which result in criminal conduct. These goals presume that the conduct involved is the result of interpersonal relations which will not be effectively altered by the imposition of criminal sanctions.

Implementation of a dispute mediation program carries with it the hope that the results achieved will be more lasting than those attained through the imposition of the criminal law. Without acceptance of this, there is little purpose of diverting funds from the traditional process to implement such programs.



While everyone connected with the program in the City of Cincinnati appears to accept this premise, there is a wide gulf between acceptance and performance. The primary problem lies with the fact that too much emphasis is placed on the screening function of the program rather than on dispute settlement. This emphasis may be observed in both the intake and hearing processes. Hearing officers appear to be more concerned with deterring warrant issuance than with solving disputes.

It is recommended that a formal policy statement regarding the goals and objectives of the program be issued, which can serve as a foundation for the reorientation of staff and as a guide in the implementation of new policies and procedures.

De-emphasis of the screening role of the program should be accompanied by the introduction of true mediation techniques so that more cases will be disposed of through mediation and warrants will be issued in those cases that merit such action.

#### Organization

The organizational structure of the Private Complaint Program, while basically sound, could be improved to permit the program to more effectively attain its goals. The majority of the recommendations concerning the organization and staffing of the program result from procedural changes which will be recommended. Therefore, they will be presented in conjunction with the associated procedural recommendations in order that they be considered in the proper context.

The remainder of this section will concern the functions and role of the program coordinator. In a program which is dependent upon the use of part-time students and the turnover in personnel which results from that practice, the role of the coordinator looms as the most important position in the agency. The coordinator should not only be responsible for the administration of the agency, but should also function as its principal training officer. This may necessitate the coordinator's receiving professional training as a mediator, but would insure continuity of practice over a long period of time.

Consideration should be given to merging the position of program coordinator with that of an assistant municipal court prosecutor. This could be accomplished by appointing the incumbent to that position or, if the position becomes vacant, appointing a new staff member. The current program budget contains sufficient funds for the position to insure salary compatibility. This would relieve the prosecutor from the responsibility of assigning other assistants to the hearing sessions, something which he has had difficulty in doing in recent times. It would also insure that the program coordinator identifies closely with the prosecutor's office and thoroughly understands its policies and goals.

#### Personnel Practices

a. Selection of Hearing/Intake Officers. Current procedures used in the recruitment and selection of personnel have attracted a competent, intelligent and well motivated staff to the

Program and should be continued. However, an Affirmative Action Program should be introduced to increase the number of minority group persons in the hearing/intake officer position.

b. Personnel Policies. A personnel policy manual should be developed and issued to each employee, full or part-time. The manual should cover the normal range of personnel matters, terms of employment, fringe benefits, grievance procedures, career opportunities, etc.

c. Personnel Evaluation. A formal personnel evaluation program should be introduced into the Program. Each employee should be evaluated on a semi-annual basis, and the results of that evaluation discussed with him. The introduction of a formal evaluation program would necessitate the establishment of minimum standards of performance and would let employees know how closely their job performance approaches the requirements of the position. Implementation of such a system would necessitate the program coordinator devote a large portion of his time to monitoring the intake and hearing processes. This would stimulate uniformity of practice and act as a supplement to the training program of the agency. As evaluation is a continuous process, it would enable the coordinator to identify personnel weaknesses or insufficiencies in training at an early stage and provide remedial instruction.

#### Training

The absence of an effective training program is believe to be responsible for all of the deficiencies in performance

among the intake/hearing officers identified in this report.

A multi-level training program should be implemented by the Program. As a minimum, this program should include the following:

- a. Entry level training
- b. Continuous on-job training
- c. Use of the evaluation system to identify new training needs.
- d. Use of the case-study technique to produce consistency of approach and performance
- e. Use of selected guest lecturers

Content of the training program should include, as a minimum:

- a. Orientation to the Criminal Justice System in the City of Cincinnati and the role of the Program in that system
- b. Instruction in Program procedures and policies
- c. Instruction in the techniques of mediation
- d. Identification of client needs and use of service agencies for client referral.

The training program should utilize various instructional approaches, including lecture, assigned readings and role playing exercises.

#### Levels of Training

Entry Level Training - A minimum standard of entry level training should be adopted and no employee should be permitted

to perform either intake or hearing duty unsupervised until he completes the training. Entry level training should provide the employee with a basic understanding of the operation and goals of the agency, the techniques of mediation, and the ability to identify client service needs and make appropriate referrals.

