



ALTERNATIVE DISPUTE RESOLUTION PROGRAMS  
IN CALIFORNIA

A Study Funded by the  
State Justice Institute,



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1990

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This report was developed under a grant from the State Justice Institute. Points of view expressed herein are those of the authors and do not necessarily represent the official position or policies of the State Justice Institute.

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Alternative dispute resolution programs in California:  
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## INTRODUCTION

This study is a companion to a report recently published by the Institute of Judicial Administration on alternative dispute resolution (ADR) programs in Ohio, Michigan and Illinois.

Before that study, observation and research in the alternative dispute resolution field have tended to focus on either the compilation of directories of programs or on efforts to gauge the effectiveness of particular programs. There has been little attempt to trace the overall development of the use of various alternative processes in different substantive areas within a single state judicial system. The study of ADR programs in Ohio, Michigan and Illinois, supplemented by this study of programs in California, attempts to analyze data on past program development, and to chart patterns of growth for court-related ADR programs.

California reflects a rich and complex diversity of ADR programming unparalleled throughout the country. Indeed, the myriad of constitutional, statutory, court rule and administrative provisions relating to ADR programs or processes in the state, as well as the mix of agencies, institutions, organizations and individuals in all parts of the state providing a wide range of types of dispute resolution services, defies easy analysis. Simply put, ADR has virtually mushroomed throughout California.

This report will describe the state's ADR program development by type of provider and program, draw comparisons to ADR programming in the other states studied, and highlight some issues that may be important for consideration by those engaged in the kind of comprehensive ADR planning efforts that are now beginning to emerge throughout the country.

## Methodology

The methodology pursued in this study was essentially the same as that used in Ohio, Michigan and Illinois. The survey began in March, 1989 with a request from the Director of California's Administrative Office of the Courts to all Superior and Municipal Court Presiding Judges, Justice Court Judges, County Clerks, Superior Court Executive Officers and Municipal Court Administrators requesting them to identify all of the ADR programs providing services directly or indirectly to the courts within their respective jurisdictions. (Appendix A) In addition, the Director of the Department of Consumer Affairs wrote a similar letter of request to local bar associations and dispute resolution organizations. (Appendix B)

Responses from 110 of those queried produced a list of programs which, when screened to delete programs that could be identified readily as providing only counseling or crisis intervention services, yielded a total of 371 programs to which questionnaires were sent to elicit information about the administrative and operational aspects of their particular programs. (Appendix C)\* The returns were reviewed, analyzed and categorized, and telephone follow-up, where appropriate or necessary, was conducted.

The survey produced information about a total of 137 programs of various types located throughout the state of California. (Appendix D

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\*The survey elicited information from programs about their methods of resolution, sources of referral for cases, types of cases handled, character and background of intervenors, type and extent of training, caseloads, budgets and sources of funding.

It does not purport to provide an exhaustive catalog of all of the ADR programs in the state.\* The weak links, as in the other states studied, were its reliance upon local or regional judges and administrators whose knowledge of alternative programs operating in their jurisdictions may not always have been complete, as well as upon the programs identified, over half of which may have failed to respond to the survey for a variety of reasons.

Despite this caveat, the survey does provide the most comprehensive overview of court-related ADR programs in California yet available, and permits some limited generalizations about the growth of such programs as well as some possible insights for guiding the future development of ADR programs there and elsewhere.

To facilitate analysis, particular types of providers and programs may be found in this report as follows:

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\*A Directory of ADR programs in the state published by the State Bar of California in 1988 identified 24 programs that were not identified in the IJA survey. At the same time, the IJA survey identified 112 programs that were not identified in the State Bar Directory.

### Civil Court-Annexed Arbitration Programs

Under California's Code of Civil Procedure sections 1141.10 - 1141.31, all superior courts with 10 or more judges must submit all civil cases where the amount in controversy is less than \$50,000 to arbitration. Superior courts with fewer than 10 judges and municipal courts may adopt a similar program by local court rule, with the jurisdictional limit being \$25,000 in municipal courts. Parties may also stipulate to submit any civil case, regardless of the amount in controversy, to a court-annexed arbitration program.

A plaintiff may elect arbitration at filing and, thereby, become responsible for the costs; the parties may stipulate to arbitration after filing but not less than 30 days before trial and split the costs; or once a case is at issue, the court may order arbitration, in which case the court picks up the costs. The cost of arbitration is a \$150 per diem fee for the arbitrator.\*

Once a case is placed on the arbitration calendar, a panel of arbitrators must be convened within 15 days. The parties are presented with a list of potential arbitrators. The number of potential arbitrators, all of whom are licensed attorneys with five years' litigation experience in California, exceeds the number of parties by one. Each party then may reject one name. The remaining attorney serves as arbitrator, must hold a hearing within 60 days of appointment, and must file an award within 10 days of the hearing. The award becomes binding if a party does not request a trial de novo within 30 days of the award.\*\* If the party rejecting the

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\*In the San Luis Obispo County Superior Court, the cost is \$250 per case.

\*\*In the Nevada County Superior Court, a judge may order binding arbitration.

arbitrator's award does not better its position at trial, that party must pay the other party's trial costs.

Our survey elicited only a handful of responses from state-mandated or authorized arbitration programs: those in the Superior Courts of Marin, Nevada, San Diego, San Luis Obispo, San Mateo, Tulare and Ventura counties and in the Municipal Courts of Fremont-Newark-Union City, San Rafael, and Redwood City. The responding programs are virtually identical, differing only in those who serve as arbitrators and in monthly caseloads. While the arbitrators in all programs must be attorneys, those in the superior courts responding to the survey rely on volunteers, while the municipal courts rely on program staff or court staff attorneys. In the municipal courts, the monthly caseloads reported ranged from five to thirty cases. The San Mateo County Municipal Court in Redwood City may have a higher volume (30 cases) because it is the only municipal court that orders cases to arbitration. Among the superior courts responding to our survey, a similar disparity in reported caseloads exists (5 cases to over 200), with the largest, in San Diego County, totalling about 250 cases each month.

#### Other Civil Court - Annexed Programs

In addition to these so-called "judicial arbitration" programs, three courts responding to the IJA survey reported the establishment of other types of ADR programs to relieve their civil caseloads.

The San Luis Obispo County Superior Court reported the adoption of three other types of programs: summary jury trials, voluntary settlement conferences, and private judging. The summary jury trial is used only for civil and automobile negligence disputes and is



conducted by volunteer lawyers with five years' experience. The court refers cases to this program at its discretion; usually only two summary jury trials are held each month. The voluntary settlement conferences and private judging are both voluntary programs and are used in a wider variety of cases, including divorce, civil, consumer/merchant, landlord/tenant, automobile negligence, and neighbor/neighbor. Both types of programs use retired judges and attorneys as intervenors. However, the settlement conference program, unlike the private judging program, relies on volunteer, not paid, lawyers. Each program handles about two cases per month.

Ventura County reported a so-called retired judges utilization program that provides private judging and back up support for absent judges. The pro tem judges are paid \$250 per day for their appointments, but the private judges make their own contractual arrangements with the parties.

A civil settlement program in Ventura County encourages parties in civil cases to settle before trial, through a settlement conference conducted by two attorneys, one each from the plaintiffs' and the defendants' bars. The attorneys are chosen by the parties from two panels composed of experienced volunteer attorneys from the community. A separate civil trial acceleration program is a hybrid program combining intervention with delay reduction. The program provides accelerated jury and non-jury trials by all judges and pro-tem judges during three separate weeks per year. Civil cases with an estimated five or fewer trial days are encouraged to participate. About 150 to 180 cases are processed annually in the program.

In Plumas County, one judge on the Superior Court has initiated an informal pretrial conference program for all cases and an arbitration program for personal injury cases. The pre-trial conference program has resulted in the settlement of 75% of the cases. The arbitration program, though, is loosely structured and has processed only two cases during its first year of operation. The cases to be arbitrated are chosen at the discretion of the judge and are arbitrated by an arbitrator whom the parties select through the American Arbitration Association.

The San Francisco County Superior Court has implemented an early settlement program in conjunction with the Bar Association of San Francisco for civil, personal injury, wrongful termination, and insurance bad faith cases. A case enters the program when all parties so stipulate or when the court so orders. The conference is conducted by a panel of two volunteer attorneys, one from the plaintiffs' bar and one from the defendants' bar and both with 10 years' experience in specified areas and significant trial experience. Each party must undertake substantial, good faith negotiations prior to the conference. If the negotiations fail, the parties must submit a statement to the panel describing the legal and factual posture of their cases and, with their attorney, must attend the conference. Once assigned to the panel, a case remains on the settlement calendar until removed by the court, and the panelists may retain jurisdiction over a case for additional conferences. According to an evaluation of the first two years of the program (1987-89) 232 of the 749 cases (31%) in which conferences were held settled as a result of the efforts of the

panelists. In addition, 90 cases settled and 9 were dismissed before the actual conference.

The courts in California employ a number of other ADR procedures to handle their burgeoning civil caseloads. Although the IJA survey did not elicit responses from specific programs employing these procedures, this study would be incomplete without their mention.\*

California's Judicial Council, for example, has adopted a rule requiring settlement conferences in courts with three or more judges in all matters which will take more than five hours of trial (Rule 222). This rule also permits other or additional settlement conferences on the joint request of the parties or by order of the court. Unless excused by the court, trial counsel, parties and persons with settlement authority must all attend the conference. It is not specified whether these conferences are to be conducted by the judge, by the court's staff attorneys, or by others.

Legislation enacted in 1987 authorizes post-judgment settlement conferences in specified cases and provides that when a verdict in excess of \$100,000 has been entered against a public entity in a personal injury or wrongful death action, on the request of the public entity the court must schedule a settlement conference for the purpose of discussing methods of satisfying the judgment.

The California legislature has also enacted provisions similar to those in nearly every other state permitting referral of cases to referees and commissioners under specific circumstances (See

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\*A primary source of the information that follows was a memorandum dated December 8, 1988 to members of the State Bar of California's Board Committee on Legislation and Courts from Heather Anderson, a staff attorney in the Bar's Office on Research.

California Code of Civil Procedure Section 639). However, California is one of only a handful of states whose referral statute permits privately selected judges to render decisions that are entered as the decision of the court without being subject to court review (see California Code of Civil Procedures sections 638 et seq.) This procedure has engendered a significant amount of controversy.\*

#### Small Claims Advisory Programs

California may be unique in requiring a small claims court advisory service pursuant to section 117.18 of its Code of Civil Procedure. While our survey elicited responses from only three small claims advisors, those in Modesto, San Francisco and Torrance, the President of the California Small Claims Advisors Association reports that small claims advisors are available in almost every county of the state.

As the name suggests, small claims advisors are concerned less with ADR procedures than with counseling about the small claims court procedure and making referrals to community agencies, including to local ADR programs, that have the resources to assist parties with legal and/or financial needs. In some cases a potential litigant may decide not to pursue a claim after discussing with the advisor the burden of proof, the likelihood of collecting

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\*See, e.g., Message from the President, ABA Journal, September 1, 1988. In July, 1989 Chief Justice Malcolm M. Lucas announced the appointment of a Judicial Council Advisory Committee on the Private Judges to identify and study public policy questions regarding "private judging" as well as its use of public resources. This Committee expects to issue a report in the Fall of 1990.

the judgment and other factors. The San Francisco advisor herself conducts limited mediation, primarily helping the parties to negotiate an exchange of a judgment debt for satisfaction of judgment. The South Bay judicial district program in Torrance uses volunteer law students, who receive six hours of training from a research attorney, to aid parties in filing, coordinating and appealing cases. Because the nature of much of the service provided by the small claims advisory programs responding to our survey is informational, they are able to process over 100 cases a month. The San Francisco program is especially busy; in just one month, it handled 451 cases in person and 511 by telephone.

#### Court-Annexed and Affiliated Child Custody Mediation Programs

In 1980, California became the first state in the country to mandate mediation for child custody disputes in dissolution proceedings.\* All counties with populations over 500,000 and most counties with populations over 450,000 have court-affiliated mediation or family services units. Mediation is provided in 23 counties by a unit of the court, in 15 by probation departments, and in 18 by contractors, usually mental health professionals. Some counties use a combination of mediation service providers.\*\* According to Isolina Ricci, Statewide Coordinator of Family Court Services, an estimated 48,000 mediation cases were handled in California between mid-1987 and mid-1988.\*\*\*

\*Cal. Civ. Code Section 4607.

\*\*This information was derived from a report of Statewide Office of Family Court Services, Administrative Office of the Courts, Judicial Council of California based on statewide study conducted during the summer of 1988.

\*\*\*Ibid.

Our survey elicited responses from 29 programs providing mediation for child custody disputes in 20 counties. One was from a private practitioner with a contractual relationship to the court, and five were from private profit or non-profit groups that operate independently of the courts. The remainder were from court-annexed programs, five operated by probation and the remainder by court family services units.

While mediation is practiced somewhat differently from county to county, all of the programs share certain characteristics. Mediation occurs after the filing of the action and before any formal court proceedings. The process is also available on a voluntary basis for couples with children who have decided upon dissolution, but have not yet filed papers with the court. If one of the parties does not attend, the mediator must file a report to that effect with the court and await further court action. Attorneys are not present or only observe the sessions between the mediator and the parties. However, the mediator usually meets with attorneys before and/or after meeting with the parties. Mediators are also required to meet with any children over six years of age.

If agreement is reached, some counties mandate and others simply encourage the parties to take the agreement to an attorney for review. In still other counties, the attorneys draft the agreement subject to review and approval by each party.

If no agreement is reached, the mediator reports the lack of agreement to the court. In addition each county has the option, by local court rule, to decide whether mediators can be asked or required to make custody and visitation recommendations to the court in the event the parties cannot reach agreement, a practice that has

generated significant controversy.\* Thirty-three counties provide for some form of mediator recommendation.\*\* In some of these counties, recommendations may be required whenever the parties fail to agree. In others the practice varies. For example, in Ventura County, the mediator may make a recommendation only under one of two circumstances. The mediator may meet informally in a conference with the judge if both parties have mutually consented to the conference and both parties or their attorneys are present. Or, the mediator may make a recommendation to the court as an expert witness in court. As an expert witness, the mediator is subject to cross-examination under the rules of evidence with regard to statements made in mediation by the parties, the mediator's clinical assessment of the family, and/or her recommendations regarding resolution of custody and visitation issues. In 21 counties no recommendations are made in any form.\*\*\* In some counties, the judge meets with the parties after mediation in a final attempt to encourage settlement before trial.

Mediators are required to have a Master's in any Behavioral Science and two to five years' experience in the field. Although ongoing training sessions are conducted by the Statewide Office of Family Court Services, each county conducts its own individualized training. For example Alameda County conducts a total of six hours of training per month, usually through invited speakers. Other counties, such as Los Angeles and Plumas, conduct workshops

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\*Cal. Civ. Code Sec. 4607 (e) See McIsaac, "Confidentiality: An Exploration of Issues," 8 Mediation Quarterly 57.

\*\*Study of Statewide Office of Family Court Services, supra.

\*\*\*Ibid.

including simulations led by senior staff members or independent contractors.

Caseloads of the programs responding to our survey varied in direct correlation with the size of the county. The Los Angeles Family Court Services office reported 9,000 filings per year, 4,706 of which are conciliation filings and 4,300 dissolution filings, with approximately 60% of these dissolutions involving children and a third of these going to mediation. The Alameda County (Oakland) office reported 200 referrals to mediation per year with 180 cases actually processed. A private practitioner who mediates under contract with the court in Mariposa County reported a caseload of 6 cases per month.

Since mediation is mandated for marital dissolutions involving children, the state reimburses counties for any costs incurred in implementing their mediation programs. S.B. 961 allows each county to raise its filing fees and earmark the additional sums to support its mediation service, and generally the courts have done so. The state reimburses the county for the shortfall. Most of the programs do not have independent budgets, but are line items within the Probation Department budget or the county's general fund, although the programs in some of the largest and smallest counties -- Los Angeles, San Diego, San Luis Obispo and Plumas -- have independent budgets.

Mediation is free to the parties, although some counties have instituted a sliding scale arrangement for any time spent above the initial 2 1/2 hours.

