

NATIONAL CENTER FOR STATE COURTS

NCSC
KFI
4743
E93
c.3

**OK TO
DISTRIBUTE**

**EVALUATION OF THE IOWA
" ALTERNATIVE DISPUTE
RESOLUTION PROGRAMS "**

**Final Report
June, 1998**

Project Consultants

Paul C. Gomez, Project Director
John W. Douglas, Project Staff
Karen A. Gottlieb, Project Staff
Constance C. Talmage, Project Staff

Vice President

James D. Thomas

**COURT SERVICES DIVISION
1331 Seventeenth Street, Suite 402
Denver, Colorado 80202
(303) 293-3063**

rec'd 7-2-98

Library
National Center for State Courts
300 Newport Ave.
Williamsburg, VA 23187-8798

EVALUATION OF THE IOWA ALTERNATIVE DISPUTE RESOLUTION PROGRAMS

TABLE OF CONTENTS

	Page
I. Executive Summary	1
II. Introduction	2
III. Methodology	3
A. Selection of Program Sites	3
B. Grant Application Review	4
C. Creation of Data Instruments and Surveys	5
D. Site Visits	6
E. Data Collection and Analysis	6
IV. Individual Site Analysis	9
A. Retired Senior Volunteer Program, Black Hawk	9
B. Community Mediation Center, Davenport	14
C. Sixth Judicial District Family Mediation	19
D. Linn County Small Claims	24
E. Johnson County Small Claims	28
F. Center for Creative Justice	32
G. North Iowa Dispute Settlement Center	39
H. Polk County Bar Association	44
V. Analysis of Statewide ADR Program	47
A. The Status of ADR in Iowa	47
B. Attorney Satisfaction with ADR in Iowa	51
C. Impact of ADR on the Courts	57
VI. The Future of ADR in Iowa	62
A. Statewide vs. Local Development	62
B. Modifying The Grant Guidelines	64
C. Information Sharing Among Programs	66
D. Statewide ADR Director	67
E. Coordination With Other Statewide Efforts	67
F. Increasing Judicial Support/Institutionalizing Court-Related ADR	67
G. Long Term Funding for ADR	68
H. Computerized Tracking of ADR	69
I. Statewide Strategic Plan for ADR	69
J. ADR Legislation	70
K. Statewide Standards for ADR	70
VII. Conclusion	71

Appendices

Appendix A	Names and Addresses of Projects Evaluated
Appendix B	Program Director Interview Form
Appendix C	Court Data Collection Form
Appendix D	Attorney Questionnaire
Appendix E	Data Collection Instruments for ADR and non-ADR Cases
Appendix F	Analysis of Other Data Collected for All Sites Together
Appendix G-M	Analysis of Other Data Collected for Seven Individual Sites

I. INTRODUCTION

In 1994, the Iowa Legislature established the Court Technology and Modernization Fund, an earmarked fund to be used for modernizing the Iowa court system. A portion of the fund is to be used for alternative dispute resolution (ADR) programs. The Iowa Supreme Court has made the ADR portion of the fund available for the last several years to provide grants to mediation programs throughout the State of Iowa. Access to the funds was made available through a grant application and review process conducted by the Iowa Supreme Court.

As part of its responsibility to account for fund expenditures and its interest in providing for the best use of its limited ADR money, the supreme court contacted the National Center for State Courts (NCSC) to conduct an evaluation of eight mediation programs that received ADR funds in 1996¹. The NCSC project staff conducted site visits as well as collected and analyzed data to analyze the benefits and cost effectiveness of the individual programs currently being operated. This report examines how individual programs are expending funds provided through the grant program and the overall effectiveness of the alternative dispute resolution program in Iowa.

The NCSC project staff wish to offer their thanks and appreciation to the program directors, program staff, judges, court clerks and attorneys for their time and effort in helping us with this important project. The NCSC project staff also extends its gratitude to Rebecca Colton of the Iowa Supreme Court for her participation and guidance.

¹ Grants were for the period December 1, 1996 through November 30, 1997. The eight programs included in the evaluation are those programs that also received funding for the current grant cycle (ending November 30, 1998).

II. EXECUTIVE SUMMARY OF FINDINGS

- **Black Hawk County Mediation Program** – offers three types of mediation. The grant money was utilized to fund a part-time coordinator, general office expenses and training. Compiled case processing data indicated a statistically insignificant difference in average case processing times for those cases referred to ADR and non-ADR cases in Waterloo.
- **Community Mediation Center** – offers mediation services in five different areas. Grant funds were expended exclusively for program personnel costs. Based on the data culled from the court, the median number of elapsed days from filing to disposition is 115.5 days for ADR cases and 120.5 days for non-ADR cases. Statistically, this is an insignificant difference indicating there is virtually no difference in case processing times in the CMC program.
- **Sixth Judicial District Family Mediation** – provides mandatory mediation in three family areas. The grant money was spent somewhat differently than originally proposed. A portion of the funds was transferred to the Linn County Small Claims Program. Money was saved by discontinuing their liability insurance and utilizing in-house printing services. Although it is not possible to perform a statistical test on the difference between ADR and non-ADR cases because over half of the ADR cases submitted have not yet reached disposition, it appears that ADR cases are taking longer to dispose than non-ADR cases.
- **Linn County Small Claims** – provides mandatory mediation. The program received grant money transferred from the Sixth Judicial District. The funds were expended on mediator training and parking. Although half the data could not be used because the cases were filed after June 30, 1997, analysis of the matched pairs available shows that they are very similar, therefore there is no difference in case processing between ADR and non-ADR cases. However, due to data collection errors, the sample size is too small to be statistically reliable.
- **Johnson County Small Claims Program** – Only \$500 of the grant money was spent on a one-day small claims mediation training. The remainder of the funds is still available. As was the case in Linn County, NCSC staff received data for cases filed after June 30, 1997 and excluded them from the analysis. While the sample size may be too small to be statistically reliable, it does appear that ADR cases are taking much longer than non-ADR cases to be disposed.
- **Center for Creative Justice** – offers three types of mediation. Grant money was spent as anticipated in the grant application, with small deviations in staff salaries, benefits, supplies and travel. Given the data available it appears that there is not a significant difference in disposition times between ADR and non-ADR cases.
- **North Iowa Dispute Settlement Center** – has four mediation programs. The grant money was spent on brochures, a toll-free number and a PC. Since the program had

only four cases filed from December, 1996 to June 30, 1997, the matched pair analysis was problematic. Although the sample size is too small to be completely reliable, it appears that ADR cases are taking longer to dispose than non-ADR cases.

- **The Polk County Bar Association** – offers mediation in civil, family, real estate and small claims matters, in addition to civil arbitration. The project received only \$1,248 from the Court Technology Fund, and used this money for secretary time, to process cases and prepare notices. Because of the limited amount of funds received by the program, no data was collected on case processing times.
- Statewide, there appears to be limited court involvement or “buy-in” of the ADR programs. With the exception of the small claims programs, the mediation services have impacted only a small number of court cases.
- A significant question facing the supreme court is whether the court should take an active role in the development of a comprehensive statewide ADR effort or allow the development of ADR to continue to be shaped by the individual programs.
- The supreme court’s current guidelines for funding ADR projects through the Court Technology Fund address some of the issues mentioned above, however, there are several areas where the guidelines might be strengthened. Those areas are the program’s objectives, cooperative efforts between the grantees and the courts, and the criteria for program review.

III. METHODOLOGY

NCSC staff, working with the supreme court liaison, identified eight sites to be the subject of this evaluation. Several areas of the mediation programs were analyzed and determinations were made as to the effectiveness of each program based on the following criteria:

Criteria for Evaluating ADR Programs
<ul style="list-style-type: none">• How the program expended the grant money received• The services offered by the program• The role of the program in relation to the court and community• The external factors that affect the program• The impact of the program on the time required for processing cases in the court

To perform the evaluation, NCSC staff completed five distinct tasks. First, the evaluation sites were identified. Next, NCSC staff reviewed documentation provided by the supreme court liaison, including descriptions of the grant programs and grant applications from the programs that were selected for analysis. NCSC staff then developed instruments to collect both qualitative and quantitative data about the programs. Next, site visits were conducted and data was collected from the programs and the courts, and from attorneys whose clients had participated in the programs. Finally, data about each individual site was analyzed and this evaluation report was prepared. The following sections describe each task in more detail.

A. Selection of Program Sites

In consultation with the supreme court liaison, sites were chosen for analysis based on several factors. It was determined that all sites that received funding during the current grant cycle would be included in the evaluation.² This includes both rural and urban programs and programs that received large and small grants. It was also determined that it was critical to analyze all types of mediation programs, including small claims programs, family law programs, and civil programs. Based on these criteria, the following sites were chosen for analysis³:

² The current grant cycle ends November 30, 1998. The evaluation covers the use and impact of grant funds during the period between December 1, 1996 and November 30, 1997.

³ A complete list of projects with addresses is included in Appendix A..

PROJECTS SELECTED FOR NCSC EVALUATION		
Project Name	City and (Judicial District)	Amount of Grant ⁴
Retired and Senior Volunteer Program-- Black Hawk County Mediation Program	Waterloo (1)	\$ 4,174
The Center for Creative Justice	Ames (2)	\$ 24,000
North Iowa Dispute Settlement Center	Mason City (2)	\$ 3,150
Polk County Bar Association Mediation Project	Des Moines (5)	\$ 1,248
Sixth Judicial District Family Mediation Program	Iowa City (6)	\$ 25,380
Johnson County Small Claims Mediation Program	Iowa City (6)	\$ 1,770
Linn County Small Claims Court Mediation Project	Cedar Rapids (6)	\$ 1,500 ⁵
The Community Mediation Center, Inc.	Davenport (7)	\$ 27,150

B. Grant Application Review

To gain an understanding of each program selected for analysis, NCSC staff reviewed each program's grant application to the Iowa Supreme Court. The supreme court liaison provided project staff with the grant applications. The applications were reviewed to determine the philosophies and goals of each program, as well as to ascertain how each program proposed to expend the funds received. Review of the application process also afforded NCSC staff with an understanding of the criteria used by the supreme court in awarding grants to individual programs.

Grant Criteria for Court Technology Fund ADR Grants
<ul style="list-style-type: none"> • Preference is given to groups or organizations (as opposed to individuals) • Preference is given to fund-match arrangements to help leverage available funds • Grant applicants should, if possible, have sources of income in addition to ADR funds requested. Generally, the Court does not intend the ADR grant to be the primary source of financial support • Greater weight is given to applicants with a prior history of service reflecting a clear ability to deliver quality services successfully

⁴ The grant period is December 1, 1996 – November 30, 1997.

⁵ The Linn County program received a grant from the Court Technology Fund for the current grant year. For the prior grant period, ending November 30, 1997, the Linn County program received \$1,500 from the \$25,380 grant made by the Court Technology Fund to the Sixth District Family Mediation Program, but received no money directly from the supreme court.

Grant Criteria for Court Technology Fund ADR Grants (cont.)

- Greater weight is given to applicants who work to develop cooperative efforts between grantees and the courts
- Preference is given to applicants who have community support
- The court funds applicants to achieve broad geographic and demographic distribution of funds throughout the state as much as possible
- Greater weight is given to applicants who provide methods for resolving disputes pending before the courts
- Greater weight is given to applicants who provide services for the resolution of family law cases
- All grant recipients are expected to propose criteria by which their projects are reviewed and to assist the Court in conducting periodic evaluations
- The Court is also interested in using its limited funds as seed money to establish new programs. The applicants should demonstrate an ability to function eventually without the assistance of the ADR grant
- The funds are not be used for political campaigns, lobbying, or legislative advocacy

Each program evaluated under these guidelines received grant funds approved by the Iowa Supreme Court.⁶ Based on these criteria, NCSC staff analyzed each site for compliance with the basic tenets as expressed by the supreme court in its grant guidelines.

C. Creation of Data Instruments and Surveys

Three different types of data collection instruments were developed by project staff. First, questionnaires were developed for staff use in on-site interviews. NCSC staff designed open-ended interview guidelines and questionnaires to elicit opinions on the ADR process in general. A separate questionnaire was developed for the two types of interviews that were conducted: program staff interviews and interviews with judges, district administrators and other court staff. Copies of these questionnaires are included in Appendices B and C.

Second, an attorney survey form was created to solicit input from attorneys whose clients had participated in the services offered by the eight ADR programs. This survey sought to elicit opinions from the attorneys about the quality of the mediator and the impact of mediation, including whether the process resulted in cost savings. A copy of the Attorney Questionnaire is included in Appendix D.

⁶ But see footnote 5.

The final form developed by NCSC staff was a data collection instrument to be used by courts in collecting information on specific ADR and non-ADR cases for a matched pair analysis. The form requested information that would permit comparisons between how these cases proceeded in court and would measure the impact of the use of ADR on case processing times. This data also provided a comparison of case processing times for each project. A copy of the Data Collection Form for Matched Pair Analysis is included in Appendix E.

D. Site Visits

Site visits were conducted during the months of December 1997 and January 1998. While on site, project staff conducted interviews with the directors of each mediation program, along with court staff familiar with the ADR process, including judges, court administrators and court clerks. Copies of the questionnaires used during the site visits are included in Appendices B and C.

The purpose of these interviews was two-fold. First, a variety of court staff was interviewed in order to determine, from the court's perspective, the process of referring cases to ADR. This included the number of cases referred to ADR, the number of cases resolved by ADR, and the general ADR process in each court.

Second, individual program directors were interviewed to gain the perspective of the ADR process from each program. Information gathered from the programs included a description of the types of cases referred to the program, and the number of cases processed annually. Other information gathered included the goals of the program, and how long the program has been in place. In addition, general procedural matters concerning the operation of the program were also obtained during the interview process.

E. Data Collection and Analysis

Three types of analysis were completed for ADR projects subject to evaluation: review of site visit information, attorney satisfaction surveys and a study of case processing, for both ADR and non-ADR cases, at each project location.

1. Review of program information from site visits. NCSC staff reviewed the comments of project directors and court personnel received during the site visits.⁷ These were

⁷ Copies of the interview forms used during site visits are included in Appendices B and C.

compared to information in the grant application and other documents provided directly by the projects. The purpose of this comparison was to determine how programs spent grant funds, what services the programs offer and whether the programs are effective according to the criteria by which the grants were initially awarded. The results of this analysis are described in the following section that includes a review of each program.

2. Attorney survey. The second type of analysis conducted was an effort to determine the views of attorneys whose clients have participated in mediation through one of the programs. The programs at the eight sites supplied names and addresses of the attorneys. NCSC staff mailed out 123 questionnaires⁸ and received 45 completed forms. The purpose of this survey was to determine the attorney's satisfaction with the ADR process conducted through the programs. Attorneys were asked to comment on the quality of the mediators and to provide their opinions on the mediation, including whether the mediation saved money and whether (and how) the mediation impacted their case. The results of this attitudinal survey were analyzed for all eight programs together (rather than a program-by-program basis) and are included in Section V of this Report.

3. Study of case processing (of ADR and non-ADR cases). Finally, data was collected on a sample of ADR and non-ADR cases to study how the cases were processed by the courts. The purpose of this was to: (a) determine whether there were differences in case processing time between ADR and non-ADR cases and (b) to compare case processing times for the different projects.

(a) Methodology. NCSC staff provided instructions, for program and court staff at each site, for selecting a random sample of up to 20 ADR cases that were filed between January 1, 1997 and June 30, 1997.⁹ Once these cases were selected, a similar number of comparable non-ADR cases were identified so that a comparison could be made between the two groups of cases. The non-ADR cases were considered comparable if they matched the ADR cases in (a) case type (e.g., small claims, family, etc.) and (b) monetary demand amount, if applicable. Once the matching cases were identified, court and program staff was asked to complete a data

⁸ The Attorney Questionnaire is included in Appendix D.

⁹ The matched pair analysis was conducted for seven programs only. The decision was made to exclude the Polk County Bar Association Mediation Program because of the relatively small amount of grant money (\$1,248) received from the Court Technology Fund.

collection form¹⁰ for each ADR case and each non-ADR case. The form includes the following information for each case:

Data Collected on Sample of ADR and non-ADR Cases	
<ul style="list-style-type: none"> • Case Type <ul style="list-style-type: none"> * small claims * family * other • Date Case Filed • Number of Pretrial Conferences • Number of Hearings • Number of Motions Filed 	<ul style="list-style-type: none"> • Date of Each ADR Session • How Disposed <ul style="list-style-type: none"> * dismissed or withdrawn * settled * trial * not yet closed • Date Case Disposed Of/Closed • Number of Post-Judgment Action

(b) Comparing ADR and non-ADR Cases. The analysis of the information collected on these forms permitted a comparison of ADR and non-ADR cases on the following criteria:

- (1) elapsed days between filing and disposition
- (2) number of hearings
- (3) number of motions
- (4) number of pretrial conferences
- (5) type of disposition

A comparison of the elapsed days between filing and disposition, for ADR and non-ADR cases at each project site, has been included for each of the projects analyzed. The results of this analysis are described in the following section of this report. The ADR vs. non-ADR comparison for the balance of the criteria was conducted on a statewide basis (rather than program by program). This analysis is included in Section V of this report.

(c) Comparing case processing times for each project. The data also permitted a comparison between the ADR programs. An analysis was completed comparing, for each project, the days elapsed between:

- (1) case filing and case referral to ADR
- (2) case referral to ADR and first ADR session
- (3) first ADR session and disposition

The following section of this report discusses the findings from this analysis.

¹⁰ See Appendix E for a copy of the form.

IV. INDIVIDUAL SITE ANALYSIS

This section reports the observations made by NCSC staff during the site interviews and data analysis. More specifically this section addresses the results of three inquiries: How is the program spending the grant monies? What services does the program offer? How effective is the program?

A. Retired and Senior Volunteer Program--Black Hawk County Mediation Program

The Retired and Senior Volunteer Program (RSVP) of Black Hawk County operates the Black Hawk County Mediation Program. This program offers three types of mediation to approximately 123,000 county residents.

1. Mediation of small claims cases where a pre-trial conference is required
2. Mediation of other small claims cases
3. Community mediation

The small claims mediation program was started in 1992. The mandatory pre-trial settlement conferences began in October 1996. The community mediation program was established in 1997.

1. How did the program spend the grant? The program is primarily funded and supported through the general budget of the Retired and Senior Volunteer Program (RSVP). RSVP receives a grant from the federal government and is required to obtain a 30% match. The program also receives funds from the cities of Waterloo and Cedar Falls and from the Iowa Department of Elder Affairs, as well as in-kind support from Covenant Health Systems.

The Black Hawk Program received \$7,147 from the Court Technology Fund. These funds were for a part-time mediation coordinator position. However, due to other obligations of the part-time coordinator, the entire budget for the position was not utilized. The grant funds were spent as follows:

Category	Budgeted Amount	Actual Amount
Part-Time Coordinator	\$7,147	\$ 5,024
RSVP Director (filling in for Coordinator)	0	823
Printing and Copying	0	793
Volunteer Staff Expenses	0	212
Equipment and Office Supplies	0	205
Staff Training	0	50
Memberships dues (state & national mediation associations)	0	40
Total	\$7,147	\$7,147

2. What services are offered? The Black Hawk County Program offers voluntary mediation in three areas:

(a) Small claims mediation at mandatory pretrial conferences. When a small claims case is designated by the court for a pre-trial conference, the participants are required to attend a conference session with a trained volunteer mediator. The participants must attend but are not required to mediate. If they chose not to mediate, the mediator indicates this with the preliminary conference paperwork that is submitted to the court. Rather, this is an educational session explaining the mediation services available.

(b) Small claims mediation for all other cases. Mediation is also available on a voluntary basis in small claims cases in which a pre-trial settlement conference is not ordered. Cases are referred to the program from the clerk's office. If one party has an interest in mediation and communicates this interest to the program coordinator, the program coordinator initiates contact with the opposing side to offer mediation as an alternative.

(c) Community mediation. The community mediation program mediates issues such as landlord/tenant disputes, consumer merchant problems, and neighborhood and organizational disputes. Most of the community mediation participants are referred from the Waterloo Police Department. Because the program does not keep track of how participants hear of the program or are referred, it is assumed that others hear about the program through word of mouth.

The program is staffed with twelve volunteer mediators. The mediators do not charge for their services. The volunteers are interviewed, background checks are completed and they are required to complete four days of training. In addition, new mediators are required to observe trials and mediations and later attend three to four training classes per year offered by the program as ongoing training.

3. Effectiveness of the program.

(a) Generally. The program mediated 198 small claims and pre-trial settlement conferences from November, 1996 to August, 1997 (the pre-trial settlement conference program began on October 23, 1996). There were a total of 318 pre-trial conferences scheduled. Of the pre-trial conferences scheduled, 182 were mediated. Note: The participants are required to meet with a volunteer mediator but are not required to mediate. Voluntary small claims mediations numbered 16 during the same period of time.

From January 1, 1997 through September 30, 1997, the court reported 311 cases utilized the ADR services of the program. Of those 311 cases, 294 were pre-trial settlement conferences and 17 were voluntary mediations. The court also reported that 201 of the 311 cases were disposed without judicial intervention by December 1, 1997. 188 of those were mandatory pre-trial settlement conferences, and 13 were voluntary mediations. The discrepancy in the number of cases reported that utilized ADR between the court and the program may be due to the lack of resources by the court to track whether a pre-trial settlement conference resulted in resolution via a mediation process or by other means. The court only recognizes the case as resolved.

The Black Hawk program enjoys good communications with the court and benefits from good accommodations with office space in the Covenant Health Systems offices. There are two advisory councils for the program (one for small claims mediation, one for community mediation) that meet regularly and include representatives from the court and the local bar association. Space at the courthouse is limited, so mediations are only available at the program center. The program provides telephone conferencing to accommodate mediation participants who are unable to come to the program offices.

Case tracking is an issue with the court. The court was unable to provide data that would allow for efficient analysis of the program due to its unavailability. However, the program produces several monthly reports including:

- Monthly report of Judicial Business
- Small Claims Settlement Conferences Statistics
- Small Claims Statistics
- Small Claims Cases filed (graph)

The program also conducts user satisfaction surveys to determine participant's reactions to the mediation process.

(b) Case processing of ADR and non-ADR cases. Data was collected on 20 ADR cases and 20 matched non-ADR cases filed between January 1, 1997 and June 30, 1997. The number of days elapsed between filing and disposition are shown below in Figure 1 for 19 ADR cases and in Figure 2 for 20 non-ADR cases. The one open ADR case had been open for 241 days at the time of data collection in 1998. Of the closed cases, the case that took the longest from filing to disposition, 353 days, was a non-ADR case. However, this cannot be taken as evidence that ADR cases are processed faster than non-ADR cases. It is necessary to look at the

entire distribution. The median (midpoint of the distribution) number of elapsed days of the closed cases is 88 days for ADR cases and 57.7 days for non-ADR cases. Statistical analysis of the difference between the means for the 19 closed pairs shows that there is not a statistically significant difference. In other words, in the RSVP program, there is virtually no difference in case processing time between ADR and non-ADR cases.

Figure 1

**Retired Senior Volunteer Program – Black Hawk County
Days Elapsed Between Filing and Disposition for ADR Cases**

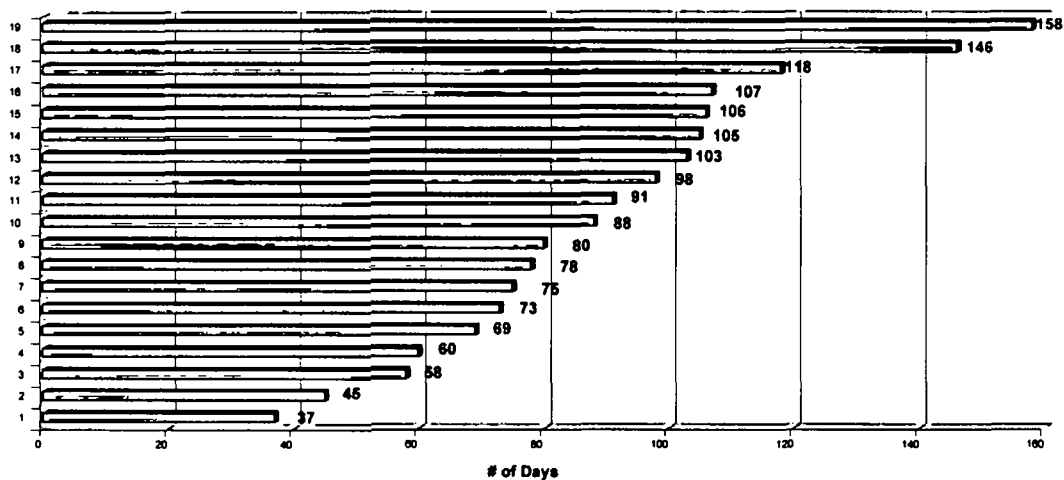
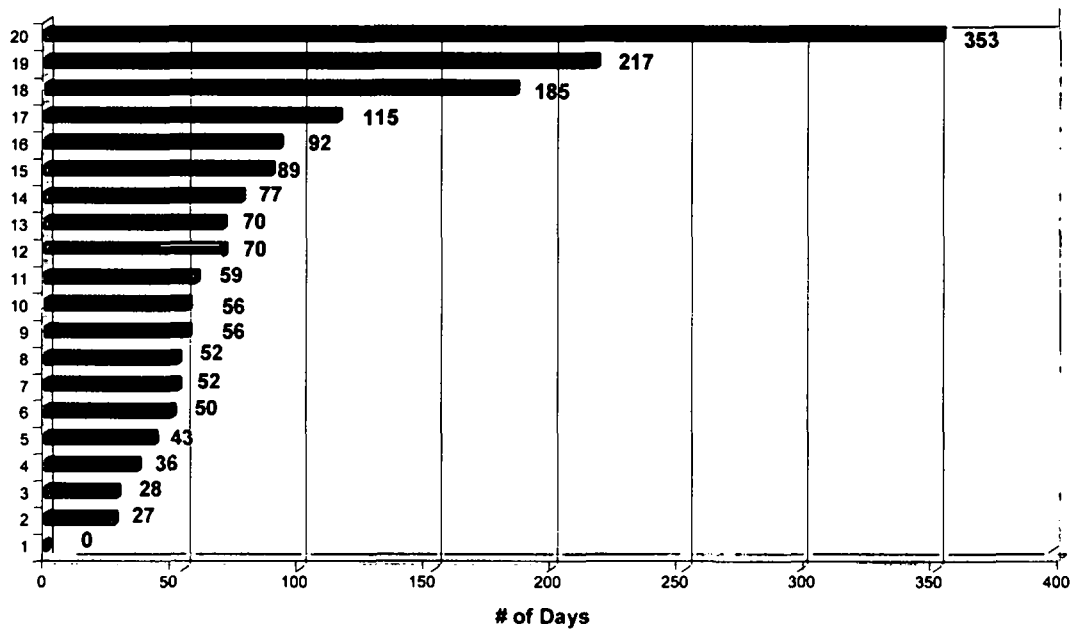


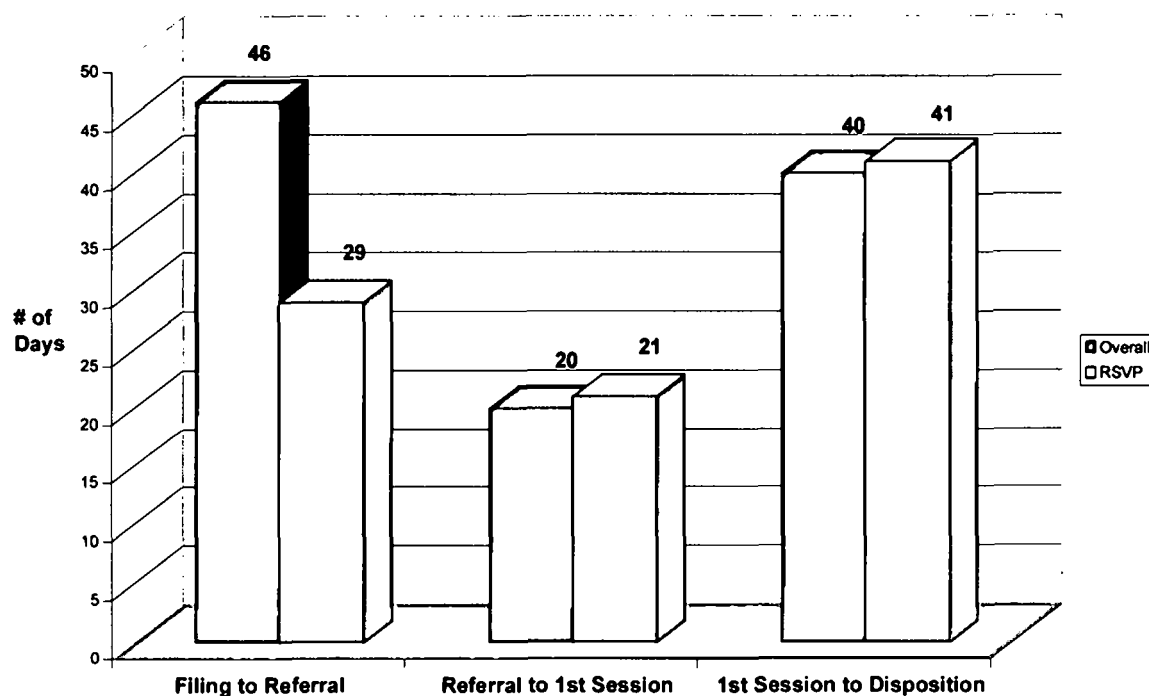
Figure 2

**Retired Senior Volunteer Program – Black Hawk County
Days Elapsed Between Filing and Disposition for non-ADR Cases**



(c) *Case processing of RSVP ADR cases compared to other programs.* Figure 3 below compares case processing times for ADR cases in the RSVP program with those in other small claims mediation programs analyzed by NCSC staff. Although ADR cases in the RSVP Program are referred to ADR faster, after filing, than small claims cases in other programs, there is very little difference between the RSVP program and other small claims programs in times elapsed between referral and first ADR session, and between the first session and the time of case disposition.

Figure 3
Retired Senior Volunteer Program—Black Hawk County
Comparison of Elapsed Times with Overall Small Claims Elapsed Times



B. Community Meditation Center

The Community Meditation Center (CMC) serves the 285,939 residents of Scott County. CMC began in October 1990 as a small claims mediation program. Currently CMC offers mediation services in 5 different areas:

Services Offered by the Community Meditation Center	
•	Small claims mediation
•	Community and neighborhood mediation
•	Human rights mediation
•	Victim-offender mediation
•	Family mediation

The program also is managing the development of mediation in Muscatine County Small Claims Court in its attempts to provide mediation to the entire Seventh Judicial District

1. How did the program spend the grant? The program received \$27,150 from the Court Technology Fund. This is approximately 28% of the program's total budget. The CMC program is funded from five different sources.

- The Technology Fund Grant
- Community Development Block Grants (CDBG) funds
- Fees from mediation (Divorce and family mediation)
- Training
- Donations

These sources resulted in an overall annual budget of \$93,500 for the program. The monies received from the Technology fund were reported to project staff as program personnel costs, including a salary paid the court assistant in Muscatine County to expand the Community Meditation Center programs. The bulk of the funds were spent on wages:

How Community Meditation Center Funds Were Spent	
\$6,977.25	Court Manager
\$6,850.00	Muscatine Court assistant
\$1,782.38	Davenport Court Assistant
\$1,250.00	Executive Director
\$2,270.00	Secretary
\$3,224.00	Benefits and Health Insurance.
\$2,810.00	Space, equipment, supplies, telephone, travel, etc.
<u>\$1,986.37</u>	Unspent as of October 15, 1997
\$27,150.00	Total

2. What services are offered? The Community Mediation Center in Davenport is a large community-based program. The Center offers mediation in the five different casetypes and areas referenced above.

The small claims participants in Scott County receive a letter from the Chief Judge apprising them of mediation and recommending the process after the complaint and the response is filed with the Clerk of the Court. The participants receive this letter prior to their hearing date and can mediate anytime after the response is filed until the day of trial. The Program Court Coordinator and volunteer mediators are also available to the participants on the day of trial in the courthouse.

The mediators are trained, unpaid volunteers from the community. Mediators for the Center are volunteers who have completed 40 hours of mediation training. The program provides 24 hours of classroom training along with 16 hours of practicum. Practicum includes eight hours of observation and eight hours of co-mediation. The Center offers mandatory continuing education for mediators once a month. The CMC has a court associate in Muscatine County to facilitate small claims mediation. The Center also provides occasional assistance to the mediation program in Clinton County, although CMC does not have paid staff there.

Victim offender mediation referrals come from the juvenile court. Project Staff did not collect data or information relative to this process. The Family, Human Rights and Community and Neighborhood mediation is referred to the center via the Police Department and other agencies. Parties in dissolution and family cases are charged a fee along a sliding scale from \$2.00 to \$35.00 per hour.

3. Effectiveness of the program.

(a) Generally. The program related to NCSCF staff, using the monthly report dated October 31, 1997 (4 months into the program's fiscal year), that 72 mediations were completed. Of those 72 mediations, 52 are categorized as "successful." The program also reported that from January 1, 1997 through October 31, 1997, the program processed 118 small claims cases. The number of cases resolved was not available.

A case tracking system is not in place for the court to monitor the effectiveness of the program. The Scott County Court Administrator and the Scott County Clerk are both former ADR advisory Board members. It appears that the program no longer has any court personnel serving on the board.

What appears to be effective is the letter contact the Chief Judge makes to small claims participants. Mandatory small claims mediation would certainly be effective in promoting the program. The on-site presence of the Court Coordinator representing the program has been attributed to creating a greater awareness of the program by the participants when they arrive in the courthouse on their hearing date. The program further enjoys the support of the magistrates and court clerks. Project Staff observed the program coordinators interactions with the Clerk's Office and found the relationship to be receptive, open and professional.

NCSC project staff noted the program collects monthly and year-to-date data of mediations held in Scott, Muscatine and Clinton counties. The same data summary report also indicates "in process" mediations. This data is compiled from hard copies of records maintained by program staff and is provided monthly to the board of directors of the program. The court has not requested nor do they generate any reports or data, according to the Program Director.

(b) Case processing of ADR and non-ADR cases. Data was provided on 20 ADR cases and 20 matched non-ADR cases filed in 1997. However, half of the cases could not be used in the analysis because they were filed after June 30, 1997. The study design called for cases filed in the first half of 1997, in order to allow time for the cases to reach disposition. Figure 4 below depicts the distribution of the number of elapsed days from filing to disposition for 10 ADR cases. Figure 5 depicts the number of elapsed days from filing to disposition for the 10 non-ADR cases. As can be seen, the distributions are very similar in shape. The median number of elapsed days from filing to disposition for closed cases is 115.5 days for the ADR cases and 120.5 days for the non-ADR cases. This is not a statistically significant difference. There appears to be no difference in case processing times between ADR and non-ADR cases.

