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City of Harker Heights
Neighborhood Mediation Program

**A Policy Research Project
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ABSTRACT

Mediation is a problem solving process in which neutral third party mediators assist those in disputes to isolate issues, consider needs and develop options to come to a mutually acceptable agreement. Mediation can assist in the resolution of neighborhood, family and workplace disputes.

Different lifestyles can affect neighbors in the community. Simple things like the way they mow (or don't mow) their lawn, to the way they let their dog bark all night long are all too common neighbor problems that can often be an irritation and source of hostility.

Often times, these minor annoyances are not addressed and silent resentment begins to build. This leads to additional frustration, anger and a threat of potential retaliation. Talking with neighbors may be a way to reduce the tension and solve the problem, but there are times when neighbors simply can not work out their disputes and must find some way to live together despite their differences.

The purpose of this policy research project is to justify the issuance of a new dispute resolution program for the citizens of Harker Heights, Bell County, Texas.

The conclusion of this project as based upon the research is to recommend that the City of Harker Heights incorporate a neighborhood mediation program.

Introduction

Every day, police officers throughout the country interact with individuals and their problems. All too often, officers are confronted with civil matters concerning the citizens they serve. Because these matters are not of a criminal nature, most times the police officers can only refer these individuals to various help type agencies, clergy or attorneys.

All too often, individuals for what ever reason decline to follow up on police referrals and try to take matters into their own hands. Because of this, many times police officers have to return to a situation that at first was a civil matter and now may have escalated into a criminal episode resulting in a criminal summons or arrest.

The purpose of this research project is to introduce a dispute resolution program for the citizens of Harker Heights, Bell County, Texas. By establishing a neighborhood mediation program, the citizens of Harker Heights will be able to have a non-court alternative to their disputes.

The Neighborhood Mediation Program is utilized to handle domestic quarrels and neighborhood squabbles. The Neighborhood Mediation Program also works with landlord-tenant disputes and teacher-student conflicts. The main aim of the program is to resolve problems between individuals, within families and among community members.

The intended audience for this program will be any citizen, business owner or employee of a business within the City of Harker Heights, Bell County, Texas.

The sources of information to be utilized in the project will include interviews with experts in the field, scholarly journals, publications and other published writings.

The intended outcome of the Neighborhood Mediation Program is to handle minor conduct arising from interpersonal, civil or minor criminal disputes. The program aims to prevent these individual from acquiring arrest records and the court system from further burdening its already backlogged schedules.

Historical and Legal Context

The concept of dispute resolution is not new. Community courts and the practice of mediation were first utilized in this country upon the arrival of the first American settlers (Scharf,22). The modernization of mediation in this country began in the mid 1970's (Conflict Resolution and Mediation Center of Monterey County, 3).

The American judicial system has come under increasing criticism during the past decade. It has been accused by some of being unable or too ponderous to dispose of its growing case load, insensitive to the problems of the average citizen and seemingly disinterested in dealing effectively with community based controversies. In response, many in the system note that

citizens are being more and more litigious, bringing frivolous cases to the courts and adding to the already heavy judicial caseload (Pearson 1).

One new result of these changes is the development of alternative strategies for dispute resolution. These include neighborhood justice centers and court-referred and court administered mediation or arbitration programs. Some of these new problem-solving practices today strongly resemble those that existed in neighborhoods in the early days of this country when state and local governments, legislative bodies and courts of law were being created (Pearson , 1).

Community courts have been in existence in America since the arrival of the first settlers (Scharf,20). Consideration was given to factors influencing the way community courts were set up, the ability of local values and the political neutrality of community courts. Each settled township developed a mediation system that best satisfied their own specific community problems. The well educated in the township, to include businessmen, clergy or attorneys were appointed as leaders in the towns and they served as the community mediator.

Over the long-term, community courts were neutralized or eliminated by developed federal, state, and local governments who developed and mandated statutes and regulations to better serve the needs of the people (Scharf, 20).

Throughout the history of mankind, the ideas and philosophies of people resolving their own community problems remain a reality and practice. People continue to realize the importance and practicality of community dispute resolution as an alternative to court remedy.