A Statewide Office of Family Court Services, established by



statute in 1984 (Title 10 of the California Civil Code), coordinates and provides services to the 58 county based Family Court programs. Title 10 empowers the Statewide Office to provide coordination and services in five specific areas. First, in order to facilitate the formulation of future policy, the Office must evaluate family laws and programs. Second, the Office is responsible for devising and implementing training programs for non-judicial family court services personnel. Third, the Office has jurisdiction over research grant monies and is responsible for administering the grants. Fourth, the Office must implement the mandatory mediation laws. Finally, the Statewide Office is responsible for establishing a uniform statistical reporting system to assist policy makers in judging the efficacy of certain programs.

In the several years of its existence, the office has been extremely active. Publications have included a Directory for Family Court Services in California and a salary survey report; profiles on procedures for clients in pro. per., for clients with diverse cultural and economic backgrounds, for allegations of domestic violence and child abuse and for mediation and evaluation services; manuals for child custody evaluation, for mediation training, and for parent education; and a family law desk reference for counselors and mediators.

In addition, the office has conducted local and regional training programs, sponsored conferences, engaged in evaluation research, awarded research grants, undertaken pilot projects to test uniform statistical reporting, and produced a series of videos. The office has also been leading and coordinating the effort to develop uniform statewide standards for mediation.

### Private Family Mediation Providers

Our survey elicited responses from five private divorce mediation practitioners or services located in Fresno, Contra Costa, Los Angeles and Santa Barbara. Parties who have filed petitions for dissolution may opt to use private providers. In addition, as mentioned earlier, some courts contract with private providers to supplement or in lieu of a court-annexed program.

The percentage of court referrals reported by those private providers responding to our survey varied from program to program. For example, the Jewish Family Service of Los Angeles rarely, if ever, receives court referrals except when there is a religious issue involved. Others, such as Northern California Mediation Center in Marin County receive about a third of their cases from the courts. Other sources of clients for these providers are attorneys, therapists, community agencies and self-referrals. The mediators report extensive training in mediation and usually an advanced degree. Only two of the private programs responding to our survey use community volunteers. Fees are usually charged to clients, often on a sliding fee scale basis.

### Juvenile Court-Annexed Mediation

In Los Angeles, the Juvenile Court has instituted juvenile dependency mediation for child abuse/neglect cases. Cases are routed to mediation at the judge's discretion. With the agreement of parties, a schedule is set for a two stage mediation conference. The first meeting is set for approximately 21 days after arraignment.

At the first stage Protective Services Counsel and a court

officer meet with the parents and their counsel to discuss settlement. If settlement is reached, the agreement is presented to the court for consideration. The court is free to reject the settlement if it does not meet with its approval. However, the court usually accepts the agreement.

If no settlement is reached in the first stage, the case is referred to a court mediator who meets with all of the interested parties. The meetings may be joint or separate. If, after further discussion, a settlement is not reached, then this lack of agreement is reported to the court. Any agreement that is reached is reduced to writing and submitted to the court for approval to ensure that it is in the child's best interests.

In addition to post-filing conferences, the judge has the discretion to refer parties to mediation on contested issues after trial. Post-disposition referrals reportedly total 50-80 per month, and referrals for post-filing conferences range from 1500 to 1900 per month.

The program staff are all court-related personnel with background and experience in handling juvenile cases. Approximately 40 hours of training is required, with all training conducted in-house.

Since the program is court related, it does not have its own independent budget, but is part of the court's budget. Program costs reportedly totals \$100,000 to \$200,000 per year. The program also receives some funding from grants.

In addition to this mediation program in the Los Angeles Juvenile Court, California has a juvenile court referee program (California Rules of Court Rule 1316 et seq), with referees hearing

cases concerning juveniles alleged to have committed certain types of offenses, such as traffic violations and truancy. Our survey did not elicit response from any such referees or programs.

#### Dispute Resolution Programs Act/Department of Consumer Affairs

In 1986 the California legislature enacted the Dispute Resolution Programs Act, establishing a uniform system by which counties may fund local public and private nonprofit dispute resolution programs by charging court users a fee for filing complaints.\* The legislation also requires the Department of Consumer Affairs to evaluate the grant and dispute resolution programs and to monitor their compliance with regulations developed by an Advisory Council to promote statewide uniformity.

To date, 18 counties in the state have established a grant program to provide supplemental funding for 42 local dispute resolution programs.\*\* According to a recent survey by the Department of Consumer Affairs, 26,755 disputes were settled by these programs in 1989, with most of these disputes (42.9%)

\*Counties may impose a \$1 to \$3 fee at the time a civil case is first filed in the superior, municipal and justice courts and, using these revenues, award grants to organizations for up to 50 percent of their dispute resolution program's operating costs. To qualify for the grants programs must meet certain eligibility requirements specified by the Act.

\*\*A survey conducted by the Legislative Analyst's office found that a primary reason for counties not participating in the programs is their belief that there is an insufficient dispute resolution workload to justify the creating of such a grant program. Those counties did report that they might be induced to participate if evaluations of existing programs showed impact on reducing court caseloads or other benefits. Legislative Analysis, September 1990.

occurring between landlords and tenants, and the remainder between consumers and merchants (12.41%), neighbors (8.83%) and family members (7.07%).\*

Only about 2% (2,827) of the disputes handled in 1989 by programs receiving funding under the Dispute Resolution Programs Act involved complaints that had been filed in court before the parties decided to use informal means of dispute resolution. At the same, a total of 8,178 cases (29% of the cases handled) were referred by the courts and thus it is likely that there would have been a need for processing of a good number of these cases by the courts if the local dispute resolution programs had not been accessible.\*\*

In addition to monitoring and evaluating programs funded under the Dispute Resolution Programs Act, the Department of Consumer Affairs through its Dispute Resolution Office, has been increasingly active in providing information and technical assistance to counties and programs participating or desiring to participate under the Act, as well as in promoting the availability and use of alternative methods of dispute resolution throughout the state. Thus it has been exercising an active role as educator and catalyst, and has plans to expand those efforts.

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\*Dispute Resolution Programs Act: 1989 Program Survey, Department of Consumer Affairs, Dispute Resolution Office, Alberto Belinger, Staff Counsel and Coordinator.

\*\*As the Department of Consumer Affairs 1989 Program Survey Report States, "Even if we assume that the dispute resolution programs' impact on our courts is minimal, we must understand that the legislative intent and purpose of the act is not merely to ease the congestion of the court system. The DRPA was also intended to enable counties to bring a new level of justice to disputes which are inappropriate for the courts. (California Business and Professions Code section 467.) This new level of justice particularly benefits disputants whose need is for both the resolution of the conflict and the preservation of the relationship between the parties. We believe that this component of the legislative intent has been met.

A number of the programs described below that are sponsored by bar associations, legal services, local governments and local not-for-profit agencies are among the 42 programs receiving funding under the Dispute Resolution Programs Act.\*

#### Bar Association Programs

The bar associations in California are especially active in promoting alternative dispute resolution programs. The Los Angeles County Bar Association with funding in part under the Dispute Resolution Programs Act, has established a Dispute Resolution Services project that operates various programs in the courts and the communities of the county. Five of these programs responded to our survey.

One of the Los Angeles County Bar Association programs offers both arbitration and mediation in attorney-client disputes. Arbitration is used only in fee disputes initiated by either side, and mediation is offered only to resolve non-fee disputes. The program relies on both volunteer attorneys licensed to practice in California and community volunteers. It handles about 90 cases per month.

The remaining four Los Angeles County Bar Association programs are all court-affiliated: the Joint Association Settlement Officer Program (JASOP), which handles complex civil, consumer/merchant, commercial and automobile negligence disputes; the Family Law Committee's Mediation Program which handles maintenance and division of property, both affiliated with the county Superior Court-Central

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\*For a complete list of programs that receive funding under this Act see Appendix F.

District; the Barristers' Landlord/Tenant Settlement Officer Program, affiliated with the Los Angeles Municipal Court; and the Santa Monica Municipal Court Mediation Program. These programs receive referrals exclusively from certain courts in Los Angeles County with their caseloads varying from 9 in Santa Monica to 80 in JASOP. They also have similar procedures for handling cases.

Generally, a case is referred to mediation or settlement by a judge, with consent of the parties, and the parties may present witnesses and be represented by counsel. The intervenors in all the programs are volunteer attorneys, and with the exception of those in JASOP receive training. The intervenors have the authority to terminate the proceedings if they conclude that one of the parties does not understand his or her rights and potential obligations or is uninformed; in this situation, the party is encouraged to seek qualified professional advice. If the parties do reach an agreement, they have the option to make any written settlement enforceable or admissible at law. All statements and documents produced during the proceedings are kept confidential pursuant to California's Code of Evidence.

In addition to these programs, the Los Angeles County Bar Association's Dispute Resolution Service Project is in the process of implementing several more court programs in the Los Angeles Municipal Court, the East Los Angeles Municipal Court, the Long Beach Municipal Court, the Long Beach Superior Court, the Pasadena Municipal Court, and the Southeast District. These programs will provide mediation in general civil, small claims, unlawful detainer, and misdemeanor disputes. The Association is also active in

promoting the use of ADR throughout the county, and was instrumental in the compilation of a directory of ADR services in the County in 1989.

Other bar associations in California such as those in Sacramento and Alameda Counties, are also very active in funding or sponsoring ADR programs, although they were not identified by or did not respond to our survey. While not itself a program sponsor, the State Bar Association is extremely active in ADR activities, providing technical assistance to dispute resolution providers, local bar associations and others. A new Program Developer in the Bar's Office of Legal Services was specifically hired in 1990 to provide these and other services. In the few short months of her tenure this Program Developer had already, as of the time of this survey, engaged in such activities as site visits to local programs and bar associations, publication of materials such as a "Dispute Resolution Toolbox" for counties that had not yet opted into the State's Dispute Resolution Programs Act (drafted in close collaboration with the Department of Consumer Affairs), initial research for a legal/dispute resolution needs assessment study, and work on ADR legislation.

#### Legal Services Programs

To our knowledge very few legal services offices throughout the country are actively engaged in ADR programming efforts. However, California seems to have taken the lead in this as in various other areas. For example, the Legal Aid Society of San Diego, Oceanside branch, recently initiated a mediation program that offers



counselling, mediation, and settlement to resolve child custody, domestic violence, consumer/merchant, landlord/tenant, and neighbor/neighbor disputes. These cases are referred through community agencies and program advertisements. The program employs staff, volunteer lawyers and community volunteers as intervenors, all of whom receive 20 hours of training from the Community Mediation Center. Because the program is very new, at the time of this survey it had handled only an average of two cases per month.

Although they were not identified by our survey questionnaire, we also understand that the Legal Aid office in Santa Barbara as well as the Asian & Pacific American Legal Center in Los Angeles also sponsor community mediation programs. Both receive funding under the Dispute Resolution Programs Act.

#### Prosecutors Programs

California's concern with consumer protection manifests itself in an impressive array of programs to resolve conflicts between consumers and merchants, a number of which have been implemented by District Attorney's Offices, sometimes with funding received under the Dispute Resolution Programs Act. Our survey elicited responses from three counties, all of which have established consumer mediation services, although these programs also handle a variety of other types of cases. The Ventura County program, for example, also handles some complex civil, landlord/tenant, and automobile negligence cases. These cases are referred primarily by community agencies or are self-referred.

Although the programs are labelled mediation programs, it is not clear that they in fact use mediation to resolve disputes. The Riverside program, in fact, relies exclusively on conciliation, while the Ventura program uses conciliation as its primary intervention technique. The San Francisco program reports using mediation, but the actual process it describes is very similar to the conciliation process used in the other programs. In general, a disgruntled consumer may lodge a complaint in person, by mail, or by telephone. The program then contacts the person or business complained about by mail or by telephone to negotiate a settlement. Only rarely is an in-office session employed. This procedure allows the program to handle a high volume of cases. The Riverside program reports a monthly caseload of 70 cases, and the San Francisco program 200 cases. The Ventura program does not keep statistics.

All three programs recruit community volunteers to supplement their staff and require training. The Ventura program has the most stringent requirements for its intervenors, who not only must have experience in consumer law or a related area, but also must participate in more than 25 hours of mediation training conducted by the Alternative Dispute Resolution Associates at the University of California at Santa Barbara.

Finally, the San Diego Office of City Attorney has created a Dispute Resolution Office (DRO) to handle a wide variety of problems ranging from automobile negligence to domestic violence. Typically, a deputy in the office will refer a legally sufficient case to the DRO if the deputy believes informal resolution will prove more meaningful than court intervention. Diversion usually occurs in cases involving family members, neighbors, or friends involved in

offenses of consequences only to themselves. The DRO employs counseling, mediation, conciliation, and arbitration to reach a long-term resolution, based on the behavior and attitudes of each party, and handles 300 cases per month.

#### Local Government Programs

Several local governments have enacted their own programs to resolve disputes. The programs typically handle cases in areas of particular public concern, such as housing, human rights, and consumer affairs. Not surprisingly, the larger metropolitan regions, such as Los Angeles and San Francisco, have developed a greater number of programs than other localities.

Our survey elicited responses from three municipalities that have established mediation or arbitration programs to resolve rent disputes between landlord and tenants. Each program follows its own procedures.

In Culver City, a tenant who wishes to challenge a proposed rent increase may file a request for mandatory mediation within 15 days of notice of the increase. The landlord then must mediate in "good faith." If the landlord refuses to participate in good faith and then seeks to evict the tenant for non-payment of the new rent, the tenant may use the landlord's bad faith as a legal defense in court. If the tenant requests mediation after 15 days of the new rent increase, the landlord may choose not to participate in mediation. Arbitration also is available, upon consent of both parties. Culver City relies on a three-person panel of trained

community volunteers, consisting of one landlord, one tenant, and one neutral resident at-large.

The Gardena Rent Mediation/Arbitration Board has adopted a similar procedure. A tenant must request mediation before a three-person panel, whose composition matches that of the Culver City Board, within 10 days of the notice of a rent increase. Participation by the landlord is mandatory. The Board issues a recommendation which the parties may accept or reject. If the recommendation is rejected, either party then may request arbitration.

San Francisco has adopted a more adjudicatory approach to resolve not only rent increases but also evictions and habitability disputes. A party filing a petition with the Rent Stabilization and Arbitration Board brings the dispute to an administrative hearing. The Board contracts with attorneys admitted to practice in California to serve as hearing officers to render decisions in these disputes. The San Francisco program holds 80 hearings per month in contrast to the 1 - 3 hearings per month held by the other programs. Not surprisingly, the San Francisco program also has a large budget of \$800,000 per year as compared with \$27,000 in Culver City, and an annual cost of \$6,000 in Gardena.

At least three municipalities also have established human rights programs to handle discrimination complaints, primarily in housing. Once a complaint of discrimination is filed, the agency will investigate the situation and attempt to resolve the dispute by mediation, conciliation and counseling. In San Francisco, if these

efforts fail, the matter may be referred to an independent hearing officer for a recommendation. The intervenors in the Metro-Harbor Fair Housing Council (L.A.) and the Sacramento Human Rights Commission receive 2 and 20 hours of training respectively. By contrast, the San Francisco Commission does not train its staff. The Metro-Harbor Fair Housing Counsel receives the most referrals - over 200 per month; San Francisco and Sacramento each receive about 40 referrals per month.

Finally, many counties provide their own public mediation services for consumer complaints. Our survey elicited responses from two programs, one in Santa Clara and the other in Los Angeles County. The procedures in both appear to be informal and expeditious, enabling each program to handle about 250 mediations a month. Both programs also provide extensive training for their intervenors. The staff mediators at the L.A. County Department of Consumer Affairs undergo 80 hours of training, and the volunteer and staff intervenors at the Santa Clara County Department of Community Services receive 20 hours of training.

#### State Department and Commission Programs

The State of California has, to a remarkable degree, empowered state agencies to employ alternative techniques to resolve disputes. A summary of statutory provisions relating to these procedures is contained in Appendix F. The efforts of the Department of Consumer Affairs. In addition, various agencies are involved in handling employer-employee disputes, discrimination complaints, and franchise disputes in the motor vehicle industry.