Figure 4
Community Mediation Center--Davenport
Days Elapsed Between Filing and Disposition for ADR Cases

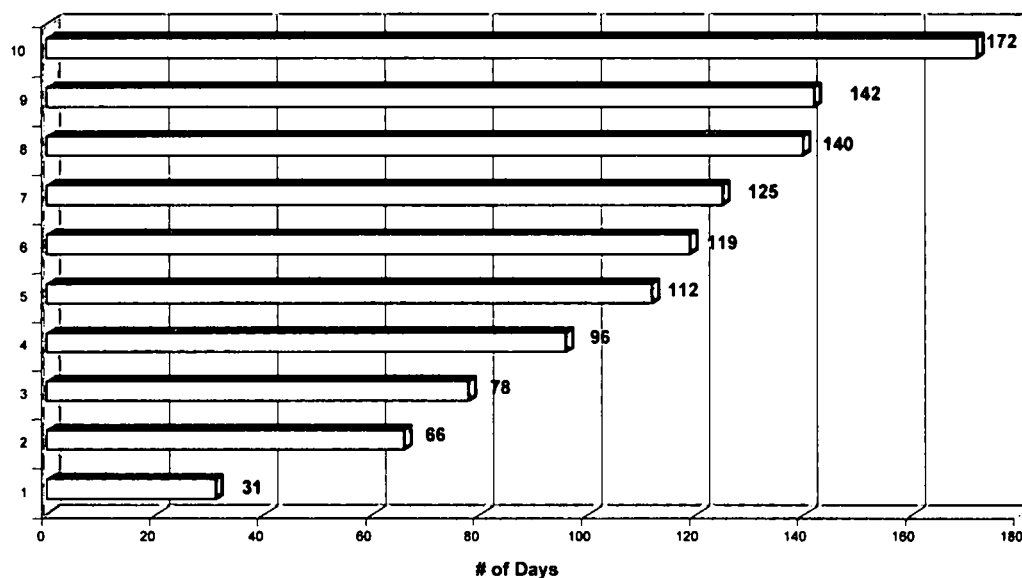
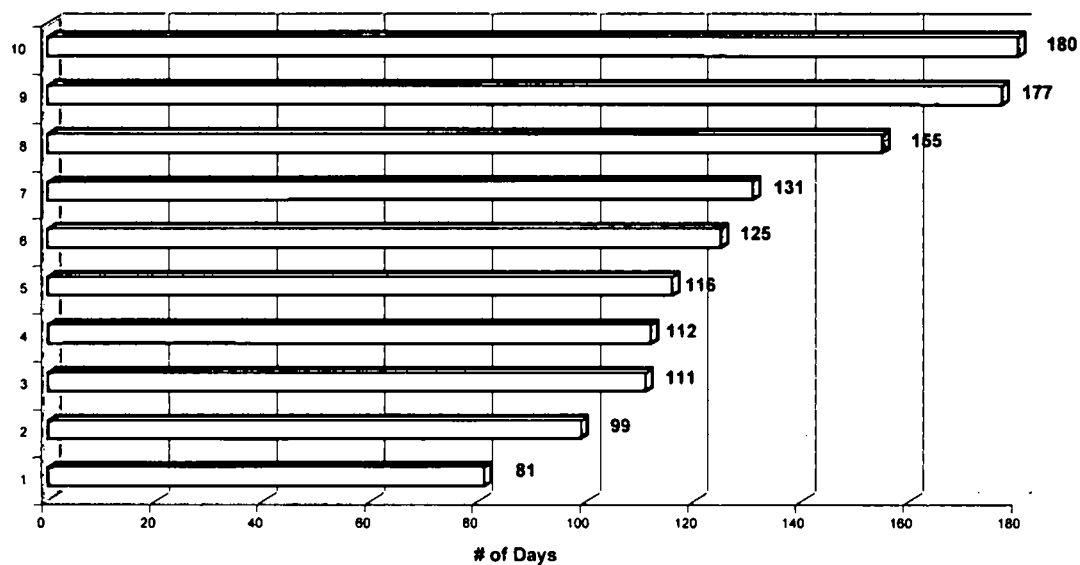
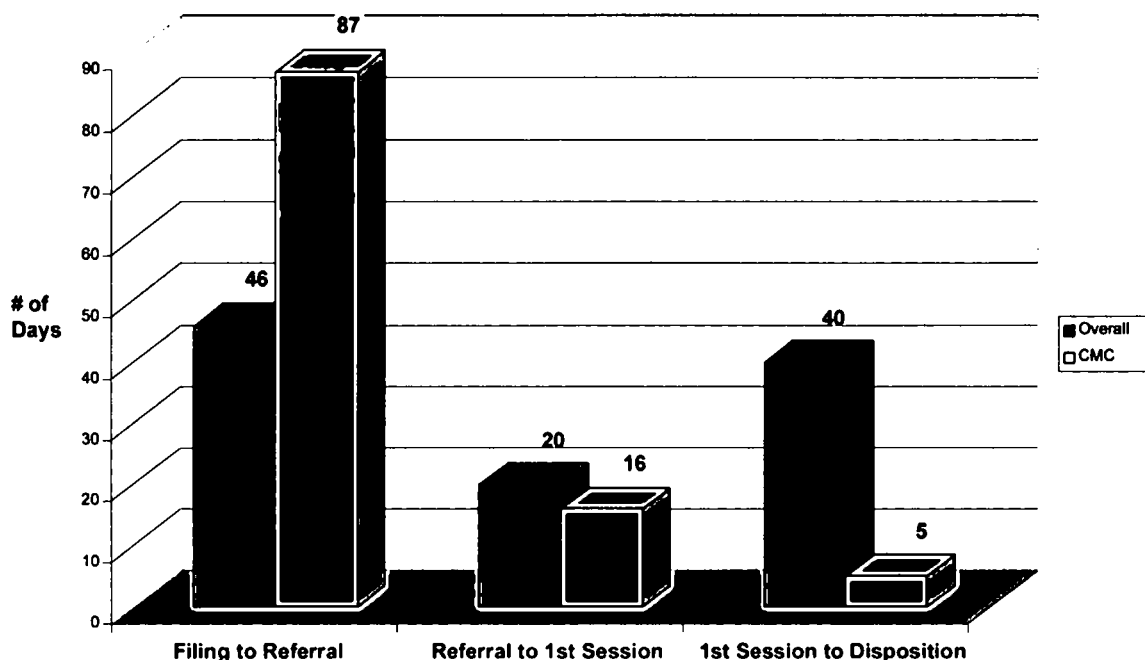


Figure 5
Community Mediation Center--Davenport
Days Elapsed Between Filing and Disposition for non-ADR Cases



(c) *Case processing of Community Mediation Center ADR cases compared to other programs.* Figure 6 below compares case processing times for ADR cases in the CMC program with those in other small claims mediation programs analyzed by NCSC staff. Although it takes longer for small claims cases to be referred to ADR after filing, there is very little difference between the CMC program and other small claims programs in time elapsed between referral and first ADR session. In addition, the time elapsed between the first session and the time of case disposition is much less in the CMC program than the overall time for the small claims programs analyzed.

Figure 6
Community Mediation Center--Davenport
Comparison of Elapsed Times with Overall Small Claims Elapsed Times



C. Sixth Judicial District Family Mediation

The Sixth Judicial District program services two (Linn and Johnson) of the six counties in the Sixth Judicial District. The estimated population of this area is 279,850. The program offers mediation in 3 family-oriented areas:

- Temporary Issues
- Custody Modifications
- General Dissolutions

The program began in three stages. Temporary issues mediation began in August 1996, custody modifications in January 1997 and general dissolutions in April 1997.

1. How did the program spend the grant? The Sixth Judicial District Mediation program received \$25,380 from the Court Technology Fund, which supplied approximately 70% of the funding for the program. The program received an IOLTA grant of \$8,000 for the funding cycle from July 1, 1996 to June 30, 1997 and another IOLTA grant of \$15,800 for the July 1997 to June 1998 funding cycle. \$6,580 of the IOLTA monies is applicable to the 1996 funding cycle, with the program's fiscal year ending November 30. The Linn County Bar Treasurer Phil Herschner administers the IOLTA grant funds.

The program director reports the original intention for the money received from the Court Technology funds was as follows:

\$18,720	Program Director Salary
\$ 1,000	Printing costs for a Roster of Family Law Mediators
\$ 5,660	Discretion of the program

The grant funds were spent somewhat differently than proposed. The \$1,000 earmarked for printing of the mediator roster was not expended. Instead, the printing process was performed in-house and the earmarked funds were transferred to the Linn County Small Claims Program. Program administrators also made discretionary decisions in not purchasing office furniture and discontinuation of liability insurance totaling \$500.00, which was transferred to the Linn County Small Claims Mediation program¹¹. In FY 97 the program spent the grant funds primarily for payroll expenses for the Program Director. A detailed breakdown follows:

¹¹Explanation of how the transferred money was spent is contained in the Linn County Small Claims Section

Sixth Judicial District Mediation Program Grant Expenditures	
\$12,454.23	Payroll and Travel expense
\$1,500.00	Linn County Small Claims Program
\$287.47	Office Supplies
\$127.50	Computer Repair
\$664.63	Communications
\$40.00	P.O. Box rentals
\$94.06	Contractual Services
11,712.11	Unspent (carried over to FY98)
\$26,880.00	Total Grant

2. What services are offered? The Sixth Judicial Family mediation program began in August of 1996 by providing mandated mediation in matters of temporary issues, dissolution cases and custody modifications. Only Linn and Johnson counties are served by the program; the remaining counties within the Sixth Judicial District will be served beginning in 1998. During the program's first year, 1,278 dissolution cases and 387 modification cases were heard.

Due to the standing court order requiring participation in mediation, all litigants are minimally required to attend a mediation education class and an initial mediation session. Participants can also volunteer for mediation. This is generally done prior to filing but can occur anytime prior to trial. The court also invites the participants to choose any mediator from the mediator list or choose anyone in the community with whom they feel comfortable to mediate their issue.

Temporary issues are scheduled for mediation after the complaint and before the response is filed. In matters of modifications and general dissolutions, mediations are scheduled and held just prior to trial.

Participants contract with the mediators on a case by case basis. The participants have available to them a mediator roster that list mediators and the fees they charge. Each mediator completes 40 hours of training. If aspiring mediators do not possess a college degree, they must take 40 hours of training and/or have mediated 10 cases the previous year or co-mediate 20 cases, before they can be placed on the mediation roster. The per hour fee for a mediator on the roster ranges from 25¢ to \$200.00 per hour. Pro bono mediators are paid from 25¢ to \$5.00 per hour.

3. Effectiveness of the program.

(a) Generally. During the first year of the program (August, 1996 through July 31, 1997), 1,278 dissolution cases and 387 modification cases were processed by the program. Based on the mediator status reports from August 1, 1996 through December 31, 1997, the program actually mediated 254 cases. The number of resolved or partially resolved cases was 175 during that same time period. The program stated that 69 per cent of the parties who responded to the mediation participant evaluation reached agreement on some or all of the issues.

The mandatory nature of the program greatly enhances its effectiveness. If the participants delay in selecting a mediator in temporary custody cases, the order names a default mediator. The roster mediation system appears to work very well. The roster indicates what each mediator charges and the parties pay the mediator directly.

This program is under the direction of the district court administrator. Judicial support of the process is also evident. The program benefits from effective communication to and from court clerks and the court during monthly meetings.

An advisory committee oversees the program and continually reevaluates the program and its progress. The members include the district court administrator, the program director, a program consultant, and two members of the local bar.

The program reports that casetracking and statistic compilation and tracking is problematic. This is partially due to the logistical problems and a process that is somewhat fragmented. The information compiled is generally obtained from mediator's reports. The program does produce several reports, including:

- Roster of mediators (Mediator Information)
- Mediator Contact Information
- Mediator's Participation Evaluation
- Mediation Participant Evaluation Responses

(b) Case processing of ADR and non-ADR cases. Data was provided on 20 ADR cases and 20 matched non-ADR cases filed in 1997. However, seven of the matched pairs provided by the court could not be used in the analysis because the ADR cases were filed after June 30, 1997. Figure 7 below depicts the distribution of the number of elapsed days from filing to disposition for seven ADR cases. The median number of days from filing to disposition for

these seven closed cases is 221.5 days. Six other ADR cases were still open on the day of data collection in December, 1997 and their values are 216, 240, 279, 348, 362 and 390 elapsed days. When these cases ultimately reach disposition, the median number of elapsed days for the ADR cases will be greater than 221.5 days.

All family cases are mediated in the Sixth Judicial District at this time, making it necessary to obtain the matched non-ADR cases from earlier years. Figure 8 below depicts the distribution of the non-ADR cases and it is seen that four of the cases required more than a year to be processed. The median number of days from filing to disposition for the non-ADR cases is 141 days. It is not possible to perform a statistical test on the differences between the two groups, because over half of the ADR cases had not yet reached disposition at the time of the analysis. However, it appears that ADR cases are taking a longer period of time to dispose than non-ADR cases.

Figure 7
Sixth Judicial District Family Mediation Program
Days Elapsed Between Filing and Disposition for ADR Cases

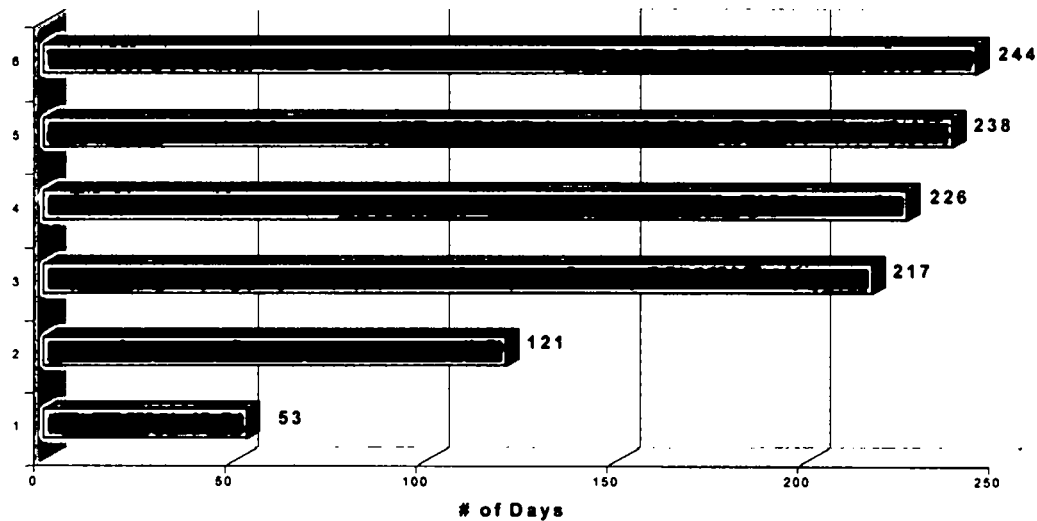
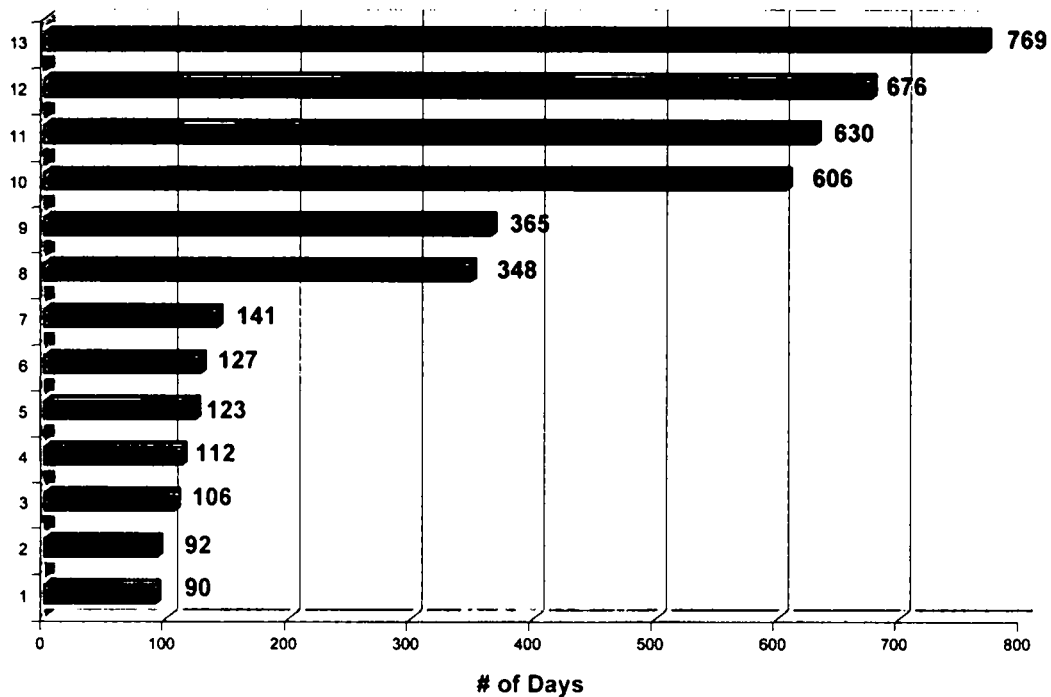
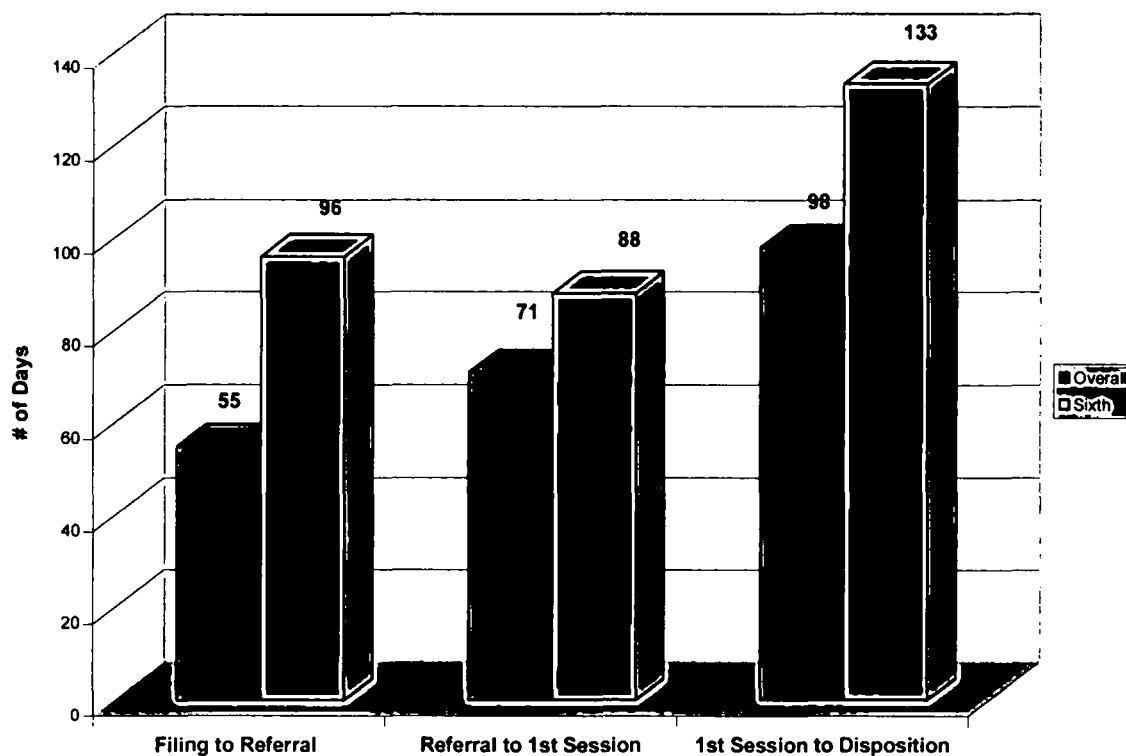


Figure 8
Sixth Judicial District Family Mediation Program
Days Elapsed Between Filing and Disposition for non-ADR Cases



(c) *Case processing of CMC ADR cases compared to other programs.* Figure 9 below compares case processing times for ADR cases in the Sixth Judicial District Family Mediation program with those in other family mediation programs analyzed by NCSC staff. It takes longer for family mediation cases to be referred to ADR after filing in this program than in other programs. It also takes much longer for cases in the Sixth District to get to disposition than in other family mediation programs.

Figure 9
Sixth Judicial District Family Mediation Program
Comparison of Elapsed Times with Overall Family Mediation Elapsed Times



D. Linn County Small Claims

The Linn County Small Claims program began approximately 3 years ago. Serving the residents of Linn County, the program provides mandatory mediation in small claim matters.

1. How did the program spend the grant? The District Court Administrator serves as Program Director . He is also the Program manager for the Sixth Judicial District Family Mediation program and the Johnson County Small Claims program. Although the Linn County program did not apply for nor did they directly receive any funds from the Court Technology Fund, \$1,500 from the Sixth Judicial District Family Mediation program was transferred to the program.

These funds were spent on volunteer mediator expenses as follows:

- \$1,000 mediator training
- \$500 parking expenses for volunteer mediators

2. What services are offered? The Linn County program has been in existence for three years. The program mediates court-ordered small claim cases the day of trial. Trained volunteers recruited from the Retired and Senior Volunteer Program conduct the mediations in available space in the courthouse. The program mediates all court cases except Forcible Entry Detainer, which are handled by the Judges. The program reports 35% of all small claims cases are resolved in mediation. Volunteer mediators are provided a two-day initial orientation class supplemented by job shadowing with current mediators. The program also provides one-day mandatory continuing education classes on an annual basis.

3. Effectiveness of the program.

(a) Generally. From January 1, 1997 to September 30, 1997, 2,438 cases were ordered to utilize the mediation program. Of those cases, approximately 2,000 were disposed without judicial intervention by December 1, 1997, including cases disposed by clerks. The exact figure for the number of cases mediators resolved during this period was not available. The program did provide the number of cases disposed by mediators for the previous two years (September, 1995 through September, 1997) as 634. The Linn County program benefits from a mandatory standing order that all small claims cases must go to mediation on the day of trial. Further, the program is made cost effective by utilizing volunteer mediators.

Although the program is directed by the district court administrator, it could benefit from a full-time coordinator with the ability to devote full-time to the program. As is the case with

virtually all the programs assessed, this program could also benefit from more available office space.

Judicial oversight is provided during the monthly meeting with the mediators. The district court administrator and the associate judges who oversee the small claims court, as well as court staff discuss relevant issues and ask questions of the judges.

The program generates monthly statistics such as small claims cases that are scheduled, mediated, dismissed and disposed of. The volunteer mediators also report their monthly hours on a volunteer hourly reporting time sheet. Each participant in the mediation process is provided with an evaluation form to complete and return describing his or her experiences in the mediation process.

(b) Case processing of ADR and non-ADR cases. Half of the cases provided for the Linn County small claims program could not be used because they were filed after June 30, 1997. Analysis of the five matched pairs shows that half the ADR cases close by 67 days (see Figure 10), and half the non-ADR cases close by 56 days (see Figure 11). The distributions of the matched pairs are very similar and it appears that there is no difference in case processing between ADR and non-ADR cases. However, the sample size is too small to be statistically reliable.

Figure 10
Linn County Small Claims
Days Elapsed Between Filing and Disposition for ADR Cases

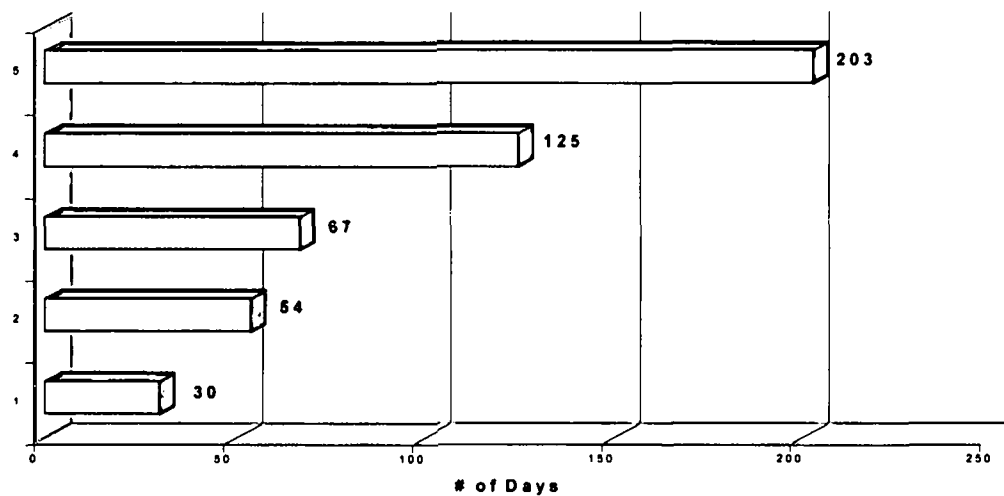
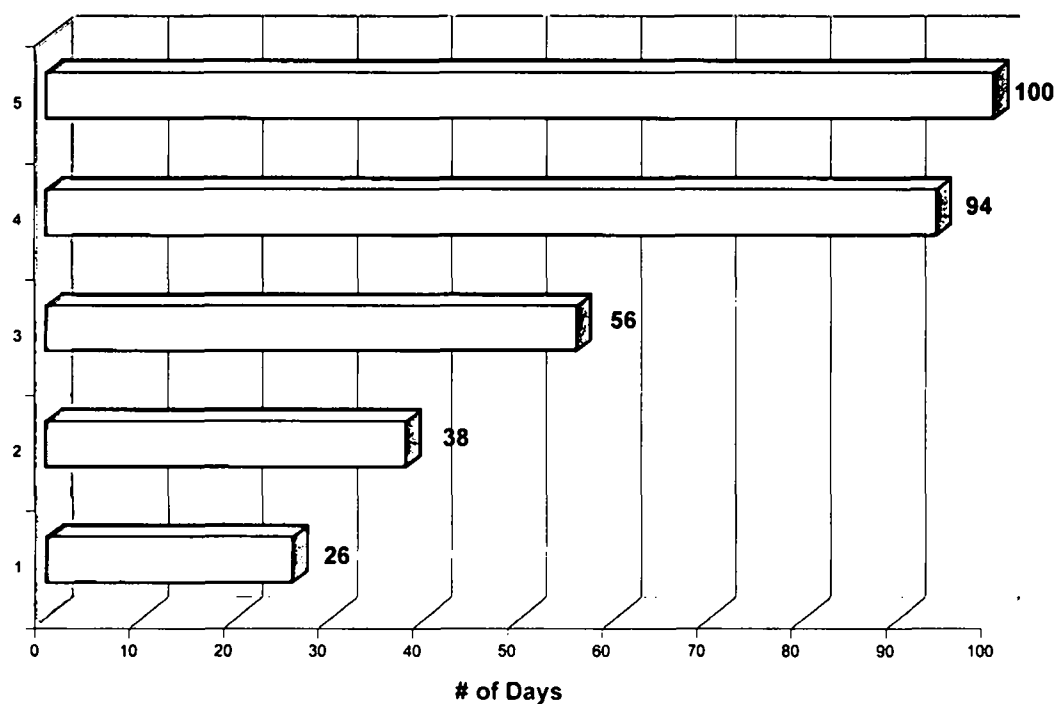


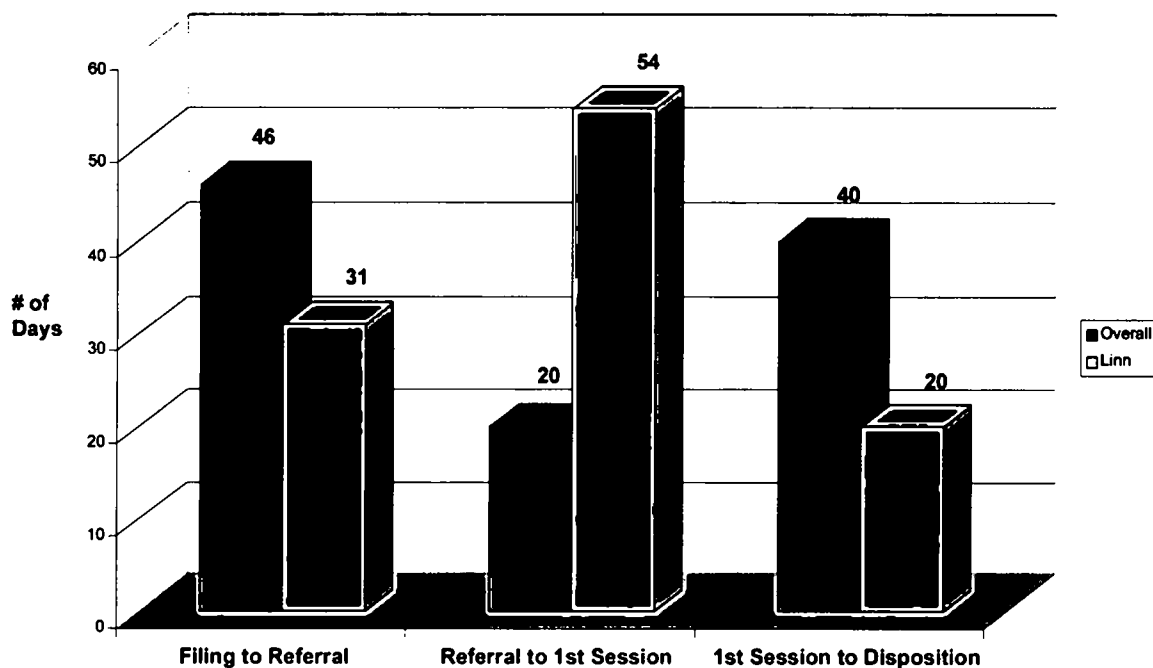
Figure 11
Linn County Small Claims
Days Elapsed Between Filing and Disposition for non-ADR Cases



(c) Case processing of Linn County Program ADR cases compared to other programs.

Figure 12 below compares case processing times for ADR cases in the Linn County Program with those in other small claims programs analyzed by NCSC staff. Small claims cases in Linn County get to mediation faster after they are referred than in other small claims mediation programs, and the time elapsed between the first session and the time of case disposition is much less in the Linn County program than the overall time for the small claims programs analyzed.

Figure 12
Linn County Small Claims
Comparison of Elapsed Times with Overall Small Claims Mediation Elapsed Times



E. Johnson County Small Claims

The Johnson County Small Claims mediation program became operational in December 1994. The program offers voluntary mediation to participants on the day of trial to approximately 101,291 residents of the county.

1. How did the program spend the grant? Johnson County received \$1,770 dollars from the Court Technology Fund. This reflected the total amount requested by the program in its 1996 grant application. The program administrator reports that only \$500.00 of these funds was spent for a one-day small claims mediation training. The remainder of the grant is still available. The program applied for funds in its grant application to provide a staff salary for the program director, supplies, and training. The program continued to operate on a remaining balance from the previous FY of \$1,146.00.

2. What services are offered? The Johnson County small claims program is in its fourth year offering voluntary mediation to litigants the day of the hearing. The Court notifies all parties of the option of mediation in the summons. In addition, when the parties arrive at the courthouse they are given a handout explaining the mediation program. Magistrates suggest to all litigants that they participate. All small claims issues are heard at 1:00 allowing the litigants who decide to mediate an opportunity to return to court if the issue is not resolved.

The volunteer mediators are required to attend a two-day mediation training class and volunteer their services for one year. Continuing education provides advanced training for the volunteers. Part of this training requires mediators to co-mediate twice a year followed by a debriefing of the session. A three-hour continuing education class is also offered two to three times per year.

3. Effectiveness of the program.

(a) Generally. The program mediated 534 cases from January 1, 1997 through September 30, 1997. The small claims statistics 1997 form indicates that 114 cases were mediated with 79 of them reaching agreement. This gave the program a 69 per cent success rate.

The Johnson County Small Claims Mediation Program is a voluntary court operated program, operating under the supervision of the 6th district court administrator. The program reports experienced enthusiastic mediators contribute greatly to the success of the program. The program also receives strong support from the magistrate and court staff.

The program does require more space in which to conduct mediations. The space available allows for only two mediations to be conducted at a given time. Because mediations are held the day of trial, any expansion of the program would require better coordination with the court in order to avoid unnecessary delays. The program produces some statistics and user satisfaction surveys, however, the program does not have a computerized case management system to track cases.

The Johnson County Steering Committee provides direction to the program and schedules quarterly training along with monthly brown bag mediation meetings attended by mediators, magistrates, and the small claims court staff. The meetings are designed to share and problem-solve issues regarding mediation. The steering committee has also developed a policies and procedures manual for new mediators as well as the public. The magistrate and the small claims clerk of court regularly attend these monthly meetings.

As stated previously, although the program does not have a computerized tracking system to compile statistics, it does produce several forms including: the Johnson County Small Claims Court Mediation Project, Johnson County Small Claims Court mediation project case summary form, an evaluation form for non-mediating parties, an evaluation form for parties that mediate, and a compilation of small claims statistics.

(b) Case processing of ADR and non-ADR cases. Half of the cases provided for Johnson County small claims could not be used because the cases were filed after June 30, 1997. Also, two of the ADR cases had not closed at the time of data collection and were still open 281 and 300 days after filing. The median number of elapsed days between filing and disposition for the three ADR cases is 235, as depicted in Figure 13 below. The median number of elapsed days will be greater when the two open cases are finally disposed. In contrast, the median number of elapsed days for the five closed non-ADR cases is 58 days (see Figure 14 below). While the sample size is too small to be statistically reliable, it does appear that ADR cases are taking much longer than non-ADR cases in Johnson County.