On-Job Training - Following entry level training, the new employee should have on-job training. He would perform the intake and hearing functions under the direct supervision of an experienced hearing/intake officer acting as a training supervisor. At the completion of each intake or hearing session, the training supervisor should be required to submit a written report to the project coordinator stating his opinion as to the new employee's readiness to perform unsupervised. However, no new employee should be permitted to conduct intake or hearings unsupervised until the project coordinator has personally observed the employee's performance.

Identification of Training Needs Through the Evaluation System - The employee evaluation system previously recommended should be used to identify additional training needs of the employees. Regular review of employee performance should identify areas in which additional training or retraining is necessary.

Case-Study - The case-study training technique should be used to produce a greater consistency of performance among the

hearing/intake officers. One-hour case study sessions should be scheduled on a monthly basis for each group of hearing/intake officers. The program coordinator should select the cases to be discussed and should insure that each hearing/intake officer be required to present a case over a period of time. The hearing/intake officer should present the case, detailing the facts of the incident which led to the filing of the complaint, the techniques employed in conducting the intake or hearing, the agreement reached or the reasons which prevented agreement. This should be followed by a discussion of the handling of the case, and, if necessary, the project coordinator should stimulate discussion by suggesting alternative techniques which could have been employed to resolve the problem.

Guest Lecturers - Guest lecturers should be utilized when appropriate in the training program. Representatives of the various criminal justice agencies should be brought in to speak on the responsibilities and functions of their agencies. It is particularly important that representatives from those governmental and community based social service agencies which may be used by the intake/hearing officers as referral sources present information on the range of services they provide, their intake procedures and eligibility standards.

### Training Content

Orientation - Initial training should include information which acquaints the employee with the operation of the criminal

justice system in the City of Cincinnati, and the role of the program in that system. It should emphasize the mediation goals of the program.

Policy and Procedure - The training program should be geared to bringing the employee up to a satisfactory level of understanding and performance of program policies and procedures.

Mediation Techniques - If the program is to attain the goal of resolving interpersonal disputes, the employees must be given training in the techniques of mediation and dispute resolution. There is an accepted body of knowledge in the mediation field and there are several professional organizations which may be contracted to provide the initial training required. The training may be conducted either on-site or by sending one or more program representatives to the contractor's home office to receive training as mediation trainers.

The program coordinator should receive intensive training as both a mediator and as a mediation trainer.

Social Service Training - Program employees, particularly the hearing/intake officers, should receive training in social service science so that they can identify client service needs. They should also receive instruction on the services available from both governmental and community based service agencies in the Cincinnati area.

### Service Referrals

The program does not make sufficient use of available public and private community resources which can often help clients obtain needed services. Steps should be taken to insure that full use is made of the social service referral process.

This may be accomplished in several different ways, each having specific advantages and disadvantages and differing costs to the program. Among these are the following:

a. Addition of a Services Advocate to the Program. A services advocate, whose responsibilities would include the establishment and maintenance of liaison with social service agencies, city and county agencies, legal services and other city and state courts could be added to the staff. He would serve as a general ombudsman and advocate for clients' service needs and also follow-up on problem cases. At present, there is no formal mechanism to determine if one or both parties fails to live up to the agreements. The service advocate could follow-up on cases and encourage compliance. The services advocate would also be responsible for training the intake/hearing officers in identification of client needs.

Experience in similar programs has demonstrated that it is not necessary to obtain the services of a highly trained social worker for this position. Para-professionals have been utilized elsewhere to great advantage.



As an alternative to hiring a services advocate, the program could explore the possibility of having a social worker outstationed to the program from the City of Cincinnati Social Services Agency.

b. Student Intern Program - As an alternative to adding a services advocate to the staff of the Program, consideration could be given to attempting to establish an internship program with a local school of social work. It may be possible to obtain the assignment of one or more M.S.W. candidates each school semester to assist the program in the development of its referral capability. The students could be used for identifying local resources, developing other agency contacts, and instructing hearing/intake officers on client need identification and proper referral methods.

#### Program Policies

The findings indicate a need for the adoption of specific policies for the various aspects of the Program's operations. These policies should be included in a revised procedures manual.

Among the policies which should be reviewed are those pertaining to scheduling of hearings, rescheduling, record keeping and the issue of police referrals. The observers found that it was particularly difficult to obtain a consistent definition of a proper police referral from the intake officers. Some stated that a police referral, which precludes acceptance of the case by the program, is only proper when it is in writing. Others

accept a telephone call from a police officer as a proper referral. Still others state that if they thought that the case could be effectively handled by the program, they telephoned the police officer and requested his permission to accept the case.