Our survey elicited responses from various agencies established by the State's Department of Consumer Affairs to regulate specific areas of concern to the consumer: the Bureau of Electronics and Appliance Repair (BEAR), the Bureau of Automotive Repair, the Structural Pest Control Board, and the Contractors State License Board. Each agency has roughly the same authority and shares the same procedures for handling disputes. First, each agency has the authority to register and regulate the service providers in its jurisdiction. Consumers may file complaints with the appropriate agency when a problem arises. The agency then investigates the complaint and attempts to mediate a settlement. The Contractors State License Board also employs arbitration when both parties are willing. If the investigation uncovers unlawful activities or conduct, then the agency may file civil, criminal, or administrative disciplinary action against the offending service provider. The agency also is empowered to revoke or suspend a service provider's license. Each agency has a substantial monthly caseload. Not surprisingly, the Bureau of Automotive Repair is the busiest, with 2500 written complaints per month. The contractors board follows at 272, then BEAR at 250, and the Structural Pest Control Board at 108.

The agencies each employ their own trained staff to handle complaints. In addition, the staff is required to have experience in the subject matter of the agency's regulation.

The State of California provides funding for these agencies. BEAR and the Contractors State License Board also rely on license fees for funding. The annual cost of these programs range from 1.2 million to 6.5 million dollars.

The Office of the State Labor Commissioner has established the Division of Labor Standards Enforcement (DLSE) to process wage disputes and discrimination complaints. In wage disputes, the DLSE does not have jurisdiction over independent contractors, public agencies, and, usually, employers subject to collective bargaining agreements with arbitration provisions. An employee may file a complaint alleging discrimination or non-payment of wages or other compensation with DLSE. The division then assigns an employee to investigate the claim.

In a wage dispute, the investigator, a Deputy Labor Commissioner, may dismiss the claim or refer it to either an informal settlement conference or a formal administrative hearing. If the settlement conference fails, the deputy commissioner may either dismiss the claim or refer it to a hearing. At the hearing, the hearing officer may render a decision on behalf of the DLSE. Either party may appeal the decision to the Municipal or Superior Court.

In a discrimination complaint, a Discrimination Complaint Investigator (DCI) may attempt settlement negotiations after conducting a field investigation. If no settlement is reached, the DCI prepares a written summary of facts and conclusions for review by the State Labor Commissioner. The Labor Commissioner may adopt the recommendations of the DCI, in which case either party may seek further administrative review by the Director of the Department of Industrial Relations, or the commissioner may schedule an administrative hearing on the complaint. The hearing officer also files a summary of the facts and conclusions for final determination

by the labor commissioner. Any decision against an employer is enforceable in court. If the decision is to dismiss a complaint, the employee alleging discrimination may file a separate private court action.

DLSE handles 150 wage complaints and 7000 discrimination complaints each month. It receives referrals from courts, community agencies, law enforcement, and labor organizations.

The State Department of Fair Employment and Housing hears complaints of employment and housing discrimination. After a complaint is filed, a trained staff member conducts an impartial investigation and attempts to help the parties reach a settlement. If no settlement is reached and the evidence indicates that a law has been violated, the department may refer the case to the Fair Employment and Housing Commission for a public hearing. If the commission finds that discrimination has occurred, it can order remedies such as awarding the job or housing to the complainant, monetary compensation, and affirmative prospective relief. The department processes 672 complaints each month.

The New Motor Vehicle Board governs franchise disputes in the new motor vehicle industry. In the event that a franchiser wishes to terminate the franchise of a dealer, the dealer may file a protest with the board, which determines whether the franchiser has shown good cause for termination. The board also has exclusive jurisdiction to hear petitions alleging any other kind of dispute pertaining to the motor vehicle franchise relationship. When a protest or petition is filed, the case is sent first to a mandatory settlement conference conducted by an administrative law judge



(ALJ). If a settlement does not result, the case is scheduled for a formal evidentiary hearing, also conducted by an ALJ. The ALJ proposes a decision for consideration by the board, which can adopt, reject or modify the proposed decision. The board also hears appeals from disciplinary licensing actions taken by the Department of Motor Vehicles. All appeals are heard en banc. The members of the board are all attorneys admitted to the California bar for a minimum of five years and having specified judicial experience. The board handles 25-30 disputes a month. It is funded by filing and license fees.

#### Local Not-for-Profit Programs

The IJA survey elicited a total of 37 responses from local not-for-profit ADR programs. Of these, 25 programs deal with a wide range of cases, whereas 10 deal with housing cases and the remaining two with disability cases. A number of these programs are funded under the Dispute Resolution Programs Act.

##### a. Local Not-for-Profit Programs with Diverse Caseloads

Of the programs that deal with a wide range of cases, nearly all handle consumer/merchant, landlord/tenant, neighbor disputes, and small claim cases. Approximately half also handle divorce, parent/child disputes and minor criminal cases. About a third take domestic violence, complex civil, and automobile negligence cases, and only five of the programs handle juvenile criminal cases. A few programs also handle employer/employee and business/contractual cases. These catch-all programs serve more populous counties, with 4 operating in Los Angeles County and 2 in San Diego County.

Given the extensive court-affiliated programming in the domestic relations arena in California, a surprising 12 programs, nearly one-half of the broadly based local not-for-profit programs, handle both general civil and domestic relations cases. The Claremont Dispute Resolution Center, which receives funding under the Dispute Resolution Programs Act, reported that it has very few divorce and divorce-related cases, but the Humboldt Mediation Service noted that these cases comprise 40% of its caseload.

All of these programs have cases referred to them by law enforcement agencies and the courts. Court referrals are voluntary with consent of the parties in 13 of the programs, discretionary at the court's election in 10, and mandatory in only one of the programs. Court referrals, however, generally compose only a small percentage of these programs' referrals. For example, the Dispute Resolution Center of the Eastern Sierra reported that only 10% of its referrals originate from the courts. Community agencies and self-referrals are also sources of cases for all but one of these programs. About one-quarter of the programs receive over 100 referrals per month, with one of the programs, the Community Legal Information Center run by the California State University at Chico, averages 1000 cases per month. Most of the programs handle fewer than 50 cases per month.

Mediation and conciliation services are offered by more than 20 of these programs, while less than one-third offer counselling, arbitration or fact-finding. Other types of intervention, such as mini-trials, referrals and settlements, are offered by only a few programs.

The cases are handled by program staff and community volunteers

in all of the programs, with volunteer lawyers assisting at only five centers. All of the programs offer training, with 20 of them offering at least 25 hours of training and a few of them offering on-going training. Most of the training appears to be conducted by the program staff and volunteers.

Under the California Business and Professional and Evidence Codes, the confidentiality of the parties engaged in alternative dispute resolution is protected. Many of the programs apprise the parties of this protection through form agreements that the parties sign to indicate their willingness to abide by California law.

A majority of these services are offered free to clients, and some of those that do charge fees do so on a sliding scale basis. Two-thirds of the programs have independent budgets, with the majority of those running at over \$100,000. Aside from client fees, funding seems to come mostly from city, county, state governments and foundations as well as from donations.

b. Local Not-for Profit Programs Handling Housing Cases

Ten local not-for-profit programs that deal almost exclusively with landlord/tenant issues responded to our survey. Four of these programs also deal with complaints of housing discrimination. These programs provide mediation and conciliation as do the local not-for-profit programs with more diverse caseloads, but they also offer more extensive counselling and referrals. In addition, they offer fact-finding, settlement and mini-trials. Although none of the programs indicated that it provides arbitration services, one program, the Fair Housing Council of San Gabriel Valley, stated that it allows intervenors to impose a solution.

All of these services receive their referrals from courts,

community agencies, law enforcement agencies and self-referrals. Of the court-referred cases, half come voluntarily and half are sent at the court's discretion. Seven of the ten services report 200 or more referrals per month, a much higher number than the programs with more diverse caseloads. Of special note, the San Diego Resident Relations Foundation receives 1,800 referrals per month but processes only 100 of the referrals each month. Given the larger number of referrals these housing programs attract, they tend to rely more on telephone intervention than on face-to-face intervention. For example, the Housing Alliance of Contra Costa County, Inc., and the Sonoma County Rental Information and Mediation Services, Inc. both report handling the bulk of their caseloads over the telephone.

All of the programs use staff members as intervenors, while seven also use community volunteers and only two use volunteer lawyers. All of the intervenors receive training, with most services providing 15 hours or more. Most of the training appears to be conducted by the program's staff and volunteers.

Within the statutory framework for protection of confidentiality, the programs rely on agreements between the parties to abide by the policy of confidentiality. In particular, the Palo Alto Mediation Services provides a handout explaining the importance of confidentiality to the success of mediation. The Palo Alto program requires the signing of an agreement to abide the relevant statutory protections but also encourages parties to make a moral commitment to confidentiality, based on mutual respect among the disputants and the mediators and on the realization that a breach of confidentiality undermines confidence in the good faith effort

needed to help mediation succeed.

Only one of these programs charges its clients. Six of the ten have their own independent budgets, which average over \$200,000 annually. Of the four that do not have their own budgets, costs run between \$60,000 and \$100,000. Funding appears to come primarily through contracts with various cities, Community Development Block Grants, foundation grants, and donations.

c. Local Not-for-Profits Programs Handling Disability Cases

The survey also identified two programs in Los Angeles specifically aimed at assisting the disabled. Each of the programs focuses on different types of disputes and employs different methods of resolution. The Westside Center for Independent Living, helps individuals with Social Security Appeals, such as Medi-Cal and In-Home Supportive Services Fair Hearings and Community and Housing Advocacy Hearings related to disability issues. The Westside Center resolves disputes through fact-finding and mediation. In addition, it also conducts mediations and negotiations with the Department of Rehabilitation pursuant to a contractual agreement.

On the other hand, the Western Law Center for the Handicapped focuses on disputes directly related to discrimination issues. The Western Law Center for the Handicapped primarily provides information and counseling to its clients. In addition, the Center writes letters for its clients in an attempt to resolve disputes thereby completely avoiding litigation.

Neither program receives referrals from the courts. In fact, both programs appear to operate completely outside the judicial system. For example the Westside Center uses program staff to

conduct the sessions. Lawyers do not participate at any point in the process.

#### Local For-Profit Programs

Only six local for-profit programs responded to our survey. Consumer/merchant cases are handled by four; complex civil cases by three; small claims, divorce, and landlord/tenant cases by two; and commercial and real estate disputes by one and international commercial disputes by one. Five programs offer mediation and/or arbitration. Only the Dispute Mediation Service, Inc. (DMSI), in San Mateo County reported offering a wider spectrum of services, including fact-finding, mini-trials, settlement, and private judging. No attempt appears to be made to link certain kinds of disputes with specific intervention models. Instead, the disputants appear to request and contract for a particular service.

As private programs, none of the responding organizations reported any substantial contact with the courts. Only DMSI reported receiving any court referrals. Instead, the programs rely on private and self referrals. The Center for International Commercial Arbitration also receives referrals from industrial associations and foreign arbitration centers. It is unclear how many cases these programs handle each month because five programs gave no figures. DMSI, however, reported processing five cases per month.

Three of the programs use staff as intervenors, while the others use attorneys and two use outside professionals. Only two programs, the In Pro Law Center in Santa Clara County and Alternative Dispute Resolution Associates, provide their staff with training. However,

the Arbitration & Mediation Association, Inc. in San Francisco and DMSI hire only intervenors with experience in arbitration and mediation.

All of the programs charge their clients, with fees being their sole means of financing.

### National Not-for-Profit and For-Profit Programs

#### a. General

Many national ADR providers have branches in California. Programs sponsored by the Council of Better Business Bureaus are discussed separately below. The other providers appear to concentrate on complex civil, small claims, and consumer/merchant cases. They also deal to a lesser extent with divorce, landlord/tenant, and automobile negligence cases. They offer every type of intervention, with most offering mediation, arbitration, and conciliation. In contrast to the local programs, attorneys participate actively in the process offered by the national providers.

Referrals are self-referrals or come from the courts, insurance companies, and attorneys, and through contractual agreements with corporations. The number of referrals ranges dramatically from provider to provider. Three programs provided nationwide statistics in response to this survey and four regional statistics. Of the three programs providing nationwide caseloads, the number of referrals ranged from a low of four at the Center for Public Resources, an organization that emphasizes research, development and promotion of ADR, to a high of 400 cases per month at Judicate, the National Private Court System. Among the programs providing

regional statistics, the number of referrals ranged from 20 to 100, and the number of cases processed, from 15 to 100. The three programs with larger caseloads, -- the American Arbitration Association (San Diego region), the American Intermediation Service (San Francisco), and the Judicial Arbitration & Mediation Services, Inc. (JAMS) (San Diego) -- are more formally structured. By contrast, the Christian Conciliation Services appears to be more community based and informally structured.

These programs use mostly staff and volunteer lawyers, although the Christian Conciliation Services does use community volunteers. Some programs, such as the Accident Arbitration/Mediation Forum and JAMS, require their intervenors to be retired judges or professionals with expertise in certain industries. Training varies greatly, from less than 10 hours to more than 30. Training is done by either program staff or outside training consultants.

All but one of the providers charges its clients, with prices ranging from \$100 to \$125 per hour. Of those with independent budgets, they spend between \$100,000 and \$1 million annually. In addition to client fees, funding comes from contracts with private corporations, donations and government grants.

b. Council of Better Business Bureaus

The Council of Better Business Bureaus (BBB) offers a National Consumer Arbitration Program in more than 150 major cities nationwide, subdivided into general business and specialized consumer/merchant dispute programs. The specialized program in California with the greatest response to our survey was the BBB Autoline, which resolves disputes between consumers and automobile manufacturers. The program is available only for disputes involving



a business that has subscribed to the arbitration program. We received survey responses from 10 BBB Business Arbitration and Autoline programs in California, located in the cities of Bakersfield, Colton, Sacramento, San Diego, San Francisco, San Jose, San Mateo, and Stockton.

The procedures used in these programs is prescribed by the BBB Uniform Rules of Arbitration and applicable state law. Complaints may be initiated by either the consumers or the business. Parties are required to first attempt to resolve their dispute without recourse to outside intervention. If this attempt fails, the business must inform the consumer that it is pledged to BBB arbitration, and the parties then must seek BBB assistance to resolve the dispute. The BBB program staff first attempts informal mediation, and failing that, formal arbitration. A dispute cannot be arbitrated if it involves personal injury and property damage claims or allegations of fraud or criminal violations. In automobile cases, the manufacturer must consent to arbitration; in other cases, both sides must consent.

When a case goes to arbitration, each party receives a list of five trained volunteer arbitrators, from which each party rejects any with whom it has a conflict of interest and indicates its preferences among the remaining names. The individual with the highest overlapping preference becomes the arbitrator. In automobile disputes, BBB may opt for, or state law may require, a panel of three arbitrators. A panel usually is used when a large amount of money is in dispute. At the arbitration hearings, each side may present witnesses and evidence. Within 10 days of the hearing, the arbitrator must make a decision. In all types of

disputes, the decision automatically is binding upon the business, but, in automobile disputes, the consumer may reject the award. In general business arbitration, the consumer also is bound.

The BBB requires extensive training for its intervenors. The program staff, which function as conciliators and mediators, receive about three days of staff training and refresher courses. The volunteer arbitrators receive a minimum of eight hours training conducted by the Counsel of Better Business Bureaus.

The monthly caseloads for these programs are quite high. The Autoline volume ranges from 60 per month to 105 per month. The general Business Arbitration volume runs from a low of 25 per month in Colton to 1500 per month in Sacramento. Generally, the larger cities like San Francisco (200 per month) and San Diego (600 per month) handle more cases.

The BBB arbitration services are offered free of charge to the consumer. The consumer, however, is responsible for the costs of presenting witnesses and procuring legal advice at arbitration hearings. The rest of the costs are borne by the subscribing businesses. Automobile manufacturers contract with the BBB on a case-by-case basis, but other businesses pay a flat annual rate. The Business Arbitration programs report an annual cost ranging from \$40,000 to \$75,000. The Autoline programs report independent budgets ranging from \$18,000 (San Mateo) to \$150,000 (Colton).

## ANALYSIS AND CONCLUSIONS

Overall, the State of California seems to have embraced ADR with gusto. ADR programs reflecting a surprisingly wide range of processes and procedures have sprung up and appear to be blooming in almost every area of the public and private sectors, with continued development and expansion showing no signs of abating. In comparison to the other states studied, California is unique in the number and variety of its ADR programs and the mix of public and private providers that serve the public. The state is characterized by an array of agency and court-annexed services provided by the public but also supported by fees, together with a non-profit dispute resolution sector within and outside the courts for disputes not easily handled by formal court procedures, as well as a for-profit sector offering dispute resolution services.