Figure 13
Johnson County Small Claims
Days Elapsed Between Filing and Disposition for ADR Cases

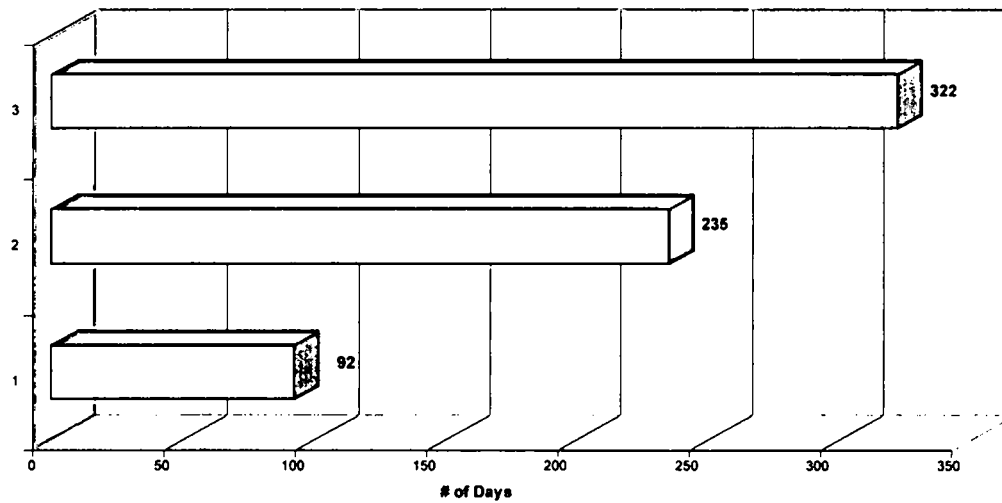
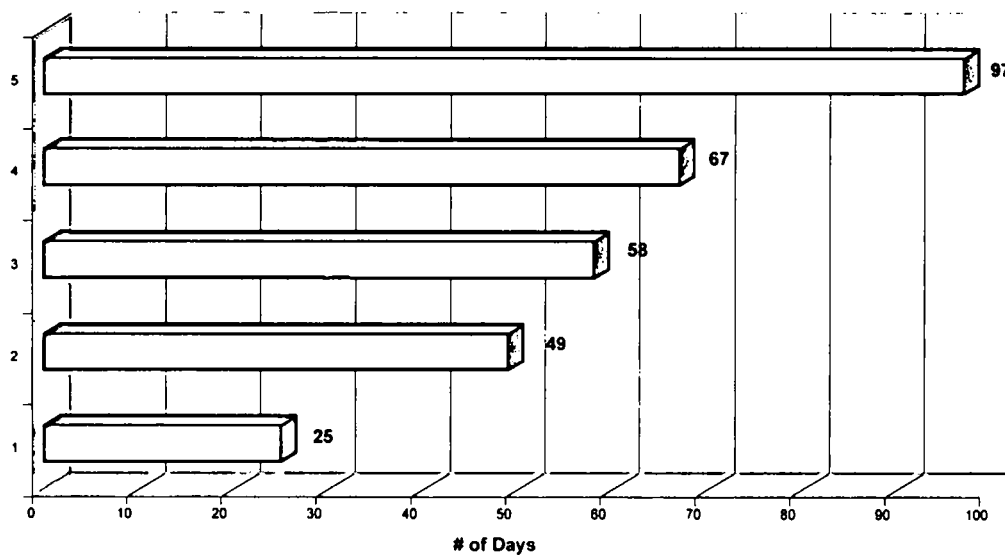
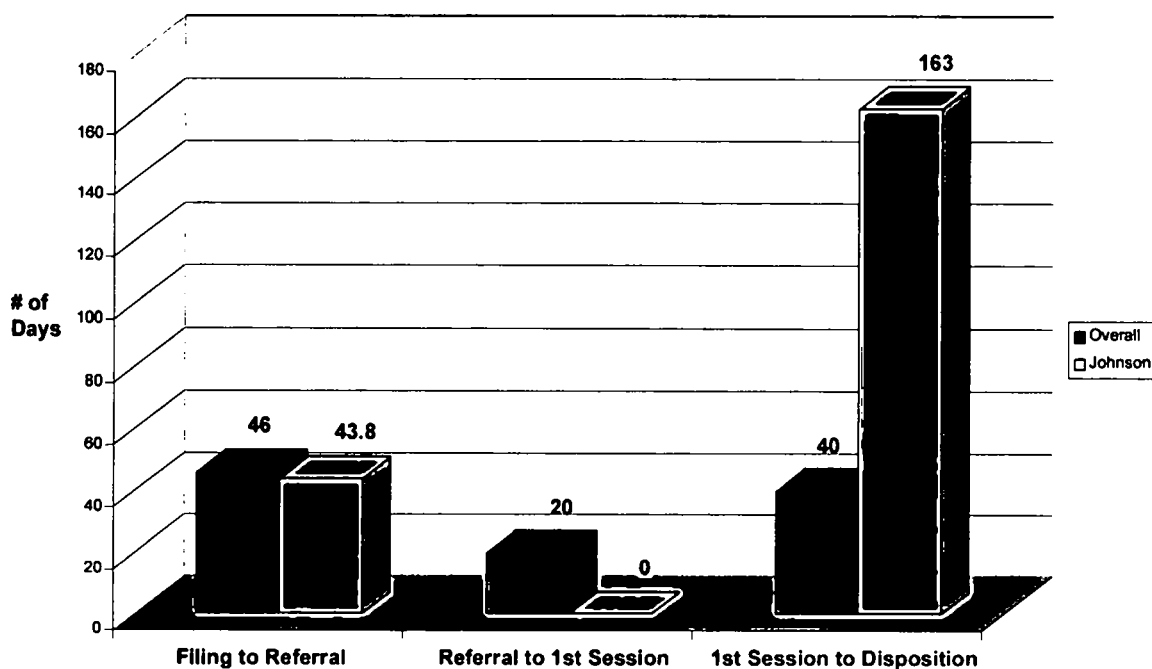


Figure 14
Johnson County Small Claims
Days Elapsed Between Filing and Disposition for non-ADR Cases



(c) *Case processing of Johnson County cases compared to other programs.* Figure 15 below compares case processing times for ADR cases in the Johnson County Program with those in other small claims programs analyzed by NCSC staff. Although it takes longer for small claims cases in Johnson County to be closed after the first mediation session than it does in other small claims mediation programs, the explanation for this is not clear because of the small number of cases examined.

Figure 15
Johnson County Small Claims
Comparison of Elapsed Times with Overall Small Claims Mediation Elapsed Times



F. Center for Creative Justice

The Center for Creative Justice (CCJ) in Ames, Iowa began in 1974 and offers a broad range of services, primarily in Story County. CCJ offers three types of mediation: community mediation (including truancy, employment, small claims, landlord tenant, etc.), victim-offender mediation and family mediation. The family mediation began in 1996 and includes voluntary mediation for dissolution cases, as well as mandatory (court-ordered) mediation for certain motions for modification filed in dissolution cases in Story County. The mandatory mediation component, known as the Dissolution Modification Diversion Project (DMDP), was the only project funded by the Court Technology Fund for the grant period ending November 30, 1997.¹²

1. How did the program spend the grant? CCJ's total budget for 1997 was approximately \$250,000. This amount included both the mediation and other services (probation) offered by the Center. The total DMDP revenue for the grant year ending November 30, 1997 was \$52,012, of which the Court Technology grant of \$24,000 was 46.1%. The sources of funds for the family mediation program included:

\$ 24,000	Court Technology
\$ 15,862	Local public funding
\$ 7,487	Service fees
\$ 3,151	In kind services (volunteers)
\$ 650	Training fees
\$ 617	Contributions
\$ 135	Interest income
\$ 110	Other grants
\$ 52,012	Total Family Mediation Budget

The Court Technology funds were spent approximately as anticipated. The expenditures were as follows:

¹² Grant funds for the current year were also awarded to CCJ for a proposed mandatory mediation program in adjoining Marshall County. The Marshall County program, which was scheduled to start in early 1998, has a separate advisory committee and will mediate domestic matters (initial filings rather than dissolutions) which will be court-ordered in all cases where there are children 12 and younger.

Category	Budgeted Amount	Actual Amount	Difference Between Budget and Actual
Staff salary	14,874.00	15,376.00	502.00
Staff benefits	2,644.00	1,846.37	(797.63)
Space	1,732.00	1,732.00	0
Supplies	1,200.00	1,537.23	337.23
Training	1,000.00	1,000.00	0
Phone	750.00	750.00	0
Travel	500.00	458.40	(41.60)
Insurance	500.00	500.00	0
Contract Services	450.00	450.00	0
Audit	350.00	350.00	0
Total	\$24,000.00	\$24,000.00	0

The changes in the staff salary and benefits were due to a mid-year change in personnel that resulted in personnel costs being underspent by \$295.63. These amounts (and the underspending in the travel category) were absorbed in the supplies category.

2. What services are offered. CCJ's family mediation services include voluntary mediation for dissolution cases and the DMDP, which is supported by Court Technology funds. DMDP involves mandatory (court-ordered) mediation for all modifications filed in dissolution cases in Story County where visitation or custody is an issue. As soon as the motion to modify permanent orders is filed, a court order requiring mediation is distributed to the parties by the clerk's office. The order requires the parties to contact CCJ and instructs CCJ to report back to the court within 60 days.

The Center has an extensive intake process for screening cases to determine whether mediation is appropriate: a staff member conducts individual in-person interviews with each party before the mediation. The interviews generally last for 1.5 hours. CCJ uses a co-mediation model, where a staff member always mediates with one of the 17 qualified volunteer mediators. Mediators must attend at least 40 hours of mediation training (including general and family issues) and ongoing training of four hours per year. No specific degree is required for CCJ mediators; 3 of the 17 mediators are attorneys. Mediator qualifications also include five hours of observation and a process whereby the mediator must be approved by CCJ. (The Center has a checklist of mediator qualities it looks for and a mediator job description.) The mediators are

volunteers and are paid only for mileage. The Center charges the parties an hourly fee ranging from \$10 to \$40 per person.

3. Effectiveness of the program.

(a) Generally. During the last fiscal year, 37 court-ordered modification mediations were referred to CCJ. The program mediated 24 of these cases (others were not mediated for a variety of reasons, including: substance abuse, mental defect, domestic violence, power imbalances, and the parties elected a different mediator) and also mediated 15 voluntary cases. Of these 39 cases, 28 were partially or completely resolved in mediation, which represents a 72% “success” rate.

CCJ has focused significant energy on establishing systems that permit it to track the progress of the program. The Center maintains detailed records for each case referred to the program and has just recently computerized its records. CCJ is now able to generate reports on the number of cases mediated, hours spent in mediation, disposition of the case and other information, on all mediations. In addition, the program conducts follow-up surveys with parties to determine “user satisfaction”. The response rate on these surveys (the program follows up shortly after the mediation and again 6 months later) is about 20% and was reported by program staff to be generally favorable.

CCJ works very closely with the local court, even though the program is housed not at the courthouse but at CCJ’s office, which is located in a different town. DMDP has an advisory committee that meets periodically and closely monitors the program. The District Court Administrator and the Story County Clerk of Court are both on the advisory committee and appear to be strong supporters of the program. It was reported that, even though mediation is mandatory in certain cases, the reaction among the judges was mixed, with several judges taking a “show me” attitude. Pursuant to the court orders, CCJ must report within 60 days on the status of each case referred to the Center. In addition, CCJ’s recent computerization of its records will permit the Center to submit periodic summary reports to the court, which will allow closer evaluation of the program. However, the court staff is currently struggling with how to make the ADR data meaningful to the court. This process involves at least two components: what court data should be examined for each ADR case to determine whether ADR is effective and how can the CCJ data be coordinated with the court’s computer, which currently includes no “flags” for information related to ADR.

Although the number of cases in this program is small, the CCJ staff is highly committed to maintaining a quality program, a fact that is acknowledged and appreciated by the court staff. The careful case screening (to determine if mediation is appropriate), the use of co-mediation, and the training and close monitoring of mediators are strong indicators of the program's high quality. The program appears to be at a crossroads in its organizational development. Because of the small number of cases and close personal attention of staff, CCJ has developed a general reputation for excellence. However, the court and program staff are both eager to expand the use of the program, first by adding the new program in Marshall County (see above footnote) and then by expanding the Story County program to include not only modifications but also initial filings. Both the court staff and the CCJ staff are aware that significant program changes will be required to accomplish this. These changes may include streamlining the intake process, training additional mediators to handle the volume, exploring the use of professional (i.e., paid) mediators rather than volunteers, changing the availability of mediations (so they are offered during the same hours when the court is open, rather than at night), and systematizing other program policies and procedures. CCJ is actively addressing these issues. CCJ is also exploring how its role should be defined as it evolves from a community mediation center to a professional court-connected program: should it be a referral agency to other mediators in the community (which would require it to be the court's "watch-dog" over other mediators) or continue to be a service provider. The program has a strong foundation, including a high commitment to quality and appears to be focusing, with support of the court staff, on the correct issues. The program and court staff are aware CCJ is in transition and have a definite vision for the future.

(b) Case processing of ADR and non-ADR cases. Data was collected on all sixteen ADR cases (and their matched pairs) that were filed between January 1, 1997 and June 30, 1998. The median number of elapsed days from filing to disposition for the 13 closed ADR cases is 190 days (see Figure 16). Three of the ADR cases were still open at the time of data collection. The number of elapsed days from filing to data collection for those cases is 297, 350, and 374 days. Thus, the median number of days after all ADR cases are closed will be 195.5 days. The median number of elapsed days between filing and disposition for the matched non-ADR cases is 168 days (see Figure 17). Because there are still cases that are open, it is not possible at this time to determine if there is a statistically significant difference between the ADR and non-ADR cases

handled by the Center for Creative Justice. At the present time, it appears that there is not a significant difference between the pairs, but if the three open ADR cases take significantly longer to close, their may be a difference.

Figure 16
Center for Creative Justice, Ames
Days Elapsed Between Filing and Disposition for ADR Cases

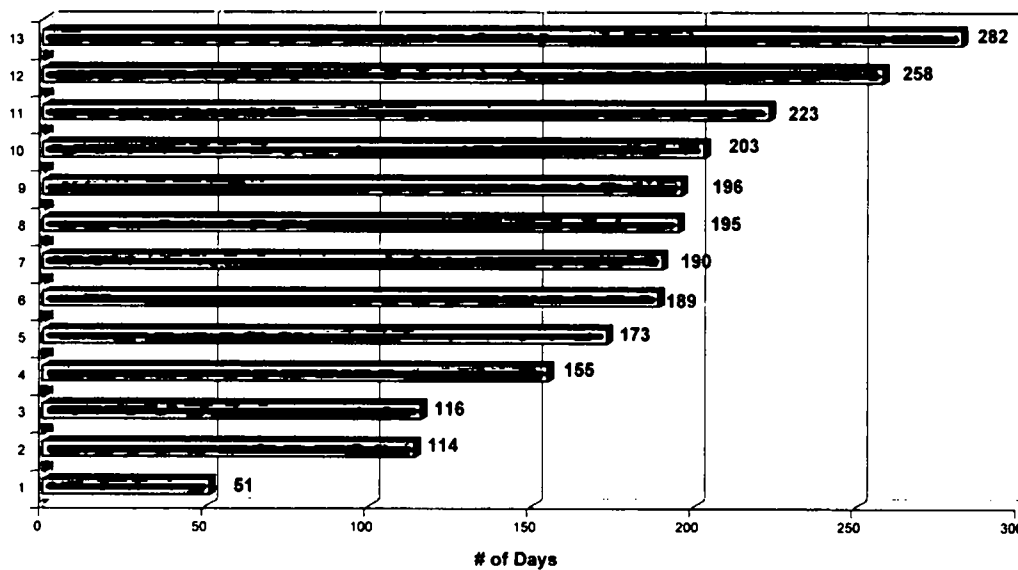
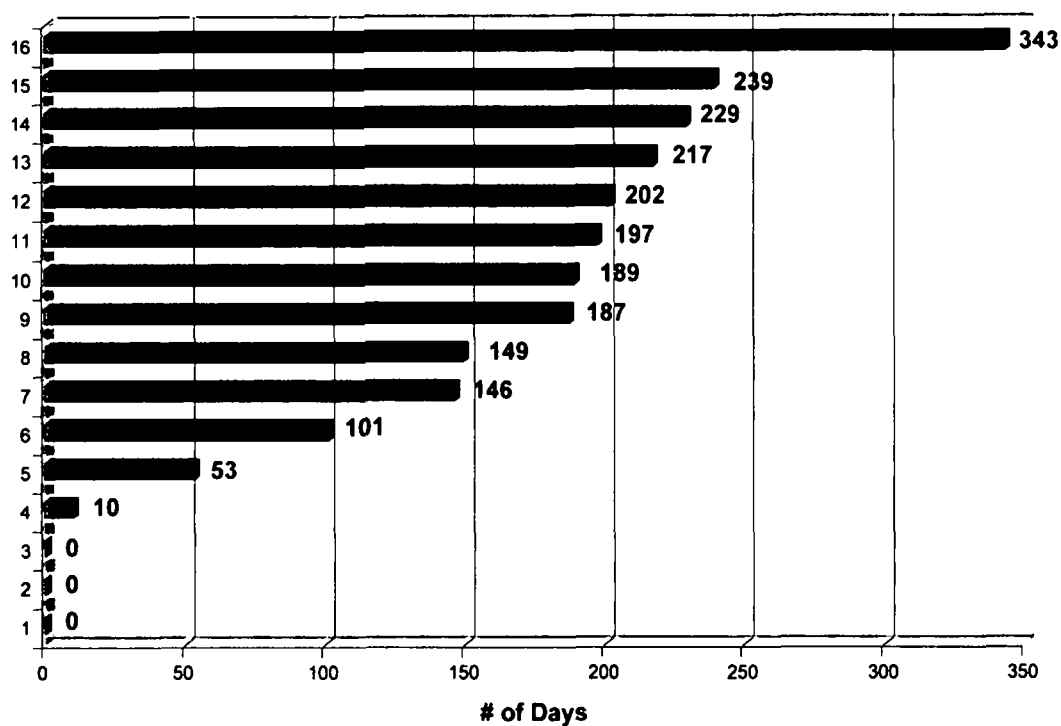
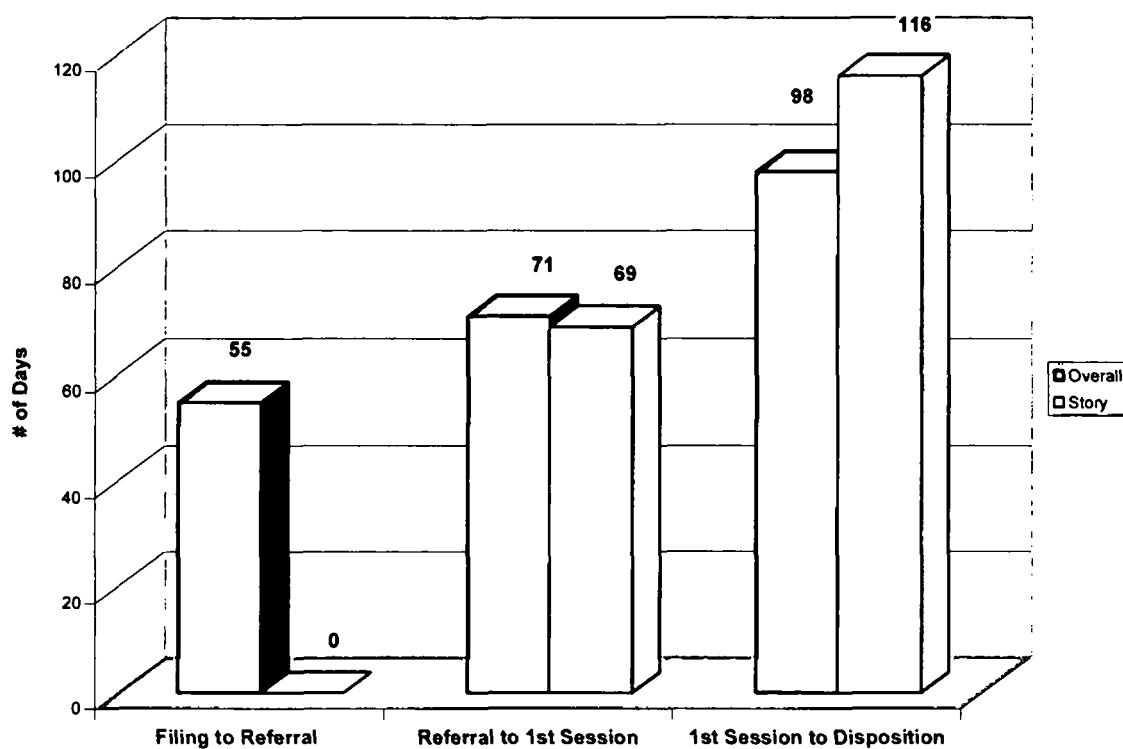


Figure 17
Center for Creative Justice, Ames
Days Elapsed Between Filing and Disposition for non-ADR Cases



(c) Case processing of Center for Creative Justice cases compared to other programs. Figure 18 below compares case processing times for ADR cases in the Center for Creative Justice Program with those in other family mediation programs analyzed by NCSC staff. Since cases are referred to mediation on the day of filing, the elapsed time between filing and referral is less for CCJ than for other programs. However, it takes longer for family cases in the CCJ program to be closed after the first mediation session than it does in other family mediation programs.

Figure 18
Center for Creative Justice, Story County
Comparison of Elapsed Times with Overall Family Mediation Elapsed Times



G. North Iowa Dispute Settlement Center

The North Iowa Dispute Settlement Center in Mason City, Iowa began fourteen years ago and offers a broad range of services in nine north Iowa counties with a focus on Franklin and Cerro Gordo Counties. The North Iowa Center has four mediation programs: community mediation, truancy mediation, victim-offender mediation and the Attorney-Mediator Program. The Attorney-Mediator Program, which began in 1994 and offers a roster of attorney mediators for voluntary mediation in both civil and domestic cases, is the only service of the Center that received money from the Court Technology Fund for the grant period ending November 30, 1997.

1. How did the program spend the grant? The FY97 budget for all of the Center's activities was \$49,112. This amount included all the Center's mediation services and a bad check program that was started in 1996 and now provides significant funding for the Center. No breakdown was provided by the program of the amount of the budget spent on the Attorney-Mediator Program, for which the Court Technology fund provided \$3,150 for the grant period ending November 30, 1997. The sources of funds for all of the Center's activities included:

\$ 25,000	Governor's Commission
\$ 7,462	Fees collected
\$ 5,000	Clear Lake County
\$ 5,000	Franklin County
\$ 3,500	Cerro Gordo County
<u>\$ 3,150</u>	Court Technology Fund
\$ 49,112	Total Budget

The program also receives in-kind contributions from Cerro Gordo and Franklin Counties. The dollar amount of these contributions has not been determined. They include:

- From Cerro Gordo County: office space; maintenance; postage; processing of money (through the treasurer's office); bookkeeping (by the auditor's office); paper for the copier; use of the mediation rooms; furniture; parking space; clerks distribute brochures quarterly in lawyer mail boxes
- From Franklin County: office space one day per week; local calls; use of mediation rooms

The Court Technology funds were spent approximately as anticipated. The expenditures were as follows:

Category	Budgeted Amount	Actual Amount	Difference Between Budget and Actual
Brochures	\$645.00	\$703.50	(\$58.50)
800 Phone Number	\$1,336.00	\$1,044.75	\$291.25
Computer	\$1,169.00	\$1,169.00	0
Total	\$3,150.00	\$2,917.25	\$232.75

The brochures were slightly more expensive than anticipated, while the 800 number cost less than expected, although the charges for the final few months of the grant year had not been received when the above figures were compiled (which may account for the \$232.75 not spent).

2. What services are offered. The Attorney-Mediator Program offers voluntary mediation for civil and domestic cases.¹³ The program charges a \$100 per case administrative fee and parties are then required to pay the attorney-mediator's hourly rate, which ranges from \$50-\$100 for family cases and \$75-\$125 for civil cases. Sixteen attorney mediators conduct mediations for the Center. The parties and their attorneys select the mediator; if they can't agree, the Center asks each party for a list of 9 mediators in order of priority. The Center has conducted two trainings for the mediators: the initial 30-hour training in 1994 and an advanced training in 1996.

3. Effectiveness of the program.

(a) Generally. During the last fiscal year, 8 voluntary mediations were referred to the Attorney-Mediator Program and 7 cases were mediated (the 8th case was resolved before mediation). Three of these cases were not court cases. All cases that were mediated were partially or completely resolved without a trial.

¹³ The Center also offers community, truancy and victim-offender mediation. None of these services is funded by the Court Technology grant. The community mediation program started 12 years ago, uses 5 volunteer mediators who are paid \$16 per session for expenses, and mediated 22 cases during 1997. The truancy mediation program, which began in 1991, uses the attorney and community mediators; cases are referred to the program by the county attorney before charges are filed; the school pays the program \$65 per hour for mediation and the families pay up to \$65 per hour; the program handled 9 cases in 1997. The victim-offender mediation program has been in place since 1994 and also uses the attorney and community mediators; cases are referred either by the county attorney or the judge; the program processed 14 cases in 1997.

The Center is a non-profit organization housed at the courthouse. (The Center has an office in the Mason City courthouse and is also provided office space one day per week in the Franklin County courthouse.) The Center has an advisory committee. One of the local judges serves on the committee and enthusiastically endorses the program. Information is provided quarterly to all local judges on an informal basis and reports are submitted on mediated cases when requested by the court administrator. While mediation is not required, the Notice of Pre-Trial Requirements issued in all domestic cases encourages parties to “employ the services of a trained mediator” and states that the “names of trained mediators” are available at the Center. Despite all of these connections, there is very little monitoring or supervision of the program by the court. The court staff (including the judge) interviewed had very little specific knowledge of the Center’s activities and was surprised to learn that only 8 cases had been referred to the Attorney-Mediator Program during 1997. The court’s attitude toward the program was generally favorable and the court staff seemed genuinely pleased by the presence of the program. At the same time, the court appears to have very little ownership of the program and the court maintains almost no information on its computer about cases referred to ADR.

(b) Case processing of ADR and non-ADR cases. The North Iowa Dispute Settlement Center had only four ADR cases filed from December, 1996 to June 30, 1997 which made the matched pair analysis problematic. The median number of elapsed days from filing to disposition for the four ADR cases is 212.5 days (see Figure 19), and the median number of elapsed days for the non-ADR cases (including the one case which is still open after 412 days) is 120.5 days (see Figure 20). The sample size is too small to be statistically reliable, but it appears that ADR cases are taking longer to dispose.

Figure 19

**North Iowa Dispute Resolution Center, Mason City
Days Elapsed Between Filing and Disposition for ADR Cases**

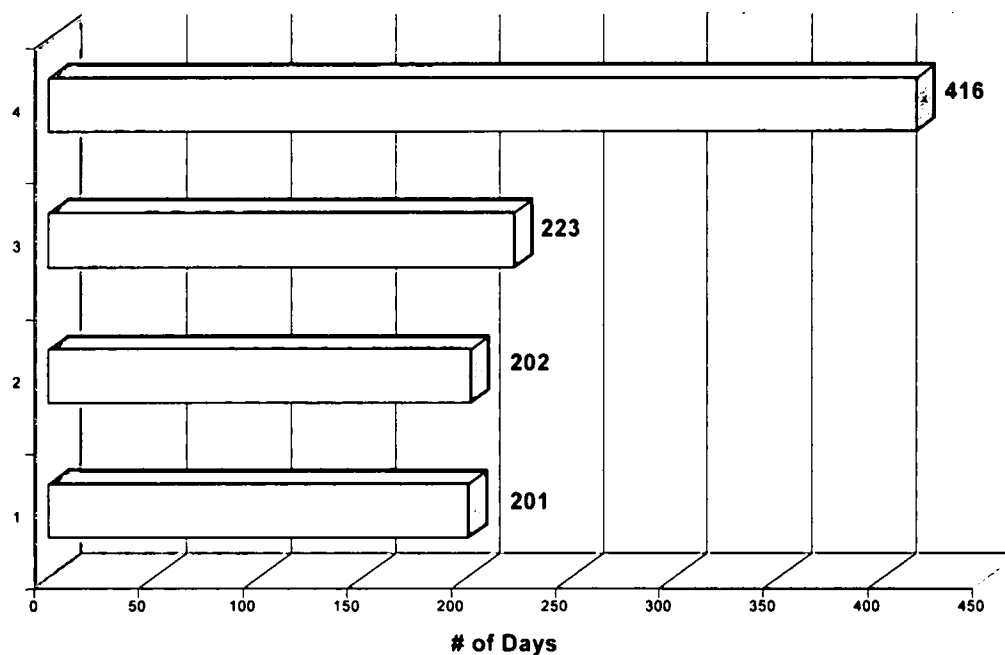
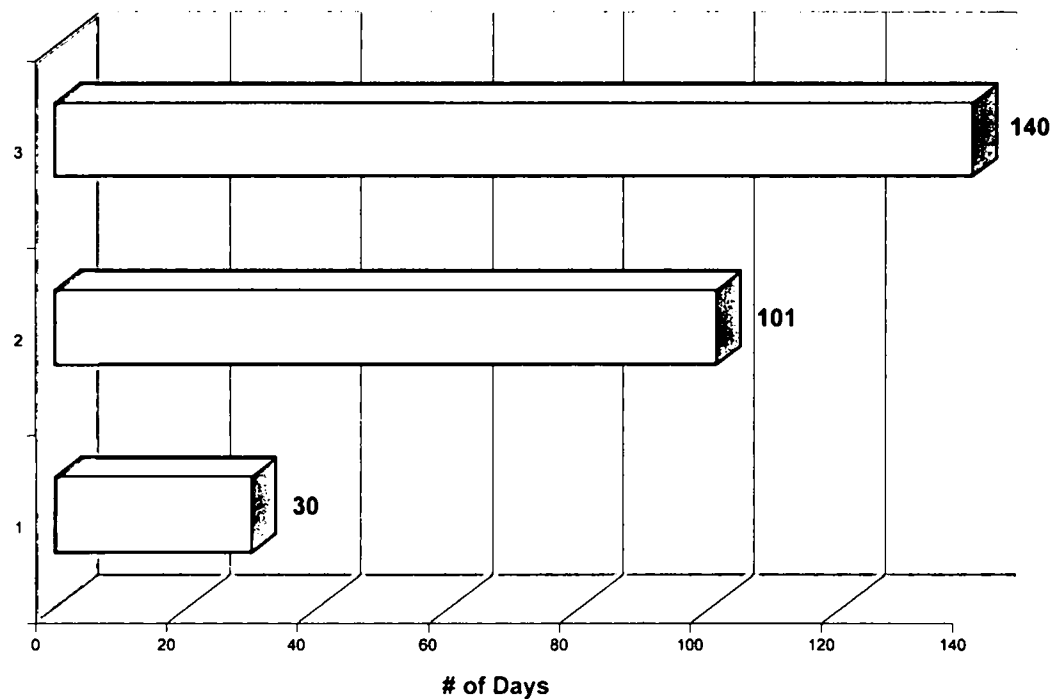


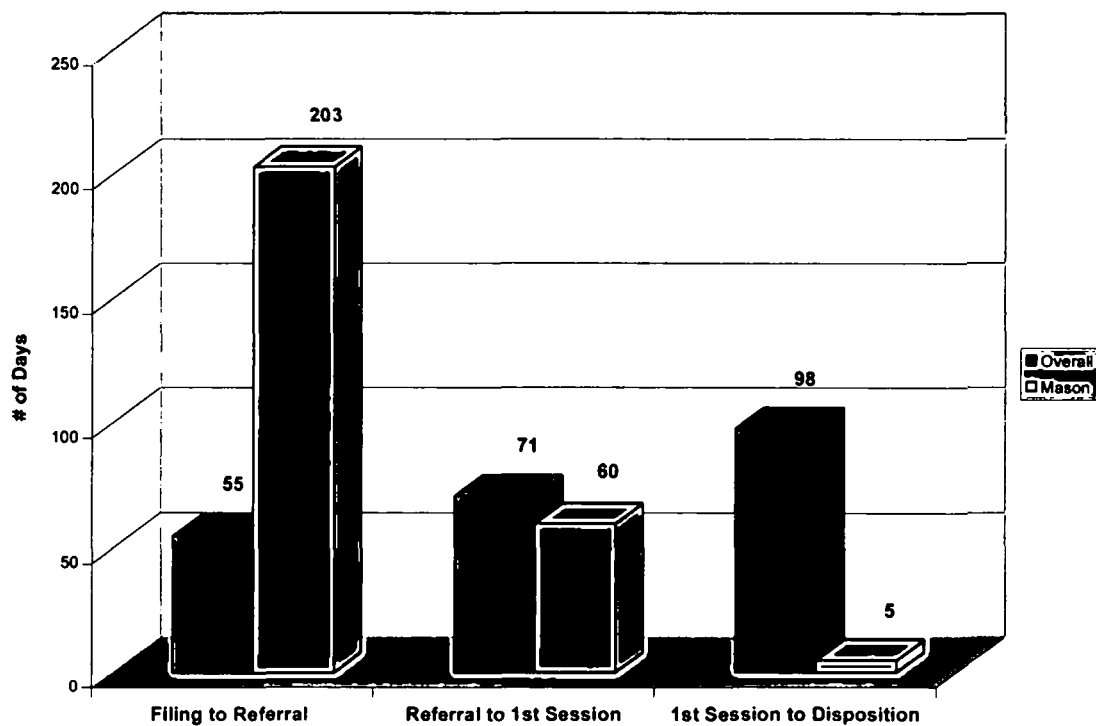
Figure 20

**North Iowa Dispute Resolution Center, Mason City
Days Elapsed Between Filing and Disposition for non-ADR Cases**



(c) *Case processing of North Iowa Dispute Resolution Center cases compared to other programs.* Figure 21 below compares case processing times for ADR cases in the North Iowa Program with those in other family mediation programs analyzed by NCSC staff. The elapsed time between filing and referral is greater for the North Iowa program than for other programs. However, family cases in the North Iowa program are closed faster after the first mediation session than in other family mediation programs.

Figure 21
North Iowa Dispute Resolution Center, Mason City
Comparison of Elapsed Times with Overall Family Mediation Elapsed Times



H. Polk County Bar Association

The Polk County Bar Mediation Project in Des Moines, Iowa began in 1990 and offers a broad range of ADR services, primarily in Polk County, although one service is offered statewide. The services include: civil and family mediation, civil arbitration, small claims mediation, and real estate mediation.

1. How did the program spend the grant? The total budget for 1997 for the entire Polk County Bar Association Mediation Project was \$37,996. The Project received \$1,248 from the Court Technology Fund for the grant year ending November 30, 1997. The sources of funds for the Project included:

\$ 26,404	Administrative fees collected
\$ 5,000	IOLTA
\$ 4,069	Statewide fees
\$ 1,275	Polk County
<u>\$ 1,248</u>	<u>Court Technology</u>
\$37,996	Total Project Budget

The Project also receives in-kind contributions from the local court, including a small office at the courthouse, a phone, and use of machines (fax, copier and mailing, except for large mailings).

The initial funding for the program, IOLTA funds (from interest on lawyers trust accounts), was phased out at year 7. The Project has asked the local court for \$6,000 for next year and the court has agreed. In the interim, the Bar Association will cover any budget deficit up to \$5,000.

The Court Technology funds were spent on secretary time for case processing and typing notices. The backup provided by the program for the expenditures did not include either the time period covered by the services or the hourly rate paid. This absence of detail may be due to the fact that the books and records are maintained by the Polk County Bar Association and the details are not readily available to the Project office.

