

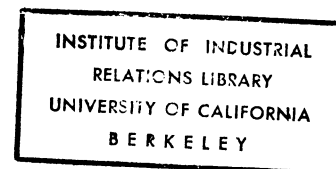
TRAINING NEUTRALS FOR DISPUTE SETTLEMENT .

A Program for 1972-73, funded by the U. S. Department of Labor, Division of Public Employee Labor Relations and Administered by the Institute of Industrial Relations, University of California, (Berkeley)

REPORT OF PROGRAM ACTIVITIES AND PROGRAM PROGRESS FOR
THE PERIOD JULY 1, 1972 THROUGH SEPTEMBER 30, 1972 . .

This first quarterly report of the program, Training Neutrals for Dispute Settlement, covers the following areas of program activity:

1. organization of the project
2. selection of trainee participants
3. organization of curriculum
4. other activities
5. special problems
6. second quarter goals



1. Organization of the Project

Primary responsibility for the project lies with the Director, Adolph M. Koven, and with the Assistant Director, Pauline L. Fong. (Biographical summaries of each are included in the attachments.)

The project is housed within the Institute of Industrial Relations, at the University of California, Berkeley. Official interests in the program of the Institute are represented by Lloyd Ulman, Director of the Institute; Betty Schneider, Director, California Public Employee Relations Program; Jack Hislop, Coordinator, Management Programs and Don Vial, Chairman of the Center for Labor Research and Education.

The staff of the Institute of Industrial Relations has provided a considerable amount of assistance in all aspects of the program. In addition to the work done on the original project proposal, the staff of the Institute of Industrial Relations has provided substantial contributions in the selection of the trainee participants, the establishment of the Policy Advisory Board, the development of the curriculum, the selection of faculty, and will provide assistance in the actual instruction as well. Other Institute staff have provided excellent supporting services, particularly in responding to the tremendous volume of public contact about the program. In addition to the staff at the Institute, we have been ably assisted by Mr. Walt Slater, the Assistant Regional Administrator of the Labor-Management Services Administration of the Department of Labor and by Mr. Robert Turner, from the American Arbitration Association and the National Center for Dispute Settlement. (See attachments for list of staff names.)

In addition to the management and program staff, there is a third vital component to the organization of this project: the Policy Advisory Board. The Policy Advisory Board is presently composed of 21 per-

sons representing a cross section of union, public management, minority, community, and women's concerns. (The list of Policy Advisory Board members is included in the attachments.) The Board met as a group for the first time on August 29, 1972 on the Berkeley campus. (The agenda for this meeting is also part of the attachments being submitted.) Briefly, the purpose of the meeting was to give the staff and Board an opportunity to get acquainted with each other, and for the Board to become acquainted with the goals and objectives of the program. In addition, the role of the Board in providing assistance in a number of areas to assure the program's success was discussed. Because a number of the persons on the Board represent organizations which select and use arbitrators, the success of this program can have important consequences for them. It is hoped that this mutuality of interest between the Board and the program will be a major factor in the success of the program's capability for placing its trainees.

The four major areas in which we expect the Board to provide assistance are: program progress evaluation, field training opportunities, trainee exposure, and community disputes. With respect to evaluation of the program's progress, we have already had considerable assistance from a number of the Board members who helped us to develop the criteria for selection of the students and who helped us to interview and select the final group of students for training. We expect that a number of Board members will be interested in monitoring the general progress of the program, the students' development and the effectiveness of the curriculum. In reference to the field training, we expect to obtain the assistance of many of our Board members in keeping us abreast of developments in their sectors that would make useful training opportunities for our students and to obtain their assistance in realizing these opportunities. Other Board members will be able to provide us with considerable help in introducing our students to potential users and in developing a referral system for the arbitrators we have trained. A final area where the expertise embodied in our Policy Advisory Board can be of great help to us is in the exploration and development of new applications for the use of trained neutrals in community disputes.

In addition, at the state and national level, the program is sponsored with the cooperation of the California State Conciliation Service, the Federal Mediation and Conciliation Service, the American Arbitration Association, and the National Center for Dispute Settlement. In addition to their assistance in establishing the program, these agencies are working with us through our Policy Advisory Board and our Program Staff.