The precise effect that all of these programming efforts have on court caseloads cannot be estimated with any reasonable accuracy. However it clearly must be significant, even though the possibility of some "widening of the net" effect cannot be discounted. At the same time, one has the sense that California's ADR programming efforts are geared not simply to easing the workload of the courts, but to the larger purpose of providing forums in our increasingly complex society for the resolution of disputes in an efficient and effective manner.

The challenge that California must face now, and one that other states in different developmental "generations" of ADR programming\*

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\*Alternative Dispute Resolution Programs in Ohio, Michigan and Illinois, Institute of Judicial Administration, Fall, 1989.

may learn from, is finding the appropriate relationship and balance among the various ADR approaches being developed, offered and sought throughout the state. California's experience reminds us that at some point in the process of ADR program development we cannot look at specific kinds of ADR forums -- such as court-annexed programs -- in isolation. We need to consider the wider picture, and think about ways in which every branch of government, as well as the private sector, can and should operate systematically in relation to each other. Put another way, can we bring order and accountability to this complex dispute resolution system without unduly damaging the very qualities that alternatives have to offer, namely diversity and flexibility in meeting individual needs and circumstances?

In our report on ADR programs in Ohio, Michigan and Illinois, we discussed the necessity of finding ways of combining the advantages of centralization, such as consistency of program quality, thoughtful distribution of financial resources, and statewide access to dispute resolution options, with the disadvantages, such as stifling of experimentation and innovation, a lack of flexibility in meeting local needs and conditions, and the creation of an additional bureaucracy to drain resources and impose requirements that may retard swift access to justice. Given the current proliferation of programs in both the public and private sectors in California, this necessity is especially highlighted here.

Unlike the other states studied, in California there appears to be no movement towards the development of a centralized body at the statewide level to undertake overall rationalization and organization of all of the ADR programs in the state with an eye

towards influencing or shaping future development. Rather, the effort to provide some kind of institutionalized coordination and planning has occurred separately within discreet types of programming efforts. The activities of the Statewide Office of Family Court Services and the Department of Consumer Affairs Dispute Resolution Office are illustrative. Both have authority, by statute, to monitor and provide services to programs that provide alternatives within each of their areas of jurisdiction -- custody disputes in the case of the former and disputes between individuals concerning housing and minor commercial matters among other things, in the case of the latter. An advantage of this kind of specialized institutionalization is the degree to which discussion and resolution of such issues as training, compulsory participation, and connection to the courts can be tailored to the specific type of dispute and intervention within the office's area of jurisdiction. A disadvantage lies in the risk that uneven or inconsistent approaches may be found which could have been avoided by a more generalized approach to institutionalization. As just one example, confidentiality is treated somewhat differently in California's Evidence Code for court based programs created by statute than for non-statutory mediation.

Also noteworthy is the fact that neither the Statewide Office of Family Court Services nor the Dispute Resolution Office in the Department of Consumer Affairs -- one of which is housed in the executive branch and the other in the judiciary -- has direct supervisory authority over the programs that provide services within their respective areas of jurisdiction. Both offices have the goal,

articulated by the legislature, to promote statewide consistency and uniformity of services provided by local programs. Both have worked to accomplish this goal by gathering, analyzing and publishing program statistics as well as by providing technical assistance. Again, there are pros and cons to this lack of centralized authority. Local programs are free to experiment. At the same time, quality control cannot necessarily be ensured.

Finally, another characteristic of ADR programming in California is the relative blurring of boundaries between the various branches of government and between the public and private sectors. For example, some of the mediation services that fall within the jurisdiction of the Statewide Office of Family Court Services are provided by private practitioners. Funding for programs under the Dispute Resolution Programs Act monitored by the Department of Consumer Affairs is generated by an increase in court filing fees. Some of the programs that receive funding under that Act are private non-profits. We were told that the Alameda County Bar Association, which administers the Dispute Resolution Act funds in that county, requires programs submitting funding proposals to get assurance from at least two judges that cases would be referred to the program. Finally, the State Bar Association has received complaints from some private providers that courts are mandating party participation in ADR programs sponsored by other specific private providers.

This blurring of boundaries raises a number of important issues. As courts or, for that matter, as public agencies

generally contract out services traditionally provided by the government, should there be a greater degree of regulation of the private sector, for example in terms of qualifications and standards of practice? Should these regulations be imposed from the outside or should there be some form of self-regulation? By what means can we best hold the private sector accountable for the provision of public services? Viewing the issue from a different perspective, can we ensure that the same statutes, protections and resources will be afforded to private neutrals as are given to neutrals who are part of a public program created by statute or court rule?

These are all critical questions that must be addressed as ADR programs continue to proliferate. What this study of California's ADR programs challenges us to confront is the necessity of adopting a system perspective, and finding ways in which all ADR forums -- both within the public sector and among both public and private sectors -- can operate more synergistically to provide a quality dispute resolution system throughout a state jurisdiction.

## APPENDICES



**THE JUDICIAL COUNCIL OF CALIFORNIA**  
STATE BUILDING, 350 McALLISTER STREET, SAN FRANCISCO 94102

**ADMINISTRATIVE OFFICE OF THE COURTS**

TO: All Superior Court Presiding Judges,  
Municipal Court Presiding Judges,  
Justice Court Judges, County Clerks,  
Superior Court Executive Officers,  
and Municipal Court Administrators

FROM: Administrative Office of the Courts  
William E. Davis, Director

DATE: March 20, 1989

SUBJECT: Survey of Alternative Dispute Resolution Programs

At the request of Margaret L. Shaw, Director, Institute of Judicial Administration, Inc., we are seeking your assistance in assessing the types of programs currently operating in California that provide alternative dispute resolution (ADR) services directly or indirectly to the courts.

The Institute is a nationally recognized resource for judicial research and, with support from the State Justice Institute, is conducting a broad based survey of ADR programs.

For the purposes of its survey, the Institute defines an ADR program as any organized effort utilizing personnel other than judges (whether magistrates, clerks, attorneys, mediators, probation officers, law students, lay people, etc.), who meet with parties, counsel or parties and counsel together to resolve criminal or civil disputes, that have been formally filed with a court. An ADR program may employ any one or more of the following processes to resolve disputes:

- Counselling
- Conciliation
- Mediation
- Arbitration
- Fact-finding

Early settlement  
Mini-trials  
Summary jury trials  
Referrals to masters, referees, etc.  
Private judges

According to Director Shaw, an ADR service need not be formally organized to be recognized as such. For example, a recent survey in one state discovered several local courts that routinely and mandatorily assigned civil cases to their clerks for settlement prior to being formally docketed for trial. It is precisely this kind of ad hoc arrangement, involving the preliminary intervention of a neutral who is not a judge, that the Institute's survey hopes to document.

Although the Institute considers formal ADR programs as important to the survey and would like to have them identified, Director Shaw is particularly interested in the creative alternatives fashioned by local courts and judges who must cope with onerous caseloads and backlogs. Moreover, it is recognized that you may not have information concerning ADR services in each of the categories set forth above.

To ensure a full and accurate survey, the Institute is requesting that you have someone on your staff list, on the attached form, those ADR services known to the court. It is essential that the Institute obtain a list of local programs which is as complete as possible as project researchers will rely exclusively on the information provided by you.

Once the Institute of Judicial Administration receives your reply, it will send individual questionnaires to the programs you have identified in order to gather additional information about each program. Institute research personnel, subsequently, will conduct telephone and personal interviews with selected judicial and program staff to acquire as much additional information as possible about those ADR programs identified as currently operating in California.

Ms. Shaw is requesting that you complete your response as soon as your schedule permits and forward the form to:

Margaret L. Shaw, Director  
Institute of Judicial Administration, Inc.  
One Washington Square Village  
New York, New York 10012-1699

If you have any questions regarding the survey, please call Ms. Shaw at (212) 998-6280.

Your cooperation and assistance is greatly appreciated.

Enclosure

## Alternative Dispute Resolution Program Survey

The following information should be forwarded to:

Margaret L. Shaw, Executive Director  
Institute of Judicial Administration, Inc.  
One Washington Village Square  
New York, New York 10012-1699

[illegible]



1020 N STREET, SACRAMENTO, CALIFORNIA 95814



March 31, 1989

Dear Local Bar/Dispute Resolution Official:

The Department of Consumer Affairs, as the oversight agency for the California Dispute Resolution Programs Act (Business and Professions Code § 465 et seq.) has been asked to assist the Institute for Judicial Administration in producing a statewide inventory of local dispute resolution programs. We are pleased to assist.

The Institute Judicial Administration (IJA), is a national judicial research institute supported by the State Justice Institute. It is conducting statewide surveys of programs that provide alternative dispute resolution (ADR) services directly or indirectly to the court systems in several states, including California.

For the purposes of this survey, an ADR program may be defined as any organized effort utilizing personnel other than judges (whether magistrates, clerks, attorneys, mediators, probation officers, law students, lay people, etc.), who meet with parties, counsel or parties and counsel to resolve criminal or civil disputes. An ADR program may employ any one or more of the following processes to resolve disputes: counselling, conciliation, mediation, arbitration, fact-finding, early settlement, mini-trials, summary jury trials, referrals to masters, referees, etc., or private judges.

These alternatives need not be formally organized as "programs". For example, IJA recently discovered by its survey in another state that several local courts routinely and mandatorily assign civil cases to the clerks for settlement before formally docketing these cases for trial. It is just this sort of ad hoc arrangement -- using the preliminary intervention by a neutral who is not a judge -- that the survey hopes to document. Such creative alternatives, fashioned by local courts and judges struggling to cope with onerous caseloads and backlogs, represent largely unexplored territory.

Your cooperation and assistance in this effort is vital to its success. A comprehensive inventory of local ADR programs is critical to the development of a complete and accurate survey of the programs and services in California. Since IJA project researchers must rely exclusively on the list of programs submitted to them through this solicitation, it is important that we provide them with as complete listings as possible.

March 31, 1989  
Page 2

Once IJA receives your reply, individual questionnaires will be sent to each of the programs identified in order to gather additional information. Subsequent telephone and personal interviews with selected judicial and program staff will also be conducted.

I ask you to complete this survey as soon as possible and forward the form to:

Margaret L. Shaw, Director  
Institute of Judicial Administration, Inc.  
One Washington Square Village  
New York, NY 10012-1699

If you have any questions regarding the survey, please feel free to call Ms. Shaw at (212) 998-6280 or Mary-Alice Coleman, Staff Counsel, Department of Consumer Affairs, at (916) 322-5254. Thank you very much for your cooperation.

Sincerely,

  
MICHAEL A. KELLEY  
Director

## Alternative Dispute Resolution Program Survey

The following information should be forwarded to:

**Margaret L. Shaw, Executive Director  
Institute of Judicial Administration, Inc.  
One Washington Village Square  
New York, New York 10012-1699**

[illegible]

Institute of Judicial Administration, Inc.  
One Washington Square Village  
New York, New York 10012-1699

## ADR SURVEY

Name of Program: \_\_\_\_\_

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

County/Judicial Circuit: \_\_\_\_\_

Telephone: \_\_\_\_\_

Director or contact person: \_\_\_\_\_

Enabling statute, if any \_\_\_\_\_

Please check type (s) of cases handled:

divorce

child custody/visitation

child support

spousal maintenance and/or property

domestic violence

automobile negligence

small claims

disputes among neighbors

complex civil

juvenile criminal charges

consumer/merchant

parent/child

landlord/tenant

           minor criminal (including e.g., simple assault, trespass,  
                  harassment)

Other: (specify)

Type of intervention offered (check all that are applicable):

counselling

conciliation

mediation

arbitration

fact-finding

settlement

mini-trials

private judging

referrals to masters,

summary jury trials

referees, etc.

Other (specify) \_\_\_\_\_

Briefly describe process: \_\_\_\_\_

Circumstance	Percentage of respondents (%)
If someone is attacking you	85
If someone is threatening you	75
If someone is harassing you	65
If someone is insulting you	55
If someone is annoying you	45



Referral Sources:

\_\_\_\_\_ courts \_\_\_\_\_ community agencies  
\_\_\_\_\_ law enforcement \_\_\_\_\_ self-referral  
\_\_\_\_\_ Other (please specify) \_\_\_\_\_

Average number of referrals per month \_\_\_\_\_

In court-referred cases, the referral process is:

\_\_\_\_\_ mandatory \_\_\_\_\_ voluntary \_\_\_\_\_ at court's discretion

Average number of cases processed per month \_\_\_\_\_

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Cases are handled by:

\_\_\_\_\_ program staff \_\_\_\_\_ community volunteers  
\_\_\_\_\_ volunteer lawyers \_\_\_\_\_ court-related personnel  
\_\_\_\_\_ other (specify) \_\_\_\_\_

Do intervenors receive training? \_\_\_\_\_ Yes \_\_\_\_\_ No

If yes, number of hours of training \_\_\_\_\_

Who conducts the training? \_\_\_\_\_

Are there other qualifications? \_\_\_\_\_ No \_\_\_\_\_ Yes (specify) \_\_\_\_\_

Cases are handled by: \_\_\_\_\_ sole intervenor  
\_\_\_\_\_ co-intervenors  
\_\_\_\_\_ panel

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Number of sessions held: \_\_\_\_\_ one \_\_\_\_\_ more than one;  
average number \_\_\_\_\_

Average length of sessions: \_\_\_\_\_

Meet separately with the parties: \_\_\_\_\_ never \_\_\_\_\_ sometimes  
\_\_\_\_\_ usually \_\_\_\_\_ in every case

Is confidentiality protected? \_\_\_\_\_ No \_\_\_\_\_ Yes;

If yes, \_\_\_\_\_ by local rule (specify) \_\_\_\_\_  
\_\_\_\_\_ by agreement among parties  
\_\_\_\_\_ other (specify) \_\_\_\_\_

Participation of attorneys: \_\_\_\_\_ do not participate  
\_\_\_\_\_ observe only  
\_\_\_\_\_ participate actively

Can the intervenor(s) impose a solution? \_\_\_\_\_ Yes \_\_\_\_\_ No

If no, does intervenor(s) suggest solutions \_\_\_\_\_ Yes \_\_\_\_\_ No

Are agreements written? \_\_\_\_\_ Yes \_\_\_\_\_ No

Is there any penalty for failure to reach agreement? \_\_\_\_\_ Yes \_\_\_\_\_ No

If yes, please specify: \_\_\_\_\_

\_\_\_\_\_

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Service is offered: \_\_\_\_\_ free \_\_\_\_\_ at a cost to clients

Does the program have its own, independent budget? \_\_\_\_\_ Yes \_\_\_\_\_ No

If yes, what is the total current annual budget? \_\_\_\_\_

If no, what is the estimated annual cost of the program? \_\_\_\_\_

What is the source of funding for the program? \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Return to:

Margaret Shaw  
Institute of Judicial Administration  
One Washington Square Village, Suite 1A  
New York, NY 10012

Alameda County Family Court Services  
Superior Court, 1225 Fallon St., Rm. 209  
Oakland, CA 94612  
(415) 272-6070  
County: Alameda  
Contact: Ellen Haber

or

1221 Oak St., #260  
Oakland, CA 94612  
(415) 272-6030  
County: Alameda  
Contact: Mary A. Duryee

Arbitration Hearing Program  
Fremont, CA  
(415) 795-2327  
County: Alameda  
Contact: Linda Anson

Berkeley Dispute Resolution Service  
1771 Alcatraz Avenue  
Berkeley, CA  
(415) 428-1811  
County: Alameda  
Contact: Laura Bresler

Conciliation Forums  
672 13th Street  
Oakland, CA 94612  
(415) 763-2117  
County: Alameda  
Contact: Richard Cowan

ECHO  
770 "A" Street  
Hayward, CA 94541  
(415) 581-9380  
County: Alameda  
Contact: Karen E. Wallace

Victim Offender Reconciliation Program  
Catholic Charities  
433 Jefferson Street  
Oakland, CA 94607  
(415) 834-5656  
County: Alameda & Contra Costa  
Contact: Rick Mockler

Community Legal Information Center  
California State University  
Chico, CA 95929-0750  
(916) 895-4354  
County: Butte  
Contact: Teodora DeLorenzo