2. What services are offered. The Polk County Bar Association Mediation Project has six different components. All except the statewide program serve primarily Polk County:

Polk County Bar Association Mediation Project Services Offered	
Civil Mediation Program	This program began in 1991 and includes general civil cases. The program charges a \$120 case administration fee plus \$105-\$180 per hour (all but \$10 of this fee goes to the mediator; the balance goes to the program). The program has over 80 attorney mediators on a roster, all of whom have 18 hours of training in civil mediation. The roster is widely distributed to all lawyers and attorneys for parties may contact the program or the mediator directly (who is supposed to, but doesn't always, refer the case back to the program).
Small Claims Mediation	This program has been in place since 1990. It was the first day-of-trial program in the state and has been a model for other programs around the state. The service is provided free to parties who elect it on the day of trial (parties are not required to mediate). The program uses 12 volunteer mediators, most of whom are not lawyers. Most of the mediators have 10 hours of training; some have only on-the-job-training. Monitoring of mediators is informal, i.e., based on complaints and quarterly one-hour meetings with the mediators and the judge.
Family Mediation	This program was started in 1991 and includes both mandatory and voluntary mediations of domestic issues. The program uses 40 lawyer mediators and 6 non-lawyer mediators who have received 18 hours of training in civil mediation and a 6-hour family law training supplement. The parties select their own mediator from the program roster. The parties pay a \$50 administrative fee plus the hourly rate of the mediator (range is \$80-\$100).
Civil Arbitration	This program started 6 years ago and offers binding arbitration (usually high-low) in general civil cases, mostly personal injury cases. The program uses 20 arbitrators who are lawyers or retired judges. The parties pay a \$60 administrative fee plus the hourly rate of the arbitrator (\$125-185) and a \$10 per hour surcharge for the program. About 1/3 of the cases in the program are court cases.
Statewide Civil & Family Mediation	This is a relatively new program (started in January 1995) and offers civil and family mediation outside of Polk County. The program maintains a roster of lawyer mediators: 16 civil and 13 family mediators who have at least 18 hours of training in civil mediation. The family law mediators also have a 6-hour supplemental training in family mediation. The rates charged are identical to those described above for civil and family mediation.
Real Estate Mediation	This program is a result of a two-year contract with the Better Business Bureau to provide real estate mediation in cases that have not been filed in court. The fee charged to the parties depends on whether a small claims mediator (\$25 per party split with the program) or lawyer mediator (\$100 for 2 hours) is assigned.

3. Effectiveness of the program.

(a) *Generally.* This program seems to have accomplished a great deal with very limited resources. For the fiscal year ending June 30, 1997, the program reports that it processed

1,720 cases in Polk County, including 1,470 small claims cases (1,283 were resolved), 98 family cases (63 were completely or partially resolved) and 123 civil cases (94 were completely or partially resolved). In addition, the program mediated 29 cases as part of its Statewide Mediation Program, during the twelve months ending September 15, 1997, and 17 of these cases were partially or completely resolved.

The Project maintains statistics, but does not computerize information received from the reports submitted by mediators after the mediations (e.g., type of case, whether the case was resolved). In civil and family cases, the Project conducts user surveys. Project staff reported that the return rate was only about 5%, although the responses were usually favorable.

The Bar Association Project has a small office at the courthouse. Except for the small claims program, most mediations are conducted at another location, generally provided by the mediator or the parties. The program files reports with the each of the judges at least twice a year. The family court judges rotate annually and the orders for mediation are inconsistent at best. There is very little monitoring or supervision of the program by the court. The court staff interviewed had little specific knowledge of the Project's activities. Their attitude toward the program was generally favorable. At the same time, the court appears to have very little ownership of the program and the court maintains almost no information on its computer about cases referred to ADR.

The small claims component of this project was evaluated several years ago by NCSC staff as part of a study of three small claims mediation programs.¹⁴ The Project staff in Des Moines reported that a 3-4 month study was recently conducted by project staff and the Polk County court and concluded that 49% of all trial-ready small claims cases were settled in mediation.

(b) Case Processing Analysis. Because of the small amount of the grant to the Polk County Bar Association Program, NCSC staff decided not to ask the court and program staff to collect data on processing of ADR and non-ADR cases. As a result, no analysis is included on any impact the program may have on costs as a result of alleviating pressure on the court's docket.

¹⁴ The results of the study are reported in "How Mediation is Working in Small Claims Courts" by John A. Goerd, *The Judges' Journal*, Fall 1993.

V. ANALYSIS OF STATEWIDE PROGRAM

This section of the report extrapolates the information compiled by the NCSC staff on the individual projects and draws conclusions regarding the impact of the efforts of the Court Technology Fund to support the development of ADR in the state. The discussion is in three parts: a general review of the overall status of the Iowa ADR projects, a review of the findings of a survey of attorneys who participated in mediation through the programs funded by the Court Technology Fund, and an analysis comparing the processing of ADR and non-ADR cases to determine the impact on the courts of the use of ADR.

A. The Status of ADR in Iowa

As demonstrated by the eight projects that are the subject of this report, ADR in Iowa is alive and well, albeit in the early developmental stages¹⁵. The grants awarded by the Court Technology Fund have been distributed to a wide range of projects, engaged in many different types of activities:

1. Services offered by the programs. The primary focus of the services offered by the eight programs is mediation of small claims and family cases:

- 5 of the 8 projects focus on small claims mediation
- 4 of the programs offer family mediation
- Only 1 of the programs offers mediation in civil cases
- Only 1 of the programs offers an ADR service other than mediation and that service (arbitration) is not offered on court cases
- None of the programs offers arbitration, early neutral evaluation, summary jury trials, settlement weeks or other types of ADR for court cases

2. Local court sponsorship. Although many of the programs have offices or conduct mediations at the courthouse, the relationship with the court differs widely between programs:

- 3 of the 8 programs offer mandatory mediation (one for small claims cases; two for domestic cases) in predefined types of cases (e.g., where custody is an issue). Several other judges require mediation from time to time, but the referrals are made on a case-by-case basis.
- 3 of the programs are operated under the auspices of the court and therefore are accountable directly to the court for their continued existence. 5 of the programs are operated by private, non-profit, agencies that also offer services that are not court-related.

¹⁵ No effort was made, as part of this evaluation, to explore the extent of court-related ADR efforts that are not funded by the Court Technology Fund. Therefore, the comments in this section of the report are limited to the eight projects reviewed by NCSC staff.

- Many of the programs have advisory committees with participation by local judges, district administrators or other court staff. However, the existence of such an advisory council does not necessarily assure court “ownership” of the program and several of those interviewed who participated on such a committee had little knowledge of the program’s activities.
- Many of the programs maintain offices or offer mediation services at the courthouse. However, this also is not necessarily an indicator of court ownership of the program.
- One reason for the limited court ownership is that, except for the small claims programs, the mediation services have impacted only a very small number of court cases. There are several possible explanations for this. First, parties historically will not use ADR if it is not required. Second, lawyers will not be inspired to mediate if there is limited court support for the process. Third, if there are no established procedures for referring classes of cases to ADR, judges will not often take the time to determine whether a particular case might benefit from ADR. If automatic referral to the mediation process is not institutionalized, mediation will not become part of the system.

3. Case tracking and statistics. There were significant differences between the projects on their awareness of their impact, on the types of data that they maintain, and on the court’s records about ADR:

- The statewide computer system includes no “flags” for tracking of ADR cases. Many of the courts expressed frustration at the lack of available technology to track ADR cases and compare them with non-ADR cases to determine the impact of ADR on the courts. Court personnel were generally unaware of what questions they should be asking to determine if ADR is effective.
- Several of the projects have developed computer systems that will allow them to easily generate statistics to track their performance. However, many project staff were unclear about what information should be conveyed to the court to establish that the program was working and to persuade otherwise skeptical judges as to the value of the program.
- None of the programs had worked closely with the courts to establish program objectives as they relate to the impact of the program on case processing times.

4. Quality of mediators. Most of the programs have taken positive steps to assure that their mediators are trained, regardless of whether they are volunteers or are paid for their services.

- Only 3 of the programs use paid mediators. There is no correlation between the payment of mediators and whether the mediation is voluntary or mandatory. All paid mediators are selected by the parties, generally from a roster maintained by the program. In two of the programs, almost all the paid mediators are attorneys. In the third program, over half of the mediators are lawyers.

- All of the programs have training requirements for their mediators, usually with a minimum 30-40 hour basic training, and often with ongoing annual training requirements.
- In the five programs that are not under the direct auspices of the court, the court appears to have reposed great confidence in the program staff and has delegated all responsibility for the quality of the mediators to the program. This includes setting the standards, screening and monitoring the mediators and handling all complaints regarding the mediators.

5. Coordination with other agencies. Most of the programs reviewed have successfully established a presence in the community and work on an ongoing basis with other agencies in the community.

- Most of the programs have advisory committees, often with representatives from the court, the local bar association and the general community
- Some of the programs have coordinated with the sponsors of the required parenting classes as a means for educating people about the benefits of mediation in the divorce process.

As the foregoing summary indicates, the eight projects funded by the Court Technology grants represent a broad range of approaches to the development of court-related ADR. Table 1 on the following page summarizes some of the aspects of these programs.

TABLE 1: SUMMARY OF ADR PROGRAMS VISITED FOR COURT TECHNOLOGY FUND

Name of Program	Judicial District	Court	Case Type	Voluntary or Mandatory Mediation	Paid or Unpaid Mediators	Total Court Filings for ADR Case Type	Cases Mediated	Cases Partially or Completely Resolved	Amount of Court Technology Grant	Primary Purpose of Grant Funds
Linn County Small Claims	6	Linn County	small claims	mandatory	unpaid	5,251	2,438 ^①	400 ^②	\$1,500 ^③	training & mediator parking
Johnson County Small Claims	6	Johnson County	small claims	voluntary	unpaid	1,931	114	79	\$1,770	training
6 th District Family Mediation	6	Linn & Johnson Counties	family	mandatory	paid	1,974	254*	175*	\$25,380 ^③	mostly director
Center for Creative Justice	2	Story County	family	voluntary and mandatory	unpaid		39	28	\$24,000	staff and supplies
North Iowa Dispute Resolution Center	2	Mason County	family and civil	voluntary	paid		7	7	\$3,150	brochure 800 number computer wages
Community Mediation Center	7	Davenport	small claims community human rights victim-offender family	voluntary	unpaid	Unknown	118 ^④	Unknown	\$27,150	
Retired/Senior Volunteer Program (Black Hawk)	1	Waterloo	small claims community	voluntary	unpaid	3,684	198	111	\$7,147	mostly staff
Polk County Bar Assn. Mediation Project	5	Polk County	small claims family civil	voluntary except a few family cases	paid except for small claims		1,720		\$1,248	secretary
Total									\$89,845 ^③	

①January 1, 1997 through September 30, 1997

②Estimate of resolved cases

③The Linn County Program received \$1,500 from the \$25,380 grant made by the Court Technology Fund to the 6th District Family Mediation Program

④These are small claims cases only, from January 1, 1997 through October 31, 1997

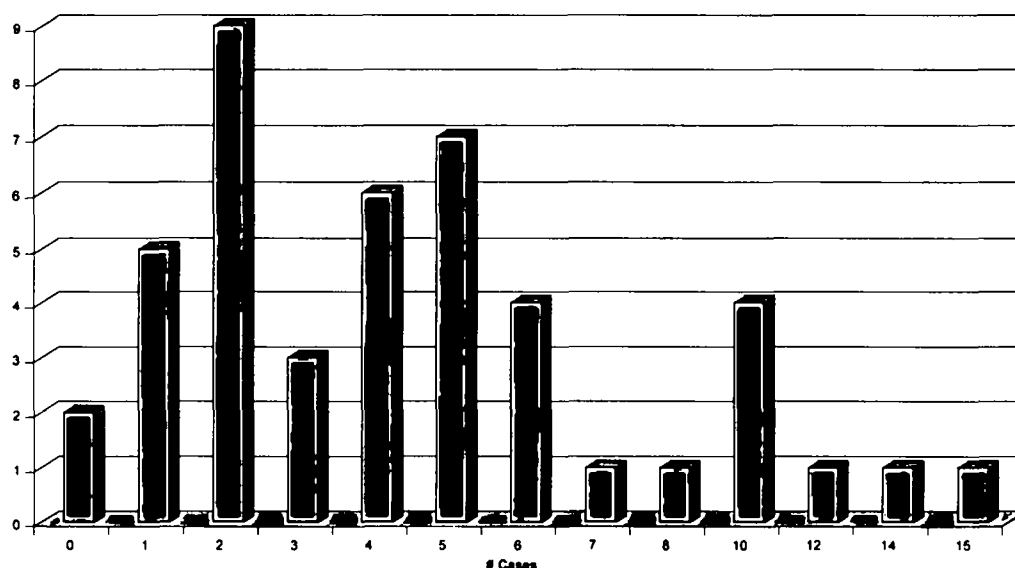
*Based on Mediator Status Reports August 1, 1996 – December 31, 1997

B. Attorney Satisfaction with ADR in Iowa

Another facet of the evaluation of the ADR programs in Iowa is a measure of attorney satisfaction with ADR. The programs at the eight sites supplied names and addresses of attorneys who represented clients in mediation conducted through the programs. The NCSC mailed out 123 questionnaires that measured attorneys' attitudes toward mediation and received 45 completed forms. The thrust of the questionnaire was the attorneys' satisfaction with mediation in connection with the most recent cases in which their clients had participated in mediation through one of the programs. See Appendix D for a copy of the questionnaire. The results of the survey are presented below.

1. Attorney characteristics. Six of the 45 attorneys (13.3%) not only represent clients in mediation, but also offer ADR services as a mediator. The number of mediation cases in 1997 where the responding attorneys participated as attorneys (rather than mediators) ranges from 0 to 15 (see graph below). The mean number of ADR cases per attorney is 4.6 and the median number of ADR cases is 4. Nine attorneys have two cases, the most frequent number of cases.

Figure 22
Number of Cases Per Attorney in 1997



2. Last ADR case characteristics. The attorneys were asked to describe their last ADR case in which they participated as an attorney. Approximately 2/3 of them represented the plaintiff and in two cases the attorney represented both parties. In 3/4 of the cases the parties or the attorney rather than the court selected the mediator. The name of the mediation program used was requested and the results were coded by the NCSC to reflect whether or not the Iowa Supreme Court funded the program. Approximately 1/3 of the ADR cases went through one of the mediation programs under evaluation. It appears that many of the ADR cases have been mediated by a mediator working on his/her own and not within a program *per se*. The stage of the case at which mediation first took place is also noted. Almost 1/3 of the cases have a first mediation session before discovery and approximately 1/4 of the cases did not have the first mediation session until after a trial date was scheduled. The results of the ADR case characteristics are shown below.

Did the attorney represent the plaintiff or defendant/respondent in his/her last ADR case?

Party	Frequency	Percent
Plaintiff	28	62.2%
Defendant/Respondent	15	33.3%
Both	2	4.4%
TOTAL	45	100.0%

Who selected the mediator in his/her last ADR case?

Selector	Frequency	Percent
Parties/Attorney	33	75%
Court/Judge	11	25%
TOTAL	44	100%

Was the mediation program in his/her last ADR case funded by the Iowa Supreme Court?

Program	Frequency	Percent
Funded	16	35.6%
Not Funded	29	64.4%
TOTAL	45	100.0%

What was the first stage in the case when the mediation session took place?

Party	Frequency	Percent
Before any discovery	13	29.5%
After interrogatories and document production	6	13.6%
Before depositions	6	13.6%
After depositions	8	18.2%
After the first trial date was scheduled	11	25.0%
TOTAL	44	100.0%

3. Attorney's opinion of mediator in last ADR case. The attorneys were asked their opinion of the mediator in their last case that went to ADR. Almost all (92.8%) *agree* or *strongly agree* that the mediator gave them a full opportunity to convey their client's interests. Almost all (93.2%) *agree* or *strongly agree* that the mediator was impartial. A majority (88.7%) *agree* or *strongly agree* that the mediator understood the issues in the case. A smaller number, but still a majority (81.4%), *agree* or *strongly agree* that the mediator was knowledgeable about the law relative to the case. The results for these four questions about the mediator are shown below.

Did the mediator give the attorney a full opportunity to convey the client's interests?

Opinion	Frequency	Percent
Strongly disagree	1	2.4%
Disagree	0	0%
Not sure	2	4.8%
Agree	19	45.2%
Strongly agree	20	47.2%
TOTAL	42	100.0%

Was the mediator impartial?

Opinion	Frequency	Percent
Strongly disagree	1	2.3%
Disagree	0	0%
Not sure	2	4.5%
Agree	22	50.0%
Strongly agree	19	43.2%
TOTAL	44	100.0%

Did the mediator understand the issues?

Opinion	Frequency	Percent
Strongly disagree	1	2.3%
Disagree	2	4.5%
Not sure	2	4.5%
Agree	16	36.4%
Strongly agree	23	52.3%
TOTAL	44	100.0%

Was the mediator knowledgeable about the law relevant to the case?

Opinion	Frequency	Percent
Strongly disagree	0	0%
Disagree	1	2.3%
Not sure	7	16.3%
Agree	19	44.2%
Strongly agree	16	37.2%
TOTAL	43	100%

4. Attorney's opinion about the mediation. The attorneys also were asked their opinion about the value and timing of the mediation and whether they would consider mediation for other matters. More than half (65.9%) think that the mediation in their last ADR case saved money. Approximately the same percentage (64.4%) state that the mediation settled the case. Over $\frac{3}{4}$ of the attorneys (79.5%) state that the case was referred to mediation at about the right time rather than too early or too late. Almost all the attorneys (95.6%) *agree or strongly agree* that they would consider mediation for other matters. The results of the opinion survey of the mediation are shown below.

Did mediation in this case save money?

Opinion	Frequency	Percent
Strongly disagree	0	0%
Disagree	1	2.3%
Not sure	7	16.3%
Agree	19	44.2%
Strongly agree	16	37.2%
TOTAL	43	100.0%

What impact did mediation have on this case?

Opinion	Frequency	Percent
Settled the case	29	64.4%
Settled some of the issues	3	6.7%
Clarified positions	2	4.4%
Moved the case significantly toward settlement	5	11.1%
Other	6	13.3%
TOTAL	45	100%

Timing of the referral to mediation?

Opinion	Frequency	Percent
Too early	4	9.1%
At about the right time	35	79.5%
Too late	5	11.4%
TOTAL	44	100.0%

Would you consider mediation for other matters?

Opinion	Frequency	Percent
Strongly disagree	1	2.2%
Disagree	0	0%
Not sure	1	2.2%
Agree	17	37.8%
Strongly agree	26	57.8%
TOTAL	45	100.0%

5. Differences between subgroups of attorneys. The attorneys were stratified on two characteristics to see if there might be differences in opinion between subgroups of attorneys. The two characteristics were whether or not their last ADR case was in a mediation program that received funding from the Iowa Supreme Court and whether the attorney had four or fewer ADR cases last year or more than four cases. There are no striking statistical differences between the subgroups, but there is a suggestion that attorneys who had more than four ADR cases last year are a bit more positive in the thinking that mediation saved money ($p = .1483$) and that the mediator understood the issues ($p = .1202$).

6. Attorneys' suggestions and comments to improve mediation program. Eighteen of the 45 questionnaire participants offered suggestions to improve the mediation programs in Iowa. The most often mentioned comment (4 replies) was to make mediation mandatory and another attorney mentioned along those same lines that certain cases should be pushed toward mediation. The results of the attorneys' suggestions are shown below.

Suggestions to improve mediation

Suggestion	Frequency
Make mediation mandatory (1 suggested in dissolution only)	4
Make sure costs and fees are kept low	3
Preparation (of mediator, of attorney, of client)	2
Mediator needs to take a more proactive position, take a stand	2
More (local) mediators	2
Support from the judiciary	1
Educate public as to use and purpose of mediation	1
More well-known attorneys should mediate	1
More training for attorneys participating in mediation	1
Mediation should not be mandatory (because it increases costs)	1
Allow attorneys to attend mediation	1

Fourteen of the attorneys took the opportunity to provide other comments regarding the effectiveness and quality of mediation. Several attorneys mention that the drawback to mediation is the added expense without any guarantee of results. One person notes that arbitration seems to be a more productive approach. Others mention that mediation saves time and money and gives the client a feeling of having his "day in court." One attorney states that "mediation is what many litigants want, but don't know it" in the sense that they are looking for "justice" and often a trial does not provide that. Another attorney comments that mediation usually happens when cases are "flawed," because if a client has a strong case, he is not willing to give up anything to settle and would feel that mediation is a waste of time.

Several attorneys mention the importance of preparation; mediators should be properly trained and be prepared as to the facts and the law in the case, and attorneys should know what to expect in order to prepare their clients. Also, mediators need to take a definitive stand on the law and not just run offers between the parties. One attorney does not think that the participation of attorneys in dissolution mediation is helpful. Other comments include using mediation in appellate cases, bringing in mediation one month before trial, which gives the parties time to know the case and assess their risks, using mediation as a form of client control, acceptance and

merging of attorney and non-attorney mediators, state funding of mediation programs such as filing of surcharge, evaluation of mediators after the session, and addressing different styles of mediation prior to the mediation.

7. Summary. Overall the attorneys' who responded to the questionnaire had very positive opinions of their last ADR case and mediation in general. It is not possible to generalize these very positive opinions about ADR in Iowa to all attorneys in the state for three reasons. One, the sample of attorneys asked their opinion is not a random sample of all attorneys in Iowa. Two, the names and addresses of the attorneys were supplied by the programs themselves and the NCSC was not able to verify that the sample was representative. Three, fewer than half of all attorneys who were mailed questionnaires responded. For these reasons it is not possible to extrapolate specific findings from the data. It is conceivable that the 45 attorneys who responded to the questionnaire are a biased sample. Perhaps only those attorneys with positive ADR experiences completed and sent back their questionnaires.

C. Impact of ADR on the Courts

As part of its evaluation of the eight ADR programs, NCSC collected data on how the courts process cases and examined a random sample of ADR and non-ADR cases to determine what impact, if any, the mediation programs have had on the time it takes to process a case through the court system.¹

1. Days elapsed between case filing and disposition. One way to assess the impact of ADR is to compare ADR and non-ADR cases on the days elapsed between case filing and disposition. Tables 2 through 7 below show the results of this analysis in three categories: (a) all cases (Tables 2 and 3), (b) small claims cases (Tables 4 and 5), and (c) family cases (Tables 6 and 7).

To interpret the percentiles: In Table 2, at least one of the 60 cases examined was disposed of within 30 days after the case was filed. This was the shortest elapsed time between case filing and disposition. Twenty five percent of the cases were disposed of within 78 days, etc. The average (mean) elapsed time between filing and disposition in ADR cases was 140 days.

¹ A description of the data collection effort is found in Section III of this report. The balance of the analysis of this data is included in Appendix F.

Table 2—All Cases**Number of Days Elapsed Between Case Filing and Disposition in ADR Cases (N = 60)**

Description	Number of Days
Case with the shortest elapsed time	30
25 th Percentile	78
50 th Percentile	118
75 th Percentile	200
90 th Percentile	238
Case with longest elapsed time	416
Average case (Mean)	140

Table 3—All Cases**Number of Days Elapsed Between Case Filing and Disposition in Non-ADR Cases (N = 72)**

Description	Number of Days
Case with the shortest elapsed time	0
25 th Percentile	54
50 th Percentile	100
75 th Percentile	179
90 th Percentile	346
Case with longest elapsed time	769
Average case (Mean)	144

Table 4—Small Claims Cases**Number of Days Elapsed Between Case Filing and Disposition in ADR Cases (N = 37)**

Description	Number of Days
Case with the shortest elapsed time	30
25 th Percentile	68
50 th Percentile	96
75 th Percentile	125
90 th Percentile	178
Case with longest elapsed time	322
Average case (Mean)	106

Table 5—Small Claims Cases**Number of Days Elapsed Between Case Filing and Disposition in Non-ADR Cases (N = 40)**

Description	Number of Days
Case with the shortest elapsed time	0
25 th Percentile	54
50 th Percentile	74
75 th Percentile	114
90 th Percentile	180
Case with longest elapsed time	353
Average case (Mean)	91

Table 6—Family Law Cases**Number of Days Elapsed Between Case Filing and Disposition in ADR Cases (N = 22)**

Description	Number of Days
Case with the shortest elapsed time	51
25 th Percentile	146
50 th Percentile	198
75 th Percentile	224
90 th Percentile	254
Case with longest elapsed time	282
Average case (Mean)	185

Table 7—Family Law**Number of Days Elapsed Between Case Filing and Disposition in Non-ADR Cases (N = 32)**

Description	Number of Days
Case with the shortest elapsed time	0
25 th Percentile	94
50 th Percentile	144
75 th Percentile	236
90 th Percentile	623
Case with longest elapsed time	769
Average case (Mean)	210

The data in Tables 2-7 can be summarized by answering the following three questions:

1. *Is there a statistically significant difference between the ADR and Non-ADR cases in the elapsed days between filing and disposition?* No

N = 59 pairs (p = .661)

Average number of elapsed days for the ADR cases: 135 Days

Average number of elapsed days for the Non-ADR cases: 128 Days

2. *Is there a statistically significant difference between the Small Claims ADR and Non-ADR cases in the elapsed days between filing and disposition?* No

N = 37 pairs ($p = .386$)

Average number of elapsed days for the ADR cases: 106 Days

Average number of elapsed days for the Non-ADR cases: 93 Days

3. *Is there a statistically significant difference between the Family ADR and Non-ADR cases in the elapsed days between filing and disposition?* No

N = 22 pairs ($p = .974$)

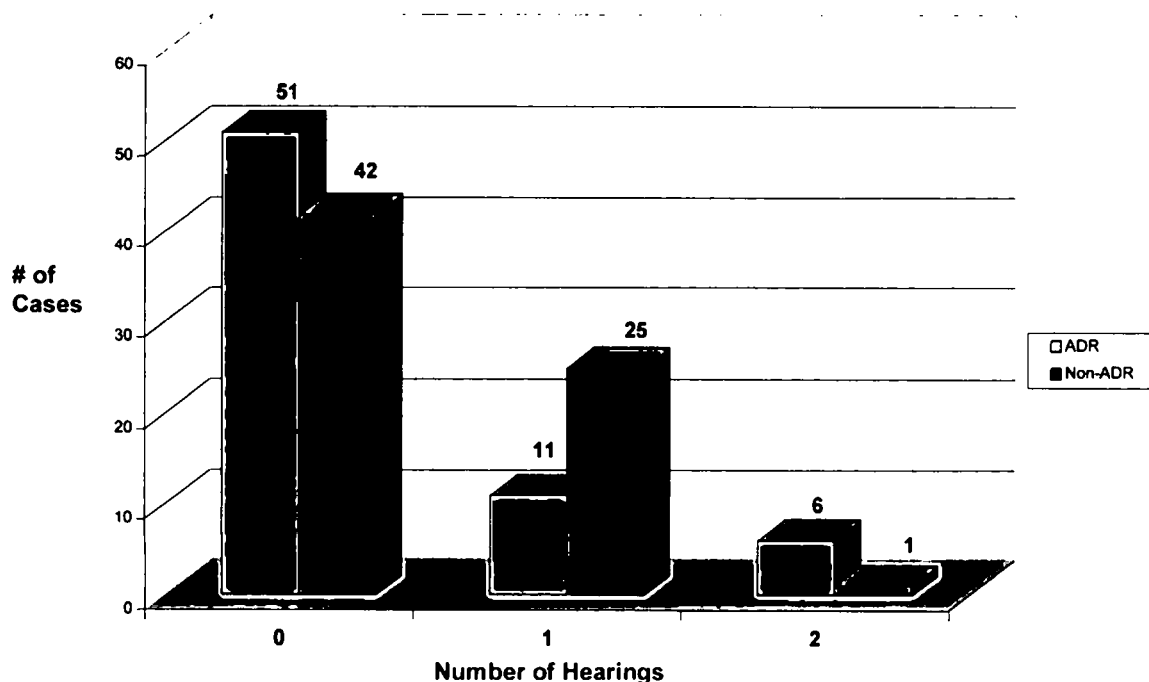
Average number of elapsed days for the ADR cases: 185 Days

Average number of elapsed days for the Non-ADR cases: 186 Days

2. **Amount of court time needed for ADR and non-ADR cases.** The data collected also permitted an analysis of the number of hearings, motions, and pre-trial conferences in ADR and non-ADR cases. While results suggest no differences in the number of hearings and motions, there were significantly fewer pretrial conferences in the ADR cases than in the non-ADR cases. These results are included in Figures 23- 25 below.

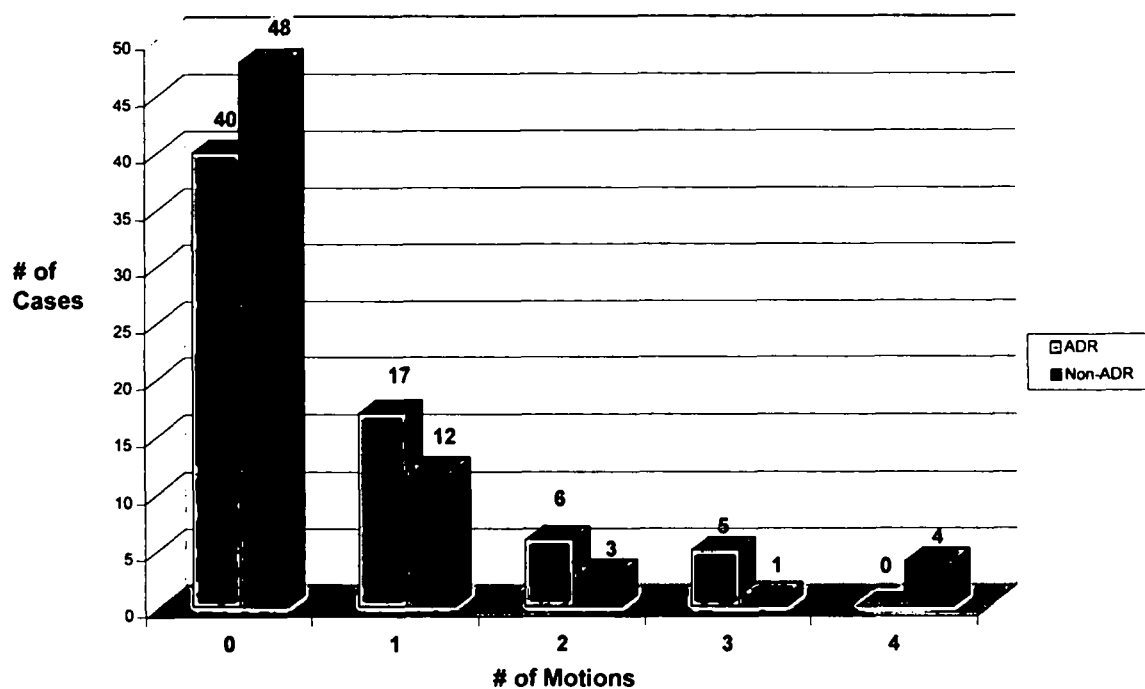
Is there a statistically significant difference between the number of hearings for ADR and Non-ADR cases? No

Figure 23—Comparison of Number of Hearings



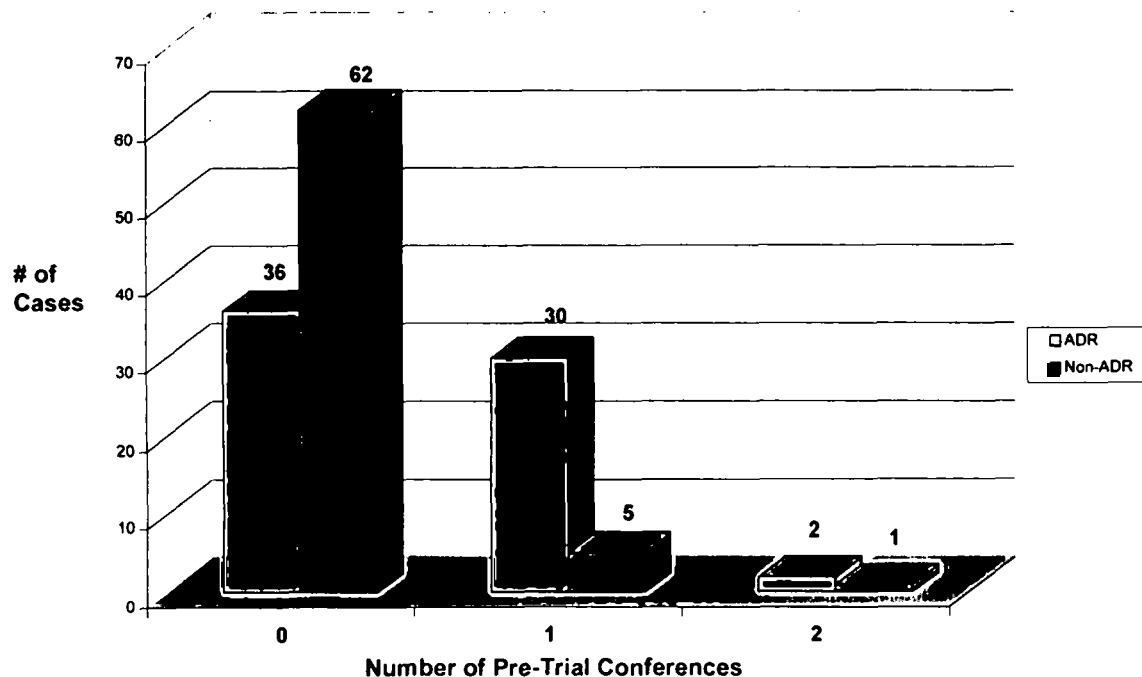
Is there a statistically significant difference between the number of motions for ADR and Non-ADR cases? No

Figure 24—Comparison of Number of Motions



Is there a statistically significant difference between the number of pre-trial conferences for ADR and Non-ADR cases? Yes

Figure 25—Comparison of Number of Pre-Trial Conferences



VI. THE FUTURE OF ADR IN IOWA

Based on the site visits and the data collected, the NCSC staff believes the Iowa Supreme Court has made a good effort in the development of ADR in the state, through the funding provided by grants from the Court Technology Fund. The supreme court has supported a broad range of mediation programs, which have taken different approaches to the development of ADR in the courts, and which enjoy differing levels of court support. This great variety of programs represents an excellent beginning. This section of the report reviews some of the outcomes of the different approaches to ADR development, and outlines options which the supreme court may wish to consider in its planning for the future of ADR in the state.