2. Selection of Trainee Participants

In terms of sheer hours spent, the selection of the participants for the training program constituted the bulk of the workload of the first quarter of the program's operation. A total of 562 persons applied for this program. Of these 562, 318 applicants were male and 244 applicants were female. Of the male applicants, 85 were White, 162 were Black, 35 Chicano, 33 Asian, and 3 Native American. Of the women who applied, were White, 88 were Black, 6 Chicano, 14 Asian, and one Native American. (See Table 1)

Because of the unexpectedly large number of applicants and because of the pressures of time, it was clear that not all of the applicants could be given personal interviews. The persons interviewed during the first two weeks were drawn at random and from the experience of those initial interviews, we felt that it was possible to screen applicants on the basis of the quality of the written application. Although such a screening process may have led us to screen out persons who could have proved worthy if given a personal interview, it was concluded that such a preliminary screening was useful. In general, two or more persons read each written application and where there was any doubt expressed, additional people were asked to read the application or the person was called for an interview.

The interviewing period extended from August 1, through September 18, 1972. Up until the beginning of September, each person who came in for an interview was seen by a panel. Assistance in interviewing was also provided by several union and management representatives from the local area, Messrs. Duane Beeson, Joseph Grodin and Victor Van Bourg and Walter Kintz of the National Labor Relations Board. However, beginning on September because of vacations and other regular duties pressing on the Institute staff, applicants were interviewed by one person. Under this process, the applicants were recommended for a second interview before a panel, or were not recommended for another interview, or were held for further staff discussion before being called for a second interview. In a few instances, the applicants questioned the fairness of being interviewed by a single person, and in these cases were provided with a panel.

A total of 237 persons were interviewed at least once, and 81 of these people were called back for a second interview. Of the 237 persons interviewed, 133 were men and 104 were women. Of the 133 men, 19 were White, 72 Black, 21 Chicano, 19 Asian, and 2 Native American. Of the women interviewed, 59 were White, 35 were Black, 4 Chicano, and 6 Asian. Among the 81 applicants who were interviewed twice, 35 were men and 46 were women. Of the 35 men, 3 were White, 15 Black, 5 Chicano, 10 Asian, and 2 were Native American. Of the 46 women who were reinterviewed, 21 were White, 19 Black, 3 Chicano, and 3 were Asian.

Table 1

SUMMARY STATISTICS ON THE NUMBER OF APPLICANTS,
THE NUMBER OF APPLICANTS INTERVIEWED ONCE,
THE NUMBER OF APPLICANTS INTERVIEWED TWICE,
AND THE NUMBER OF APPLICANTS SELECTED FOR THE
PROGRAM, TRAINING NEUTRALS FOR DISPUTE SETTLEMENT

	<u>Applicants</u>	<u>Applicants Interviewed Once</u>	<u>Applicants Interviewed Twice</u>	<u>Applicants Selected for the Program</u>
<u>TOTAL</u>	<u>562</u>	<u>237</u>	<u>81</u>	<u>18</u>
White	220	78	24	4
Black	250	107	34	7
Chicano	41	25	8	2
Asian	47	25	13	4
Native American	4	2	2	1
<u>MALE</u>	<u>318</u>	<u>133</u>	<u>35</u>	<u>9</u>
White	85	19	3	0
Black	162	72	15	4
Chicano	35	21	5	1
Asian	33	19	10	3
Native American	3	2	2	1
<u>FEMALE</u>	<u>244</u>	<u>104</u>	<u>46</u>	<u>9</u>
White	135	59	21	4
Black	88	35	19	3
Chicano	6	4	3	1
Asian	14	6	3	1
Native American	1	0	0	0

In the end, 18 persons were admitted to the training program. Half are men and half are women. Every ethnic group is represented. There are 4 White women, one male Native American, 3 Black women and 3 Black men, one woman and one male Chicano, 3 Asian men and one Asian woman.

The original intent of the program was to give preference to members of minority groups (with women so defined). Nevertheless, the choice of selection criteria naturally proved to be a difficult problem, especially since announcement of the program stimulated widespread interest in the outside community. In addition to vigorous discussion concerning the degree to which the selection of minorities should be spelled out, a problem arose as to whether preference should be given, inter alia, to younger persons (under the age of 30). Thirty per cent (162) of the applicants were 29 years old or younger, and although a number of them were remarkably accomplished people for their age, the doubtfulness of their ultimate selectability as arbitrators militated against choosing them for this program. One of the persons finally selected, however, is under thirty and has had five years experience in working for a professional association that engages in collective bargaining. It will be possible therefore to determine whether a person in this age category can be selected, although she will be close to thirty when the training program is completed.