Battered Women's Alternatives  
Legal Advocacy Program  
P.O. Box 6406  
Concord, CA 94524  
(415) 676-2845  
County: Contra Costa  
Contact: Rollie Mullen

Conflict Resolution Panels of Contra Costa County  
P.O. Box 23227  
Pleasant Hills, CA 94523-0227  
(415) 935-4249  
Country: Contra Costa  
Contact: Eva Gilmartin

Housing Alliance of Contra Costa County  
3161 "D" Putnam Blvd.  
Pleasant Hill, CA 94523  
(415) 943-1997  
County: Contra Costa  
Contact: Jennifer Hoyle

Richmond Housing Community Board  
330 S. 24th Street  
Richmond CA 94808  
(415) 237-3276  
County: Contra Costa  
Contact: Charles H. Roberts

Mediation Associates, Inc.  
3233 N. Chestnut  
Fresno, CA 93726  
(209) 252-4800  
County: Fresno  
Contact: Ron Classen

Humboldt Mediation Service  
940 Samoa Boulevard, Room 205  
Arcata, CA 95521  
(707) 826-1066  
County: Humboldt  
Contact: Chip Sharpe

Dispute Resolution Center of the Eastern Sierra, Inc.  
P. O. Box 2535  
Mammoth Lakes, CA 93546  
(619) 934-9688 or 934-2907  
Counties: Inyo and Mono  
Contact: Myron Blumberg

BBB of Central California, Inc. (and Autoline)  
705 18th Street  
Bakersfield, CA 93301  
(805) 325-1468  
County: Kern  
Contact: Allison Elliott

Arts Arbitration and Mediation Services  
315 W. 9th Street, #1101  
Los Angeles, CA 90015  
(213) 623-8311  
County: Los Angeles  
Contact: Victoria Epstein

Barristers Landlord/Tenant Settlement Officer Program  
Los Angeles County Bar Association  
Dispute Resolution Services, Inc.  
Court Programs  
111 N. Hill, Room 205  
Los Angeles, CA 90012  
(213) 974-8913  
County: Los Angeles  
Contact: Julie Bronson

State Department of Consumer Affairs  
Contractors State License Board  
1 Manchester Bl, #400  
Inglewood, CA 90301  
(213) 412-6398  
County: Los Angeles  
Contact: Laurence A. Chafe

Center for International Commercial Arbitration  
One World Trade Center, Suite 200  
Long Beach, CA 90831-0200  
Telephone: N/A  
County: Los Angeles  
Contact: Albert S. Golbert

Christian Conciliation Services of Los Angeles  
1800 N. Highland, #507  
Los Angeles, CA  
(213) 467-3331  
County: Los Angeles  
Contact: Peter Robertson

Claremont Dispute Resolution Center  
333 W. Foothill Boulevard  
Glendora, CA 91740  
(818) 963-3969  
County: Los Angeles  
Contact: Jerry Pearson

State Department of Consumer Affairs  
Contractors State License Board  
14714 Carmenita Road, Room 400  
Norwalk, CA 95826  
(213) 921-2020  
County: Los Angeles  
Contact: Augustus L. Paul

State Department of Fair Employment and Housing  
322 W. 1st Street, Room 2126  
Los Angeles, CA 90012  
(213) 620-2610  
County: Los Angeles  
Contact: Annabella Hwa

Dependency Case Mediation  
Juvenile Division of Los Angeles Co. Superior Court  
210 W. Temple Street, Room 12-107  
Los Angeles, CA 90012  
(213) 974-5861  
County: Los Angeles  
Contact: Charlene Saunders

Dispute Resolution Services  
Community Mediation Programs  
2830 Pico Blvd.  
Santa Monica, CA 90405  
(213) 450-5252  
County: Los Angeles  
Contact: Loretta Francesco

State Department of Industrial Relations  
Division of Labor Standards Enforcement  
6430 Sunset Blvd., Room 301  
Hollywood, CA 90028  
(213) 464-8268  
County: Los Angeles  
Contact: Floyd Folven

Fair Housing Council of San Gabriel Valley  
100 N. Fair Oaks Avenue  
Pasadena, CA 91103  
(818) 791-0211  
County: Los Angeles  
Contact: Sandra Romero

Family Court Services  
111 N. Hill St., Room 241  
Los Angeles, CA 90012  
(213) 974-5524  
County: Los Angeles  
Contact: Hugh McIsaac

Family Law Section's Mediation Program  
Los Angeles County Bar Association  
Dispute Resolution Services, Inc.  
617 S. Olive, Box 55020  
Los Angeles, CA 90055  
(213) 627-2727  
County: Los Angeles  
Contact: Pat Higgins

Gardena Rent Mediation Board  
 1700 W. 162d Street  
 Gardena, CA 90247-3732  
 (213) 217-9503  
 County: Los Angeles  
 Contact: Jim Gregg

Institute for Dispute Resolution  
 Pepperdine University School of Law  
 Malibu, CA 90265  
 (213) 456-4655  
 County: Los Angeles  
 Contact: Prof. L. Randolph Lowry

Jewish Family Service Divorce Mediation Service  
 6505 Wilshire Blvd., #614  
 Los Angeles, CA 90048  
 (213) 852-1234 x2626  
 County: Los Angeles  
 Contact: Lynn Rosenfield, LCSW

Joint Association Settlement Officer Program  
 Los Angeles County Bar Association  
 Dispute Resolution Services, Inc.  
 Court Programs  
 111 N. Hill Street, Room 205  
 Los Angeles, CA 90012  
 (213) 974-8913  
 County: Los Angeles  
 Contact: Julie Bronson

L.A. County Bar Association Dispute Resolution Services Inc.  
 Attorney-Client Relations Program  
 617 S. Olive Street  
 Los Angeles, CA 90614  
 (213) 627-2727  
 County: Los Angeles  
 Contact: Karen M. Freeman

Los Angeles Co. Dept. of Consumer Affairs  
 Dispute Settlement Service  
 500 W. Temple Street  
 B-96 Hall of Administration  
 Los Angeles, CA 90012  
 (213) 974-0825  
 County: Los Angeles  
 Contact: Evelyn Stein

Landlord-Tenant Mediation Board  
 P. O. Box 507  
 Culver City, CA 90232-0507  
 (213) 202-5764  
 County: Los Angeles  
 Contact: Jessie Oyler

Martin Luther King Dispute Resolution Center  
4182 South Western Avenue  
Los Angeles, CA 90062  
(213) 295-8582  
County: Los Angeles  
Contact: Dennis B. Westbrook

Metro-Harbor Fair Housing Council  
25324 Frampton Avenue  
Los Angeles, CA  
(213) 539-6191  
County: Los Angeles  
Contact: Herman Thomas, Jr.

Norwalk Consumer Rental Mediation Board  
12700 Norwalk Blvd.  
Norwalk, CA 90650  
(213) 929-2677  
County: Los Angeles  
Contact: Peter H. Sonnenfeld

Santa Monica Municipal Court Mediation Program  
Los Angeles County Bar Association  
Dispute Resolution Services, Inc.  
2830 Pico Boulevard  
Santa Monica, CA 90405  
(213) 450-5252  
County: Los Angeles  
Contact: Julie Bronson

Seven On Your Side (KABC-TV News)  
P.O. Box 77  
Los Angeles, CA 90027  
(213) 668-2800  
County: Los Angeles  
Contact: Julian Wolinsky

Small Claims Advisory Program  
825 Maple Avenue  
Torrance, CA 90277  
(213) 533-6551  
County: Los Angeles  
Contact: Peter N. King

UCLA Ombudsman Service  
405 Hilgard Avenue & 274 Kinsey  
Los Angeles, CA 90024-1508  
(213) 825-7627  
County: Los Angeles  
Contact: Donald E. Hartsock



Voluntary Mediation Service  
11243 Glen Oaks Blvd., #1  
Pacoma, CA 91331  
(818) 897-2909  
County: Los Angeles  
Contact: Herb Oberman

Western Law Center for the Handicapped  
1441 Olympic Blvd.  
Los Angeles, CA  
(213) 736-1031  
County: Los Angeles  
Contact: Nora Quinn

Westside Center for Independent Living  
12901 Venice Blvd.  
Los Angeles, CA 90066  
(213) 390-3611  
County: Los Angeles  
Contact: N/A

Family Court Services  
Madera County Superior Court  
209 W. Yosemite Avenue  
Madera, CA 93637  
(209) 675-7739  
County: Madera  
Contact: Lynn O. Bundy, Ph.D.

Arbitration Program  
Municipal Court Hall of Justice  
Room 191  
San Rafael, CA 94903  
(415) 499-6252  
County: Marin  
Contact: Liz Berry

Marin County Family Court Services Mediation  
1450 Lucas Valley Road  
San Rafael, CA 94947  
(415) 499-6659  
County: Marin  
Contact: Barney Griswold

Civil & Family Law Settlement Program  
Hall of Justice, C-29  
San Rafael, CA 94903  
(415) 499-6416  
County: Marin  
Contact: Howard Hanson

Judicial Arbitration  
 Marin County Superior Ct., Room C-29  
 Hall of Justice  
 San Rafael, CA 94903  
 (415) 499-6072  
 County: Marin  
 Contact: Jeanne Kline

Marin Mediation Services  
 Civic Center, Room 423  
 San Rafael, CA 94903  
 (415) 499-6190  
 County: Marin  
 Contact: Betty Times

Northern California Mediation Center  
 100 Tamal Plaza, Suite 175  
 Corte Madera, CA 94925  
 (415) 927-1422  
 County: Marin  
 Contact: Joan B. Kelly, Ph.D.

Custody Mediation  
 1750 Cypress Way  
 Merced, CA 95340  
 (209) 383-2970  
 County: Mariposa  
 Contact: Dr. Charles E. Cluff

Family Mediation  
 Superior Court #1, Room 201  
 Ukiah, CA 95482  
 (707) 463-4484  
 County: Mendocino  
 Contact: Carol Park

Modoc County Probation/Mediation  
 201 S. Court  
 Alturas, CA 96101  
 (916) 233-3934  
 County: Modoc  
 Contact: Becky L. Dederick

Nevada County Superior Court Arbitration Program  
 Nevada County Courthouse  
 Nevada City, CA 95959  
 (916) 265-1475  
 County: Nevada  
 Contact: Vera Butisbauch  
 (also mediates custody and support cases)

Dispute Resolution Center  
 146 N. Grand Street  
 Orange, CA 92666  
 (714) 633-4956  
 County: Orange  
 Contact: Mary Hooker

Plumas County Probation  
Box 10258  
Quincy, CA 95971  
(916) 283-1860  
County: Plumas  
Contact: Thomas D. Frady

Plumas County Superior Court Arbitration Program  
P. O. Box 10686  
Quincy, CA 95971  
(916) 283-2365  
County: Plumas  
Contact: Hon. Roger M. Settlemire

Riverside District Attorney's Office, Consumer Mediation  
4080 Lemon Street, 2nd Floor  
Riverside, CA 92501  
(714) 787-6372  
County: Riverside  
Contact: Nancy L. Cox

BBB  
400 S. Street  
Sacramento, CA 95814  
(916) 443-6843  
County: Sacramento  
Contact: Barry Goggin

Human Rights/Fair Housing Commission  
2131 Capitol Avenue, Suite 206  
Sacramento, CA 95816  
(916) 444-6903  
County: Sacramento  
Contact: Randy Shirol

Sacramento Mediation Center  
P.O. Box 5275  
Sacramento, CA 95817  
(916) 739-7246  
County: Sacramento  
Contact: Ann Becker

State Department of Consumer Affairs  
Structural Pest Control Board  
1430 Howe Avenue  
Sacramento, CA 95825  
(916) 924-2291  
County: Sacramento  
Contact: Mary Lynn Ferreira

BBB and Autoline  
P. O. Box 970  
Colton, CA 92324  
(714) 825-0490  
County: San Bernadino  
Contact: Stephanie Delgado

Family Court Services  
351 North Arrowhead Avenue  
Courthouse, Room 200  
San Bernadino, CA 92415  
(714) 387-3912  
County: San Bernadino  
Contact: Robert L. Moore

Inland Mediation Board  
420 North Lemon Avenue  
Ontario, CA 91764  
(714) 984-2254  
County: San Bernadino  
Contact: Betty Davidow

American Arbitration Association - San Diego Region  
525 "C" Street, Suite 400  
San Diego, CA 92101  
(614) 239-3051  
County: San Diego  
Contact: Dennis Sharp

BBB  
525 "B" Street, Suite 301  
San Diego, CA 92101  
(619) 234-4555  
County: San Diego  
Contact: Janet L. Atkinson

Community Mediation Center  
315 Laurel Street  
San Diego, CA 92101  
(619) 238-1022  
County: San Diego  
Contact: Liz Underell

Dispute Resolution Office  
City Attorney's Office  
1010 Second Avenue, Suite 300  
San Diego, CA 92101  
(619) 533-3855  
County: San Diego  
Contact: Jerome S. "Jerry" Parker, M.A.

Dispute Resolution Center  
3134 Franklin Avenue  
San Diego, CA 92113  
(619) 235-0771  
County: San Diego  
Contact: Dr. Booker T. Crenshaw, Sr.

Family Court Services  
1501 Sixth Avenue  
San Diego, CA 92127  
(619) 557-2125  
County: San Diego  
Contact: Murray Bloom

Heartland Human Relations Association  
7435 University Avenue, Suite 202  
La Mesa, CA 92041  
(619) 460-2744  
County: San Diego  
Contact: Clara Harris

Judicial Arbitration & Mediation Program  
220 W. Broadway  
San Diego, CA 92101  
(619) 531-3818  
County: San Diego  
Contact: Helen Roseberry

Judicial Arbitration and Mediation Services, Inc.  
401 "B" Street, Suite 200  
San Diego, CA  
(619) 236-1848  
County: San Diego  
Contact: Barbara Price

Legal Aid of San Diego, Oceanside Branch  
216 S. Tremont  
Oceanside, CA 92054  
(714) 722-1935  
County: San Diego  
Contact: Dennis Holz

Mediation and Dispute Resolution Center  
225 Broadway, Suite 900  
San Diego, CA 92101  
(619) 338-0400  
County: San Diego  
Contact: Susan Finkelstein, Esq.

North Coast Mediation and Arbitration Center  
4401 Manchester, Suite 202  
Encinatas, CA 92024  
(619) 436-8392  
County: San Diego  
Contact: Elizabeth Allen

San Diego Resident Relations Foundation  
1011 Camino del Rio South, #201  
San Diego, CA 92108  
(619) 297-7648  
County: San Diego  
Contact: Sharon Johnson

Win Win Technologies  
P.O. Box 88900-127  
San Diego, CA 92108  
(619) 283-5296  
County: San Diego  
Contact: Carol Powell

American Intermediation Services  
1 Montgomery Street  
Telesis Tower, Suite 2100  
San Francisco, CA 94104  
(415) 788-6253  
County: San Francisco  
Contact: Barbara A. Phillips

Arbitration and Mediation Association, Inc.  
2030 Divisadero Street  
San Francisco, CA 94115  
(415) 563-0254  
County: San Francisco  
Contact: Lynda Martyn

Arts Arbitration & Mediation Services  
Fort Mason Center  
Bldg 13, Room 300  
San Francisco, CA 94123  
(415) 775-7200  
County: San Francisco  
Contact: Katherine Lowe

BBB and Autoline  
33 New Montgomery Street  
San Francisco, CA 94105  
(415) 243-0458  
County: San Francisco  
Contact: Nancy Brigham Weil

California Community Dispute Services  
445 Bush Street, 5th Floor  
San Francisco, CA 94108  
(415) 434-2200  
County: San Francisco  
Contact: Karen Moen Gage

Community Board Program  
149 Ninth Street  
San Francisco, CA 94103  
(415) 552-1250  
County: San Francisco  
Contact: Terry Amsler

Early Settlement Program  
Bar Association of San Francisco  
685 Market Street, Suite 700  
San Francisco, CA 94105  
(415) 764-1600  
County: San Francisco  
Contact: Margaret Sparks

Family Court Services  
463 City Hall  
San Francisco, CA 94102  
(415) 554-5080  
County: San Francisco  
Contact: Maureen O'Sullivan Kammer

Human Rights Commission  
1095 Market Street, #501  
San Francisco, CA 94103  
(415) 558-4901  
County: San Francisco  
Contact: Peter M. Jamero

KCBS Call for Action  
One Embarcadero Center  
San Francisco, CA 94111  
(415) 765-4096  
County: San Francisco  
Contact: Barbara Kaufman

San Francisco District Attorney's Office  
Consumer Protection Mediation Service  
732 Brannon Street,  
San Francisco, CA 94103  
(415) 552-6400  
County: San Francisco  
Contact: Laurel Pallock

San Francisco Residential Rent Stabilization  
& Arbitration Board.  
170 Fell Street, Room 16  
San Francisco, CA 94102  
(415) 621-7368  
County: San Francisco  
Contact: Delene Wolf

Small Claims Legal Advisor  
City Hall, Room 163  
San Francisco, CA 94102  
(415) 554-4526  
Contact: Jeanne F. Stott

State Labor Commissioner  
 525 Golden Gate Avenue  
 San Francisco, CA 94102  
 (415) 557-3827  
 County: San Francisco  
 Contact: Lloyd W. Aubry, Jr.