A. Statewide vs. Local Development

While the grant funds that support the development of ADR have been provided by the supreme court, the driving force for the design and implementation of the ADR programs has come from the local level, in many instances from individuals and organizations outside the court. A significant issue in the future will be the role of the supreme court in the continued development of ADR. Should the supreme court take an active role to develop a comprehensive statewide ADR effort or should the development of ADR continue to be shaped by the individual local programs?

There are several advantages to the “local control” approach to ADR development currently adopted by the supreme court. Most significantly, the individual programs have greater flexibility and can be designed to meet the needs and conditions of each locality. The importance of this advantage is demonstrated by the fact that the eight programs that were evaluated offer such different approaches to ADR, presumably in response to local requirements and circumstances. In addition, a program that is planned and implemented at the local level often creates greater local interest and ownership in the program and may increase the program’s success. In fact, many of the programs have established local advisory committees to assist in the design and development of the program.

At the same time, there are some disadvantages to a statewide ADR effort that is driven almost entirely by local programs. One disadvantage is that, in the absence of statewide policies and standards, ADR development may proceed in a fractured fashion with a lack of consistency

between programs, courts or judicial districts. In addition, the opportunities for information sharing between the programs are limited. Programs will not benefit from the experience of others who are also working on the development of ADR.

As the use of ADR increases in the state, the supreme court may want to reexamine its historic approach as a relatively “hands-off” grantor and assume an expanded role in the development of ADR. This new direction could take many forms, including:

Possible New Supreme Court Roles in the Future of ADR in Iowa
<ul style="list-style-type: none">• Modify the grant criteria• Develop mechanisms for the programs to share information and lessons learned from their experiences• Expand the role of the current supreme court liaison or create a new position of Statewide ADR Director to implement the court’s new direction• Coordinate with other statewide ADR efforts• Educate judges about ADR, increase judicial support and ownership for ADR programs, and actively encourage judges to support ADR• Develop long term funding for ADR that is not dependent on annual grant cycles• Suggest software enhancements to the courts’ computer system to assure that ADR cases can be tracked to determine the impact of ADR on the courts’ dockets• Create a statewide strategic plan for the future of ADR in Iowa• support new ADR legislation which authorizes judges to order all types of disputes (not just domestic) to any type of ADR (not just mediation)• develop and enforce statewide standards for all court-related ADR programs

Each of these possible roles is discussed briefly below.

B. Modifying The Grant Guidelines

The design and implementation of any ADR program, particularly one that offers mediation, generally involves many different issues, including some or all of the following:

Select Issues in ADR Program Design, Implementation and Operation

- (a) Assessment of local needs, which will determine what type of program is needed (e.g., is the problem user satisfaction with the litigation process, court congestion, the expense of litigation, etc.)
 - (b) Identification of project goals: what is the purpose of the program, what does it expect to accomplish and how will it know whether the goals have been met; the goals should be directly related to the local needs.
 - (c) The program's relationship to the court: will the court run the program; if not, what accountability is there to the court; how will the court monitor and make changes to the program (if necessary)
 - (d) Types of ADR to be offered: mediation, arbitration, early neutral evaluation, multi-door courthouse, etc.
 - (e) Will ADR be mandatory vs. voluntary; voluntary programs are generally not widely used; if mandatory, will there be exceptions and an "opt out" procedure
 - (f) Court referral of cases to ADR: how will cases be selected for ADR: on a case-by-case basis (which requires more work for judges and staff) vs. automatic referrals for certain categories of cases
 - (g) funding: what money is needed (for mediators, administration, etc.); where will money come from (grant, court budget, local agencies, etc.); will parties be required to pay for ADR services
 - (h) local buy-in for the program; obtaining support of necessary groups: judges, court staff, bar, public; what education efforts will be required; use of local task forces to set policy and procedures and to monitor and evaluate program
 - (i) qualifications, training, evaluation, compensation and support of mediators (including whether a long term program can be successful with volunteer mediators)
 - (j) the role of the court in assuring quality mediation; does the court have a greater role if the process is mandatory; should the court be certifying and policing ADR providers, or delegating this to a private organization, or will caveat emptor apply; will the court participate in the establishment of policies and procedures for the program
 - (k) types of information and statistics to be maintained for the program and the use of the data: information may include disposition time, disposition rates, litigant costs, court costs, perceived fairness, user satisfaction, ADR provider performance; will it permit monitoring of the performance of the program and evaluation of progress on program objectives
 - (l) other issues of program administration, including space for mediation, scheduling, intake to assure inappropriate cases are not mediated, record keeping, feedback to the court, the ongoing processes for improving the program
-

The supreme court's current guidelines for funding ADR projects through the Court Technology Fund (see pages 4-5 above) address many of the issues that should be considered in designing and implementing a local ADR program. There are, however, several areas where additions might be added to the guidelines.

1. Program objectives. All the projects that received funding submitted detailed program objectives as part of their grant applications. However, the objectives were not always clearly related to local needs, long-term program goals or to court-related ADR. Often the goals and objectives appeared to have been developed without strong court involvement or knowledge (see below). In addition, the relationship between the objectives and the program's long term goals was not always clear. For example, increasing public awareness of a program by sending flyers or printing brochures may be an important objective, but unless it is specifically linked to a court-sanctioned program goal, it is difficult to determine whether the specific objective is consistent with the overall court-related ADR program priorities. This issue could be addressed by (a) encouraging court involvement in the establishment of long-term program goals and (b) amending the grant criteria to require grantees to demonstrate how their specific one-year objectives relate to measurable long-term goals.

2. Cooperative efforts between grantees and courts. All of the programs evaluated demonstrated some relationship with the court, as required by the grant criteria. Three of the programs are actually run by court staff. The other five programs, however, are operated by private, non-profit organizations and, in many instances, the relationship between the court and the program could be stronger.

While all judges and court staff interviewed were aware of the existence of the program, the amount of court ownership in the programs varies considerably. At least one program has specific advisory councils for each of its court-related programs, and court staff participate on these committees. However, most of the non-profits have only general advisory boards (which address all the organization's programs) and judicial representatives are not always included.

The NCSC staff believes that the single greatest obstacle to the expanded development of court-related ADR programs is the absence of active judicial involvement and ownership of the programs. For example, several of the family mediation programs which had a close working relationship with the court, offered mediation information during educational sessions which divorcing parents are required to attend. Other programs, which did not work closely with the court, were not even aware that the classes were offered or that mediation might easily be incorporated into the curriculum.

The supreme court may want to modify its grant criteria to address the issue of cooperation between the program and the court. At the same time, there are a number of efforts

which the court could undertake (which don't necessarily involve the granting process) to strengthen court commitment to ADR. Some of these efforts are described later in this section.

3. Criteria for project review. All of the programs that received grants from the Court Technology Fund included in their grant applications, criteria by which their projects were to be reviewed. However, the review criteria were not often linked to specific long-term court-related ADR goals. In addition, the quality of the data collection efforts differs greatly between programs, and the record keeping of most programs is not coordinated with the court's computer system. This may be due to the fact that there are no ADR "flags" in the court's statewide computer system (see discussion below), but even those courts which cooperate closely with the mediation programs did not track or maintain records of that information. The supreme court may want to explore modifying the grant criteria to include recommendations about what types of program reports should be available to the courts.

C. Information Sharing Among Programs

One simple way to strengthen and expand court-related ADR is to assure that the pilot programs have an opportunity to benefit from the mistakes and successes of other programs. There are several ways this might be accomplished. First, the role of the supreme court liaison could be expanded to provide for the exchange of information through the supreme court office. For example, several of the programs participate in the mandatory parenting classes to make court litigants aware of the family mediation program. A full-time ADR coordinator could assure that this approach was considered by all family mediation projects and could also serve as a conduit to permit programs to share materials, videos or other information that they use for public presentations.

An additional mechanism that might be considered is periodic meetings of grantees (and possibly of other non-grant ADR program directors). These meetings would permit grantees to share ideas about what works and what doesn't in court-related ADR. These meetings could be mandatory or voluntary, with some sort of incentive attached to entice the programs to attend. Invitees could be surveyed to determine specific areas of expertise that they can contribute to the gatherings and to obtain feedback about issues they would like to see addressed.

D. Statewide ADR Director

The ADR-related portion of the job of the supreme court liaison is currently limited to directing the grant application process. This role could be expanded significantly (or a new Statewide ADR Director position could be established) to provide coordination of the ADR effort at the state level. As noted above, one contribution of the ADR Director would be as a resource for programs and a conduit of information to permit programs to learn from each other's successes and failures. In addition, the ADR director could provide technical assistance to new and existing local programs, and assure a level of continuity in the statewide ADR program.

E. Coordination With Other Statewide Efforts

Based on information collected by NCSC staff during the site visits, there appear to be a number of groups in Iowa that have undertaken efforts related to dispute resolution. For example, Governor Brandstad convened a Marriage and Divorce Reform Task Force in 1997, which recommended in its recent report that courts should attempt to lessen the adversarial nature of divorce by requiring couples to mediate before they litigate. One step that could be taken to expand court-related ADR in the state is to identify those groups working on dispute resolution and coordinate efforts with them, to the extent that their efforts are relevant to the development of ADR in the courts.

F. Increasing Judicial Support /Institutionalizing Court-Related ADR

While the ADR programs funded by the supreme court have clearly had an impact, the extent of the programs' impact on the courts has been relatively minor, in comparison to the court's overall caseload. One reason for this may be that court-related ADR is still relatively new and many of the programs are still at the pilot project stage.

Another reason for the limited impact of the ADR programs on courts may be that the programs have not, for the most part, been institutionalized as part of the statewide court system. Most programs are operated by non-court agencies. Judges and court staff often have only limited knowledge of (and little ownership in) the program's activities. Judges who want to use ADR must take on additional tasks to review a case for ADR. Judges who aren't familiar with the value of ADR have no incentive to consider its use or to explore when it might enhance the

services offered by the court. In addition, most courts do not maintain, as part of their statistics on court cases, information on cases that go to ADR and the statewide computer program has no ADR-related “flags”. As a result, judges generally receive no court reports on ADR as part of their standard statistical reporting, and cannot therefore assess its utility or impact on the court.

The supreme court may wish to actively endorse the use of ADR in the court system, through public statements and by adopting other suggestions that are contained in this section of the report. For example, modifying the court’s computer system to include data about ADR, education of judges and court staff would also be valuable. In addition, encouraging judicial districts or individual courts to include ADR in their long term planning would assure that the use of ADR was considered in all courts in the state.

G. Long Term Funding for ADR

Many of the programs expressed concern regarding the funding of ADR, particularly the sources of funding and the duration. Because many of the programs’ funds depend on annual grant cycles, the program can not make long term commitments to staff and find it more difficult to hire qualified individuals.

Another concern is with the sources of funding. The supreme court’s grant criteria place an emphasis on the importance of matching funds, other sources of income for the programs, and the program’s plan to function eventually without grant funds. One method to deal with this issue is to support the program with fees charged for the ADR services. Some states have increased filing fees. This issue will need to be addressed as the use of ADR increases in the state.

H. Computerized Tracking of ADR

As noted above, the court’s statewide computer system contains no method that would permit local courts to track ADR cases. Additionally, local courts that want to collect data are not sure how they should view the ADR cases and what information they should collect. The determination about what data to collect must be formed by the specific objectives for the individual programs and the state. For example, if the objective is greater user satisfaction, a user survey will determine whether the program is on track. However, if the objectives include saving court time, the data collection effort will be very different. The supreme court may want to examine this issue on a statewide basis and provide assistance to local courts, in conjunction

with the development or clarification of statewide and local objectives.

I. Statewide Strategic Plan for ADR

One suggestion that was made by several programs was the development of a statewide strategic plan for ADR. This might require the expansion of the court's current efforts to an even broader range of pilot programs (to include not only mediation, but also arbitration, neutral evaluation, multi-door courthouses, etc.) and an exploration of the use of ADR not just in family and small claims cases but also in civil cases.

J. ADR Legislation

Several judges expressed concern over the limits on their authority to order ADR. Under existing statutes, judges are clearly authorized to require mediation in domestic cases. The supreme court may want to consider supporting legislation that authorizes judges to order all types of ADR in more types of cases.

K. Statewide Standards for ADR

Much of the discussion about the future of ADR has assumed that the supreme court will continue with its original course of action and that the development of ADR will be directed primarily by the local programs. If the supreme court elects to take a more proactive role and guide the development of ADR "from the top down, rather than the bottom up", there are a number of avenues available.

The court may, for example, want to explore the use of mandatory ADR for certain classes of cases. Some ADR policies and procedures could also be centralized, including standards for mediator qualifications and procedures for permitting parties to "opt out" of mandatory programs where mediation was inappropriate. This approach would not necessarily deny local programs either local control or flexibility, but might provide greater assurances of quality control for these court-related processes.



APPENDICES

Appendix A
Names and Addresses of Projects Evaluated

Center for Creative Justice
210 Lynn Avenue
Ames, Iowa 50014

Sixth Judicial District Family Mediation
P.O. Box 3244
Iowa City, Iowa 52244

Polk County Bar Association
521 E. Locust, Suite 301
Des Moines, Iowa 50309

The Community Mediation Center, Inc.
The Cottage, 1202 West Third Street
Davenport, Iowa 52802

North Iowa Dispute Settlement Center
Cerro Gordo County Courthouse
220 N. Washington
Mason City, Iowa 50401

Black Hawk County Mediation
(Retired and Senior Volunteer Program)
2101 Kimball Ave., Suite 121
Waterloo, Iowa 50702

Linn County Small Claims Court
Mediation Project
Linn County Courthouse
P.O. Box 5488
Cedar Rapids, Iowa 5406

Johnson County Small Claims
Mediation Program
500 S. Dubuque St.
P.O. Box 3244
Iowa City, Iowa 52244

Appendix B

Program Director Interview Form

PROGRAM DIRECTOR INTERVIEW

1. Name of Program:
2. Name of Interviewee:
3. Position:
4. Type of ADR: Mediation Arbitration Case Evaluation
5. Types of cases referred to program:
6. Are there cases you will not mediate? Yes No
If yes, what kind of cases?
7. What is the average total length of an ADR session?
8. How long has the program been in place?
9. What are the goals of your program?
10. Are the parties charged for ADR? Yes No
If yes, how much?
11. Are all your cases also court cases? Yes No
If not, what percentage are court cases?
12. How are cases directed to your program?
13. Is ADR mandatory for these cases? Yes No
If mandatory, at what point will the judge order ADR?
Complaint Filed
Response Filed
Possible Pretrial Hearing (Scheduling or Status)
Discovery Deadline
Motions Deadline
Possible Pretrial Hearing (Status or Judicial Settlement)
Trial
14. If ADR is voluntary, at what point(s) in the process can ADR be inserted?
Complaint Filed
Response Filed
Possible Pretrial Hearing (Scheduling or Status)
Discovery Deadline
Motions Deadline
Possible Pretrial Hearing (Status or Judicial Settlement)
Trial
15. If voluntary, is there a deadline for requesting ADR? Yes No
If yes, what is it?
16. Is judicial approval required for rescheduling of ADR conferences? Yes No

17. How much judicial oversight is provided?
18. Who are your mediators and what are their qualifications?
19. Does your program require or conduct any special training, either initially or continuing education, for the mediators? Yes No
If yes, describe.
20. Are all your mediators paid? Yes No
If yes, who pays them?
21. What is the range of mediator pay?
22. What is the amount of money received from Court Technology Fund in the 1996 funding cycle?
23. How was the money spent?
24. Was the money spent differently than proposed?
25. What are the sources and amounts of funding for the program in the 1996 funding cycle:
Percentage from Court Technology Fund:
26. Does the total amount include volunteer or in-kind contributions? Yes No
If yes, describe.
27. Are volunteer or in-kind contributions a significant part of your funding? Yes No
If yes, describe.
28. Does your program submit periodic reports to anyone? Yes No
If yes, describe. (Can we have a copy?)
29. Do you conduct exit interviews? Yes No
If yes, can we have a copy?
30. Do you conduct user satisfaction surveys? Yes No
If yes, can we have a copy?
31. Have you collected and/or analyzed any data on the efficiency or effectiveness of the ADR program, including user satisfaction or resolution rate statistics? Yes No
If yes, describe.
32. Are there statutes or court rules that govern ADR? Yes No
If yes, what are they?
33. Do you have sufficient program staff to handle the ADR case volume that comes in your door?
34. What works in your program?
35. What doesn't work in your program?
36. What could improve the efficiency and effectiveness of your ADR program?
37. Do you have any other comments you think would be helpful in evaluating the effectiveness and quality of mediation

Appendix C

Court Data Collection Form

COURT DATA COLLECTION FORM

1. Court:
2. Name of Informant: Position:
3. What is the total number of filings in your court for 1996?
4. What are the types of cases referred to ADR?
5. What is the total number of filings in your court for 1996 for these case types?
6. How many cases used ADR services from January 1, 1997 to September 30, 1997?
7. How many of these cases were disposed of (without judicial intervention) by December 1, 1997?
Do you have more detailed information?
 - Number disposed of before ADR conference:
 - Number disposed of during (day of) ADR conference:
 - Number disposed of within 1 month of ADR conference:
 - Number disposed of more than 1 month from ADR conference:
8. When did your court begin offering ADR services?
9. Is ADR mandatory for some casetypes? Yes No
If mandatory, at what point will the judge order ADR?
 - Complaint Filed
 - Response Filed
 - Possible Pretrial Hearing (Scheduling or Status)
 - Discovery Deadline
 - Motions Deadline
 - Possible Pretrial Hearing (Status or Judicial Settlement)
 - Trial
10. If ADR is voluntary, at what point(s) in the process can ADR be inserted?
 - Complaint Filed
 - Response Filed
 - Possible Pretrial Hearing (Scheduling or Status)
 - Discovery Deadline
 - Motions Deadline
 - Possible Pretrial Hearing (Status or Judicial Settlement)
 - Trial
11. If voluntary, is there a deadline for requesting ADR? Yes No
If yes, what is it?
12. Are there cases that you will not refer to ADR? Yes No
If yes, what kind of cases?
13. Are court referrals to ADR on a case by case basis or by category?
14. Who are the ADR service providers in your jurisdiction?
15. How are cases distributed among the service providers?

16. Are the ADR service providers "approved"? Yes No
If yes, by whom and what standards are used?
17. Is judicial approval required for rescheduling of ADR conferences? Yes No
18. How much judicial oversight is provided?
19. Are there statutes or court rules that govern ADR? Yes No
If yes, what are they?
20. What works in the ADR programs your court uses?
21. What doesn't work in the ADR programs your court uses?
22. What could improve the efficiency and effectiveness of the ADR programs your court uses?
23. Do you have any other comments you think would be helpful in evaluating the effectiveness and quality of mediation?

Appendix D

Attorney Questionnaire

ATTORNEY QUESTIONNAIRE

1. How many ADR cases have you participated in as an attorney during 1997? _____

2. Do you also offer ADR services? (1)Yes (2)No

Please answer the following questions in relation to your last case which went to ADR and you participated as an attorney.

3. Did you represent the plaintiff or the defendant in this case?

(1)Plaintiff (2)Defendant

4. The mediator for this case was selected by:

(1)Parties/Attorneys (2)Court/Judge

5. Name of the mediation program: _____

1-strongly disagree

2-disagree

3-not sure

4-agree

5-strongly agree

6. Do you think the mediator in this case:

a) gave you a full opportunity
to convey your client's interests?

1 2 3 4 5

b) was impartial?

1 2 3 4 5

c) understood the issues
in this case?

1 2 3 4 5

d) was knowledgeable about the
law relative to the case?

1 2 3 4 5

7. Do you think mediation in this case
saved money?

1 2 3 4 5

8. Would you consider mediation for
other matters?

1 2 3 4 5

9. What impact did mediation have on this case? (circle only one)

- a) settled the case
- b) settled some of the issues
- c) clarified positions
- d) moved the case significantly toward settlement
- e) other

10. At what stage in the case did the mediation session take place (circle all that apply)

- a) Before any discovery
- b) After interrogatories and document production
- c) Before depositions
- d) After depositions
- e) After first trial date scheduled

11. Do you think this case was referred to mediation:

- a) Too early?
- b) At about the right time?
- c) Too late?

12. What suggestions do you have to improve the mediation program?

13. Please provide any other comments you think would be helpful in evaluating the
effectiveness and quality of mediation.

Appendix E

Data Collection Instruments for ADR and non-ADR Cases

- E1 Instructions for Filling Out the Data Collection Form for the Matched Pair Analysis
- E2 Data Collection Form for Matched Pair Analysis

Appendix E1

INSTRUCTIONS FOR FILLING OUT THE DATA COLLECTION FORM FOR THE MATCHED PAIR ANALYSIS

1. With the assistance of the NCSC project team choose a random sample of 20 ADR cases that were originally filed during the period from January 1, 1997 to June 30, 1997. Number the cases from 1 to 20.
2. Choose a match for each ADR case by going to the next non-ADR case in the files that matches the ADR case in (1) casetype (2) and amount of monetary demand category if applicable. Monetary demand categories are: (a) < \$1000, (b) \$1000 - \$5000, (c) \$5000 – 10,000, and (d) \$10,000 +. If all cases for that casetype have mandatory ADR, consult with the NCSC project team staff. Number these cases with the same number as their matched pair.
3. For each case, fill out a data collection form for matched pair analysis. You will have 40 forms when you're finished. There will be two numbers 1s, two number 2s, and so on.
4. The data collection form will be electronically scanned. Do not fold, staple, paper clip or otherwise mutilate. Please make no stray marks on the form. Use a black fiber tip pen to fill in the bubbles and the numbers

Appendix E2

Data Collection Form for Matched Pair Analysis



63873

DATA COLLECTION FORM FOR MATCHED PAIR ANALYSIS

Site

Please fill out with black ink, write numbers in block styleFor NCSC
use

ADR or Non-ADR

☐ ADR☐ NON-ADR

Number

0 1 2 3 4 5 6 7 8 9

Case Number _____

Casetype

☐ Small Claims☐ Family☐ Other inc. Community Mediation

Monetary Demand

☐ < \$1000☐ \$1000 - \$4999☐ \$5000 - \$9999☐ \$10,000 +

Date Case Filed

		/			/		
MON			DAY			YR	

If ADR case:

Date Case Referred

		/			/		
--	--	---	--	--	---	--	--

Date of 1st ADR Session

		/			/		
--	--	---	--	--	---	--	--

Date of 2nd ADR Session

		/			/		
--	--	---	--	--	---	--	--

Date of 3rd ADR Session

		/			/		
--	--	---	--	--	---	--	--

How Disposed

☐ Dismissed, Withdrawn☐ Settled☐ Trial☐ Not Yet Disposed

Date Case Disposed

		/			/		
--	--	---	--	--	---	--	--

Number of PreTrial Conferences

☐ 0 ☐ 1 ☐ 2 ☐ 3 ☐ 4+

Number of Hearings

☐ 0 ☐ 1 ☐ 2 ☐ 3 ☐ 4+

Number of Motions Filed

☐ 0 ☐ 1 ☐ 2 ☐ 3 ☐ 4+

Number of Post-Judgment Actions

☐ 0 ☐ 1 ☐ 2 ☐ 3 ☐ 4+

Appendix F

Analysis of Elapsed Times in ADR Cases

The purpose of the data analysis was to determine if cases that went through the ADR process were processed either faster or slower than the cases that did not go through ADR.

The planned study design called for 20 ADR cases paired with 20 non-ADR cases to be selected at each site. A decision was made to select cases that were filed in the first half of 1997 to allow them time to work their way through the system. Two of the sites, the Center for Creative Justice and the North Iowa Dispute Resolution Center, did not have 20 ADR cases filed in the first half of 1997, so their sample sizes were all the ADR cases that were filed.

In other sites, a random selection of 20 ADR cases were selected with guidance from the National Center for State Courts. Unfortunately, in four of the sites, cases filed after June 30, 1997 were selected and that data could not be used. The ADR cases were matched with a random selection of non-ADR cases for the characteristics of casetype, date of filing, and in the small claims cases, the amount of monetary demand. In cases where the casetype called for mandatory ADR, there would be no match in that year, and a match was found in a previous year.

A total of seventy three ADR cases and their matched pairs were available for analysis. Elapsed times were calculated for their number of days between:

ADR CASES

1. Filing and referral to ADR
2. Filing and 1st ADR session
3. Filing to disposition
4. Referral to ADR and 1st session
5. Referral to disposition
6. 1st ADR session to 2nd ADR session
7. 1st ADR session to disposition
8. Filing to date of data collection for open cases

NON-ADR CASES

1. Filing to disposition
2. Filing to date of data collection for open cases

The analysis of number of elapsed days from filing to disposition for ADR and their matched pair non-ADR cases was the only direct comparison that could be made. That analysis is included in the body of the report for each of the individual sites. What follows here and in Appendices G through M are the other elapsed times between the different stages of an ADR case for each of the sites.

CASE CHARACTERISTICS

Program, Court, Case Type, and Match Year

Program	Court	Case Type	Match Year	N
Linn County Small Claims	Linn County	Small Claims	94	5*
Johnson County Small Claims	Johnson County	Small Claims	94	5*
6 th District Family Mediation	Linn and Johnson Counties	Family	95	13*
Center for Creative Justice	Story County	Family	83 to 95	16 **
North Iowa Dispute Resolution Center	Mason County	Family/ Personal Injury	97	4**
Community Mediation Center	Davenport	Small Claims	97	10*
Retired/Senior Volunteer Program	Waterloo	Small Claims	97	20
Polk County Bar Association Mediation Project	Polk County	Mix	N/A	0***

* Half of the cases provided could not be used in the analysis because the cases were filed after June 30, 1997.

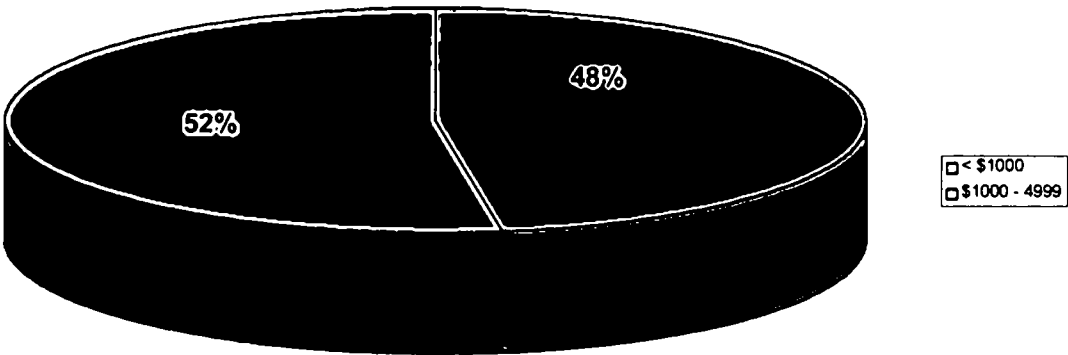
** Total number of ADR cases in 1997 (One case from Mason County was filed in 12/96).

*** No cases were analyzed from this site because of the relatively small amount of grant money received from the Iowa Supreme Court

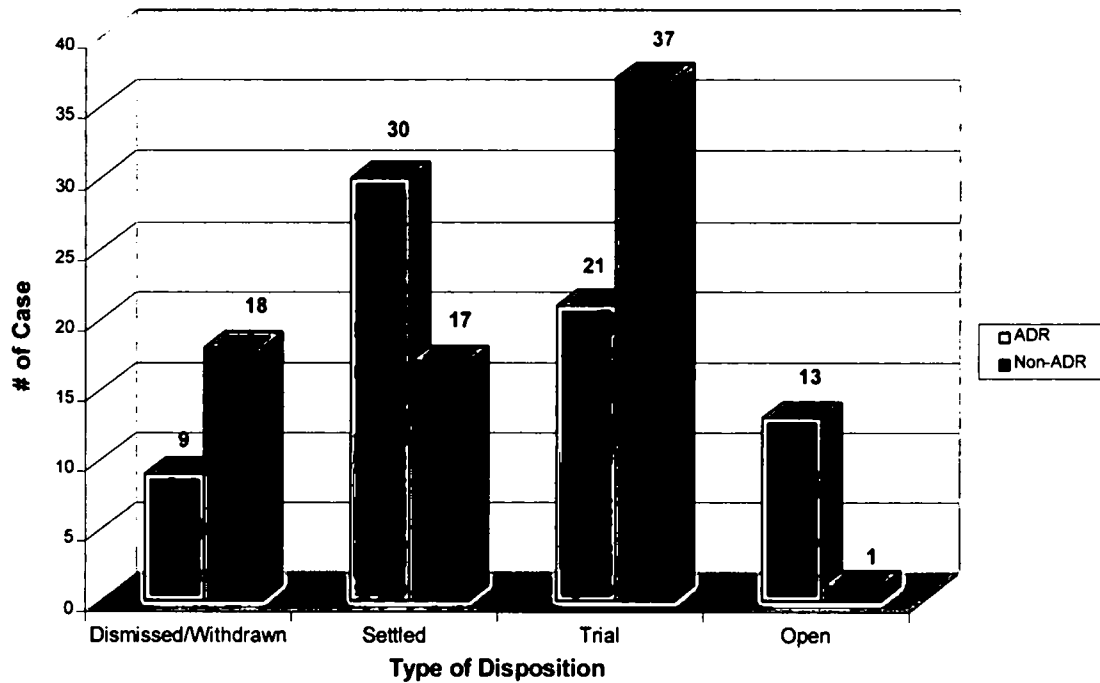
Casetype Of Matched Pairs (N = 73)



Monetary Demands in Small Claims Cases (N = 40)



Comparison of Type of Disposition



The difference in the number of open cases between ADR and Non-ADR cases are related to the fact that all the ADR cases were filed in 1997 and 39 of the Non-ADR cases were filed in earlier years.

How to interpret the percentiles: For example, in Table 1, 25% of the cases are referred on the same day the case is filed, 50% of the cases have been referred by 25 days, 75% of the cases have been referred by 80 days, and 90% of the cases have been referred by 156 days.