Another problem that developed during the course of the selection process was the degree of emphasis that should be placed on recruitment and selection of persons with legal training. Because some users of arbitrators prefer lawyers or rely exclusively on lawyers, there was sentiment in favor of the active recruitment of lawyers. Ultimately, we decided to limit the total number of lawyers selected in the group to no more than five. The concerns related primarily to two considerations: (1) if lawyers were emphasized, we would be excluding many capable community trained persons for whom the program originally intended to provide opportunities and (2) the program would lose much of its experimental character by failing to test its capability to train a different kind of person to become an arbitrator.

Before the final selections were made, the Director of the Institute, together with the Program Director, arrived at a general set of guidelines: there would be no quotas set with respect to the ethnic composition of the group; however, the original intent of the program to give first preference to members of minority groups and women would be honored. Secondly, no one would be excluded or included simply because he or she was a lawyer but a maximum limit of five would be set. This decision was made because of the existence of a pool of nonlawyers among the applicants whose experience in other fields and whose native talents seemed clearly to endow them with the ability to perform satisfactorily in class and, later on, to compete successfully with lawyers as arbitrators. Thirdly, because past discriminatory practices made it difficult to find minorities with substantial labor-management experience, and because many of the white female applicants did have this experience, preference would be given to those white women who could lend the final group the benefit of their collective bargaining experience.

The final selections were made with the input of those who had participated in the interviewing process. In particular, it should be noted that two members of our Policy Advisory Board, Mr. John Donaldson, from the California Teachers Association and Mr. Randall Prevo from the California Public Employees Federation, participated in all of the final interviews and shared with us their ideas and perspectives on the criteria for selection. Other Board members participated in some of the final interviews and gave us their thoughts on the general composition of the final group. These included Ms. Aileen Hernandez from the National Commission Against Discrimination in Housing; Mr. Fred Sanchez of the Cannery Workers Union; Mr. Ling Chi Wang from Chinese for Affirmative Action and Mr. Doug Weller, City Manager of the City of Alameda. In addition, Mr. Huxley and Mr. Slater, from the Labor-Management Services Administration, and Mr. Turner from the American Arbitration Association and the National Center for Dispute Settlement gave us their assistance in interviewing and discussing the selection criteria.

Although no additional interpretation of the selection criteria were set down in writing, great emphasis was placed on the following factors: selectability as arbitrators, prior history of involvement in community activities in leadership capacities, prior accomplishments in their chosen occupations, and maturity. Differences, of course, existed in what each of us meant by selectability. However, some of the qualities we looked for were credibility, ability to project one's personality and establish rapport, articulateness, willingness and ease in making decisions and exercising authority, poise, self assurance, and a sense of humor. Many of these factors are also ingredients in assessing maturity. The maturity quality can be further illuminated by describing each of the persons selected as being "complete" persons.

Given that many of these qualities were subjectively determined, there was nevertheless a considerable degree of consensus among all of us about the applicants to be given greatest consideration. There is no question that we had more than 18 well qualified persons for this program and that many of the persons not selected were of comparable stature, but we are confident that the 18 persons who were chosen are all outstanding people and will assure the program of a high probability for success.

The biographies of the 18 persons selected are included in the attachments. In addition to the statistics already summarized about this group, other characteristics are worthy of notice. The group presents a desirable mix of characteristics, not only in terms of their ethnic, sex, and age distributions, but also with respect to their education, occupations, backgrounds, and community activities. The range of formal education extends from high school graduates to those

with professional and advanced degrees. Most interestingly, if the parents' education and occupations are examined it is clear that most of this group have indeed had to overcome many barriers to achieve the educational and occupational success which they now have. The range of community activities is also diverse. As one would expect, most of these people have been active in working for social progress in building up their own communities. There is also, however, involvement in traditional activities such as Scouting organizations, YMCA's, artistic and cultural affairs, and charitable organizations.

In addition to the lawyers, the range of occupational experience represented by his group is extensive: including teachers (secondary and college level), chemist, social workers, business manager, welder, electrician, beautician, librarian, machinist, architect, city manager, personnel specialists, and secretaries. Two thirds have had substantial employment experience in the public sector, including public educational institutions, public health, housing, city and county governments. Four have had collective bargaining experience and most have had experience in working on personnel or affirmative action issues. Others have had experience serving on human rights commissions, transit authorities, Model Cities boards, and other public agency roles. In sum, the collective experience of the group is quite impressive.