In reviewing the issue of police referrals, the consultants conferred with members of the Cincinnati Police Division, the Municipal Court Prosecutor's Office and the Court Clerk's Office. In addition, data on the court disposition of such cases gathered as part of the C.I.J. evaluation was reviewed. It appears that the police referral procedure was introduced to insure that serious cases, particularly those involving an element of imminent danger to the complainant, were given immediate attention. The representative of the court clerk indicated that a procedure existed under which the assistant court clerk on duty could immediately notify the police of the issuance of a warrant under circumstances which seemed to indicate the need for immediate police response. The example used by the clerk's representative was that -- if a complainant stated that her husband had assaulted her and was waiting for her at home with a gun -- the police would be notified immediately and would respond. Although there were no easily retrievable records which could be used to determine the frequency of such forthwith notifications, all persons interviewed believed them to be small in number.

It is impossible, and indeed undesirable, to second-guess the police officer in the field. His immediate reaction to the information provided him by a complainant is most often more than just a response to the facts alleged. It reflects his experience, training and, very often, prior knowledge of the complainant and/or defendant. However, given the small number of "forthwith" responses by the clerk's office and the police, and the fact that court records indicate that police referral cases are most often disposed of by dismissal or complainant withdrawal, it appears that the entire procedure should be reviewed.

A procedure should be developed which, while recognizing the importance of the police input, does not automatically bar the case from program acceptance. Unless the case is one which would warrant a forthwith response by the police, it should be evaluated in terms of whether or not it is appropriate for mediation. Under the current procedures, unless the clerk recommends, and the police act immediately, the complainant must return to his residence without any immediate action being taken. The defendant does not know a warrant has been issued until he receives the police notification letter, and the case does not appear in court for several days. If the case were accepted by the program, during the same time span the case would be heard in the mediation forum instead of the court. Then if mediation proved unsuccessful, the warrant could be issued.

In developing such a procedure, the Prosecutor's Office should obtain the concurrences of the Court Clerk and the Police Division. Such a procedure could contain provision for police review prior to program acceptance. The police department could designate an official who could be contacted by the program for immediate review of the case.

### Intake and Hearings

Several recommendations can be made with respect to the intake and hearing processes.

More detailed records should be kept. At intake, more data on complainant hearing availability and the nature of the complaint should be gathered, and an attempt made by the intake officer to determine the underlying causes of the dispute. This information could then be reviewed by the service advocate or program coordinator, who could make preliminary suggestions for service referrals before the hearing date.

Hearing officers should be required to prepare case summaries, which detail the facts of the alleged incident's underlying problems, a summary of the mediation session, and any agreement reached by the parties. In addition to their value as training material, case summaries can benefit the program in several ways. They can provide background information to the service unit of the program to permit more intelligent utilization of service resources. They can also be used as a reference if either party returns to the program alleging that the other

failed to live up to the agreement. As this can happen months after the original hearing, maintenance of adequate records can conserve valuable hearing time.

The size of a case summary would be dependent upon the nature of the case. Where the complaint is a minor and the parties easily reach agreement, little need be recorded. However, where the complaint has some substance and the agreement difficult to reach, more complete records would be necessary.

The following is a sample case summary of the family assault cited on page 13.

Mr. and Mrs. X were married for three years and have two children, ages 2 and 6 months. Three months ago they decided to separate (not legally) because they were constantly arguing. By their own admission, they are both extremely hot tempered and continually argue over silly details.

At the time of the separation, Mrs. X moved back to her mother's house and Mr. X remained in their apartment.

They are both young and had unrealistic expectations about marriage. She has difficulty accepting the responsibility for the care of the two young children. Also, the financial burdens were large and he was not working. Both their parents were supporting them. He recently got a job (last month) which will help alleviate some of their money problems which was a major source of their arguments.

They still appear to love each other and have agreed to move back together immediately. They have also agreed to see a marriage counselor. They will call the services advocate for an appointment for referral to the appropriate agency.

Mr. X has also agreed to pay the medical bills for John Z, Mrs. X's brother. (See agreement).

It should be noted that the agreement section of this sample summary is fictitious and represents the consultant's view of how the case might have been resolved. The actual hearing did not result in a resolution.

Consideration should also be given to formalizing agreements in writing. Written agreements would serve several important functions. The requirement to produce a written agreement would provide the hearing officer with a specific goal to reach and help structure the hearing sessions. More importantly, it would discourage the type of open-ended, no resolution hearings observed. The agreement could serve as an informal contract in restitution cases. In all cases, such an agreement signed by both parties would represent a psychological commitment to its implementation. A copy of the agreement should be filed with the case summary, after review by the services advocate.