Table 1. All Cases
Number of Days Elapsed Between Case Filing and Case Referral to ADR (N = 73)

Description	Number of Days
Case with the shortest elapsed time	0
25th Percentile	0
50th Percentile	25
75th Percentile	80
90th Percentile	156
Case with longest elapsed time	295
Average case (Mean)	53

Table 2. All Cases
Number of Days Elapsed Between Case Filing and 1st ADR Session (N = 62)

Description	Number of Days
Case with the shortest elapsed time	19
25th Percentile	40
50th Percentile	55
75th Percentile	120
90th Percentile	187
Case with longest elapsed time	416
Average case (Mean)	86

Table 3. All Cases
Number of Days Elapsed Between Case Referral to ADR and 1st ADR Session (N=62)

Description	Number of Days
Case with the shortest elapsed time	0
25 th Percentile	13
50 th Percentile	26
75 th Percentile	50
90 th Percentile	115
Case with longest elapsed time	203
Average case (Mean)	40

Table 4. All Cases
Number of Days Elapsed Between Case Referral to ADR and Disposition (N = 60)

Description	Number of Days
Case with the shortest elapsed time	0
25 th Percentile	35
50 th Percentile	64
75 th Percentile	168
90 th Percentile	222
Case with longest elapsed time	285
Average case (Mean)	94

Table 5. All Cases
Number of Days Elapsed Between 1st and 2nd ADR Sessions (N = 6)

Description	Number of Days
Case with the shortest elapsed time	4
25th Percentile	6
50th Percentile	10
75th Percentile	38
90th Percentile	N/A
Case with longest elapsed time	49
Average case (Mean)	19

Table 6. All Cases
Number of Days Elapsed Between 1st ADR Session and Disposition (N = 52)

Description	Number of Days
Case with the shortest elapsed time	0
25th Percentile	8
50th Percentile	34
75th Percentile	75
90th Percentile	175
Case with longest elapsed time	285
Average case (Mean)	59

Table 7. All Cases
Number of Days Elapsed Between Case Filing and Data Collection for Open ADR Cases
(N=13)

Description	Number of Days
Case with the shortest elapsed time	216
25 th Percentile	260
50 th Percentile	297
75 th Percentile	356
90 th Percentile	384
Case with longest elapsed time	390
Average case (Mean)	304

Table 8. All Cases
Number of Days Elapsed Between Case Filing and Data Collection for Open Non-ADR
Cases (N = 1)

Description	Number of Days
Only case	412

Table 1. Small Claims
Number of Days Elapsed Between Case Filing and Case Referral to ADR (N = 40)

Description	Number of Days
Case with the shortest elapsed time	10
25 th Percentile	21
50 th Percentile	34
75 th Percentile	64
90 th Percentile	104
Case with longest elapsed time	141
Average case (Mean)	46

Table 2. Small Claims
Number of Days Elapsed Between Case Filing and 1st ADR Session (N = 38)

Description	Number of Days
Case with the shortest elapsed time	19
25th Percentile	37
50th Percentile	52
75th Percentile	92
90th Percentile	139
Case with longest elapsed time	144
Average case (Mean)	65

Table 3. Small Claims
Number of Days Elapsed Between Case Referral to ADR and 1st ADR Session (N = 38)

Description	Number of Days
Case with the shortest elapsed time	0
25th Percentile	7
50th Percentile	14
75th Percentile	28
90th Percentile	43
Case with longest elapsed time	123
Average case (Mean)	20

Table 4. Small Claims
Number of Days Elapsed Between Case Referral to ADR and Disposition (N = 37)

Description	Number of Days
Case with the shortest elapsed time	0
25th Percentile	21
50th Percentile	50
75th Percentile	77
90th Percentile	141
Case with longest elapsed time	285
Average case (Mean)	59

Table 5. Small Claims
Number of Days Elapsed Between 1st and 2nd ADR Sessions (N = 3)

Description	Number of Days
Case with the shortest elapsed time	14
25th Percentile	14
50th Percentile	35
75th Percentile	38
90th Percentile	N/A
Case with longest elapsed time	49
Average case (Mean)	33

Table 6. Small Claims
Number of Days Elapsed Between 1st ADR Session and Disposition (N = 35)

Description	Number of Days
Case with the shortest elapsed time	0
25th Percentile	8
50th Percentile	29
75th Percentile	54
90th Percentile	77
Case with longest elapsed time	285
Average case (Mean)	40

Table 7. Small Claims
Number of Days Elapsed Between Case Filing and Data Collection for Open ADR Cases
(N=3)

Description	Number of Days
Case with the shortest elapsed time	241
25th Percentile	241
50th Percentile	281
75th Percentile	N/A
90th Percentile	N/A
Case with longest elapsed time	300
Average case (Mean)	274

Table 8. Small Claims
Number of Days Elapsed Between Case Filing and Data Collection for Open Non-ADR
Cases

Description	Number of Days
No Cases	

**Table 1. Family
Number of Days Elapsed Between Case Filing and Case Referral to ADR (N = 32)**

Description	Number of Days
Case with the shortest elapsed time	0
25th Percentile	0
50th Percentile	0
75th Percentile	141
90th Percentile	179
Case with longest elapsed time	222
Average case (Mean)	55

**Table 2. Family
Number of Days Elapsed Between Case Filing and 1st ADR Session (N = 23)**

Description	Number of Days
Case with the shortest elapsed time	26
25th Percentile	46
50th Percentile	80
75th Percentile	168
90th Percentile	223
Case with longest elapsed time	238
Average case (Mean)	107

**Table 3. Family
Number of Days Elapsed Between Case Referral to ADR and 1st ADR Session (N = 23)**

Description	Number of Days
Case with the shortest elapsed time	6
25th Percentile	35
50th Percentile	51
75th Percentile	87
90th Percentile	168
Case with longest elapsed time	203
Average case (Mean)	71

**Table 4. Family
Number of Days Elapsed Between Case Referral to ADR and Disposition (N = 22)**

Description	Number of Days
Case with the shortest elapsed time	13
25th Percentile	59
50th Percentile	181
75th Percentile	217
90th Percentile	254
Case with longest elapsed time	282
Average case (Mean)	152

**Table 5. Family
Number of Days Elapsed Between 1st and 2nd ADR Sessions (N = 3)**

Description	Number of Days
Case with the shortest elapsed time	4
25th Percentile	4
50th Percentile	7
75th Percentile	N/A
90th Percentile	N/A
Case with longest elapsed time	7
Average case (Mean)	6

**Table 6. Family
Number of Days Elapsed Between 1st ADR Session and Disposition (N = 16)**

Description	Number of Days
Case with the shortest elapsed time	7
25th Percentile	38
50th Percentile	85
75th Percentile	168
90th Percentile	207
Case with longest elapsed time	247
Average case (Mean)	16

**Table 7. Family
Number of Days Elapsed Between Case Filing and Data Collection for Open ADR Cases
(N=10)**

Description	Number of Days
Case with the shortest elapsed time	216
25th Percentile	269
50th Percentile	322
75th Percentile	365
90th Percentile	388
Case with longest elapsed time	390
Average case (Mean)	314

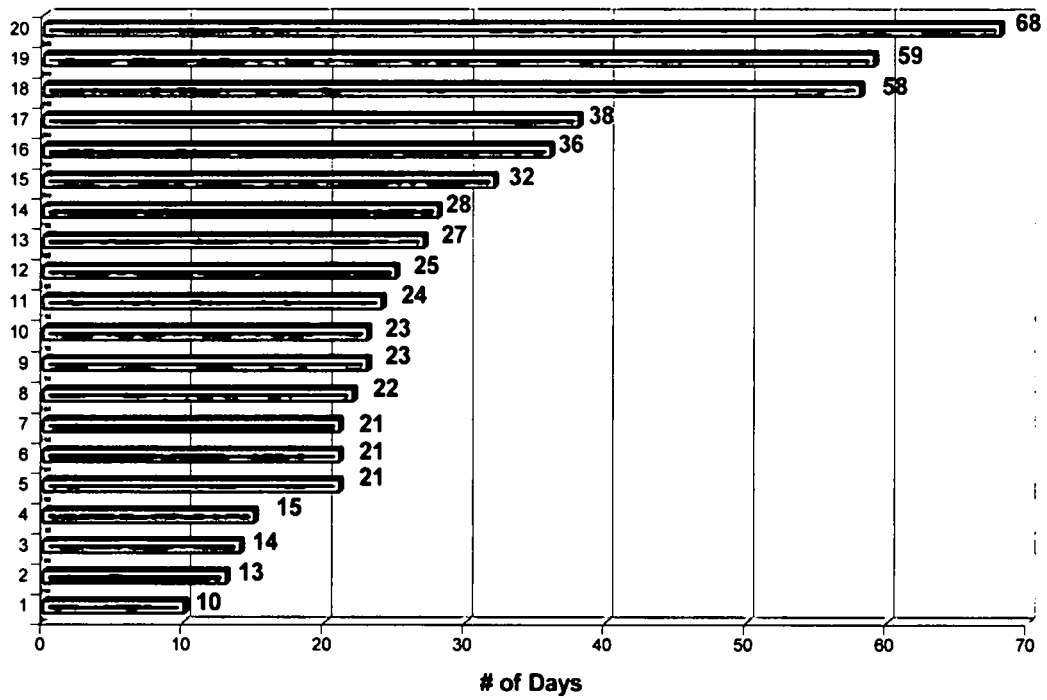
**Table 8. Family
Number of Days Elapsed Between Case Filing and Data Collection for Open Non-ADR
Cases**

Description	Number of Days
No cases	

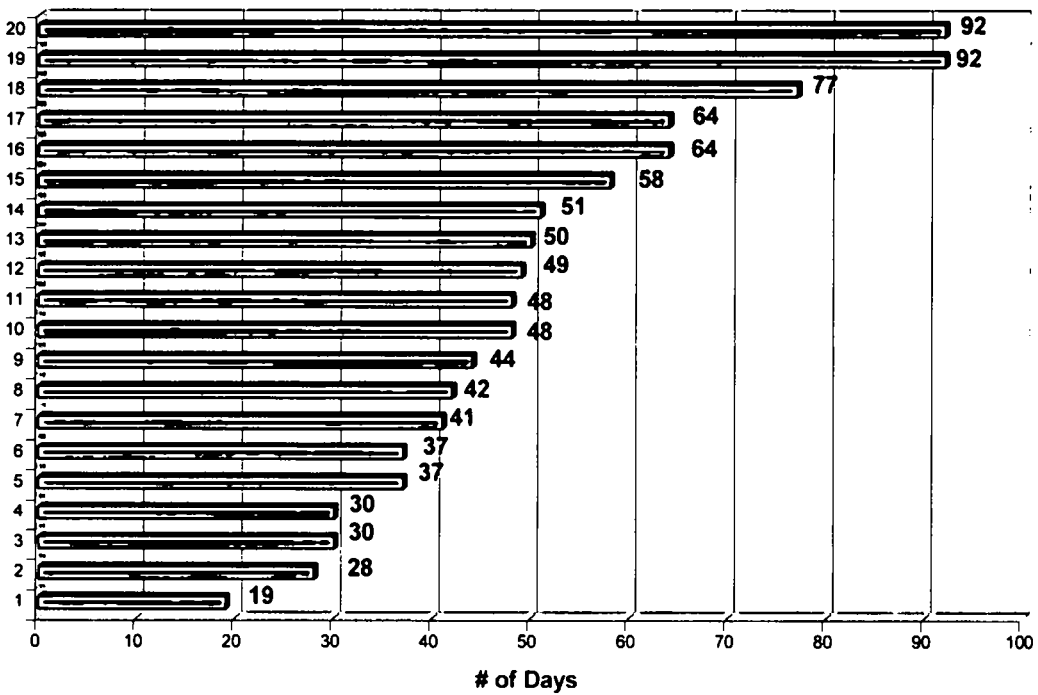
Appendix G

**Analysis of Other Data Collected
For the Retired Senior Volunteer Program of Black Hawk County**

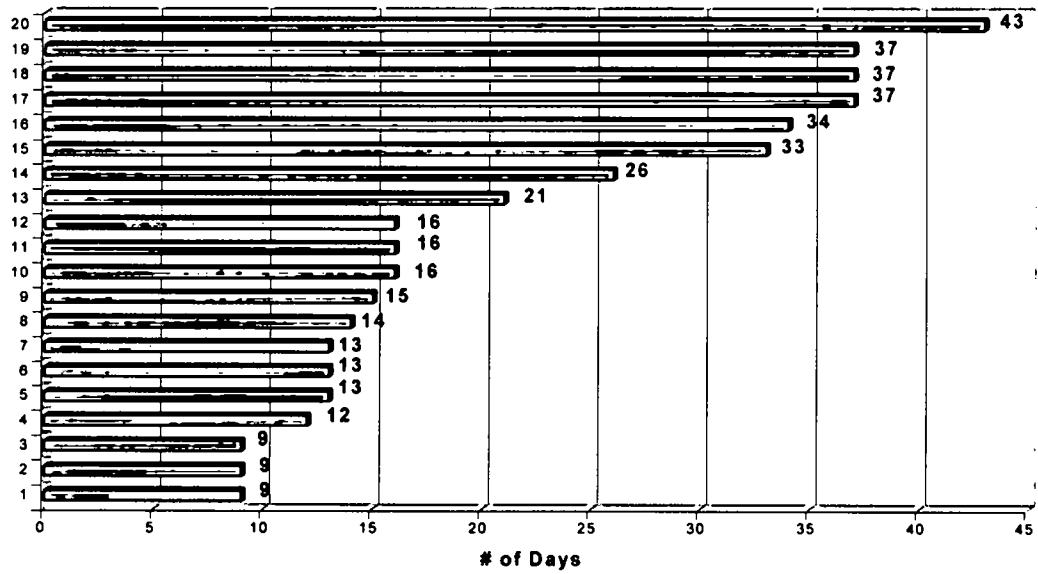
Days Elapsed Between Filing and Referral for ADR Cases



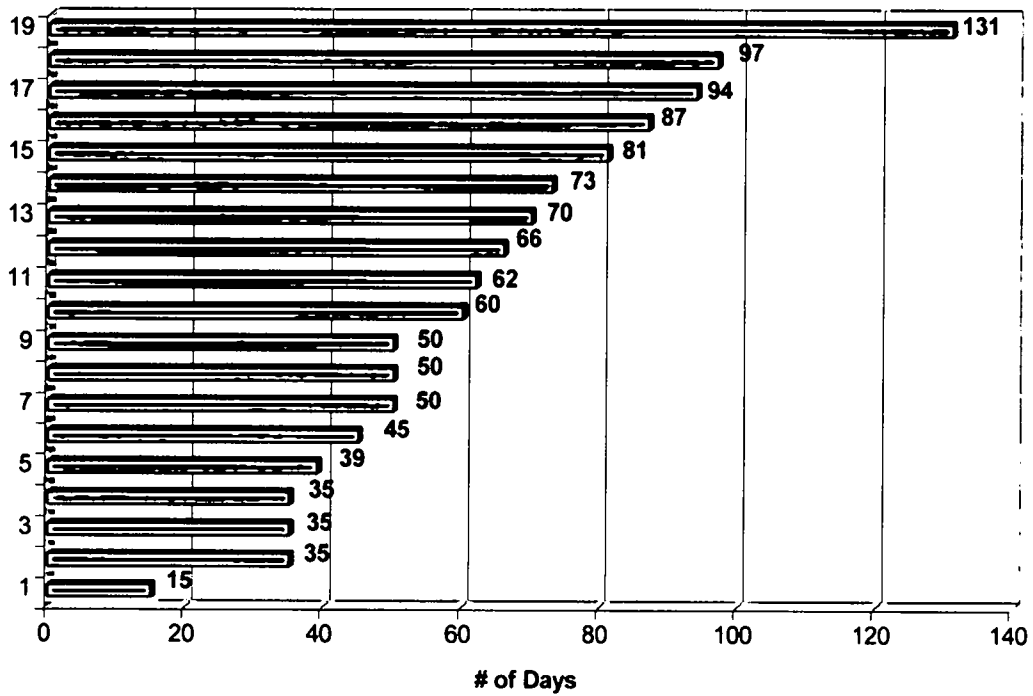
Days Elapsed Between Filing and 1st ADR Session



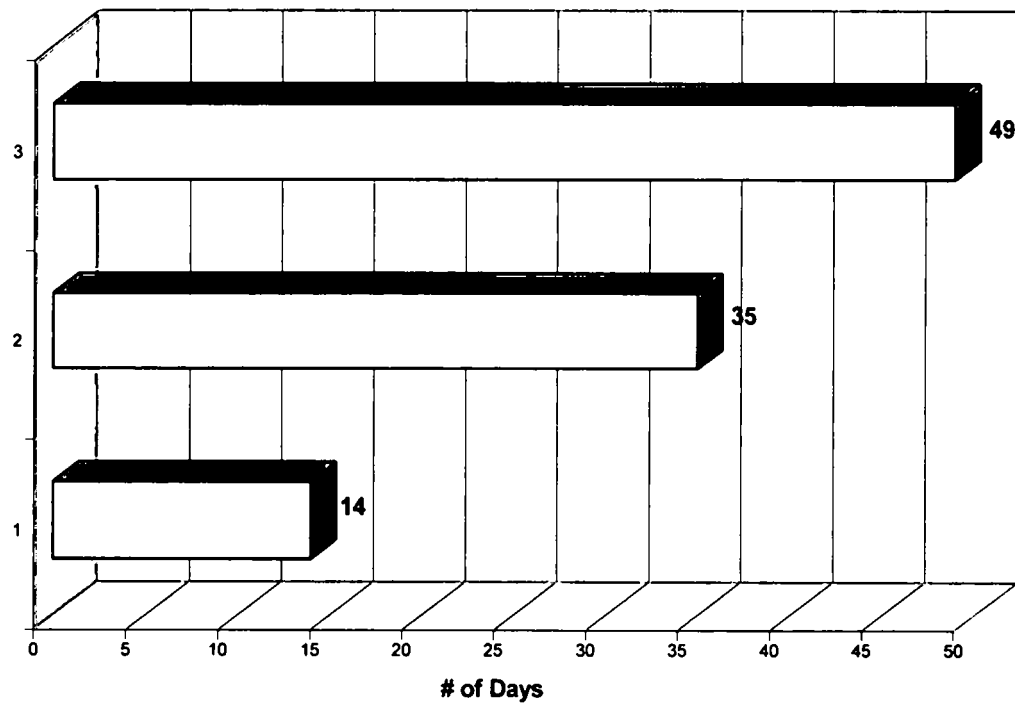
Days Elapsed Between ADR Referral and 1st ADR Session



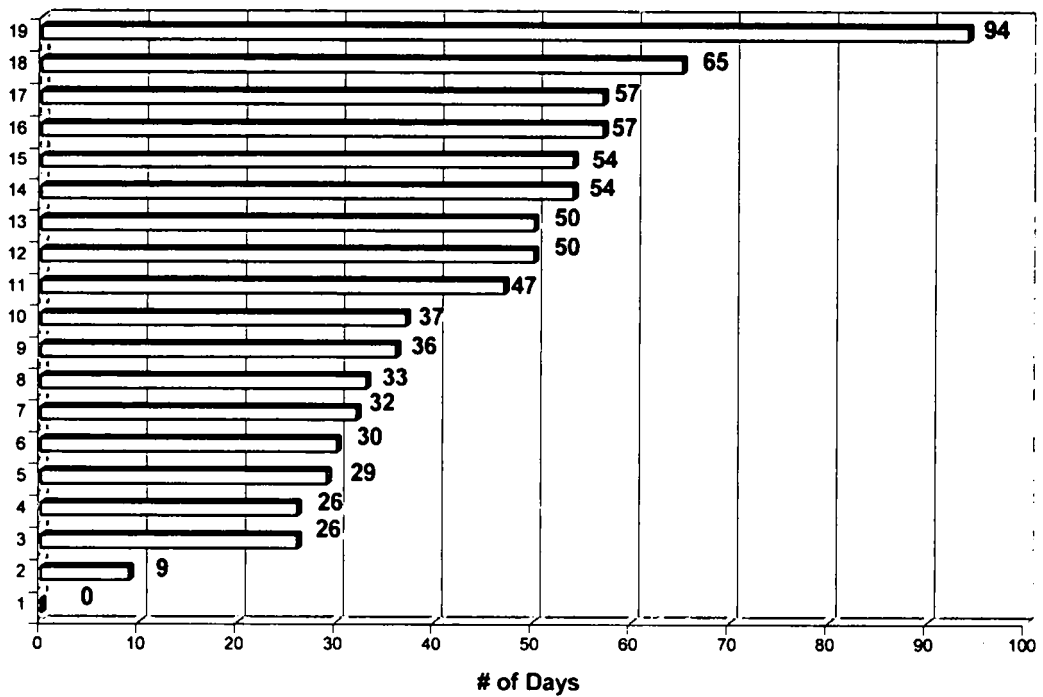
Days Elapsed Between ADR Referral and Disposition



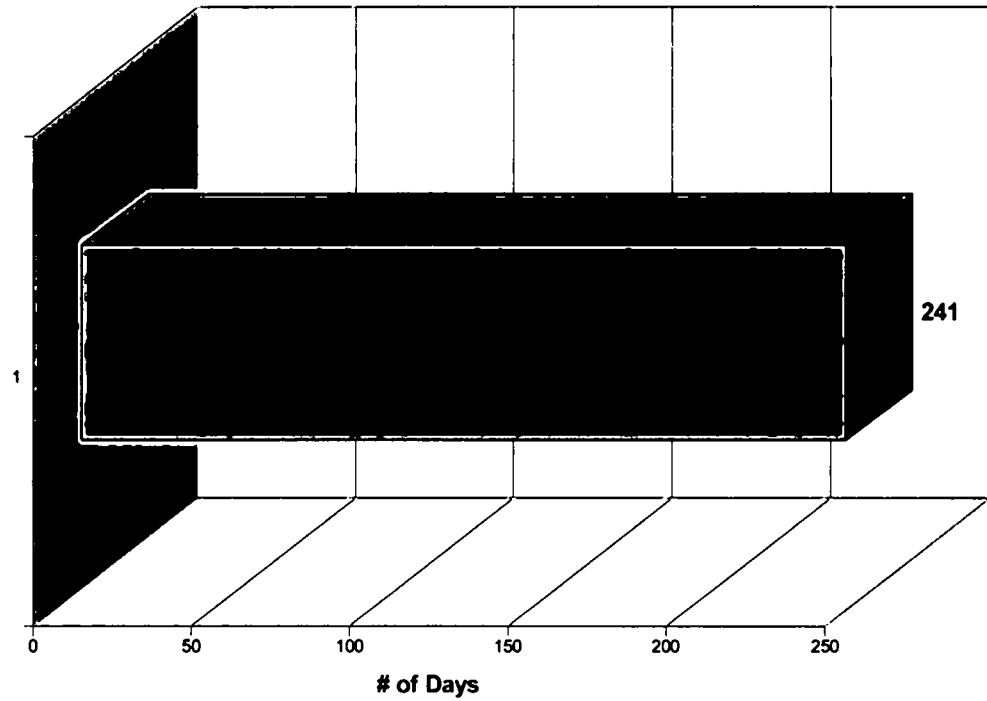
Days Elapsed Between 1st ADR Session and 2nd ADR Session



Days Elapsed Between 1st ADR Session and Disposition



Days Elapsed Between Filing and Data Collection for Open ADR Cases

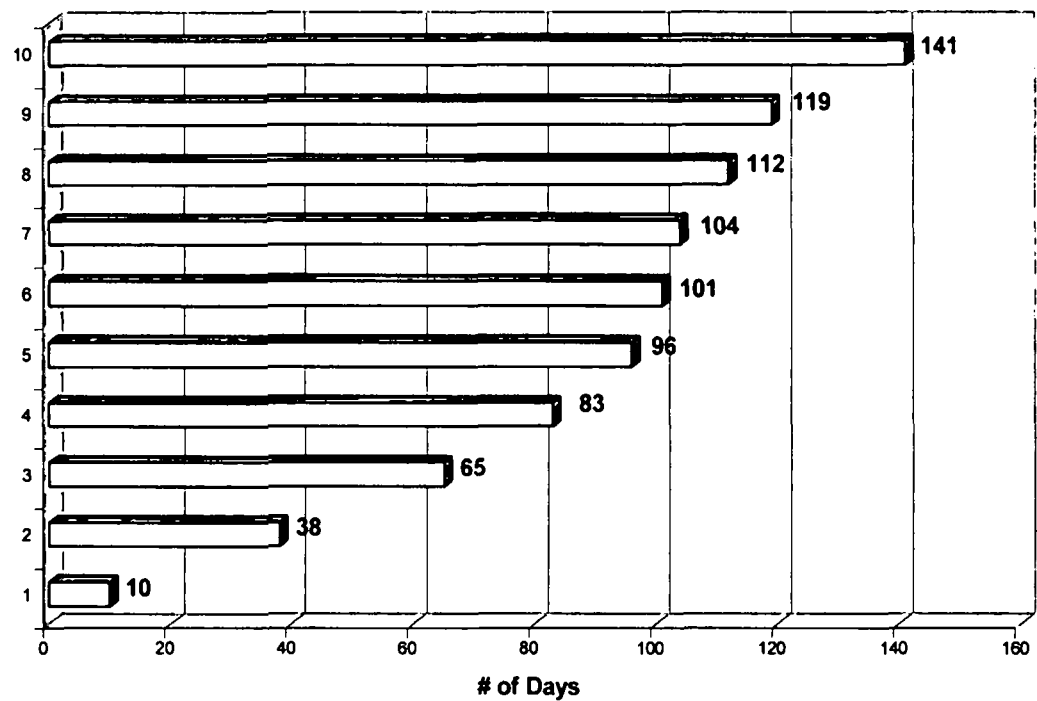


No Non-ADR Cases were open

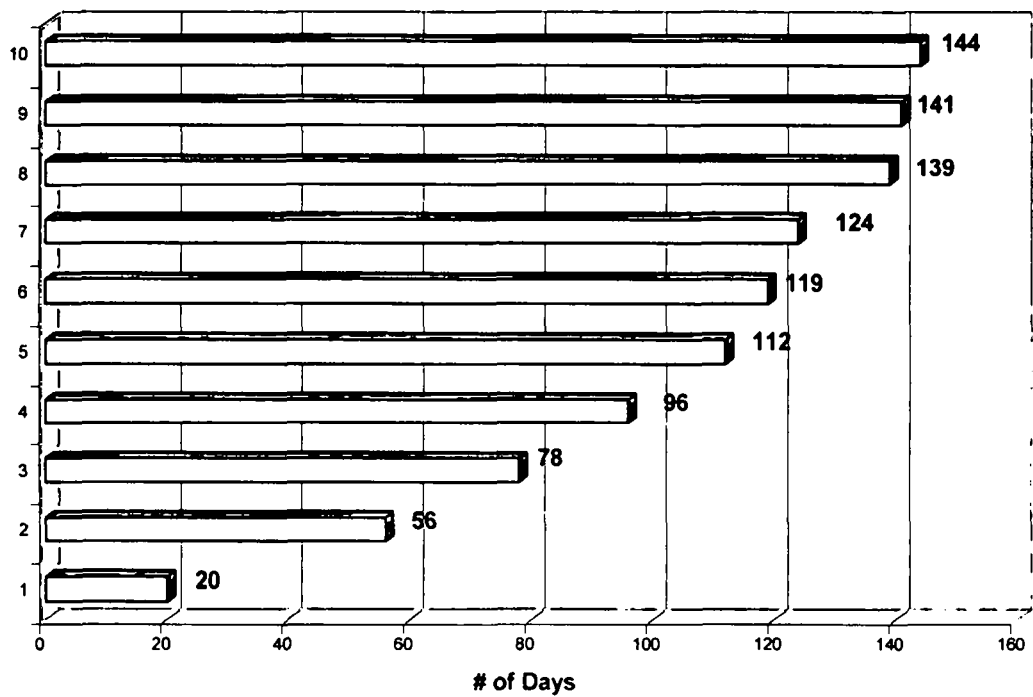
Appendix H

**Analysis of Other Data Collected
For the Community Mediation Center, Davenport**

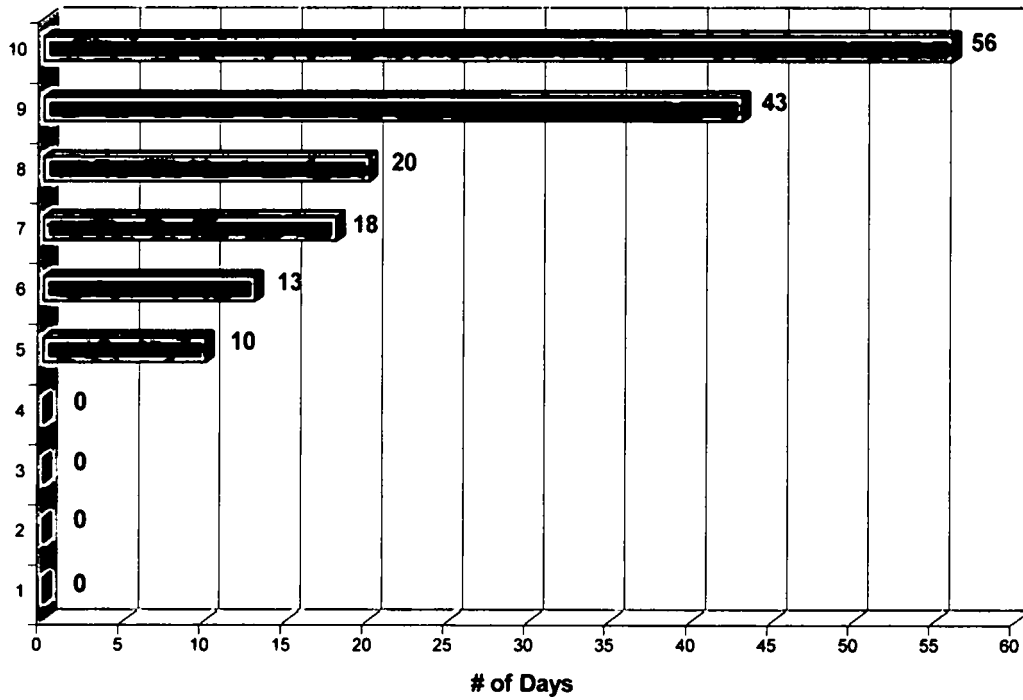
Days Elapsed Between Filing and Referral for ADR Cases



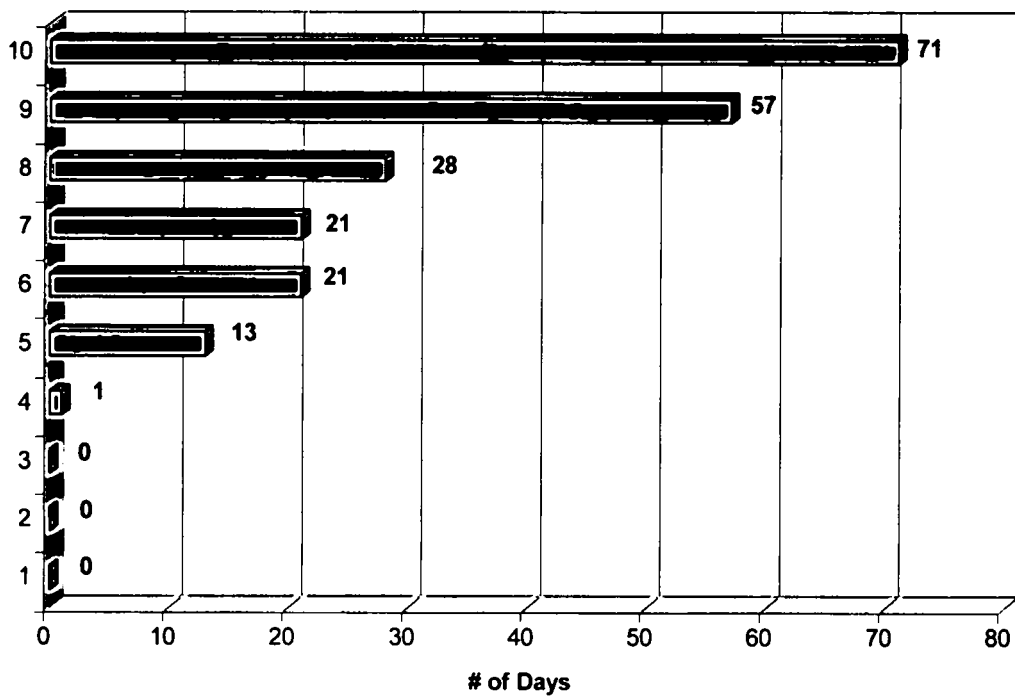
Days Elapsed Between Filing and 1st ADR Session



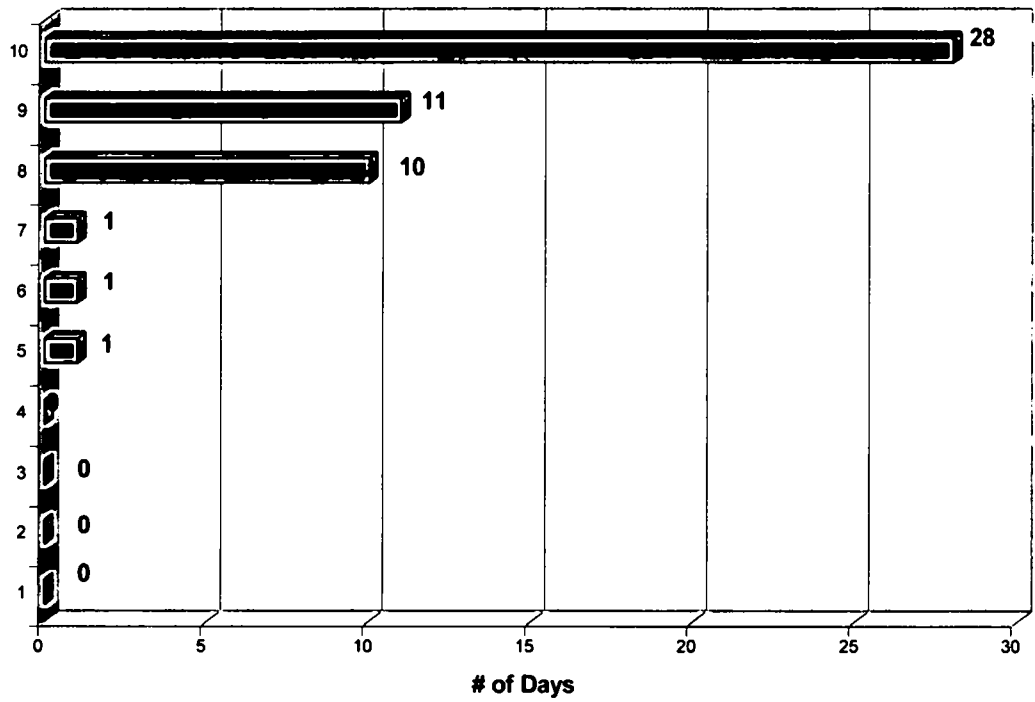
Days Elapsed Between ADR Referral and 1st ADR Session



Days Elapsed Between ADR Referral and Disposition



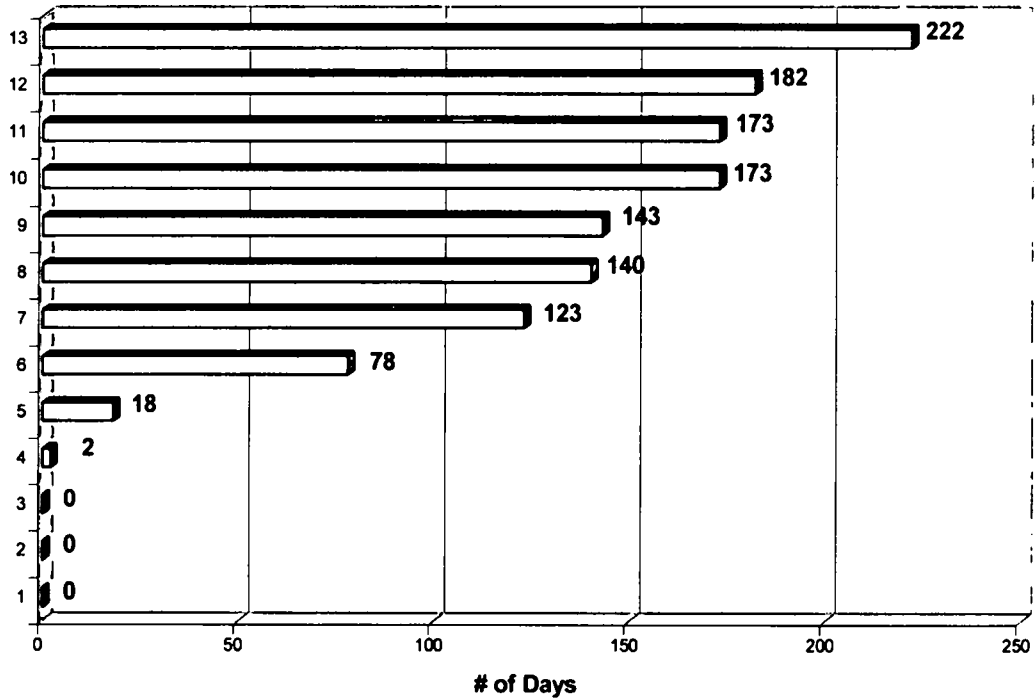
Days Elapsed Between 1st ADR Session and Disposition



