

**Office of Solicitor
Twelfth Judicial Circuit Community Juvenile Arbitration
Florence and Marion Counties**

**Program Narrative
January 1998**

Twelfth Judicial Circuit Community Juvenile Arbitration is a community-centered diversion program for first-time, non-violent/non-status juvenile offenders. The main focus is to take qualifying children out of the formal Juvenile Court System and to divert them to an informal arbitration setting conducted by a member of that child's community. The first goal of this program is to provide a cost-effective way for juvenile offenders to accept responsibility for their actions, while lowering the caseload of the Juvenile Justice System. Arbitration offers community involvement in which trained volunteers arbitrate between all parties involved in an offense. A disposition is then created from the mediation process. The program offers the opportunity for the juvenile to avoid establishing a criminal record, while simultaneously promoting offender accountability, victim reparation and community pride.

The Arbitration Program is funded by a SC State Legislature Grant administered by the Department of Juvenile Justice (DJJ). Dudley Saleeby, Jr., Solicitor of the Twelfth Circuit, accepted a contract to develop and operate the program and provide necessary additional funding.

The program employs one full-time Program Director and one part-time secretary. The Program Director is responsible for volunteer recruitment and training as well as program development and operation. The Arbitration Program operates in a cost-effective manner through the use of community volunteers. Community volunteers may be divided into three categories:

- 1) **Volunteer Arbitrators** - preside over arbitration hearings and monitor the juvenile's progress until program completion
- 2) **Volunteer Community Service Sites** – public or private, non-profit agencies willing to supervise the work of juvenile's required to complete a specified number of hours of community service work without pay
- 3) **Correctional Facilities** – tours of area correctional facilities aimed at educating the juveniles to the realities of prison life.

Volunteer arbitrators must meet several requirements. Applicants must be a least 21 years of age, have no criminal record, have earned a high school diploma or higher degree and must possess a valid SC Driver's License. Volunteers must also complete 21 hours of Arbitration training as well as pass the final certification exam. The training includes instruction in criminal law, the Juvenile Justice System, communication skills, adolescence issues, arbitration/mediation procedures, community resources and victimization.

An arbitration hearing is held in lieu of a formal court hearing. In arbitration, everyone involved in the incident is invited to attend (the juvenile and their parent/guardian, the victim and arresting officer). Each participant is given the opportunity to give his/her account of the incident and each may express what punishment he/she feels the juvenile should receive. Through careful mediation, the arbitrator creates a contract of sanctions that the juvenile is to complete within 90 days of the hearing date. Participation in this Arbitration Program is strictly **voluntary**, as it is an alternative to the traditional court system. If a juvenile forgoes the opportunity for arbitration, he/she will be processed traditionally by the local Department of Juvenile Justice. The formal DJJ process may result in prosecution in Family Court and the establishment of a permanent juvenile record. Because the arbitration process is not a formal Court process, the juvenile must waive certain rights that would be afforded in a court of law. However, it should be noted that any admission made by a juvenile at an Arbitration Hearing relating to an alleged incident is confidential, but not privileged information.

An arbitration hearing consists of three basic phases, they are:

1) Waiver of Rights

The Waiver of Rights agreement is explained prior to the start of the hearing. The Waiver must be signed by the juvenile and his/her parent/guardian in order for the hearing to proceed.

2) Admission of Guilt

To participate in the Arbitration Program the juvenile must admit guilt. By this admission, the juvenile is acknowledging his/her actions.

3) Disposition

Through group mediation, a list of sanctions is created. These sanctions are designed to allow the juvenile to make right his/her wrongdoing. The sanctions should be both appropriate to the offense and productive for the juvenile. Lastly, any participating party not satisfied with the hearing outcome may appeal the arbitrator's decision by contacting the Program Director within seven days of the hearing. The Program Director and the Solicitor will review the case. The disposition can be upheld, assigned to another arbitrator, referred back to DJJ or dismissed. Solicitor has final approval on any decision.

Some sanctions that are commonly stipulated include: community service (100 hours maximum), monetary restitution to the victim, prison tours, apologies (written and/or personal), contributions to charitable organizations, book reports, essays pertaining to the offense, and home restriction. It is the job of the arbitrator to follow the progress of the juvenile after the hearing to insure that the sanctions are completed. When the juvenile completes the sanction contract to the satisfaction of his/her arbitrator, the case is closed with no formal court record of the offense. When a juvenile does not

complete the program his/her case is referred to the local Department of Juvenile Justice for formal intake into the Juvenile Court System.

Countywide statistics provided by the Department of Juvenile Justice show a need for the Arbitration program in this Circuit. 1996/1997 data shows that out of 1,051 juvenile cases, 400 of those were 1st time, non-violent/non-status offenders. 356 of those were diverted to other existing programs or dismissed. 64 of these juveniles became re-offenders. Other counties, with Arbitration programs and similar sized caseloads had significantly lower rates of recidivism. Lexington reported 356 cases that were referred to their Arbitration program and ended the year with only 35 repeat offenders. While York's Arbitration program reported a 7% recidivist rate, translating to 25 juveniles of 353 that completed arbitration. The Twelfth Circuit Program's goal is to reduce the DJJ caseload of 1st time offenders by 75% and maintain a 10% or lower recidivists' rate.

While lowering repeat offender rates is one of the greatest advantages of the program, the Twelfth Judicial Circuit stands to receive several other benefits from the Community Juvenile Arbitration Program. Due to the economical effectiveness of using volunteers, this program is saving many taxpayer dollars in court costs each time a juvenile chooses to participate in and successfully complete arbitration. Cases are dealt with more swiftly by avoiding the lengthy court process. The community also benefits by allowing its members to become involved in solving its own problems, and by putting to use its own community resources. Arbitration also promotes community pride by providing community service hours to the area.

The Arbitration Program also benefits law enforcement. When an incident report is filed, the officer has the latitude to recommend arbitration for those juveniles that the officer feels would greatly benefit from the program. Through this program officers can follow a case to finality and have an active voice in the outcome. Officer participation also helps the accused child gain perspective on law enforcement's role in their community.