Following is a sample of an agreement which could have been used in the case previously summarized:

Mr. and Mrs. X have agreed to the following:

1. Mr. and Mrs. X will end their separation and will live together again.
2. Mr. and Mrs. X will seek assistance from the P.C.P.'s services advocate.
3. Mr. X will not physically or verbally abuse Mrs. X.
4. Mrs. X will not physically or verbally abuse Mr. X

5. Mr. X will reimburse Mrs. Z, Mrs. X's mother, \$90 for the cost of John Z's medical expenses.
6. The payment will be made in the following manner: Mr. X will pay Mrs. Z in two installments of \$45.00 each by certified check or money order. Mr. X will hand deliver the payments to Mrs. Z at her home address:

355 LaMont Avenue  
Cincinnati, Ohio

He will deliver the first payment on Friday, July 8, 1977 at 6:00 p.m. and the second payment on Friday, July 15, 1977 at 6:00 p.m.

#### Program Security

Despite the fact that the hearing facilities are located in a building in which various police units are stationed, there appeared to be a need for a security person's presence in the hearing facility during the hours when hearings are conducted. Although there were no incidents during the days of the on-site visit, persons interviewed recalled several incidents when the services of the security officer was necessary. However, the use of an off-duty police officer for this purpose is unjustified. The hourly rate of \$8.00 currently paid for this service seems excessive; private security forces may be obtained for less than one-half of that amount. The funds saved could be applied to the cost of a services advocate or other program needs.

#### Reducing Non-Appearance

The non-appearance rate of program participants seems excessively high. Some non-appearance is to be expected in a

program of this type, but steps should be taken to reduce this to a minimum and to insure that complainant non-appearance is completely voluntary. Defendant non-appearance should be examined on a case-by-case basis, and where appropriate, warrant procedures invoked.

Some portion of the non-appearance rate appears to result as a consequence of current Program policies and procedures. Chief among these is the level and clarity of program communication.

Complainants and defendants should be provided with additional information on the nature and goals of the program, and the level of communication between the program and the participants should be increased. Specifically, it is recommended that:

- a. A program brochure be developed and given to both complainants and defendants.
- b. A proactive notifications unit be established by the program.
- c. Provision be made for complainant withdrawal prior to scheduled hearing dates.

#### Program Brochure

A brochure or pamphlet which explains the goals and procedures of the program should be published and furnished to both complainants and defendants. The complainant could be given a copy during the intake process and the defendant sent a copy together with the hearing notice. Such a publication can help



reduce the non-appearance rate and can alleviate other problems experienced by the Program. It would reduce the number of telephone inquiries currently made by both complainants and defendants seeking additional information on the nature of the process and will eliminate the confusion which is currently experienced by parties who arrive anticipating an appearance before a judge and who are unprepared for a mediation session.

Proactive Notifications - A proactive notification system should be implemented by the Program. This would require each defendant receiving a notice of appearance to telephone and acknowledge receipt of the notice. If the defendant failed to do so by a specific date, an attempt would be made to contact the defendant by telephone. To reduce the complainant non-appearance rate, the Program would attempt to telephone him two days prior to the hearing date to confirm the appointment and to determine if the complainant intends to appear. Experience in other criminal justice programs, involving both complainants and defendants, has demonstrated that proactive notifications involving both written and telephone communications have been successful in reducing non-appearance rates.

Introduction of proactive notifications would require the addition of one additional staff person, a second secretary. However, by wording the notification letters to limit the hours during which acknowledgement calls are made to the program, to

the period between 1:00 p.m. and 9:00 p.m. Tuesday through Friday, and on Saturday between 9:00 a.m. and 5:00 p.m., the second secretary can also function as the program receptionist during hearing hours. This would eliminate the need for the fourth hearing officer and would permit the money saved to be allocated to the second secretary's salary. The secretary would be responsible for receipt of acknowledgement calls from defendants, maintenance of defendant check-in records, making telephone calls to defendants who have failed to check-in by the required time, making confirming calls to complainants and acting as project receptionist during hearing hours.

Complainant Withdrawal - Because of their nature, some complaints will be resolved by the parties themselves prior to the hearing date. In some instances, both parties appear as scheduled and inform the hearing officer of their agreement. In other cases, however, both parties fail to appear and the program never knows whether the parties have resolved their problems or if the complainant has been coerced into not appearing. To facilitate legitimate complaint withdrawal and to guard against complainant coercion, a procedure should be introduced which permits the complainant to withdraw the complaint at any time prior to the scheduled hearing. This could be accomplished by providing an appropriate form, at intake which he could complete and return to the program.