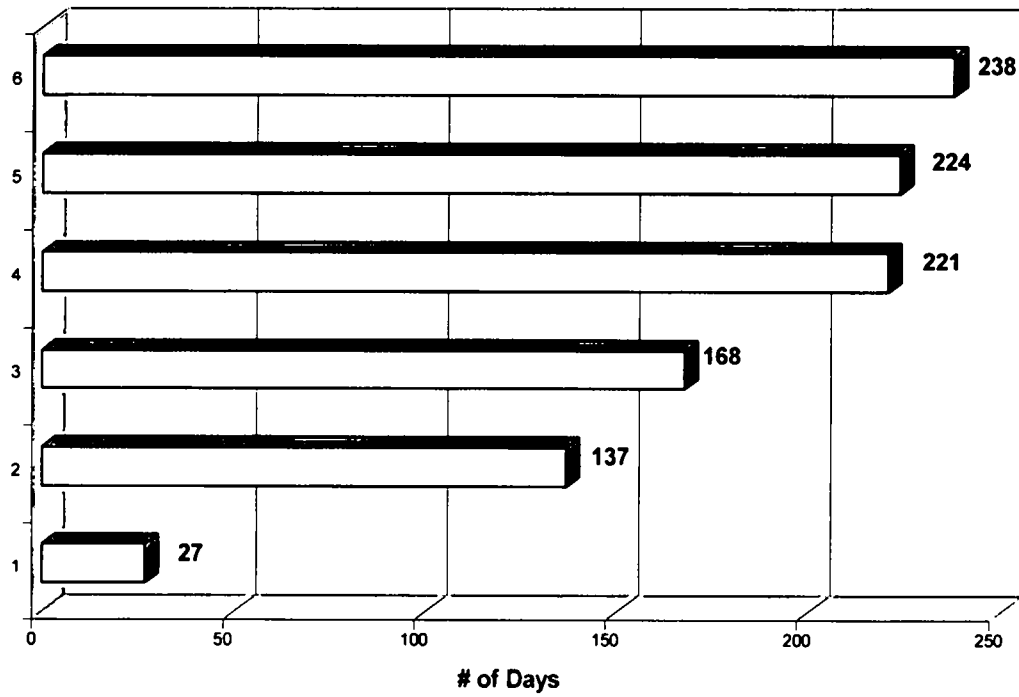
Appendix I

**Analysis of Other Data Collected
For the Sixth Judicial District Family Mediation Program**

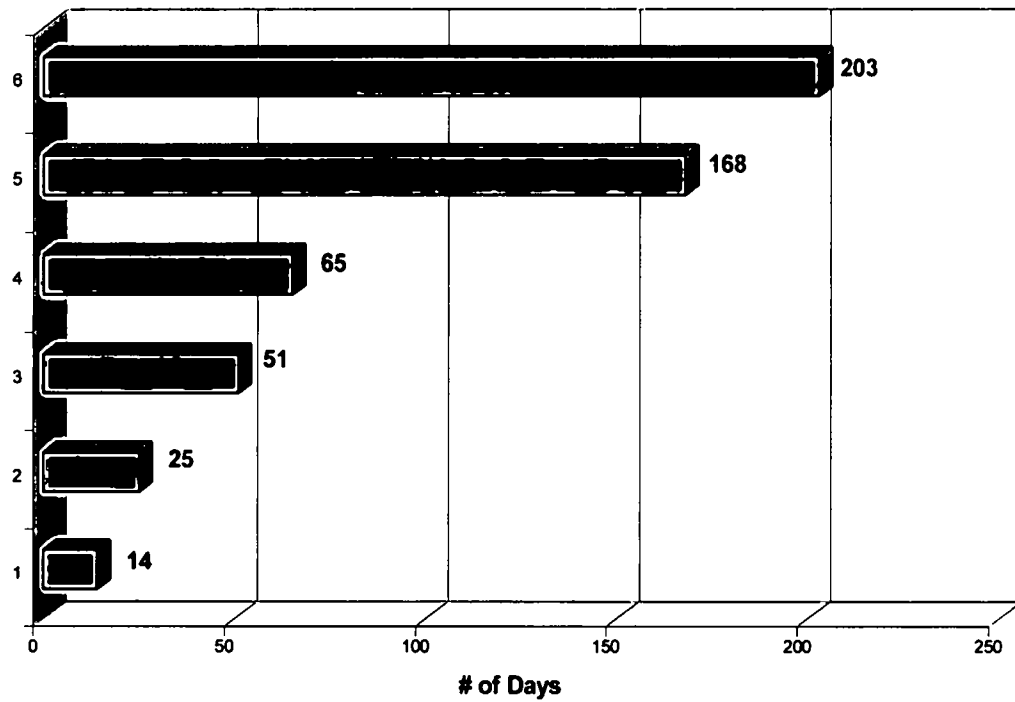
Days Elapsed Between Filing and Referral for ADR Cases



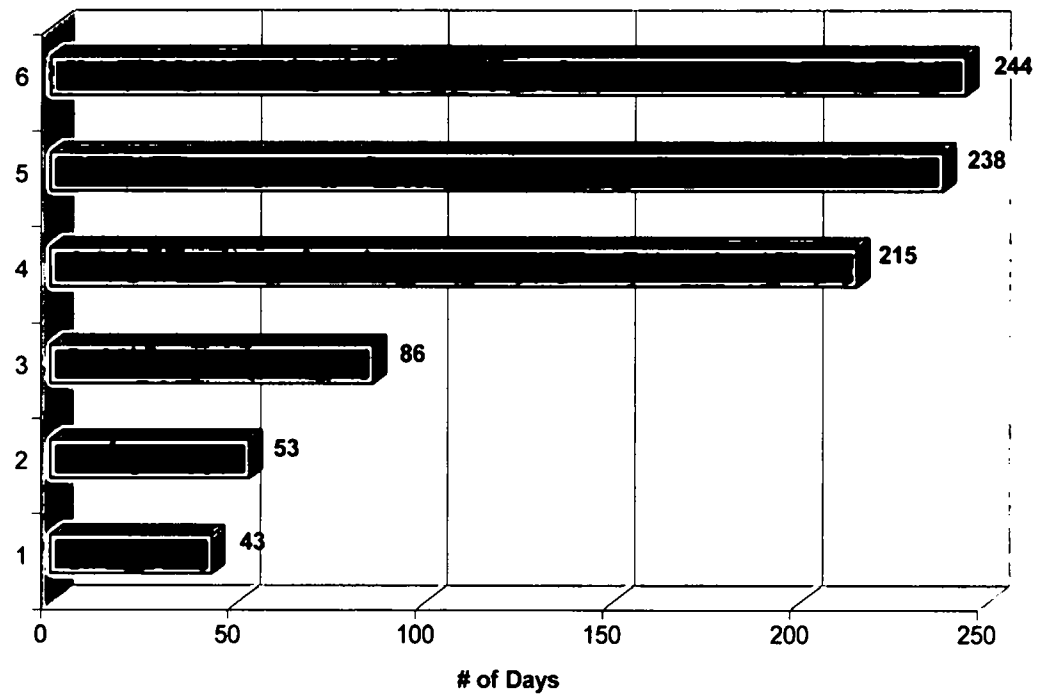
Days Elapsed Between Filing and 1st ADR Session



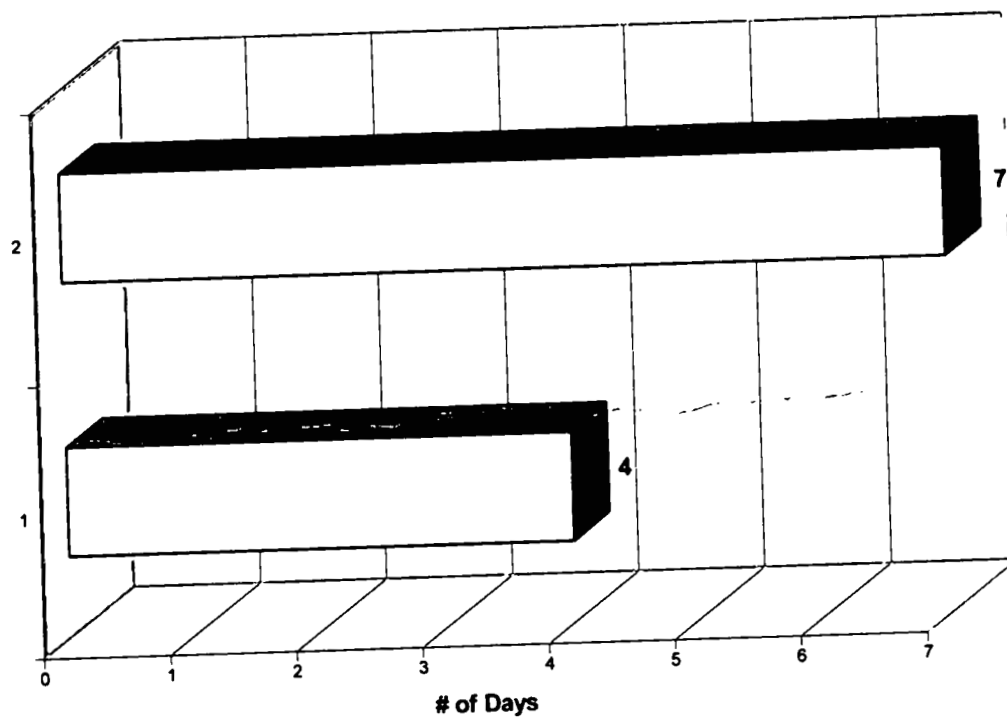
Days Elapsed Between ADR Referral and 1st ADR Session



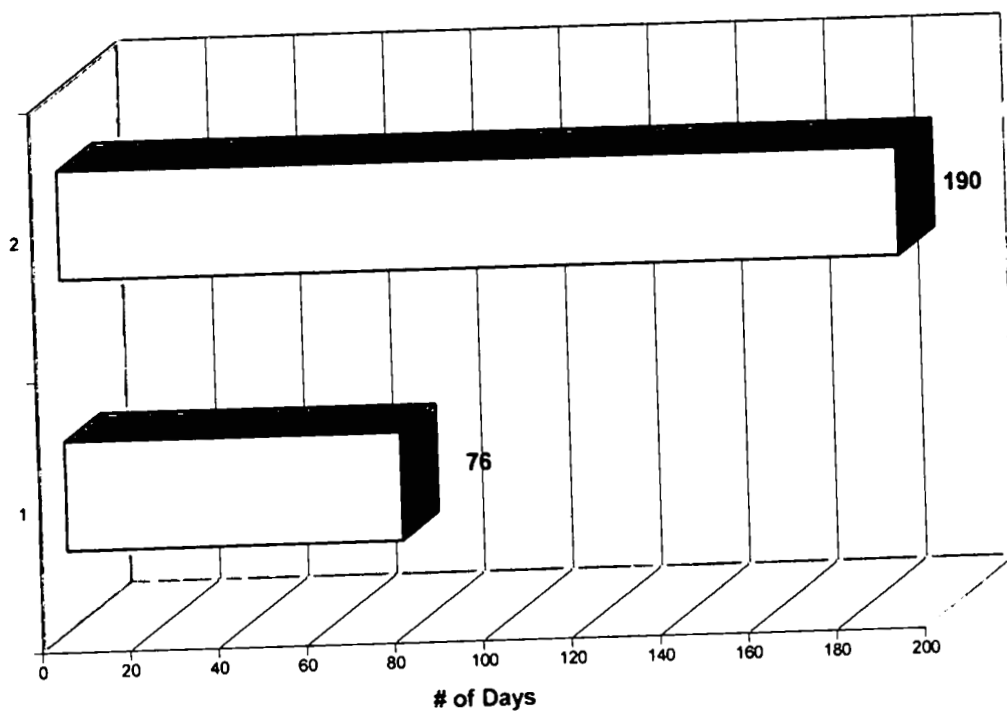
Days Elapsed Between ADR Referral and Disposition



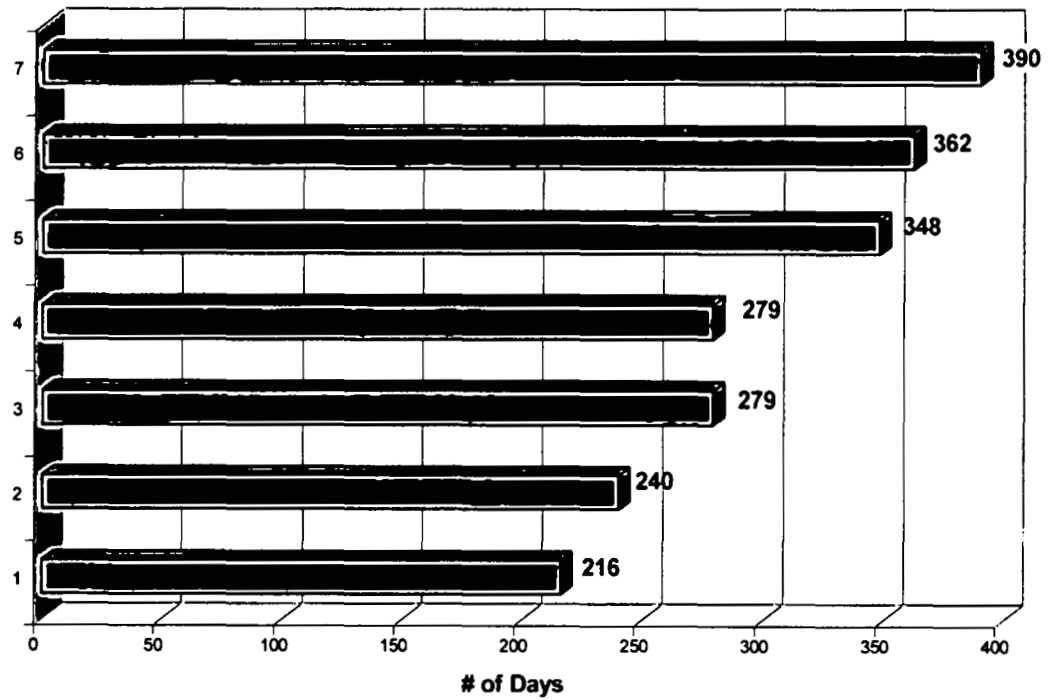
Days Elapsed Between 1st ADR Session and 2nd ADR Session



Days Elapsed Between 1st ADR Session and Disposition



Days Elapsed Between Filing and Data Collection for Open ADR Cases

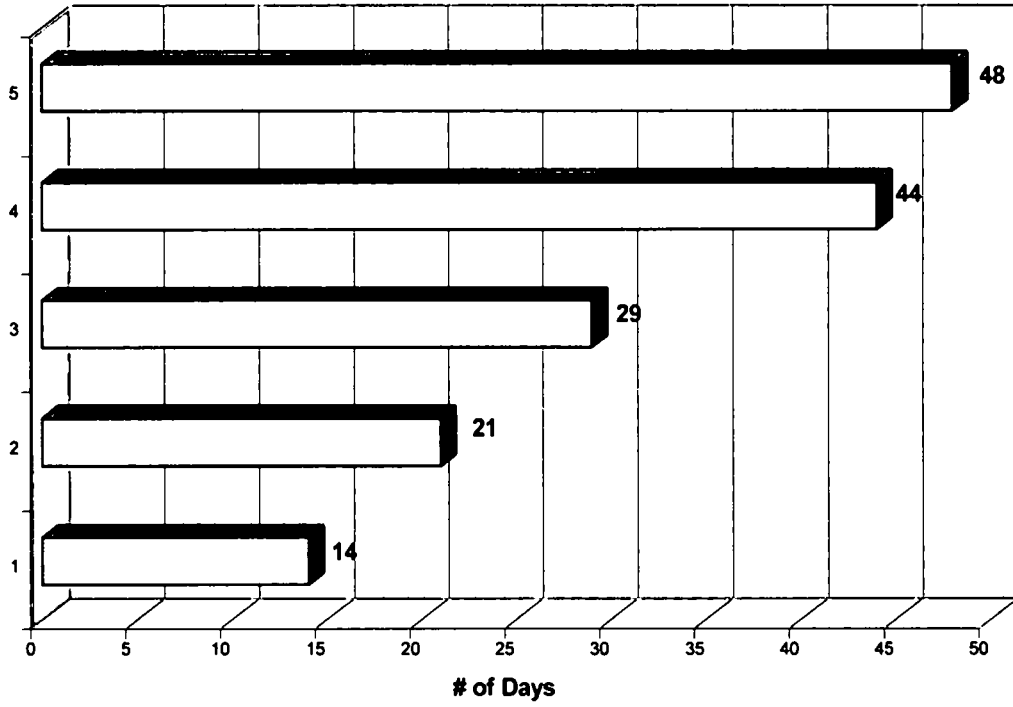


No Open Non-ADR Cases – From 1995

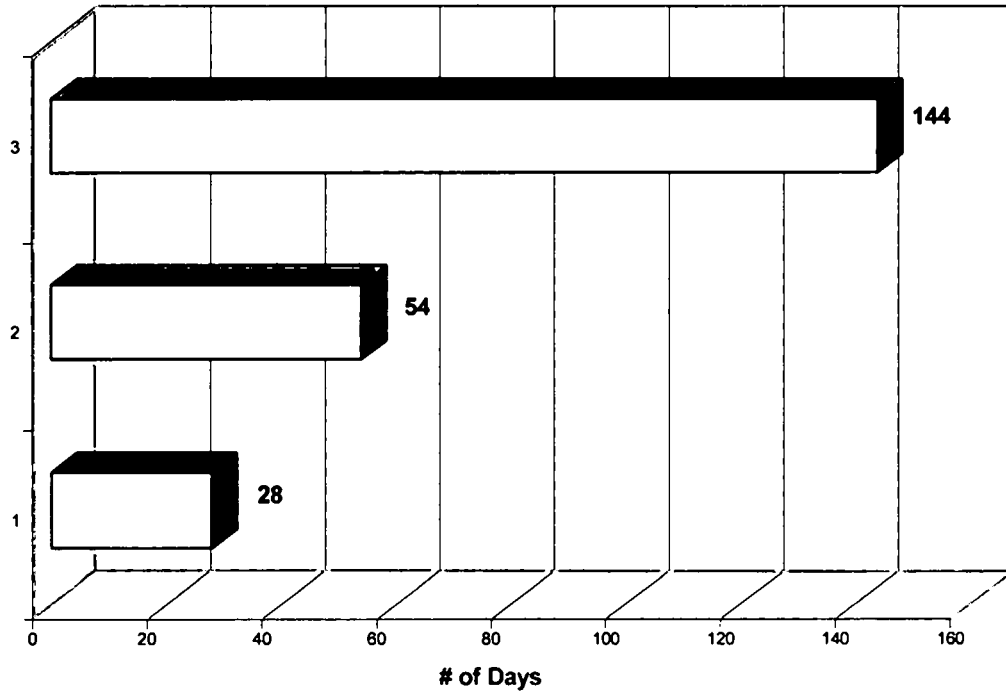
Appendix J

**Analysis of Other Data Collected
For the Linn County Small Claims Mediation Program**

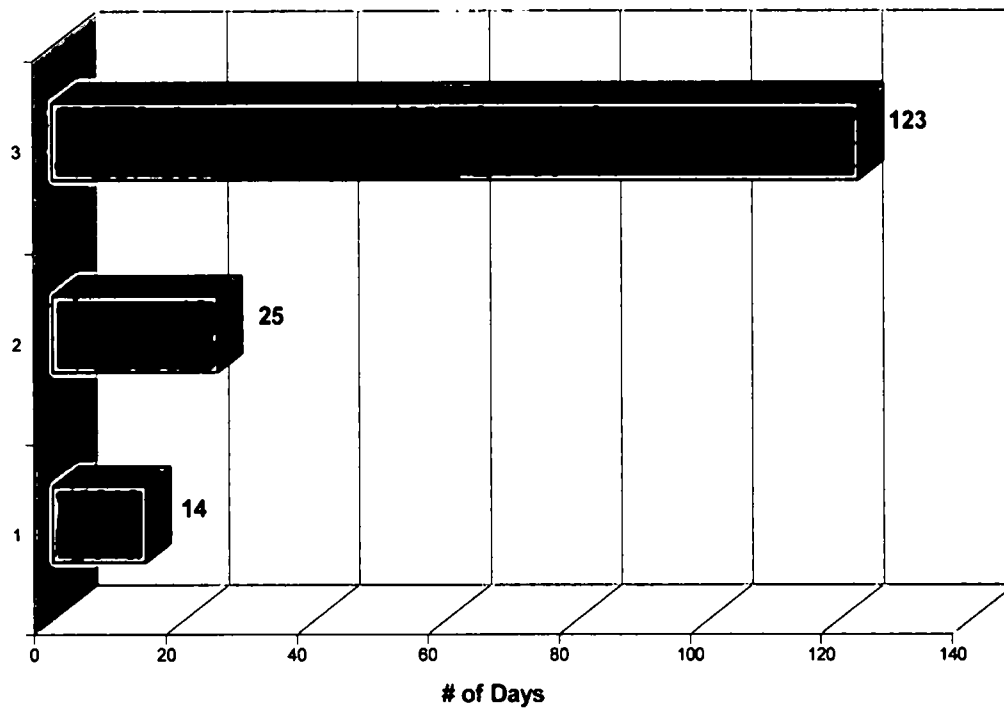
Days Elapsed Between Filing and Referral for ADR Cases



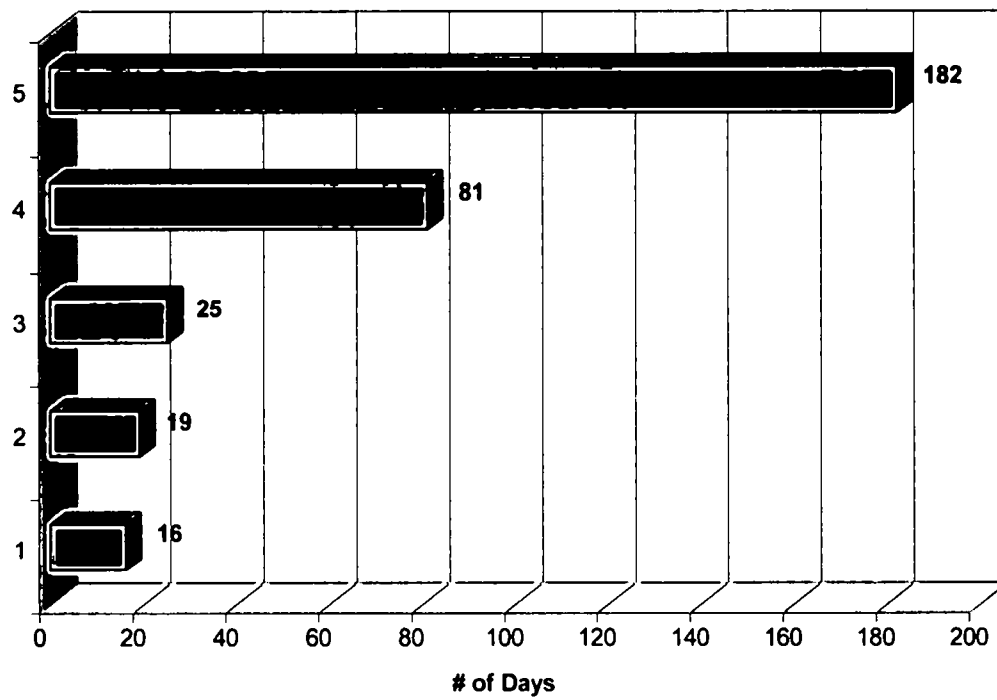
Days Elapsed Between Filing and 1st ADR Session



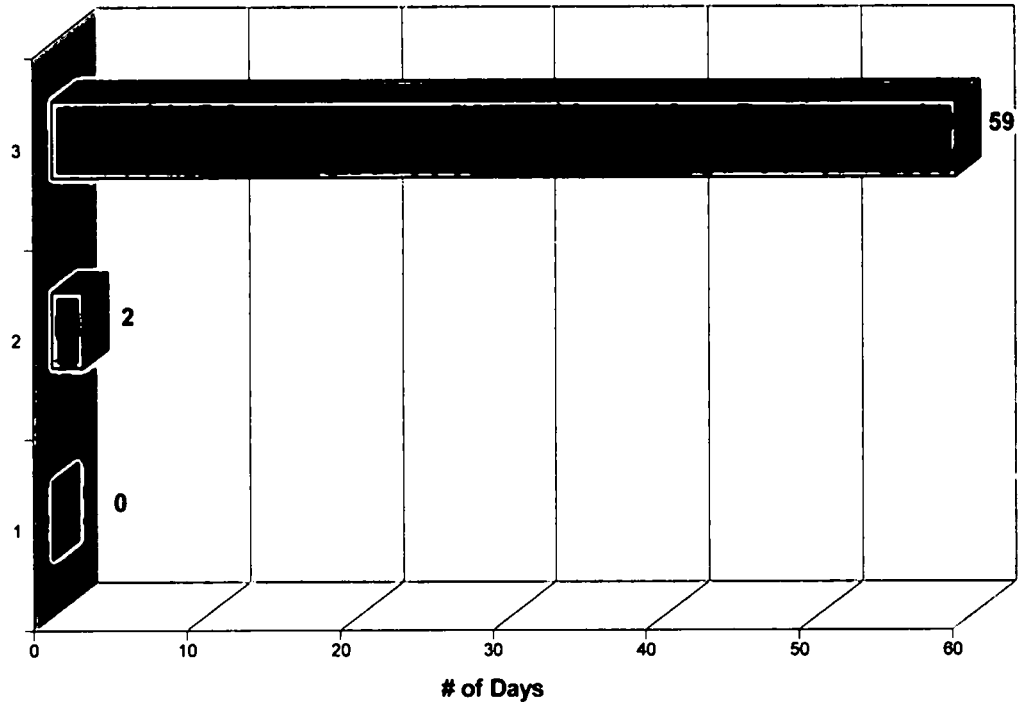
Days Elapsed Between ADR Referral and 1st ADR Session



Days Elapsed Between ADR Referral and Disposition



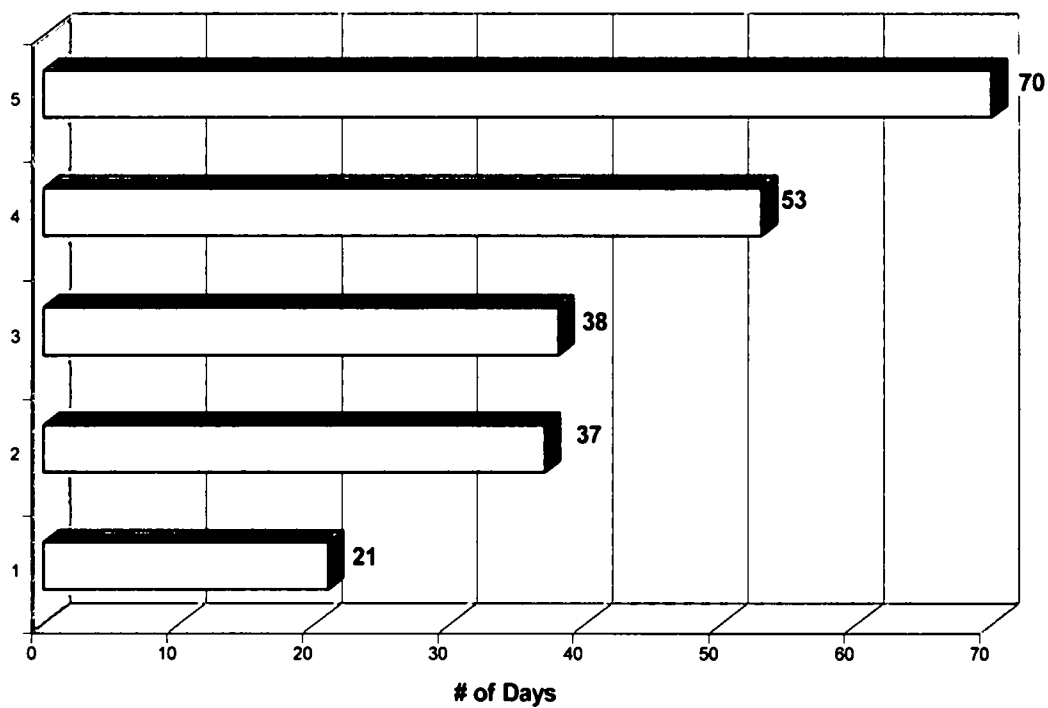
Days Elapsed Between 1st ADR Session and Disposition



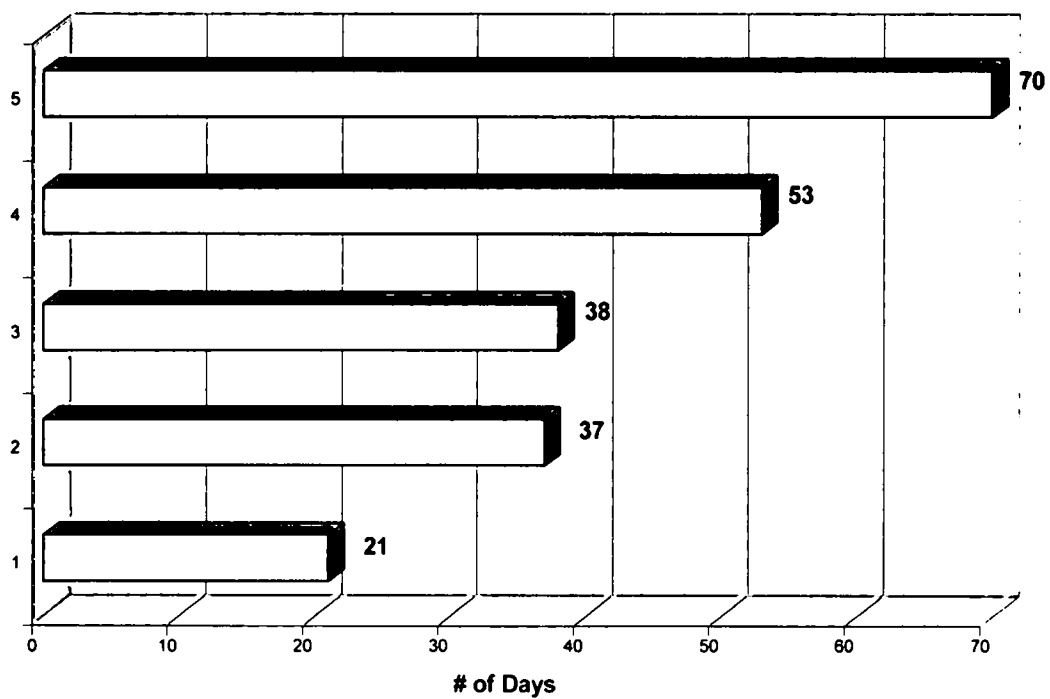
Appendix K

**Analysis of Other Data Collected
For the Johnson County Small Claims Mediation Program**

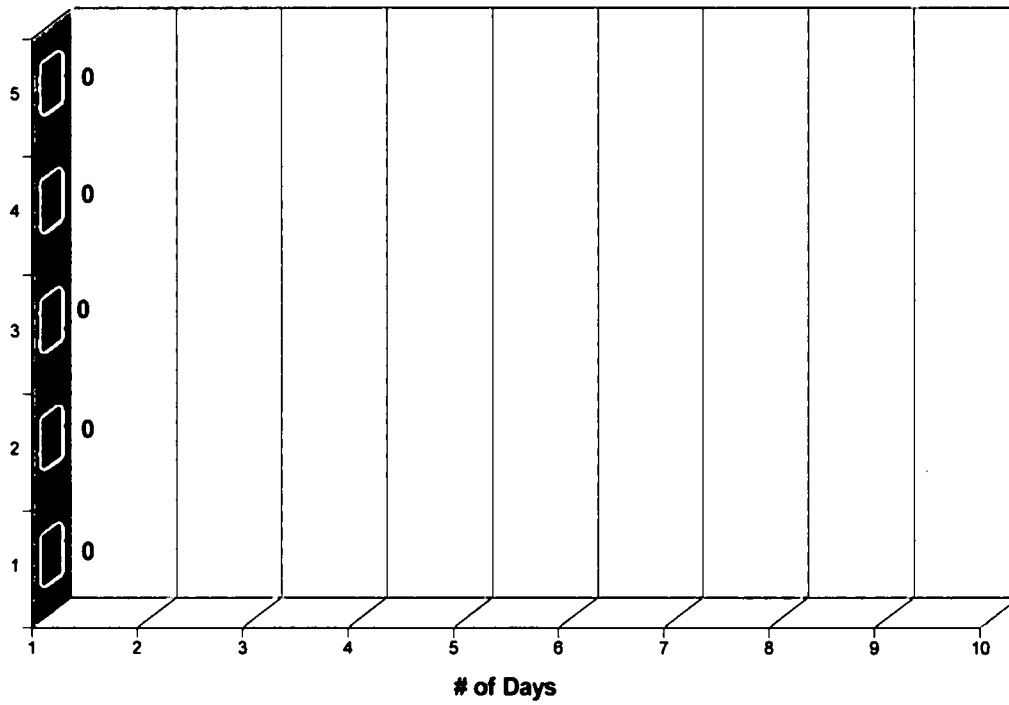
Days Elapsed Between Filing and Referral for ADR Cases



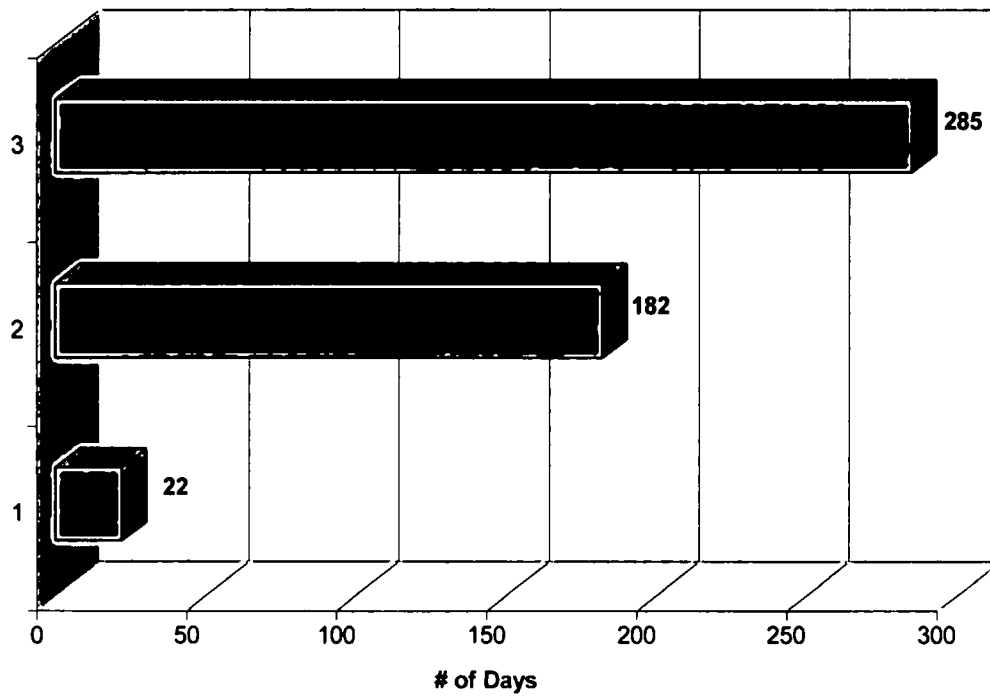
Days Elapsed Between Filing and 1st ADR Session