BBB of Mid Counties, Inc.  
 1111 N. Center  
 Stockton, CA 95202  
 (209) 948-8064  
 County: San Joaquin  
 Contact: Margaret Bayne

Arbitration Program  
 Superior Court  
 San Luis Obispo, CA  
 (805) 549-5473  
 County: San Luis Obispo  
 Contact: Larry D. Reiner

Family Court Services  
 Superior Court  
 San Luis Obispo, CA  
 (805) 549-5473  
 County: San Luis Obispo  
 Contact: Larry D. Reiner

San Luis Obispo County  
 Superior Court Arbitration Program  
 San Luis Obispo, CA  
 (805) 549-5473  
 County: San Luis Obispo  
 Contact: Larry D. Reiner

(also offers Private Judging  
 Program, Voluntary  
 Settlement Conferences and  
 Summary Jury Trials)

BBB Autoline of San Mateo County  
 P. O. Box 294  
 San Mateo, CA 94401  
 (415) 347-8466  
 County: San Mateo  
 Contact: Pat Collins

Community Services Mediation Program  
 300 Bradford Street  
 Redwood City, CA  
 (415) 363-4841  
 County: San Mateo  
 Contact: Kathy Mergens

Dispute Mediation Service, Inc.  
 P.O. Box 11718  
 Burlingame, CA 94011  
 (415) 340-1511  
 County: San Mateo  
 Contact: Gerald R. McKay



Family Court Services  
401 Marshall Street  
Redwood City, CA 94063  
(415) 363-4766  
County: San Mateo  
Contact: Rosemary Pfeiffer

Judicial Arbitration, Superior Court  
401 Marshall Street  
Redwood City, CA 94063  
(415) 363-4766  
County: San Mateo  
Contact: Ken Torre

Municipal Court Arbitration Program  
750 Middlefield Road  
Redwood City, CA 94063  
(415) 573-2618  
County: San Mateo  
Contact: Peggy Thompson

Peninsula Conflict Resolution Center  
177 Bovet Road, Suite 230  
San Mateo, CA 94402  
(415) 571-0367  
County: San Mateo  
Contact: Joe Hardegree

Community Mediation Program  
904 Garden Street  
Santa Barbara, CA 93101  
(805) 963-6765  
County: Santa Barbara  
Contact: Jeanie Class

Family Custody Services  
Superior Court  
1100 Anacapa Street  
Santa Barbara, CA 93109  
(805) 568-3125  
County: Santa Barbara  
Contact: Ron Iverson

Alternative Dispute Resolution Associates  
399 Sherman Avenue, #5  
Palo Alto, CA 94306  
(415) 328-2272  
County: Santa Clara  
Contact: Nancy Yeend

BBB of Santa Clara Valley  
1505 Meridian Avenue  
San Jose, CA 95125  
(408) 448-3422  
Counties: Santa Clara, Monterey, San Benito & Santa Cruz  
Contact: Avis Collins-Doyle

Mountain View Mediation Services  
415 E. Middlefield Road  
Mountain View, CA 94043  
(415) 966-6308  
County: Santa Clara  
Contact: Stephen Avis

Palo Alto Mediation Services  
3990 Ventura Ct.  
Palo Alto, CA 94306  
(415) 856-4062  
County: Santa Clara  
Contact: Stephen Avis

San Jose Housing Service Center  
110 E. Gish Road  
San Jose, CA 95112  
(408) 453-3464  
County: Santa Clara  
Contact: Lori Klein

Santa Clara County Consumer Affairs  
Dept. of Community Services  
2175 The Alameda  
San Jose, CA 95126  
(408) 299-4211  
County: Santa Clara  
Contact: Larry Sheahan

Family Court Mediation Service  
322 W. Center Street, #6  
Yreka, CA 96097  
(916) 842-8107  
County: Siskiyou  
Contact: Cathy Lyman

Sonoma County Rental Information and Mediation Services Inc.  
324 Santa Rosa Avenue  
Santa Rosa, CA 95404  
(707) 575-8787  
County: Sonoma  
Contact: Bill Gooch

Family Court Services  
P.O. Box 3488  
Modesto, CA 95353  
(209) 525-6302  
County: Stanislaus  
Contact: Dr. Donald Strangio

Stanislaus County Small Claims Advisor  
Municipal Court  
Modesto, CA  
(209) 525-7794  
County: Stanislaus  
Contact: Kathy Aguilar

Family Court Services  
County Courthouse, Room 206  
Visalia, CA  
(209) 733-6207  
County: Tulare  
Contact: Ken Brown

Tulare County Superior Ct. Arbitration Program  
County Courthouse  
Visalia, CA 93277  
(209) 733-6348  
County: Tulare  
Contact: Steve Konishi

Ventura District Attorney's Office  
Consumer Mediation Section  
800 S. Victoria Avenue  
Ventura, CA 93009  
(805) 654-3110  
County: Ventura  
Contact: Gregory W. Brose

Family Mediation Program  
Superior Court  
800 S. Victoria Avenue  
Ventura, CA 93009  
(805) 654-2657  
County: Ventura  
Contact: Robert Beilin, Ph.D.

Ventura County Superior Court Retired Judges Utilization Program  
800 S. Victoria Avenue  
Ventura, CA 93009  
(805) 654-2670  
County: Ventura  
Contact: Bruce K. Doenges

Ventura County Superior Court Judicial Arbitration Program  
800 S. Victoria Avenue  
Ventura, CA 93009  
(805) 654-2670  
County: Ventura  
Contact: Bruce K. Doenges

Ventura County Superior Court Civil Trial Acceleration Program  
800 S. Victoria Avenue  
Ventura, CA 93009  
(805) 654-2670  
County: Ventura  
Contact: Bruce K. Doenges

Ventura County Superior Court Civil Settlement Panel Program  
800 S. Victoria Avenue  
Ventura, CA 93009  
(805) 654-2670  
County: Ventura  
Contact: Bruce K. Doenges

Gerald Cohn  
Box 918  
Orinda, CA 94563  
(415) 254-7400  
Jurisdiction: U.S. District Court, Northern District of California  
(counties of Alameda, Contra Costa, Del Norte, Humboldt, Lake, Marin,  
Mendocino, Monterey, Napa, San Benito, Santa Clara, Santa Cruz, San  
Francisco, San Mateo, and Sonoma)

State Department of Consumer Affairs  
Bureau of Automotive Repair  
10240 Systems Parkway  
Sacramento, CA 95827  
(916) 366-5100  
Jurisdiction: Statewide  
Contact: John Waraas

State Department of Consumer Affairs,  
Bureau of Electronic & Appliance Repair  
909 "S" Street  
Sacramento, CA 95814  
(914) 445-4751  
Jurisdiction: Statewide  
Contact: William J. Hayes

State Department of Consumer Affairs  
Contractors State License Board  
3132 Bradshaw Road  
Sacramento, CA 95827  
(916) 366-5153  
Jurisdiction: Statewide  
Contact: Shelby Cecchetti

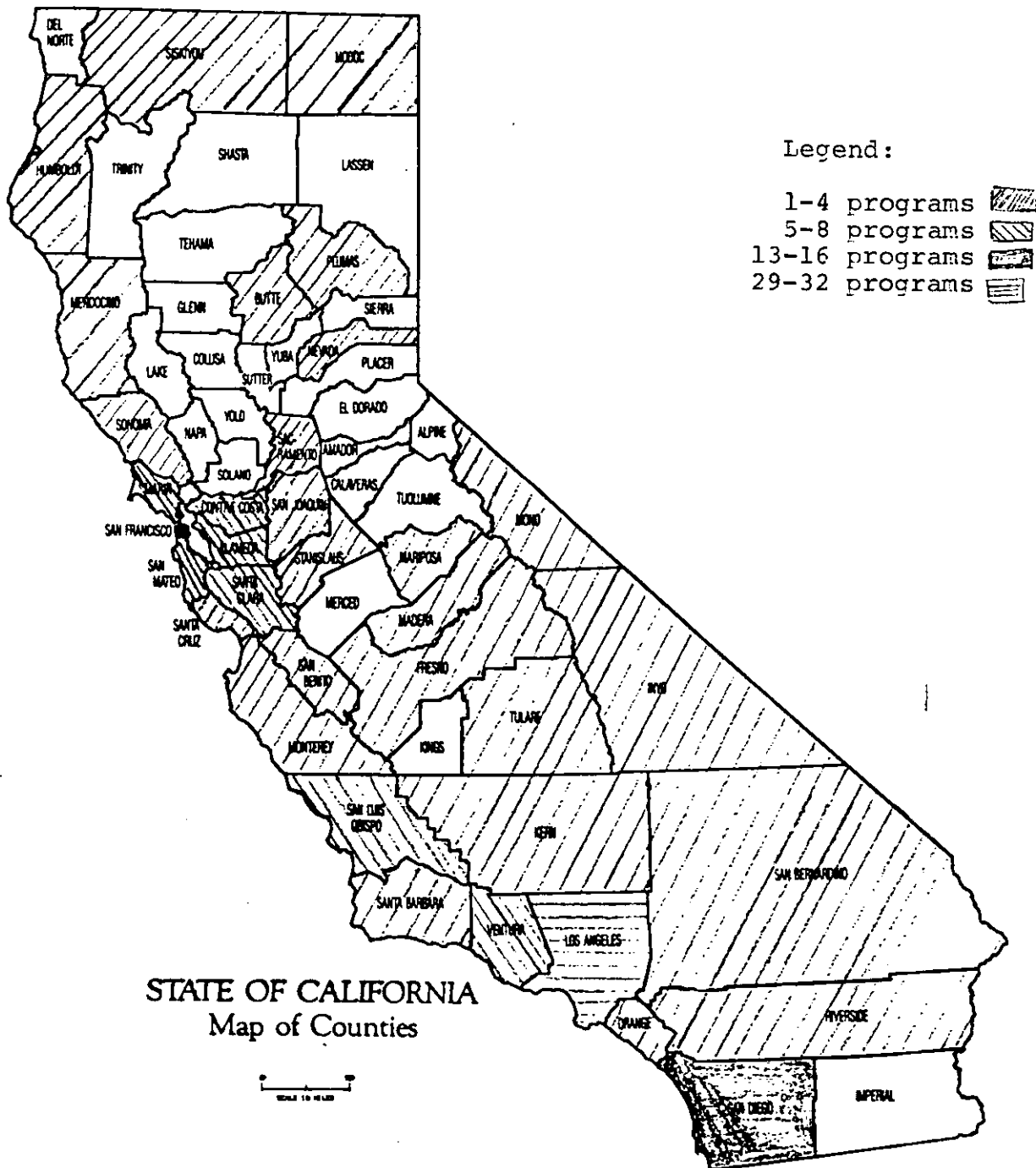
New Motor Vehicle Board  
1507 21st Street, Suite 330  
Sacramento, CA 95814  
(916) 445-1888  
Jurisdiction: Statewide  
Contact: Michael M. Sieving, Esq.

Accident Arbitration/Mediation Forum  
200 White Plains Road  
Tarrytown, NY 10591  
(914) 332-4770  
Jurisdiction: Nationwide  
Contact: Ruth O'Keefe

American Arbitration Association  
140 W. 51st Street  
New York, NY 10020  
(212) 484-4060  
Jurisdiction: Nationwide  
Contact: Robert E. Meade

Center for Public Resources  
366 Madison Avenue  
New York, NY 10017  
(212) 949-6490  
Jurisdiction: Nationwide  
Contact: James F. Henry

Judicate  
1608 Walnut Street, Suite 1200  
Philadelphia, PA 19103  
(800) 631-9900  
Jurisdiction: Nationwide  
Contact: Jay D. Seid



\*Does not include national, statewide, and federal district court programs.

DIRECTORY OF PROGRAMS PARTICIPATING IN THE DISPUTE RESOLUTION PROGRAMS ACT

PROGRAM NAME	COORDINATOR	ADDRESS	CITY	ZIP CODE	PHONE NUMBER
1. Neigh. Conflict Res. Forums of Oakland	Richard Cowan	672 13th Street	Oakland	94612	415-763-2117
2. Student Conflict Res. Council Forums of Oakland	Richard Cowan	672 13th Street	Oakland	94612	415-763-2117
3. Berkeley Dispute Res. Program	Laura Bresler	1769 Alcatraz	Berkeley	94703	415-428-1811
4. Family Violence Law Center	Elaine Lee	P.O. Box 2529	Berkeley	94702	415-540-5370
5. Victim Offender Reconciliation Program	Rick Mockler	433 Jefferson Street	Oakland	94607	415-834-5656
6. Battered Women's Alternatives	Rollie Mullen	P. O. Box 6406	Concord	94524	415-676-2845
7. Housing Alliance of Contra Costa Co.	Jennifer Hoyle	3161 "D" Putman Blvd.	Pleasant Hill	94523	415-943-1997
8. Housing Authority of the City of Richmond	Charles M. Roberts	551 South 26th Street	Richmond	94804	415-237-3276
9. Catholic Charities Diocese of Oakland	Rick Mockler	433 Jefferson Street	Oakland	94607	415-834-5656
10. Contra Costa Conflict Resolution Panels	Jill Cooper	P. O. Box 23227	Pleasant Hill	94523	415-935-4249
11. Contra Costa Co. Human Relations Comm.	Fred Persily	624 Claire Court	Novato	94949	415-646-2013
12. CA Community Dispute Services	Karen Gage	30 Hotaling Pl. Ste. 302	San Francisco	94111	415-434-2200
13. Better Bus. Bur., Dispute Res. Ctr.	Ruby Godfrey	1398 W. Indianapolis #102	Fresno	93705	209-222-8408
14. Center for Settlement Services	Mimi E. Lyster	P.O. Box 3034	Mammoth Lakes	93546	619-934-7539
15. Asian Pacif. Amer. Dispute Res. Ctr.	George K. Tanji	1010 S. Flower St. Ste. 306	Los Angeles	90015	213-748-2022
16. Ca. Lawyers for the Arts	Wendy Forrester	315 West 9th St., Ste. 1101	Los Angeles	90015	213-623-8311
17. Norwalk Consumer-Rental Mediation Bd.	Jesse M. Luera	11929 Alondra Blvd.	Norwalk	90650	213-864-3785
18. Christian Conciliation Serv. of LA.	Peter Robinson	1800 N. Highland Ave., Ste. 507	Hollywood	90028	213-467-3331
19. Claremont Dispute Resolution Ctr.	Jerry Pearson	333 W. Foothill Blvd.	Glendora	91740	818-963-3969
20. LAC Bar Assn. Dispute Res. Servs.	Lauren Burton	617 South Olive	Los Angeles	90014	213-627-2727
21. Martin Luther King Legacy Assn.	Dennis Westbrook	4182 S. Western Ave.	Los Angeles	90062	213-295-8582
22. LAC Clerk/Sup. Court/ Juv. Court	Charlene Saunders	210 W. Temple St., Rm 12-A	Los Angeles	90012	213-974-5861
23. LAC Dispute Settlement Services	Evelyn Stein	500 W. Temple St. Rm B-96	Los Angeles	90012	213-974-0827
24. LAC Community & Senior Citizens Svs	Joseph J. New	1102 S. Crenshaw Boulevard	Los Angeles	90019	213-857-6403
25. LA City Atty., Dispute Res. Off.	Avis Ridley-Thomas	200 N Main St. Ste. 1600	Los Angeles	90012	213-485-4515
26. Marin Co. Mediation Services	Betty Times	Room 412 Civic Center	San Rafael	94903	415-499-6190
27. Marin Fair Housing Program	Nancy Kenyon	88 Belvedere, Suite A-1	San Rafael	94901	415-457-5025
28. Sacramento Mediation Center	Elizabeth Becker	P.O. Box 5275	Sacramento	95817	916-731-5511
29. Cit'ship & Law - Related Ed. Ctr. (CLRE)	Ron Setzer	9738 Lincoln Village Dr. Rm 20	Sacramento	95827	916-366-4389
30. Sacramento Valley Resident Ed. Found.	Elizabeth Gwiazdon	1775 Tribute Rd., #C	Sacramento	95815	916-920-1120
31. Community Mediation Program of San Diego	Liz Underell	1255 Imperial Ave., Ste. 751	San Diego	92101	619-238-1022
32. Ca. Lawyers for the Arts	William Weiss	Fort Mason Center Build. C Rm. 255	San Francisco	94123	415-775-7200
33. Ca. Community Dispute Servs.	Karen Gage	30 Hotaling Place, ste. 302	San Francisco	94111	415-434-2200
34. Community Boards, Inc.	Terry Ansler	149 Ninth Street	San Francisco	94103	415-552-1250
35. San Mateo Co. Mediation Program	Ana Navarro	300 Bradford St.	Redwood City	94063	415-363-4841
36. Peninsula Conflict Res. Ctr.	Joe Hardegree	177 Bovet Rd., Ste. 230	San Mateo	94402	415-571-0367
37. Legal Aid Found. of Santa Barbara Co.	Jeanie Class	904 Garden Street	Santa Barbara	93101	805-963-6765
38. Rental Housing Mediation Task Force	Mark Taylor	1136 E. Montecito St.	Santa Barbara	93103	805-564-5461
39. Isla Vista Mediation Project	S. Kincaid-Rolle	970 Embarcadero Del Mar Ste. F	Isla Vista	93117	805-968-5158
40. Dist. Atty. Consumer Mediation Sect.	Gregory W. Brose	800 S. Victoria Avenue	Ventura	93009	805-654-3100
41. Victim Offender Reconciliation Program	Berta Steele	384 Hillmont Avenue	Ventura	93003	805-652-5706
42. Ventura Center for Dispute Settlement	Sharon Mason	P.O. Box 7347	Ventura	93006	805-630-9202