Some portion of the non-appearance rate may also be attributable to the Program's current hearing scheduling practices.

At the present time, the ex parte nature of the intake process results in hearings being scheduled in accordance with complainant availability. The program should obtain alternate available dates from complainants, and use these to reschedule cases should the defendant contact the program and plead unavailability for the original date. If the hearing is rescheduled, the program would notify the complainant by telephone or mail.

#### Elimination of Duplicate Offense Reporting

A procedure should be introduced to insure against duplicate offense reporting. At present, if a complainant fails to appear, the case is dismissed. Similarly, in some instances when the defendant fails to appear, charges are withdrawn by the complainant. When both fail to appear, charges are dismissed. In all of these instances, if the complainant reappears to initiate a complaint based on the original occurrence, a new preliminary complaint form is prepared. As a result, the Cincinnati Police Division or other Hamilton County police agency receives two offense reports for the same incident. A system should be devised whereby old complaints are merely restored to the hearing calendar, rather than requiring the filing of a new complaint.

#### Program Records and Forms

The Program's forms should be substantially revised as they contain too little information to either inform persons as

to the nature of the process or to form the basis for internal evaluation.

a. Private Complaint Program Preliminary Complaint.

The P.C.P. preliminary complaint form should be revised and its role as the primary record of the program discontinued. The form should be used as a central index of cases, and as a source document for the planned computerization of the program.

The form should be replaced as the primary record of the program by at least three new forms:

- (1) Complaint Intake Report - setting forth the facts alleged by the complainant, any additional background information obtained by the intake officer and the initial recommendations of the program coordinator and services advocate.
- (2) Case Summary Form - for use in recording the summary of the case.
- (3) Agreement Form - to be used to record the agreement.

b. Private Complaint Program - Complainant Notice;

City of Cincinnati, Private Complaint Program, Notice of Hearing:

Both the complainant and the defendant hearing notices should be revised to provide additional information on the nature of the hearing process. The degree of revision depends

upon whether or not the agency adopts the recommendation relative to printing a program brochure. If the brochure is published, less information need be included on the forms. If not, sufficient information should be provided to insure that the nature of the process is clearly presented to the recipient.

#### Expansion of Program Services

In reviewing the operation of the Private Complaint Program, it becomes obvious that at its current funding level, the program is capable of performing a greater range of services for the Criminal Justice System in the City of Cincinnati. The following are suggestions as to directions in which the program's operating base could be expanded.

a. Police Referrals - There is a strong probability that some cases, presently precluded from program intake because of police referrals, could be absorbed.

b. Arrest Cases - Cases entering the Municipal Court as a result of either arrest or citation, could, after an initial hearing by a judge, be diverted to the Program's hearing process as an alternative to continued prosecution. If the judge determined that the alleged offense arose out of an interpersonal dispute and felt that the interests of justice would best served by the mediation of that dispute, the case could be adjourned and scheduled for a mediation hearing. Upon completion of the hearing, the case could be returned to court together with a recommendation from the program coordinator as to

the necessity for further prosecution. If the case were settled at mediation, and the judge and prosecutor accepted the Program's recommendation, charges could be dismissed.

c. Felony Cases - Dispute mediation programs in several jurisdictions are now experimenting with utilizing the mediation process to deal with appropriate felony cases. Again, the criteria used by these programs concerns whether or not the incident involves an interpersonal dispute. Felony cases could be assigned to the Program for hearings in the referral manner described above.

## APPENDIX A

### Summary Review of the Role of the Private Complaint Program in the Cincinnati Justice System.

A private complaint is an action, brought by a private citizen against another private citizen, alleging the commission of a criminal offense. In Cincinnati a citizen may initiate the action by applying to the local Municipal Court Clerk for process. That process consists of the issuance of a warrant against the alleged defendant and, upon execution of the warrant and the appearance of the parties before the court, a judicial inquiry into the facts of the case. At the time of this hearing, the defendant may enter one of three pleas, not guilty, no contest, or guilty. If the defendant pleads not guilty, the case is adjourned to a future date for a hearing. If the defendant pleads no contest, the judge hears the facts of the case and renders a verdict. If the defendant pleads guilty, the judge will pass sentence on him. In Cincinnati private citizen complaints do not normally result in criminal convictions. Most are disposed of as a result of a failure of the complainant to prosecute. While a citizen may make a private complaint alleging a felony, the vast majority involve misdemeanor level charges.