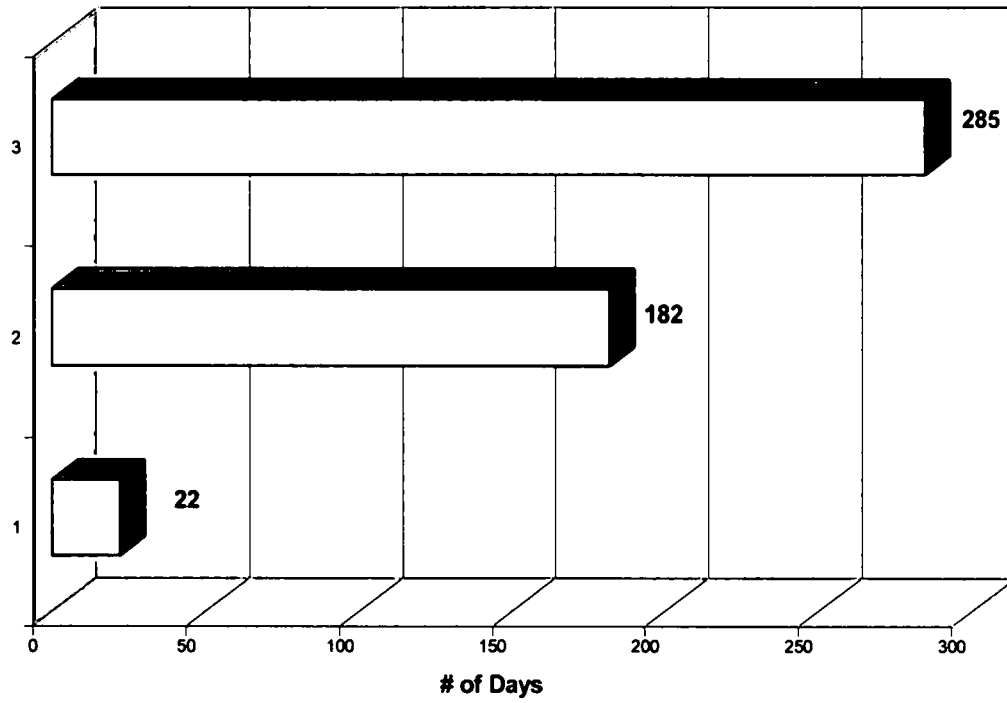
Days Elapsed Between ADR Referral and 1st ADR Session



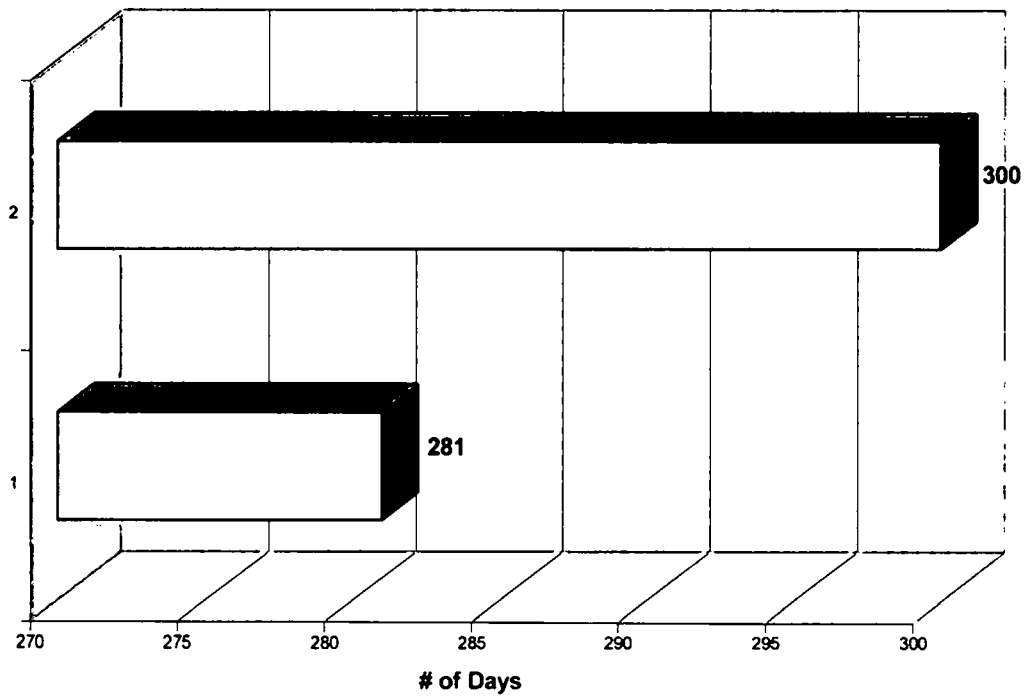
Days Elapsed Between ADR Referral and Disposition



Days Elapsed Between 1st ADR Session and Disposition



Days Elapsed Between Filing and Data Collection for Open ADR Cases

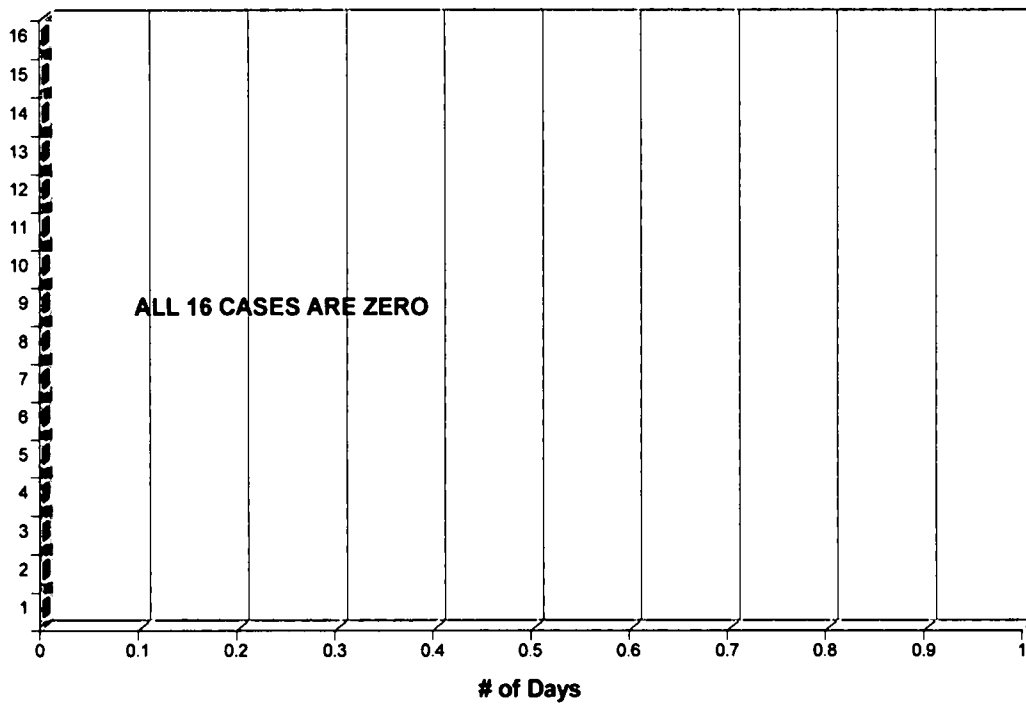


Non-ADR Cases Collected from 1994 – All Closed

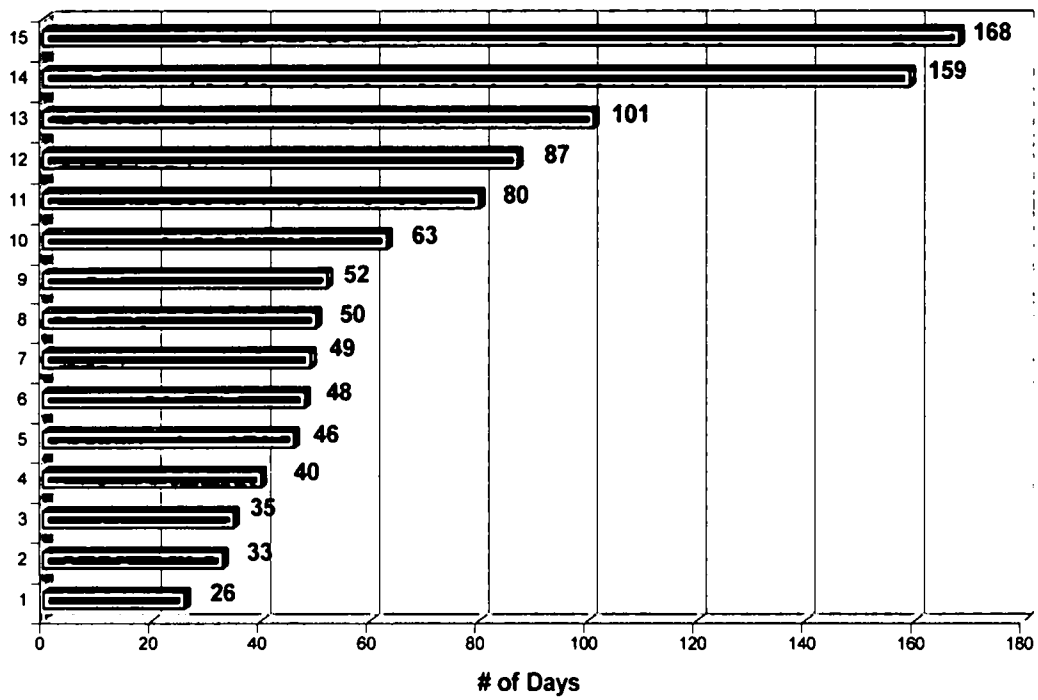
Appendix L

Analysis of Other Data Collected For the Center for Creative Justice in Ames

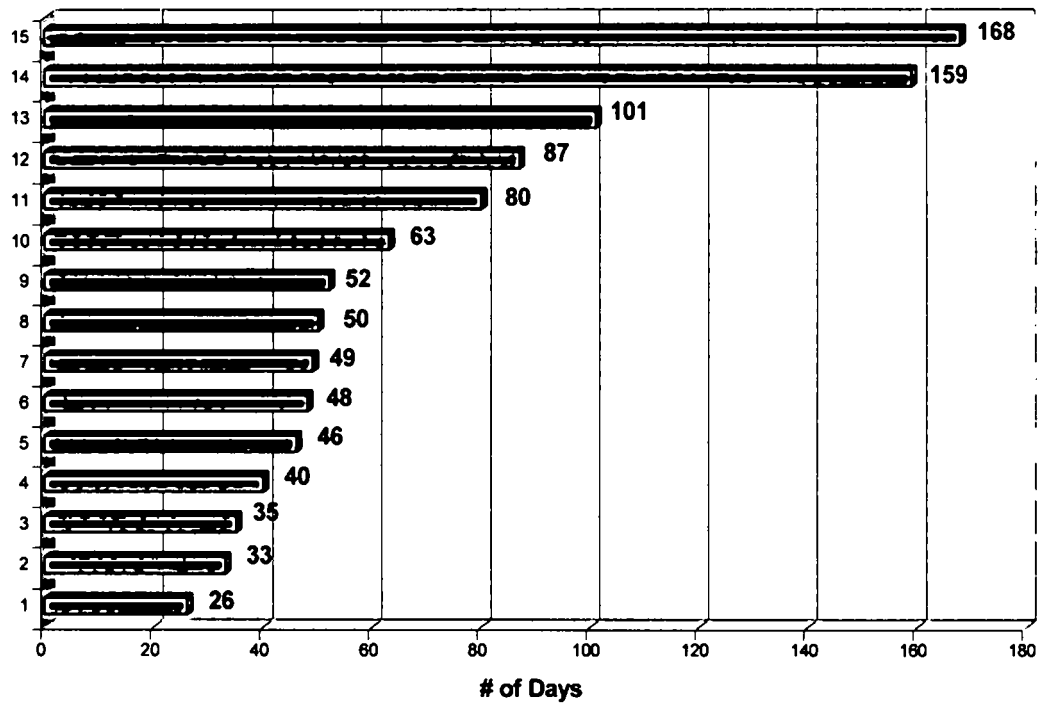
Days Elapsed Between Filing and Referral for ADR Cases



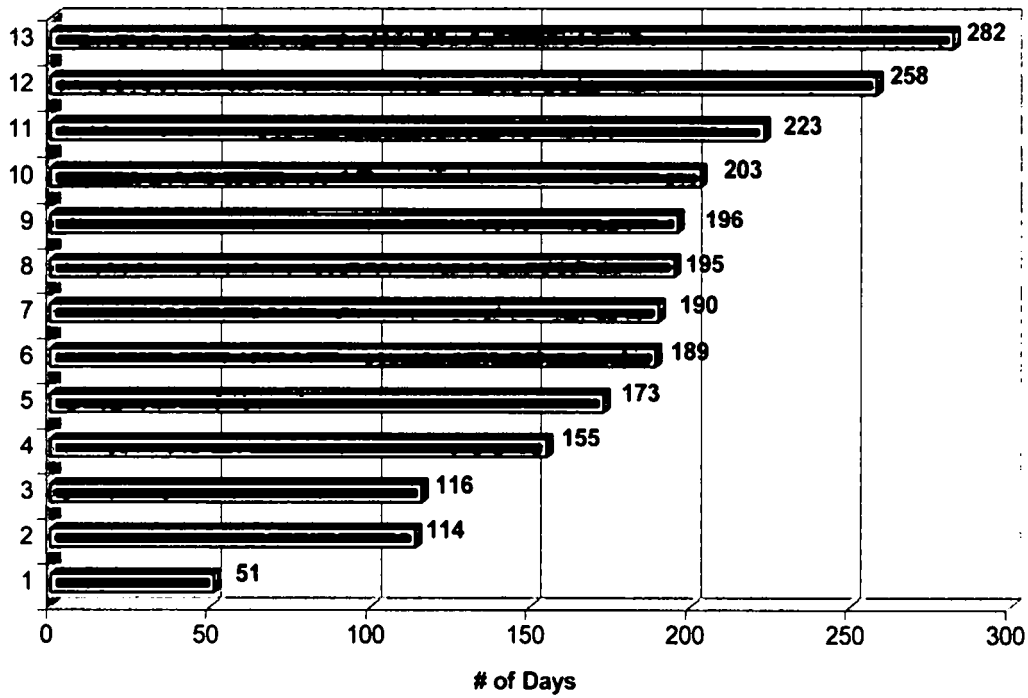
Days Elapsed Between Filing and 1st ADR Session



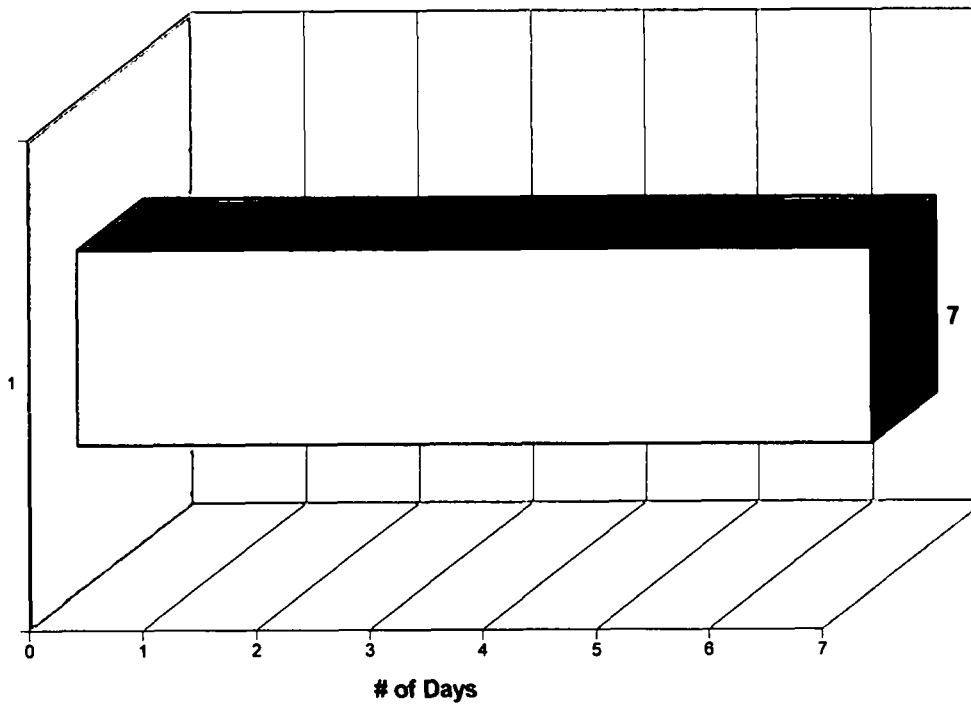
Days Elapsed Between ADR Referral and 1st ADR Session



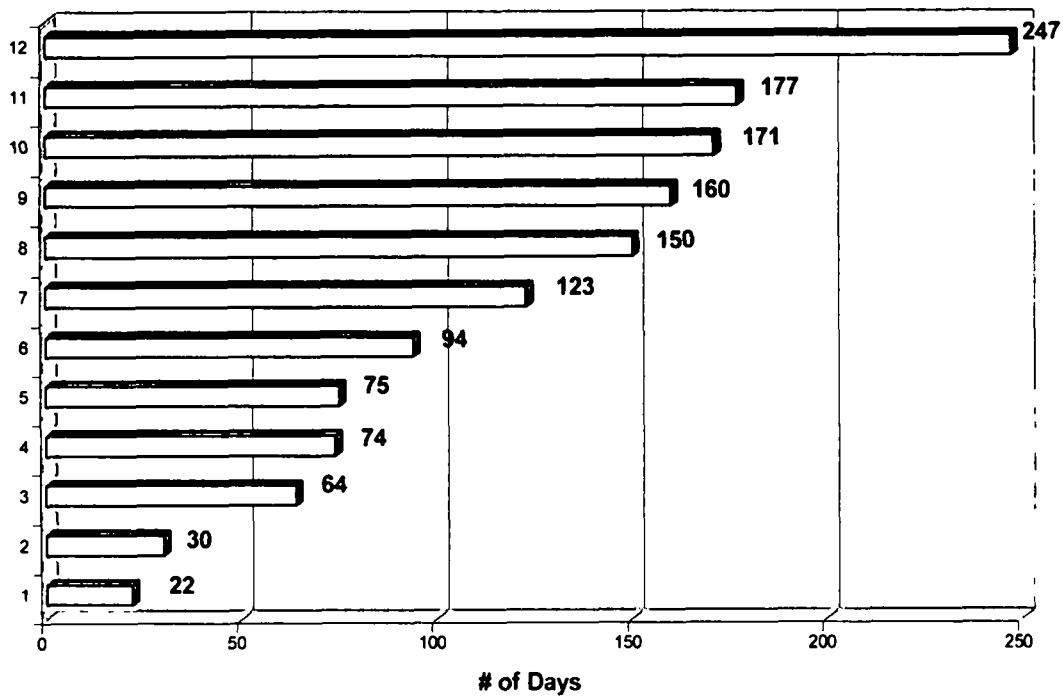
Days Elapsed Between ADR Referral and Disposition



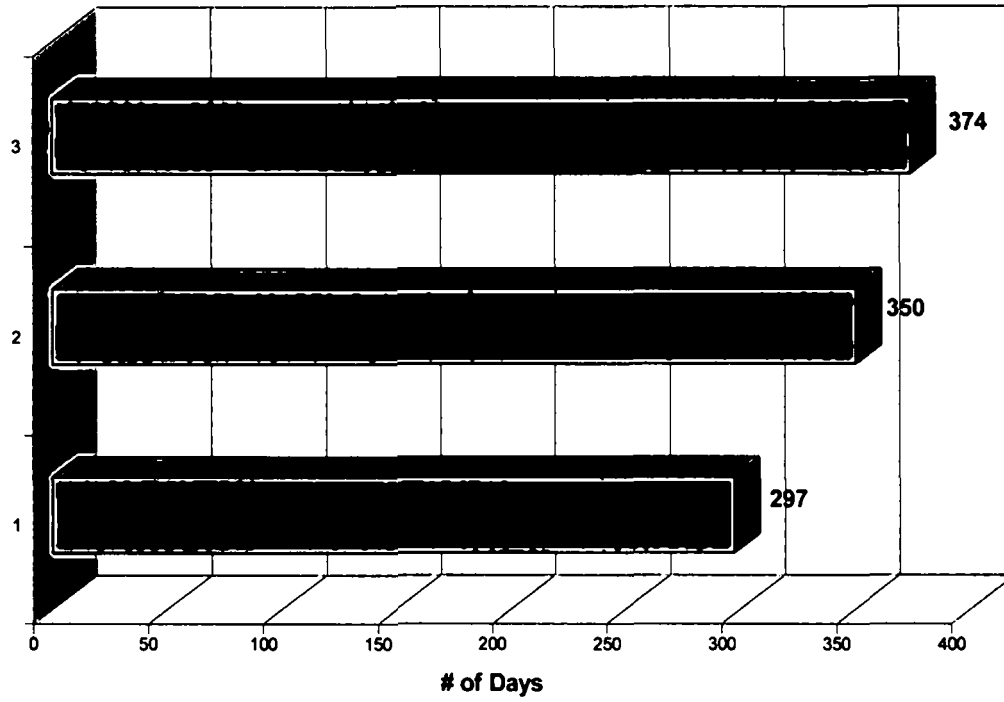
Days Elapsed Between 1st ADR Session and 2nd ADR Session



Days Elapsed Between 1st ADR Session and Disposition



Days Elapsed Between Filing and Data Collection for Open ADR Cases

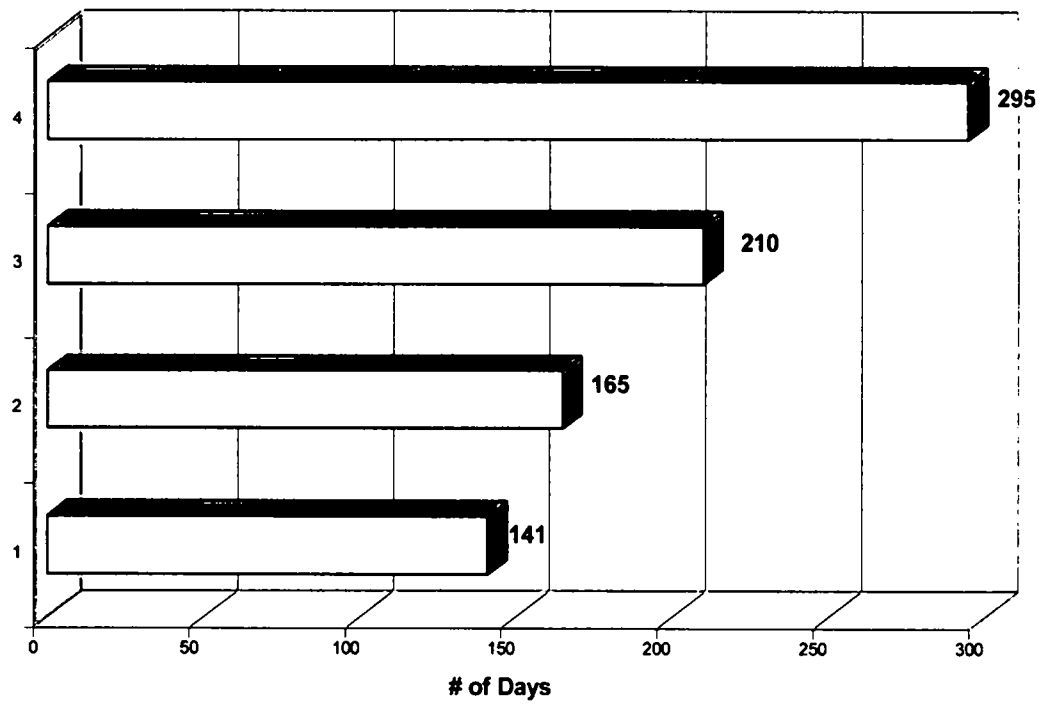


No Non-ADR Open Cases – Cases from 1983 to 1995

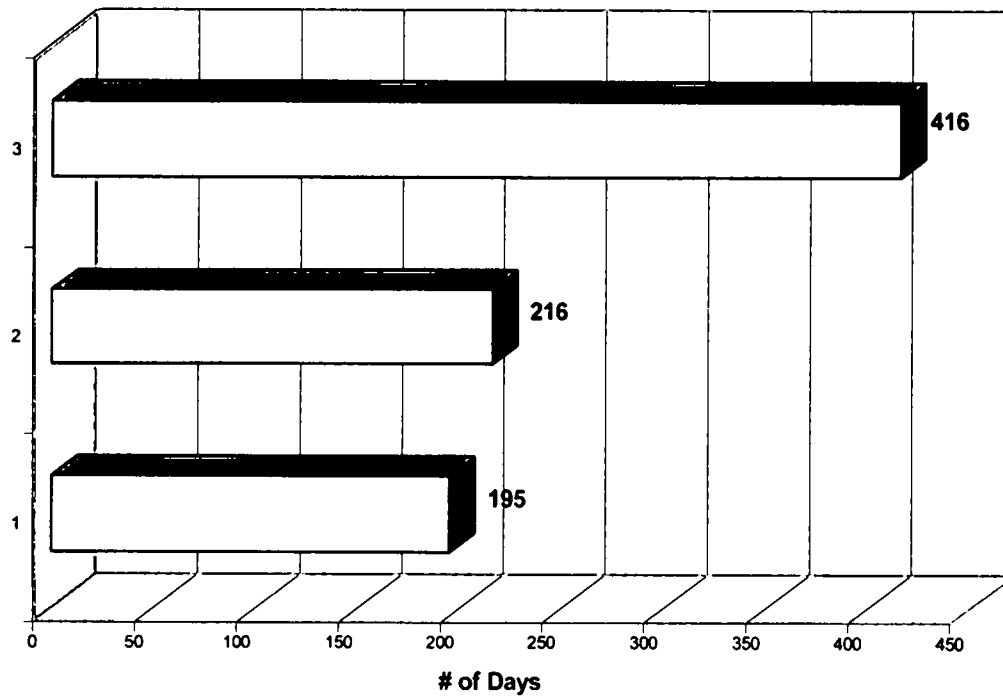
Appendix M

**Analysis of Other Data Collected
For the North Iowa Dispute Settlement Center**

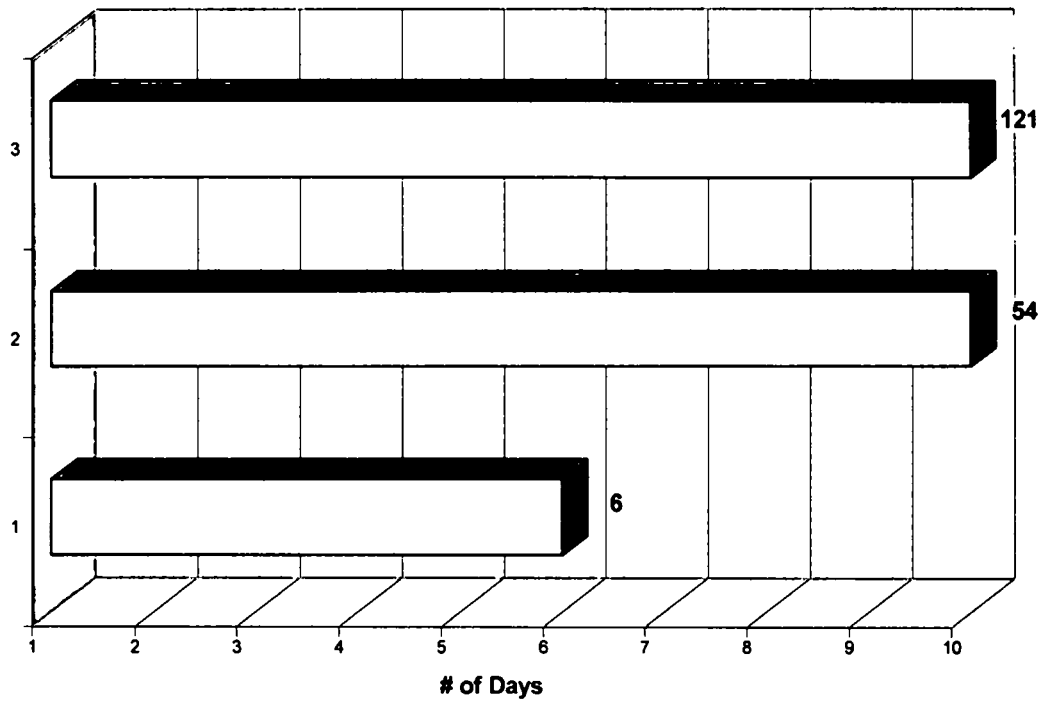
Days Elapsed Between Filing and Referral for ADR Cases



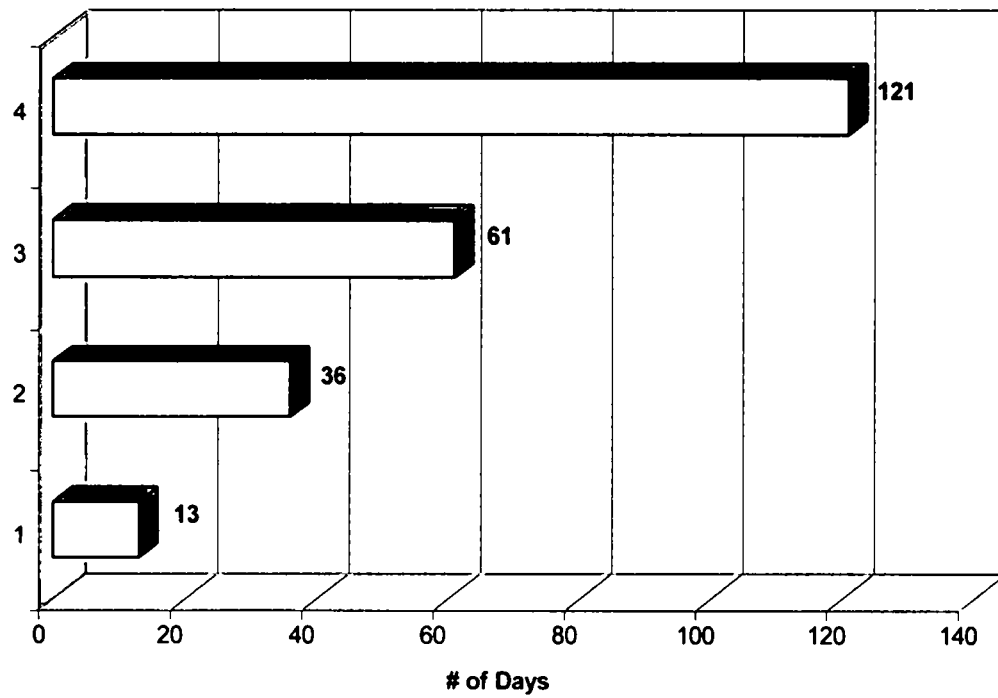
Days Elapsed Between Filing and 1st ADR Session



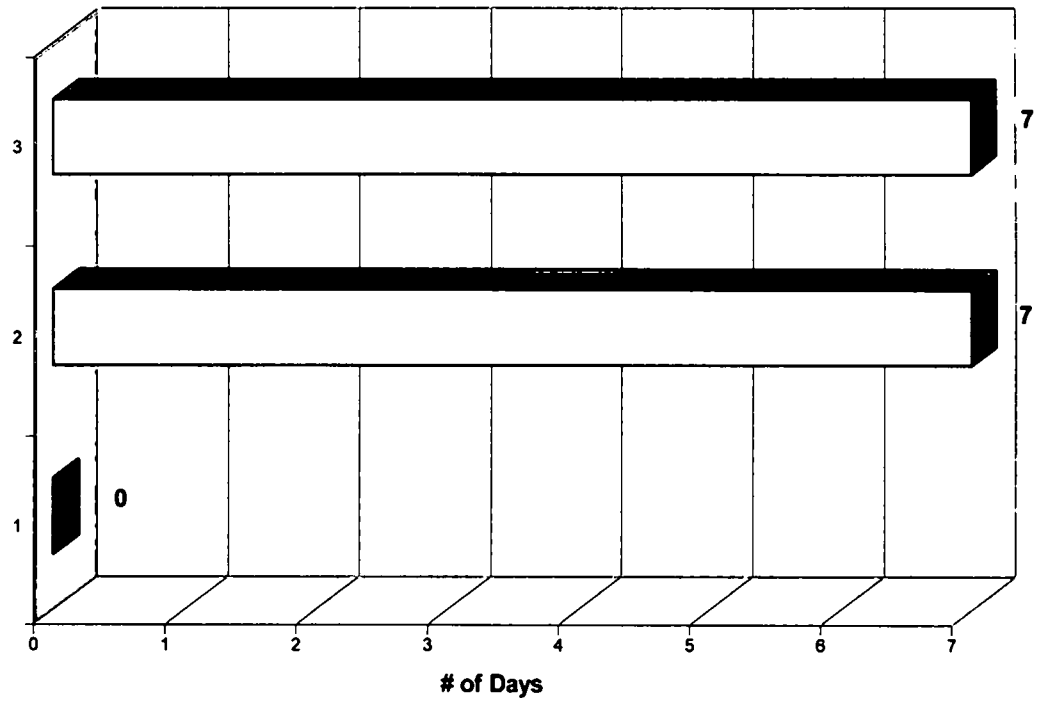
Days Elapsed Between ADR Referral and 1st ADR Session



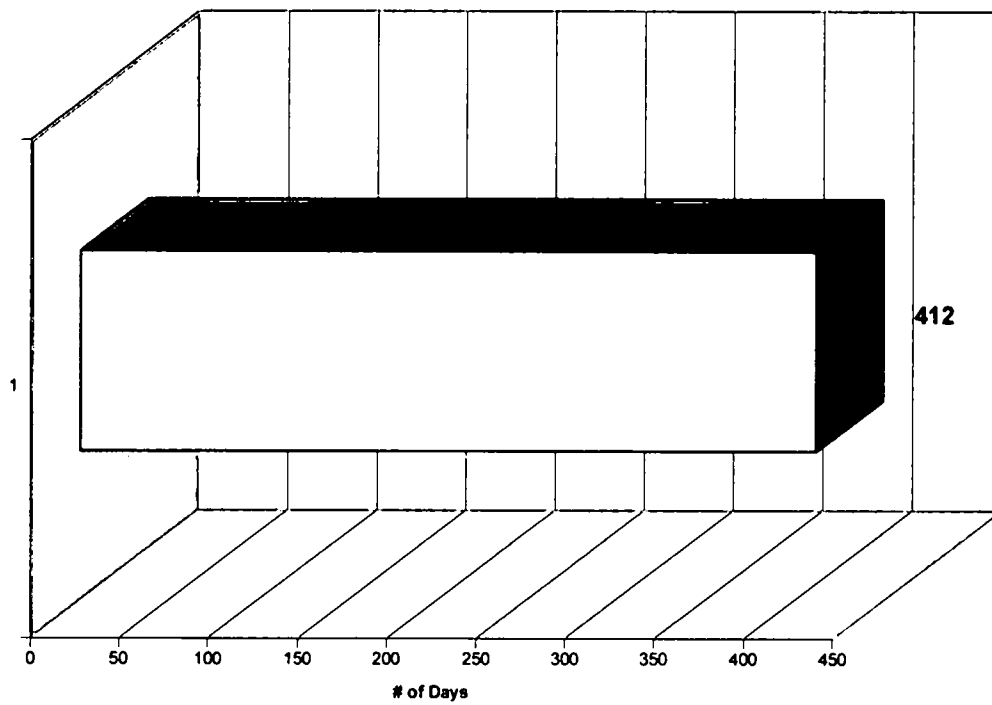
Days Elapsed Between ADR Referral and Disposition



Days Elapsed Between 1st ADR Session and Disposition



Days Elapsed Between Filing and Data Collection for Open Non-ADR Cases



No Open ADR Cases