Leaders throughout American history recognized the needs of local community resolution. President Abraham Lincoln once stated. "Disputes are not resolved by dwelling on the negative: they are resolved by discovering areas of agreement between opposing parties" (Pearson,7). Chief Justice of the United States Warren Burger mentioned, "That it is the obligation of the judicial profession to be healers of human conflict" (Pearson, 7). Sandra Day O'Connor, Associate Justice United States Supreme Court, recognized the need of community resolution as an alternative to court remedy when she stated, "The uses of the courts to solve all of the peoples problems and frustrations is a costly, cumbersome, protracted, aggravating and in many cases, unsatisfactory process." Justice O'Connor believed that dispute between neighbors concerning trivial matters within a community does not belong in a court of law (Pearson, 7).

The modern history of mediation in the United States was established in 1974. The cities of New York and San Francisco both designed and initiated the first mediation boards (Conflict Resolution and Mediation Center, 4)

In 1976, the city of Los Angeles and two other areas set up funded programs where 85% of the disputes were settled on a long-term basis. Neighborhood Justice Centers were established. The County Board Association initially sponsored Los Angeles' programs. Presently, a portion of court case filing fees is used to support mediation programs and training. Attorneys used mediation training for continuing education. As per California law, homeowners associations and members are required to attempt mediation before using the

courts to resolve most issues. (Conflict Resolution and Mediation Center of Monterey County, 4)

The Federal Government of the United States also recognized that states had begun to restructure forums of socialization addressing local routine conflicts. The Congress of the United States in 1981 adopted the Dispute Resolution Act. Its aims were reducing social tensions and building solidarity through greater citizen participation in the resolution of conflicts (Bonafte-Schmitt, 17)

The adversarial orientation of the criminal justice system is reflected in criminal proceedings where it is fully expected that sides will be taken. The state is pitted against the defendant using rules of evidence and procedure. At the end of the legal process, there are verdicts and the determination of innocence or guilt. There are some departures from the adversarial process. For example, plea bargaining is conducted in the shadow of the adversarial processing of cases.

Criminal justice professionals, including police, legal representation and court and correctional personnel are prepared through their education and training to advance this adversarial thinking (Volpe, 197). The legal system rewards them for complying with explicit and implicit rules theoretically designed to promote due process and the protection of legal rights.

Furthermore, this adversarial mindset is reinforced by the public which has certain expectations of criminal justice professionals. For instance, if citizens call the police, they usually expect them to do something. Similarly, if

they choose to take the matter to court and file charges against the others, they expect the judges to make decisions. And when they go to lawyers, they expect them to act as partisan advocates representing their interests. When verdicts are pronounced, outcomes are measured in punitive terms. It is common to hear questions such as "What punishment did he or she receive?"

In recent years, however, some of the thinking supporting this traditional dispute processing landscape has been challenged. Mediation has emerged as an attractive, kinder and gentler dispute-processing alternative (Volpe, 196).

Today, modern mediation resolution programs are recognized and being implemented by local governments, educational institutions and the private sector (Vancouver Department of Information Services,² ; University of Colorado at Boulder, ¹; Dispute Resolution Center-St. Paul Minnesota,¹).

Review of Literature or Practice

Alternative dispute resolution processes are addressing a variety of issues that are widely different in scope, structure and significance. Some programs handle only minor civil complaints. Others deal not only with civil cases but with certain lesser criminal cases and special consumer issues. All emphasize that communication (through listening and working out solutions) and restitution in appropriate circumstances are producing satisfactory alternatives to costly and time consuming litigation.

The idea of organized modern mediation programs is a relatively new concept in the United States. In 1974, San Francisco and New York were the first two cities to establish mediation boards.

During the twenty-five years of modern mediations existence, its development and popularity have grown throughout the country. Many governmental, educational institutions and privately funded organizations dealing in mediation have been established.

An example of local governmental involvement in dealing with mediation is the City of Vancouver, Washington. The City of Vancouver, Washington created its Community Mediation Services Program on January 01, 1997. The City of Vancouver's Community Mediation Program handles negotiable disputes arising between neighbors throughout the county. The majority of cases involve noise, interpersonal conflicts, animal complaints and property maintenance concerns. The program goals are to enable neighbors to approach conflict with a positive attitude and to develop the skills necessary to find mutually acceptable resolutions to the concerns that challenge them.

Most of the program services are provided over the phone. This is done by problem solving with the initial caller or by telephone negotiation between the involved neighbors. In situations where neighbors are unable to resolve conflicts by these means, an eight-step mediation process is offered. Mediations "at the table" have been successful over ninety-five percent (95%) of the time.