# THE STATE BAR OF CALIFORNIA

APPENDIX F

555 FRANKLIN STREET  
SAN FRANCISCO, CALIFORNIA 94102  
TELEPHONE (415) 561-8200

DATE: December 8, 1988

TO: Members of the Board Committee on Legislation  
and Courts

FROM: Heather Anderson, Staff Attorney  
Office of Research

SUBJECT: Overview of California Statutes and Rules of  
Court Relating to Alternative Dispute Resolution

## I. INTRODUCTION

This memorandum provides additional background material for your consideration of the expansion and promotion of alternative dispute resolution (ADR) programs. It provides an overview of existing California Constitutional and statutory provisions, as well as provisions in the California Rules of Court, which relate to ADR programs or processes.

To provide some structure for the list of statutory and other provisions that follows, and some continuity between this material and the earlier memorandum reviewing existing ADR programs, the same set of ADR categories used in the previous memorandum are used here. The ADR provisions listed here have been divided into three categories according to how the ADR program to which they relate interacts with the court system:

- 1) Programs directly connected with the court in which the judge actually conducts the ADR process;
- 2) ADR programs directly connected with the courts in which an individual or individuals other than the judge conducts the ADR process; and
- 3) ADR programs that are not directly connected with the courts.

The legal provisions have been further organized according to the ADR process which is the subject of the provision, using the same set of ADR processes identified in the previous memorandum, as well as some additional ones. Where no provisions relating to one of the previously identified ADR processes were found, this has also been noted.



## II. PROVISIONS RELATING TO PROGRAMS IN WHICH THE JUDGE CONDUCTS THE ADR PROCESS

### A. Case Management

In the previous background memorandum on ADR, case management was discussed as a process conducted by court staff attorneys or special masters. However, judges themselves can also conduct case management processes. California statutes and Court Rules allow courts to hold pretrial, case management conferences with litigants during which individualized schedules and/or processes for steps in the litigation may be established, but these provisions do not specifically indicate whether these conferences are to be conducted by the judge or by a staff attorney or other person appointed for that purpose. Because these processes may be conducted by the judge, they are discussed here.

State law authorizes the Judicial Council to promulgate rules governing pretrial conferences in civil cases in the superior, municipal, and justice courts (Code of Civil Procedure (CCP) § 575). The Judicial Council has adopted rules regarding case flow management (Rules 210-215) and rules regarding calendar management (Rules 216-226), including several rules regarding various types of conferences which may be conducted prior to trial:

- o Rule 211 requires specified courts with judicial arbitration programs to hold arbitration status conferences prior to trial in every case where suitability for arbitration must be determined (for discussion of judicial arbitration see below under court-annexed arbitration). At such conferences the court may do a number of things, including scheduling other procedural steps and conducting settlement discussions.
- o Rule 212 allows pretrial conferences in at issue cases requiring more than five hours of trial, where permitted by local rule. These conference may be held either at the request of the parties or on order of the court. However this rule prohibits courts from requiring pretrial conferences by local rule in all cases or in classes of cases. Courts may order a pretrial conference only after consideration of the necessities of the individual case. These conferences are to be conducted in the manner provided by local rule, but the pretrial conference judge is required to prepare an order which includes,

but not is not limited to, scheduling a settlement conference and the trial.

- o Rule 217 requires all courts with 10 or more judges to hold trial setting conferences at least once a month. These trial settling conferences must be conducted by or under the supervision of the presiding judge. Each party who appeared in a case must attend the conference in person or by counsel (Rule 219). At the conference the court must determine whether the case is ready for trial, and if ready must set the time of a settlement conference and trial (Rule 220).

Prehearing conferences are also permitted in state administrative proceedings (Government Code § 11511.5). These conferences can be held either on the motion of a party or by order of the administrative law judge. The conferences may deal, among other things, with exploring settlement possibilities, clarifying issues, and scheduling of briefing and hearing.

#### B. Judicially Supervised Settlement Conferences

As with the provisions concerning case management, the California statutory and Court Rule provisions dealing with settlement conferences do not specifically indicate whether the conference is to be conducted by the judge or may be conducted by others. Because these conferences might be conducted by the judge, they are discussed here.

The Judicial Council has adopted a rule requiring settlement conferences in courts with three or more judges in all matters which will take more than five hours of trial (Rule 222). This rule also permits other or additional settlement conferences on the joint request of the parties or by order of the court. Unless excused by the court, trial counsel, parties, and persons with settlement authority must all attend the conference.

Legislation enacted in 1987 authorized post-judgment settlement conferences in specified cases. Under these provisions, when a verdict in excess of \$100,000 has been entered against a public entity in a personal injury or wrongful death action, on the request of the public entity the court must schedule a settlement conference for the purpose of discussing methods of satisfying the judgement.

#### C. Summary Trials

No provisions relating to summary trials were found.

**III. PROVISIONS RELATING TO ADR PROGRAMS DIRECTLY  
CONNECTED WITH THE COURTS BUT CONDUCTED BY  
INDIVIDUALS OTHER THAN THE JUDGE.**

**A. Conciliation Services**

Superior courts in California may sit as "family conciliation courts" with jurisdiction over controversies between spouses or parents which involve minor children or domestic violence (CCP §§ 1730 et seq.). The purposes of the family conciliation courts include providing a means for the reconciliation of spouses and the amicable settlement of domestic and family controversies (CCP § 1730). Prior to filing for separation, divorce, or custody, either spouse or parent may petition the family conciliation court to invoke its jurisdiction in order to preserve the marriage by reconciling the parties or to amicably settle the controversy so as to avoid further litigation (CCP § 1762).

Each superior court that establishes a family conciliation court can appoint counselors of conciliation (CCP § 1744). In addition to their other duties, which may include mediating child custody and visitation disputes, these counsellors can hold conciliation conferences and hearings in family conciliation court cases (Id.). (See below for further discussion of custody mediation.)

Superior courts may increase the fee for filing a divorce petition and the fees for issuing marriage licenses and certificates in order to support the family conciliation court (Government Code § 26840.3). In addition, in all counties with family conciliation courts, a \$15 fee is charged for filing motions to modify and enforce child custody orders and the money collected is used to support the family conciliation court (Government Code § 26862).

**B. Mediation Services**

Under California statutory law, all contested child custody or visitation matters and all matters involving petitions for step-parent or grandparent visitation must be sent to mediation (Civil Code §§ 4607 and 4351.5). Each superior court must make available a mediator to provide these mediation services (Civil Code § 4607). The mediator may be a member of the professional staff of a family conciliation court, probation department, or mental health services agency or may be any other person designated by the court. All mediation proceedings and all communications to the mediator are confidential. However, the mediator may, consistent with local court rules, make a recommendation to the court regarding child

custody or visitation. The superior court may increase the fee for filing divorce petitions and the fees for marriage licenses or certificates in order to support these mediation services (Government Code § 26840.03).

#### C. Case Management

The California statutes and Court Rules relating to case management processes do not specifically indicate whether they are to be conducted by the judge or court staff attorneys or other individuals. Because these processes might be conducted by the judge, the provisions relating to these processes were discussed above in the section on ADR processes conducted by the judge and that discussion will not be repeated here (see section II.A above).

#### D. Settlement Conferences

The California statutes and Court rules relating to settlement conferences do not specifically indicate whether these conferences are to be conducted by the judge or court staff attorneys or other individuals. Because the conferences might be conducted by the judge, the provisions relating to these conferences were previously discussed in the section on ADR processes conducted by the judge and that discussion will not be repeated here (see section II B. above).

#### E. Case Evaluation

No provisions relating to case evaluation were found.

#### F. Fact-Finding

No provisions relating to any court-sponsored program specifically labelled as a fact-finding program were found. However, several of the reference procedures established by statute allow the court to refer specified factual issues to a third party for determination, thereby essentially functioning as fact-finding processes.

The statutory provisions establishing California's general reference procedure allow the court to order a case to be referred to a referee for ascertainment of specific facts either upon the agreement of the parties to a dispute (CCP § 638) or, under specified circumstances such as when the trial of an issue of fact requires the examination of a long account, without the consent of the parties (CCP § 639). The reference ordered by the court may either be to the person or persons agreed upon by the parties, or, if they do not agree, to the court commissioner or other person selected by the court (CCP § 640). The statute

generally requires that the referee or referees so appointed report a statement of decision to the court and provides that that decision stands as the decision of the court (CCP §§ 643 and 644). The statute does not provide any distinct procedure for cases where only limited factual issues, as opposed to all issues in the case, have been referred to the referee. When the reference is to report the facts of a case, the decision of the referee has the effect of a special verdict in terms of how it may be reviewed (CCP § 645). When the referee appointed by the court is not an employee of the court, the court may order the parties to pay the referee's fees (CCP § 645.1).

In addition to this general reference procedure, other statutes provide for determination of factual issues by referees in certain specified types of cases:

- o In any suit brought for determination of water rights, the court may refer any or all issues to be the Water Resources Control Board as a referee (Water Code § 2000). The board must make a report to the court, based solely upon its own investigation or on hearings which it held, setting forth such findings and conclusions as required by the courts' order of reference (Water Code § 2010 and 2012). The report of the board is subject to review by the court upon exceptions filed by the parties (Water Code § 2017).
- o In probate cases, the court may appoint a referee to examine the accounts of an estate and make a report thereon, subject to confirmation (Probate Code § 927).

Court commissioners may also perform fact-finding functions. The statute outlining the powers and duties of court commissioners indicates that, in addition to when they are specifically appointed as referees under the general reference statute described above, court commissioners generally have the power to take proof and make findings as to any matters of fact upon which information is required by the court (CCP § 259).

#### G. Court-Annexed Arbitration

California statutes establish a court-annexed arbitration program called "Judicial Arbitration" (CCP §§ 1141.10 et seq.). Under these provisions, superior courts with 10 or more judges must submit all civil cases where the amount in controversy is less than \$50,000 to arbitration. Courts with less than 10 judges may adopt a similar program by local court rule. The amount in controversy

for purposes of whether a case is subject to judicial arbitration is not determined by the prayer for damages, but is made by the court (CCP § 1141.16). Where a judicial arbitration program has been established, parties may also stipulate to submit any civil case, regardless of the amount in controversy, to this arbitration program.

The arbitrators in California's judicial arbitration program must be retired judges or members of the State Bar, unless the parties stipulate that a non-attorney may serve as the arbitrator (CCP § 1141.18). The awards made by the arbitrators under these provisions are final unless a trial de novo is requested (CCP § 1141.20). Any party may elect to have a trial de novo, but if the person who requested the trial does not obtain a more favorable judgment at the trial, that party must pay the costs of the arbitration, as well as certain of the other party's litigation costs (CCP § 1141.21). The Judicial Council has been given the authority to adopt rules of practice and procedure for actions submitted to arbitration under these provisions, including the grounds for correction, modification or vacation of the arbitration award (CCP §§ 1141.14 and 1141.22 and California Rules of Court 1600 et seq.).

In addition to the general requirement that civil cases where the amount in controversy is less \$50,000 be submitted to judicial arbitration, the court may submit cases involving the division of community property to judicial arbitration, where the amount of the property is less than \$25,000 and the parties have not agreed to a voluntary division (Civil Code § 4800.9).

#### H. Adjudication by Referee or Commissioner

California law contains a number of provisions which relate to commissioners or referees to whom courts may refer cases for hearing and decision. The court commissioners, probate commissioners, jury commissioners, traffic trial commissioners, juvenile court referees and traffic referees discussed in these provisions are all court employees who may handle specific types of cases or subordinate judicial tasks. The other referees discussed in these provisions are neutral third parties, usually State Bar members, who are appointed as referees to hear specific cases on order of the court.

Article 6, § 22 of the California Constitution authorizes the Legislature to provide for appointment by trial courts of officers such as commissioners to perform subordinate judicial duties. The Legislature has authorized superior courts to appoint court commissioners and has delineated

the powers and duties of these commissioners (Government Code §§ 70141-70143 and 72190 and CCP § 259). Among the duties which court commissioners may perform are hearing and determining ex parte motions for orders and alternative writs and writs of habeas corpus, hearing, reporting on, and determining all uncontested actions and proceedings other than for divorce, maintenance, or annulment, and, as discussed above, taking proof and making findings on any matter of fact upon which information is required by the court (CCP § 259). In addition, court commissioners may perform most of the judicial duties with respect to attachment proceedings (CCP § 482.060).

In addition to court commissioners generally, the legislature has authorized superior courts in specified counties to appoint probate commissioners to assist the probate court (Government Code § 69897) and jury commissioners to assist the court in making selections of trial jurors (CCP § 204.1 and Government Code § 72191). In some counties, the duties of the probate commissioner may be performed by the court commissioner (see Government Code §§ 70141-70143). The Legislature has also authorized municipal courts to appoint traffic trial commissioners (Government Code § 72450).

The Legislature has authorized juvenile court judges to appoint juvenile court referees (Welfare and Institutions Code § 247). These juvenile court referees hear cases assigned to them by the presiding judge of the juvenile court, with all the same powers as a judge of the juvenile court, except they cannot hear cases where the prohibition on double jeopardy applies unless the parties so stipulate (Welfare and Institutions Code § 248). Following a hearing and decision by a juvenile court referee, the minor, parent or guardian may request a trial de novo before a juvenile court judge.

The Legislature has also authorized certain municipal courts to appoint traffic referees (Government Code §§ 72400 and 72401). Municipal court traffic referees have the same powers with respect to infractions as judges of the court and have specified powers with respect to misdemeanor violations of the Vehicle Code, including hearing and recommending orders to be made on demurrers and motions (Government Code § 72401).

In addition to authorizing the appointment of the commissioners and referees who are court employees, the Legislature has authorized the referral of civil cases for hearing and decision to persons who are not court employees (CCP §§ 638 et seq.). This general reference

procedure was discussed above in the section on fact-finding (see Section F. above). In addition to referring specified issues of fact to a referee under this procedure, the court may also refer the entire case to the referee for hearing and decision. Where such a reference is ordered on the basis of an agreement between the parties, this process amounts to private judging, discussed below. However, under specified circumstance, the court may also make such a reference without the consent of the parties (CCP § 639). The referee's decision in the case is entered as the decision of the court (CCP § 644).