In Cincinnati, a citizen may go directly to the Municipal Court Clerk's Office in the court building and request the issuance of a warrant. That office is open on a 24-hour per

day basis and a citizen may apply at any hour of the day or night. While many persons are aware of this process, many are not, and a large number of persons will first make their complaint known to the police, either by visiting or calling a district station or by conferring with a police officer on patrol. Except in specified situations, police in the State of Ohio are not empowered to effect a summary arrest for a misdemeanor not committed in their presence. As a result, the police will inform the citizen of his/her right to apply to the municipal court for a warrant. In some instances, where the police officer believes that the facts alleged by the complainant constitute a condition sufficiently serious enough to warrant immediate action, he may, in addition to referring the complainant to the court clerk's office, telephone that office and notify the clerk that he is referring the complainant to court for process. Such notifications have a subsequent bearing on the operation of the Private Complaint Program.

The Municipal Court Clerk is an elected official, empowered to authorize the issuance of warrants in appropriate cases. The court clerk's office is manned on a 24-hour basis by deputy clerks authorized to perform the court clerk's functions. When a citizen appears at the clerk's office seeking to have a warrant issued, the clerk refers him/her to the screening unit of the Private Complaint Program. The Private Complaint Program Intake Office interviews the complainant to determine the facts of the situation. If the screener believes that the facts



presented may possibly constitute a felony, he/she immediately refers the complainant to the Criminal Investigation Section of the Cincinnati Police Division. Such cases will not be accepted for Municipal Court or Program Intake unless referred back by the Criminal Investigation Section. In addition, if it is apparent to the screener that the case most properly belongs in another forum, i.e., Civil Court, Domestic Relations Court, etc., he/she may refer the complainant to the appropriate jurisdiction at that time.

All other misdemeanor cases are accepted for project intake with three exceptions. These are: (1) when the screener believes that the facts alleged indicate that the defendant is in imminent danger, (2) when the police officer has telephoned the clerk's office indicating that he has referred the complainant for process, and (3) when the complainant has been referred to the clerk's office by a private attorney. In these instances the complainants are referred back to the court clerk with a project recommendation for the issuance of a warrant.

When a case is accepted for the program, the screener prepares a Private Complaint Program Preliminary Complaint Form and schedules the case for a hearing, normally 5 and 7 days from the date of the complaint. One copy of the form is forwarded to the Cincinnati Police Division to insure accurate offense record keeping by the Department. The second copy is delivered to the project's office, after which the project's secretary mails a notice to the defendant, directing him to

report for the hearing. Hearings are scheduled between 6:00 P.M. and 9:00 P.M., Tuesday through Friday, and on Saturday morning.

If the project screener does not accept the case for program intake, and refers it back to the court clerk recommending warrant issuance, warrants are normally issued, although this decision is solely that of the court clerk. Also, a citizen who does not desire to participate in the mediation process may appeal to the court clerk for the issuance of a warrant. However, the clerk will not normally issue a warrant after the case has been accepted for project intake.

#### Mediation

Hearings are conducted in offices adjacent to the Municipal Court Prosecutor's Office. If both parties respond as scheduled on the hearing date, a hearing is conducted in an attempt to obtain a mutually agreed upon solution to the problem. The hearings are conducted by law school students employed by the program, who also serve as intake officers during the intake phase of the program. Although the hearings are conducted in private, the project coordinator, who is an attorney, is available to assist if required.

If the complainant does not appear for the scheduled hearing and has not contacted the program in advance and requested a postponement, the case is dropped and will only be rescheduled if the complainant appears at the clerk's office to register a new complaint. If the defendant does not appear

as scheduled and the complainant wishes to pursue the matter, the case is referred to the assistant prosecutor who, during hearing hours, makes a decision as to whether or not probable cause exists for the issuance of a warrant.

If the matter is resolved during the hearing, with both sides agreeing to the proposed solution, the case is closed. If a resolution cannot be reached, the mediator confers with the assistant prosecutor as to the appropriateness of a warrant and referral to court. If the assistant prosecutor believes a warrant should be issued, the complainant is referred back to the court clerk. If he believes that no warrant should be issued, his reasons are explained to the complainant.

If a warrant is to be issued, either at initial intake or after a mediation hearing, the complainant is referred to the court clerk with a Private Complaint Program Warrant Recommendation Form. If the court clerk determines that probable cause exists, he will issue a warrant. Warrants are forwarded daily to the Cincinnati Police Division or the appropriate police agency elsewhere in Hamilton County. In the City of Cincinnati, the Police Division, upon receipt of a warrant, forwards a letter to the defendant advising him of the existence of the warrant and directing him to report to the local district station for the issuance of a citation. If the defendant does not appear at the district in a reasonable period of time, police visit his residence and issue the citation in person.