The City of Vancouver Community Mediation Services Program has strong referral linkages with other parts of the government such as law enforcement, animal control, the city attorney, the prosecutors office and code enforcement. Self-referrals represent the third largest category of calls and referrals that come from private organizations. The City of Vancouver's Community Mediation Services Program is available to all citizens without charge (City of Vancouver, Washington Community Mediation Services,4)

Development of mediation resolution programs is a growing trend in our educational institutions throughout the United States. An example of this was the development of the Student Conflict Resolution Service at the University of Colorado, which began in October 1996. It was developed to address a perceived need among students to find ways of settling disputes effectively (University of Colorado at Boulder, 1).

The mission of the Student Conflict Resolution Service is to offer the campus community an opportunity to resolve disputes in a way that fulfills each individual's interest and facilitates an environment for greater mutual understanding and respect.

Resolutions, reviewed and handled by mediation, are campus disputes such as interpersonal disputes (such as roommate or neighbor-to-neighbor conflicts), fraternity or sorority disputes, noise complaints and disputes related to class projects. Other problems that may be handled by mediation are items borrowed and not returned or subsequently ruined, student disputes, disputes

within or between student organizations over such issues as policy, leadership, resource allocations, etc. and non-payment of rent, utility or other bills.

Since October 1996, undergraduate and graduate students along with faculty and staff from the Office of Student Affairs, the Ombuds Office, University Police, Housing, Peace and Conflict Studies, the City of Boulder Mediation Services and members of the Chancellor's Task Force on Civil Conduct have collaborated to put the program into action.

Some government agencies along with the business community have selected an alternative in offering problem solving to their citizens or employees. Privately owned mediation centers have popped up throughout the country and have become the source of dispute resolution remedies.

An example of such a privately owned mediation center would be the Dispute Resolution Center of St. Paul, Minnesota. The Dispute Resolution Center is a private non-profit organization founded in 1982 to provide mediation, facilitation, training and referral services in St. Paul.

As a community resource, the center works with individual, families, community groups, government agencies and businesses to assist them in resolving conflict. A majority of the individuals served by the center are people in lower income ranges. Through the use of constructive means like mediation and facilitation, the center has helped with thousands of matters to prevent the need of costly litigation or escalation to the point of violence.

The Dispute Resolution Center is a certified community dispute resolution program under the guidelines set forth by the Supreme Court and works with

social services and other governmental agencies. The center typically handles between four and five hundred cases each year on average.

The dispute Resolution Center works on many types of community problems including matters of public safety concerning traffic or parking, rental agreements and consumer-merchant disputes. Neighborhood conflicts regarding noise, pets and property lines and small claims concerning money, property damage and breach of contract are also handled. Internal company studies have demonstrated that mediation provides more lasting and more satisfying solutions than courts. Mediation also equips participants with tools to resolve their own conflicts (Dispute Resolution Center-St. Paul Minnesota,3).

The Dispute Resolution Center advocates managing disputes peacefully through the use of problem-solving techniques that help build strong feelings of community among people having great individual differences. Dispute resolution centers provide convenient, effective and low-cost services to the people of St. Paul, Minnesota. (Dispute Resolution Center - St. Paul, Minnesota)

Starting in the 1970's, many types of mediation agencies were established to assist overloaded courts. Community-based programs have emerged their roles in helping people solve their own problems beyond criminal justice matters.

The three given examples were local government, educational institutions and private centers. Although the three entities differ in geographical responsibilities, policies, procedures and management, the bottom line was that

all three had the same goals. The goals focused on resolving disputes peacefully by the use of problem solving techniques.

Discussion of Relevant Issues

All too often, citizens, for a lack of money or other reasons, decline to follow up on the referrals given by the police and will instead take matters into their own hands. This measure often results in the police being re-called to a civil matter that has escalated into a criminal investigation, possibly resulting in a criminal summons or arrest.

Minor city ordinance violations such as noise, animal complaints, property maintenance, parking problems and domestic disputes have increased immensely. These minor problems are adding additional burden to an already heavily loaded city court dockets.

The Harker Heights Mediation Program will be particularly valuable in settling minor civil disputes such as those between neighbors or in negligence cases. The mediation program provides an efficient, inexpensive means of resolving conflicts that are non-adversarial, acknowledges the importance of continuing relationships, and is more likely to result in a decision agreeable to the disputants and by which they will abide. This type of mediation program may help disputants be more effective negotiators.