#### I. Court-Sponsored Multiple Service Programs

No provision regarding court-sponsored multiple ADR service programs, such as multi-door courthouse programs, were found.

#### IV. PROVISIONS RELATING TO ADR PROGRAMS WHICH ARE NOT CONNECTED WITH THE COURTS

##### A. Action Lines and Ombudspersons

No provisions regarding action lines were found, but there are several statutory provisions which establish ombudsperson programs:

- o The California Department of Aging has established a Long-Term Care Ombudsman Program (Welfare and Institutions [W&I] Code §§ 9720 et seq.). The Long-Term Care Ombudsman is required to have training and experience in dispute or problem resolution techniques, including investigation, mediation and negotiation (W&I Code § 9712). Among other things, the Long Term Care Ombudsman office is responsible for investigating and seeking to resolve complaints and concerns communicated by or on behalf of patients, residents, or clients of any long-term care facility (W&I Code § 9720). The Long-Term Care Ombudsman may refer any complaint to any appropriate state or local governmental agency (W&I Code § 9721).
- o The Department of Social Services is required to establish a child care ombudsman program (Health and Safety [H&S] Code § 1596.872). Each regional social services office, as well as the central office, is required to have a child care ombudsman. The ombudsman's duties include investigating and seeking to resolve complaints and concerns communicated on behalf of children served by a day care facility.



The ombudsman may refer a complaint to the appropriate state or local government agency (Id.).

- o The Legislature has established a Mobilehome Ombudsman in the Department of Housing and Community Development (H&S Code §§ 18150-18154). The Mobilehome Ombudsman is required to provide assistance in taking complaints from the public relating to manufactured homes and mobile homes and helping to resolve those complaints.
- o The public school employees retirement board is required to establish an ombudsman position to review and make recommendations regarding complaints by school employees, members, retirants, employee organizations, legislators, or members of the public regarding the actions of retirement system employees (Education Code § 22204.5).

**B. Statutorily Authorized Mediation Programs Not Connected With The Courts**

A number of statutes either establish specific mediation programs not connected with the courts or simply authorize parties involved in specific types of disputes to submit those disputes to mediation without establishing a specific program:

- o The district attorneys office or probation department is authorized to establish a truancy mediation program (W&I Code §§ 601.1-601.3 and Education Code §§ 48260.6-48263.5). Before habitual truants can be referred to the juvenile court, they must be referred to a truancy mediation program and/or school attendance review board (W&I Code § 601.1). Under this program, the district attorney or probation officer may request the parents or guardians and the truant child to attend a meeting to discuss the possible legal consequences of the minor's truancy (W&I Code § 601.3).
- o In disputes between schools and parents regarding special education of handicapped children, mediation conferences are required unless waived by either party (Education Code § 56503).
- o A water supplier exporting water from a protected area may request the Director of the Department of Water Resources to provide a list of mediators from whom a mediator can be chosen to help resolve disputes with local water users in the protected area (Water Code § 1219).

- o The Department of Labor, through its California State Mediation and Conciliation Service, may investigate and mediate labor disputes when asked to intervene by a party to such dispute (Labor Code §§ 65 and 66).
- o A number of statutes allow parties to various types of labor disputes, including disputes between local public agencies and their employee organizations, the state and its employee organizations, and public schools and institutes of higher education and their employee organizations, to submit these disputes to mediation (Government Code §§ 3505.2, 3507.1, 3507.3, 3518, 3589, 3590 and 3548 and Public Utilities Code § 125524).

C. Statutorily Authorized Fact-Finding Programs Not Connected with the Courts

A number of statutes require or authorize the parties to specified labor disputes to submit these disputes to a fact-finding program:

- o The Governor is authorized to appoint a fact-finding commission to inquire into and investigate issues involved in disputes between transit systems and their employee organizations. (Public Utilities Code § 120503).
- o When a mediator is unable to effect a settlement of a labor dispute between either a public school or institute of higher education and its employee organization, either party may request that their differences be submitted to a fact-finding panel (Government Code §§ 3591-3593 and 3548.1-3548.3).

D. Statutorily Authorized Arbitration Programs Not Connected with the Courts

A number of statutes require or authorize parties to certain types of disputes to submit these disputes to arbitration:

1. Statutes Requiring Disputes to be Submitted to Arbitration
  - o All disputes arising under contracts made under the State Contract Act must be submitted to the arbitration program established by that Act (Public Contract Code §§ 10240 et seq.).

- o All disputes between the governing board of a community college and an employee regarding discipline must be submitted to an arbitration proceeding conducted in accordance with the Administrative Procedures Act (Education Code §§ 87674 et seq.).
- o All disputes between public school districts concerning funds, property or obligations when territory withdrawn for one district is added to another must be submitted to binding arbitration (Education Code §§ 35555 and 81502).
- o Disputes between the Department of Fish and Game and persons planning to substantially divert streams or change streambeds regarding proposed project modifications to protect fish and wildlife resources must be submitted to a panel of arbitrators whose decisions are binding (Fish and Game Code §§ 1601-1603).
- o Disputes between appraisers appointed to determine the replacement value of aquatic plants or animals destroyed by the Department of Fish and Game must be submitted to arbitration under the Commercial Arbitration Rules of the American Arbitration Association (Fish and Game Code § 15512).
- o When a decision of the Director of the Department of Fish and Game to close a commercial fishing ground is appealed, that appeal must be considered by an arbitration panel convened by the Director (Fish and Game § 7710.1).
- o If the California Avocado Commission cannot agree regarding boundaries on a required redistricting, an arbitrator must be appointed to reapportion the districts (Food and Agriculture Code § 67044).

## 2. Statutes Requiring Dispute to Be Submitted to Arbitration At the Request of One Party

- o Article 13 of the State Bar Act and the rules adopted by the State Bar to implement this article establish an arbitration system for attorney/client fee disputes (B&P Code §§ 6200 et seq. and State Bar Rules of Procedure 690 et seq.). Arbitration under this article is voluntary for a client but mandatory for an attorney if commenced by a client (B&P Code § 6200 (c)). An attorney must provide a client with written notice of the client's right to arbitration under this article before or at the time the

attorney serves the summons in an action to recover fees. The client has 30 days after service of this notice to request arbitration (B&P Code § 6201). The arbitration conducted under this article is done by arbitration programs sponsored by local bar associations or, where no such local bar program is available, by the State Bar. The parties may agree that the arbitrator's award will be binding, but absent such an agreement, either party is entitled to a trial after arbitration if it is requested within 30 days of the award (B&P Code § 6204). If the party seeking the trial obtains a more favorable judgement than the arbitration award, that party may recover reasonable attorney's fees and costs for the trial (B&P Code § 6204 (d)). In all other cases, the other party may recover such attorney's fees and costs (Id).

- A Hazardous Substance Cleanup Arbitration Panel has been created to apportion liability for the costs of removal and remedial actions to cleanup hazardous substances (H&S Code § 25356.2). A party may convene an arbitration proceeding by agreeing to submit to binding arbitration by the panel (H&S code § 25356.3).
- Upon the submission of the dispute by one or both parties, the Workers Compensation Appeals Board is authorized to act as an arbitrator in controversies arising out of insurance policies issued to self-employed persons (Labor Code § 5308).
- The owner of an easement or the owner of the property to which the easement is attached may apply to court for appointment of an arbitrator to apportion liability between the parties for maintenance of the easement (Civil Code § 845).
- The owner of a boat towing service which provides emergency services to a small boat or the owner of the small boat for which the services were provided may request arbitration of disputed claims for compensation for these services (Harbors and Navigation Code § 617).
- Upon the request of any manufacturer or contractor, the Conciliation Service of the Department of Industrial Relations shall appoint an arbitration panel to hear a dispute between the parties regarding pricing and product quality (Labor Code §§ 2685-2692).

- o If a disagreement arises between the seller and purchaser of an interest in an oil tract regarding the fair market value of the tract, either party may request that an arbitration committee be created to determine the value (Public Resources Code § 3647).
- o A taxpayer may, on request, obtain arbitration of an apportionment or allocation of his or her tax liability between states participating in the Multistate Tax Compact (Revenue and Taxation Code § 38006, Article IX).
- o The State or a skilled nursing facility licensee that is the subject of citations which do not exceed \$15,000 in penalties may elect to submit the citations to binding arbitration. The parties must agree to an arbitrator designated from the American Arbitration Association (H&S Code § 1428 (j)).

### 3. Statutes Authorizing Submission of a Dispute to Arbitration Upon the Agreement of the Parties

Parties to a dispute can generally agree to submit the dispute to arbitration and written agreements to do so are generally enforceable under the provisions relating to contractual arbitration (see IV.H below). However, contractual arbitration provisions generally relate to agreements to submit future disputes to arbitration entered into before any dispute has arisen. In contrast, the provisions discussed here appear to relate to agreements to submit existing disputes to arbitration. Most of these statutory authorizations to submit disputes to arbitration upon the agreement of the parties relate to disputes involving government agencies.

- o With the concurrence of both the licensee and complainant, certain types of alleged violations of the Business and Professions (B&P) Code by contractors, and any disputes between the licensee and the complainant arising thereunder, may be referred to arbitration according to rules specified in the Code (B&P Code §§ 7085-7085.8).
- o The state and a hospital may jointly elect to submit disputes regarding alleged violations by the hospital of requirements relating to records of transfers to binding arbitration (H&S Code § 1317.4).
- o When there is a dispute relating to an estate between the personal representative, guardian or conservator and a third person, they may agree to submit the

dispute to arbitration, with the approval of the court (Probate Code §§ 9621 and 2406).

- o When there is a dispute between taxing authorities of this state and another state or states regarding the domicile of a decedent, the taxing authorities may agree to submit the dispute to arbitration under the rules established by the statute (Revenue and Taxation Code §§ 13820-13820.13 and 13830-13830.13).
- o A public school employer and a employee representative may agree to submit disputes regarding the interpretation, application, or violation of their collective bargaining agreement to binding arbitration (Government Code § 3548.6).
- o The transit development board and employee representatives may agree to submit disputes regarding development of a new contract or interpretation of an old contract to binding arbitration by a board of arbitrators selected by the parties (Public Utilities Code § 125525).
- o Transit boards and employee representatives may agree to submit disputes regarding the terms to be included in a collective bargaining agreement to binding arbitration by a panel of arbitrators selected by the parties (Public Utilities Code § 120502).
- o When a dispute arises between a county mutual fire reinsurance company and a member of that company regarding the amount of a loss, the parties may agree to submit the dispute to binding arbitration (Insurance Code § 8073).
- o Cities and persons causing damage by entering watersheds are authorized to enter into agreements for the arbitration of these damage claims (Water Code § 1246).
- o Persons authorized to acquire property for public use are authorized to enter into agreements to arbitrate disputes as to the compensation to be paid for such property (CCP §§ 1273.010 et seq.).

E. Other Dispute Resolution Programs Authorized By Statute

Several statutes authorize specified businesses or other entities to adopt processes for resolving certain consumer complaints and other types of disputes:

- o Motor vehicle manufacturers are authorized to adopt third-party dispute resolution processes which buyers must utilize before they may take advantage of certain presumptions under California's "Lemon Law" (Civil Code § 1793.2 and B&P Code §§ 9889.70-9889.76). The third-party dispute resolution process must meet the minimum requirements specified by the Federal Trade Commission, as well as standards laid out in the statutory provisions.
- o The legislative bodies which have jurisdiction over the area of a cable TV franchise are authorized to establish, by ordinance, procedures for the resolution of individual consumer complaints against the cable TV franchise. The legislative body may appoint mediators, arbitrators, or other persons or bodies to resolve these disputes (Government Code § 53066.1 (n)).
- o The Director of the Department of Food and Agriculture must adopt procedures for the resolution of disputes arising out of activities to fill data gaps on pesticides. The procedures prescribed may include mediation and arbitration (Food and Agriculture Code § 13127).
- o County transit development boards must establish procedures to resolve disputes between public transit operators and local agencies (Public Utilities Code § 120478).

#### F. Private Dispute Resolution Programs

No provision regarding private dispute resolution programs were found other than mentions of the American Arbitration Association in some of the statutes authorizing the use of arbitration to resolve specified disputes.

#### G. Mini-Trials

No provisions regarding mini-trials were found.

#### H. Contractual Arbitration

California has explicitly provided by statute that contracts to submit disputes to arbitration are generally valid, enforceable and irrevocable (CCP §§ 1280 et seq.). These provisions provide for the enforcement of arbitration agreements and, where the agreement itself does not specify the procedures, they provide procedures for the appointment of an arbitrator, the conduct of the arbitration proceedings, and the rendering of an award,

and they provide for the enforcement of the awards that are rendered through this contractual arbitration process.

In addition to these general provisions authorizing arbitration agreements, there are several statutes authorizing arbitration agreements in specified types of contracts, some of which outline special requirements for those specific types of arbitration agreements (see also IV.D.3. above):

- o Unless otherwise prohibited by law, public works contracts may include provisions for the arbitration of specified disputes (Government Code § 4601).
- o Public school and higher education employers and their employee representatives are specifically authorized to include agreements for final and binding arbitration of disputes in their memoranda of understanding (Government Code §§ 3548.5 and 3589).
- o Arbitration provisions in contracts between athlete agents and athletes or talent agents and artists are valid only if they meet specified criteria, including providing the Labor Commissioner with notice and an opportunity to attend the arbitration hearings (Labor Code §§ 1544 and 1700.45).
- o Arbitration provisions in contracts for medical services are specifically authorized, but they must contain a notice as set forth in the statute (CCP § 1295 and H&S Code § 1599.81).
- o Franchisers and franchisees may agree to binding arbitration of disputes if the arbitration provided for meets the applicable standards in the B&P Code, including selecting of the arbitrator from a list of arbitrators supplied by the American Arbitration Association (B&P Code § 20040 et seq.)

#### I. Private Judging

California law contains two sets of provisions pursuant to which parties to a dispute may refer their case to a privately selected judge for hearing and decision. As discussed above, private judging may occur under the auspices of the state's general reference statute, which also serves as the authorization for court supervised fact-finding and adjudication by commissioners or referees (CCP §§ 638 et seq.). Under these provisions, parties to a dispute may agree to refer their dispute to a third party whom they have selected for hearing and decision on all issues in the case (CCP § 638). The



referee selected must provide the court ordering the referral with a written statement of decision, but this decision is not reviewed by the court, it is simply entered as the decision of the court (CCP §§ 643 and 644).

In addition to the above procedure, Article 6, Section 21 of the State Constitution provides that, on stipulation of the parties, the court may order a case to be tried by a temporary judge who is a State Bar member. The California Rules of Court provide that such stipulations between the parties must be in writing, must identify the person selected to be a temporary judge, and must be approved by the court (Rules 244 and 532). These temporary judges must also take an oath of office before the case is assigned to them. Neither the Rules of Court nor any statutory provision indicates the procedures which must be followed by a temporary judge in hearing and rendering a decision in cases referred under this constitutional provision.

Personal representatives and guardians or conservators are specifically authorized to enter into agreements with third parties with whom they have disputes relating to an estate to refer their dispute to a temporary judge. In these cases the temporary judge is specifically authorized to use expedited procedures and to provide a statement of decision upon the request of a party (Probate Code § 2405 and 9620).

#### **V. PROVISIONS ESTABLISHING GRANTS FOR ADR PROGRAMS.**

In addition to all of the above described provisions relating to specific ADR program and processes, two sets of statutory provisions establish programs for providing grants to ADR programs.

B&P Code §§ 465 et seq. authorizes counties to make grants to public and private non-profit dispute resolution programs. The funds for these grants are to be raised by increases in specified court filing fees (CCP § 470.3). The programs receiving these grants must meet the standards set forth in the statute, as well as standards adopted by the Dispute Resolution Advisory Council created by the statute in the Department of Consumer Affairs.

The Judicial Council is also authorized to administer a program of grants to public and private agencies for research, study and demonstration projects, including the development of conciliation and mediation and other newer dispute resolution techniques, specifically in the area of family law (Civil Code § 5181). These grants are also to