APPENDIX B

Private Complaint Program

Current Forms

**FINAL DISPOSITION**

- Warrant Issued: \_\_\_\_\_  
(Case Number)
- \_\_\_\_\_ (Charge)
- Complaint Withdrawn/Dropped
- Other Date: \_\_\_\_\_

**PRIVATE COMPLAINT PROGRAM  
PRELIMINARY COMPLAINT**

\_\_\_\_\_ (Charge)

**Defendant**

Name: \_\_\_\_\_  
(Last) (First) (M.I.)

Address: \_\_\_\_\_

Employed:  1. Yes  2. No  3. Unk. Employer: \_\_\_\_\_

**Sex:**

- 1. Male
- 2. Female

**Race:**

- 1. White
- 2. Black
- 3. Other

Age: \_\_\_\_\_

Tract: \_\_\_\_\_ Phone: \_\_\_\_\_

Emp. Phone: \_\_\_\_\_

**Complainant**

Name: \_\_\_\_\_  
(Last) (First) (M.I.)

Address: \_\_\_\_\_

Employed:  1. Yes  2. No Employer: \_\_\_\_\_

**Sex:**

- 1. Male
- 2. Female

**Race:**

- 1. White
- 2. Black
- 3. Other

Age: \_\_\_\_\_

Tract: \_\_\_\_\_ Phone: \_\_\_\_\_

Emp. Phone: \_\_\_\_\_

**Relationship to Defendant:**

- 1. Spouse  2. Ex-Spouse
- 3. Sibling  4. Parent/Child
- 5. Boy/Girl Fr.  6. Other Relative
- 7. Unacquainted  8. Other \_\_\_\_\_

Address of Offense Occurrence: \_\_\_\_\_

**Date of**

Offense: \_\_\_\_\_

**Time of**

Offense: \_\_\_\_\_

Facts: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

MCVX

(PLEASE PRINT)

**INTAKE DISPOSITION**

Hearing Set: Date \_\_\_\_\_ Time \_\_\_\_\_  
(Mo.) (Day) (Year)  A.M.  P.M.

Referred to: \_\_\_\_\_  
(Agency)

Misdemeanor Warrant Issued: Charge \_\_\_\_\_  
Case No. \_\_\_\_\_

Intake Officer: \_\_\_\_\_  
(Last) (First)

Date: \_\_\_\_\_  
(Mo.) (Day) (Yr.)

**TIME STAMP**

**HEARING DISPOSITION**

I. RESCHEDULED: New Hearing Date: \_\_\_\_\_ Time: \_\_\_\_\_  
(Mo.) (Day) (Yr.)  A.M.  P.M.

Reason: \_\_\_\_\_ Hearing Officer: \_\_\_\_\_ Date: \_\_\_\_\_  
(Last) (F.I.) (Mo.) (Day) (Yr.)

**II. DISPOSITION:**

- 1. Warrant Recommended: Charge \_\_\_\_\_ Case No: \_\_\_\_\_ Pros. Sign \_\_\_\_\_
- 2. Charge Withd. — Sol. w/Cond.  4. Charge Withd. — Prior Sol.  6. Charge Dropped — Comp. FTA
- 3. Charge Withd. — Sol. w/No Cond.  5. Charge Withd. — No Sol./No P. Cause  7. Charge Withd. — Def. FTA

**III. AGREEMENT CONDITIONS:** \_\_\_\_\_

**Future**

Action:  1. Recommend Warrant Issuance on Original Offense if Agreement Broken:

\_\_\_\_\_ VS. \_\_\_\_\_  
(Complainant) (Defendant) (Charge) (Pros. Signature)

2. Recommend Warrant Issuance on Any New Complaint Versus  Complainant  Defendant  
If Elements of Charge Are Present.

IV. REFERRAL:  1. Yes  2. No Agency: \_\_\_\_\_

Final Hearing Disposition Officer: \_\_\_\_\_ Date: \_\_\_\_\_  
(Last) (First) (Mo.) (Day) (Yr.)

PRIVATE COMPLAINT PROGRAM  
GENERAL REFERRAL FORM



.....  
(name)  
.....  
(address)  
IS REFERRED TO: .....  
(service)  
.....  
(address)  
phone: ..... hours: .....  
reason: .....