A working model for operating a variety of alternative mediation programs within the judicial framework has three basic components. These are

selection/screening of disputants, free access to a fair trial, and discretionary disposition emphasizing the alternatives.

Free access, free choice and individualized results are the hallmarks of the model. A concern with citizen satisfaction along several dimensions, including responsiveness, simplicity and durability of results is the theoretical basis for success (Wahrhaftig, 99).

Questions arise of a cost for an implemented community mediation program. Proponents of mediation often stress that mediation is less expensive than the traditional criminal justice system. This, however, is difficult to assess due to the limited comparative data. Some show that due to the low volume of cases, mediation is not in fact cost saving. Furthermore, some evidence shows that court case backlogs are not effected since the kinds of cases that end up in mediation would have either been dismissed or not entertained at all by the courts (Volpe, 202).

The cost of a Community Mediation Program for the City of Harker Heights would be very minimal. The mediators will be non-paid volunteers. The neutral facilities could be city buildings (with the exception of the police and courts buildings), schools, churches, and civic organizations at no cost. The only cost would be the initial mediation training and office supplies such as paper, pencils, etc.

The working process of the Harker Heights Mediation Program would be based on the following three criteria. First, all conflicting parties must agree to a mediation process. Second, referrals may be made by law enforcement officers,

city code enforcement personnel, animal control officers or fire department officials. Finally, the city judge may approve the mediation process as an alternative to trial at a pre-trial hearing.

There are several advantages to the Harker Heights Community Mediation Program. Solutions tend to last over time because the people affected by the decision are the ones actively participating and making them. All information about the dispute remains confidential. This process will not result in police or court records unless specified in the final agreement between both parties. The community mediation program will be an informal service led by volunteer mediators who will act as neutral agents to bring about a mutually acceptable decision (Gorman, 15).

The Harker Heights City Council will appoint the Public Safety Commission to oversee the community mediation program. These appointees are volunteers coming from all walks of life within the city. One very important principle to remember about volunteering is: people volunteer in different ways and for different reasons (Gorman, 5).

This tool is gaining popularity among judges faced with over-crowded court dockets. In the mediation process, people sit down with trained mediators - appointed citizens to the Public Safety Commission by the City Council - and resolve their dispute without going to trial. The mediator leads the parties through three basic steps. Both sides state their case to the mediators, they discuss all aspects of the conflict and they brainstorm with the mediators to come up with possible solutions. The mediator doesn't impose the solution on

the parties. The parties will have to come up with the solution themselves and abide by it or resort to legal action.

The goal should be to have mediation take place early in the dispute at a neutral site thereby avoiding city hall, courtrooms, the police station and law enforcement officers.

Conclusion/Recommendations

As stated previously, the purpose of this research is to introduce a dispute resolution program for the citizens of Harker Heights. By establishing a mediation program, the citizens of Harker Heights will have a non-court alternative.

Police officers everyday interact with individuals and these problems. Routinely police officers are confronted with civil problems concerning the citizens they serve. Because these matters are not of a criminal nature, often officers can only refer these individuals to various help agencies, clergy or attorneys.

In most cases individuals, for what ever reason, decline to follow up on police referrals and try to take matters into their own hands. This all to often results in the police officers having to return to a situation that first was civil in nature and now has escalated into a criminal episode resulting in a criminal summons or arrest.

It is recommended that the goal for the City of Harker Heights, Texas should be the creation of a city wide mediation program to handle minor conduct

arising from interpersonal, civil or minor criminal disputes. The program's aim would be to prevent individuals from acquiring arrest records and burdening a already back logged court docket.

The recommendation of a community mediation program for the City of Harker Heights will afford any citizen a alternative to remedy a minor dispute. The Harker Heights Mediation Program would handle minor criminal conduct arising from interpersonal civil disputes. Its aims would be to prevent citizens from acquiring arrest records and the court system from further burden.

The need for a Harker Heights Community Mediation Program involves interplay among the citizenry of Harker Heights. The voluntary resolution of problems build cooperation, positive attitude and strong relationships with others, all leading towards a stronger neighborhood and community. The cost of alternative dispute resolution services are generally much less in both time and money.

If local government in the City of Harker Heights was to develop and introduce a community mediation program for citizens young and old, this program would eventually be built into the educational structure of daily life instead of being hidden in the yellow pages under attorneys.

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