MUNICIPAL COURT PROSECUTOR'S OFFICE by: .....  
PRIVATE COMPLAINT PROGRAM (Intake/Hearing Officer)  
222 E. Central Parkway  
Cincinnati, Ohio 45202  
352-3960  
.....  
(date)

©CLJ

PRIVATE COMPLAINT PROGRAM  
POLICE FELONY REFERRAL



..... is being referred to you  
(Complainant)  
for police investigation of an alleged felony offense.

Program Staffer: ..... Date: .....

Please note below the action taken by C. I. S. If the complainant is referred back to the program or to another unit, instruct him to present this completed form to an official of the program or unit.

- Referred back to Private Complaint Program because the offense reported is not a felony and does not require an investigation. The recommended charge is: .....
- Referred to District ..... for investigation.
- Other: .....

Officer's Name: ..... Badge No: .....

©CIB

### PRIVATE COMPLAINT PROGRAM COMPLAINANT NOTICE



You are scheduled to appear for a hearing on \_\_\_\_\_,  
 \_\_\_\_\_ (day)  
 \_\_\_\_\_, at \_\_\_\_\_, in the Hamilton  
 \_\_\_\_\_ (date) \_\_\_\_\_ (time)  
 County Municipal Court Prosecutor's Office, Room 108-B, 222 E. Central  
 Parkway, regarding the charges of \_\_\_\_\_  
 made by you against \_\_\_\_\_  
 \_\_\_\_\_ (Defendant)

If you do not appear, these charges will be dropped.

PAUL J. GORMAN  
 MUNICIPAL COURT PROSECUTOR  
 WM. T. FOUNTROY, COORDINATOR — 352-3960 @CEV



### Private Complaint Program WARRANT RECOMMENDATION

The Private Complaint Program recommends issuance of a warrant  
vs.

\_\_\_\_\_  
(Defendant Name)

\_\_\_\_\_  
(Defendant Address)

on charges of: \_\_\_\_\_  
(Charge/Sec. No.)

Complainant: \_\_\_\_\_

Compl. Address: \_\_\_\_\_

Recommended by: \_\_\_\_\_ Date: \_\_\_\_\_

Case No.: \_\_\_\_\_

\* \* \* \* \*

Reference: Acceptance of police referral made by:

\_\_\_\_\_  
@CWN (Officer Name) / (Badge #) / (Unit)



# City of Cincinnati

## PRIVATE COMPLAINT PROGRAM

### NOTICE OF HEARING

To: \_\_\_\_\_, 19 \_\_\_\_\_

You are notified to appear at a hearing on \_\_\_\_\_, \_\_\_\_\_, at \_\_\_\_\_  
(day) (date) (time)  
in the Hamilton County Municipal Court Prosecutor's Office, Room 108B, 222 E. Central Parkway, regarding charges  
of \_\_\_\_\_ made against you by \_\_\_\_\_  
(Complainant)

Failure to appear may bring further legal action.

PAUL J. GORMAN

Municipal Court Prosecutor

WM. T. FOUNTROY, Coordinator — 352-3960



@CLA

**PRIVATE COMPLAINT PROGRAM  
REFERRAL FORM**

Date: .....

Name: .....

Address: .....

..... Phone: .....

Referred to:  
**HUB Services, Inc.**  
19 West Elder  
Cincinnati, Ohio 45210  
621-4400  
Hours: 8:30 AM - 5:00 PM

**PLEASE CONTACT HUB SERVICES WITHIN 48 HOURS.**

**REASON FOR REFERRAL:** .....

.....

.....

**NEED(S): (CIRCLE ONE OR MORE)**

- |         |                     |                |           |          |         |            |            |
|---------|---------------------|----------------|-----------|----------|---------|------------|------------|
| Marital | Neighborhood        | Legal Services | Food      | Clothing | Housing | Welfare    | Child Care |
| Income  | Employment Training | Employment     | Education | Health   | Mental  | Recreation | Alcohol    |

**HUB DISPOSITION**

- |   |  |
|---|--|
| <input type="checkbox"/> Arrived: .....<br>(date)                       | <input type="checkbox"/> Failed to Arrive.             |
| <input type="checkbox"/> Accepted: .....<br>(date)                      | <input type="checkbox"/> Outreach Attempted            |
| .....<br>(service)  | <input type="checkbox"/> Contact Made: .....<br>(date) |
| <input type="checkbox"/> HUB REFERRAL INAPPROPRIATE                     | <input type="checkbox"/> No Contact: .....<br>(reason) |
| <input type="checkbox"/> Private Complaint Program Contacted (352-3960) | .....  |