At present, we do not expect that any of these students will drop out. We did, however, decide to take 18 students rather than 15, to protect the program in the eventuality that unforeseen circumstances necessitate a slight reduction in numbers.

3. Organization of the Curriculum

Despite the heavy workload involved in selecting the students, the program has managed to keep fairly well to the original time table. Classes started a week later than originally scheduled and eleven sessions have been completed.

The present calendar for the classroom phase, together with the instructors' outlines which have been submitted to us, are included in the materials attached. The reading assignments and materials distributed in the class by the instructors are presently being tabulated and copies or references will be forwarded to you as soon as they are ready.

All classes are presently being taped and the materials will be transcribed and edited and made available to you.

The students have been attending regularly (records are being kept) and have come well prepared for each assignment. Their class participation has been excellent and one of the instructors has remarked that this is the most demanding group of students with whom he has ever worked. We have made the Institute's library available to the class two evenings a week, as well as providing them with personal copies of as many of the assignments as possible.

In addition to the regular evening classes, the students have been and will be participating in a variety of additional activities, such as attending a conference on arbitration sponsored by the Institute (see brochure enclosed), attending hearings conducted by the Program Director, and attending conferences sponsored by the American Arbitration Association, at the invitation of Bob Turner. Ten have come to one or more of the Director's own arbitration hearings. Participation in these additional activities at this time has been on a voluntary basis and is affected primarily by the flexibility which the students have in their present work schedules.

We have received a number of criticisms about the curriculum from Willoughby Abner and Tom Colosi, particularly about the lack of coverage early enough in the curriculum on dispute settlement techniques other than arbitration. Coverage of these alternative techniques is most important with respect to preparing the students for the discussion of community disputes in the last part of the curriculum. Enclosed is a letter from Bruce Poyer to Bob Turner, which spells out in detail what some of the criticisms are, and which indicates that changes in the curriculum will be worked out in conjunction with Bob Turner and the National Center. Bruce's letter also explains more fully the rationale and content of the curriculum as originally planned.

We are in the process of collecting biographical information on all of the instructors in the program and this material will be forwarded as soon as it is available.

4. Other Activities

In mid September, we had the opportunity of spending a day discussing the program with Mr. Jerome Barrett, Chief of the Division of Public Employee Labor Relations, Labor Management Services Administration, who represents the Department of Labor on this contract. In addition to the Program Director, other staff members who were present for these discussions were Pauline Fong, Don Vial, Ray Miles, Associate Director of the Institute of Industrial Relations, Betty Schneider, Norman Amundson, Bruce Poyer, Jack Hislop, Peter Guidry, and Bob Turner. We discussed some of the problems we faced during the selection process, the response and interest shown by the public in this program, and some possibilities for developing an additional program to meet some of the needs of the many qualified persons who could not be accepted for this program and the needs of the parties who are involved in the bargaining and arbitration processes in the public sector. Mr. Barrett discussed the possibilities for assistance from his staff in providing additional training and some of the problems and possibilities for additional funding to develop a program for some of the persons not included in this program.

Some of the concerns which we shared were (1) how to fulfill the interests and expectations of such a large number of applicants and the groups they represent where this program is not able to accommodate all of them; (2) how to meet the needs of the many qualified applicants who could benefit from such training as this program is providing; (3) how to meet the needs of practitioners in the public sector who do not want to become arbitrators but who use arbitrators.

The general conclusion was that we should define more precisely what kind of an additional program would be most suitable to meeting those concerns and submit a proposal to Mr. Barrett for consideration.

We have also been looking for opportunities to extend dispute settlement techniques and the use of neutrals to the resolution of community grievances and problems -- particularly in five areas: secondary school systems, criminal justice systems, health care delivery systems, housing and penal systems.

Progress is slow and difficult in all areas. We have just learned of the possibility of funding additional staff help for all of these extension activities, through a separate proposal by the IIR in cooperation with the Earl Warren Legal Institute, U.C. Berkeley, and the San Francisco regional office of the National Center for Dispute Settlement. A full time staff assistant and funds for graduate and law student assistance might then be available to pursue arrangements and to help organize or demonstrate the feasibility of machinery for handling such community disputes on a regular and continuing basis.

We have also had discussions with Mr. James Marshall, Director of Labor Relations for the County of Alameda, on the possibility of our trainees being used as the arbitrators in county cases that do not involve the large questions of policy. Mr. Marshall will work on obtaining agreement from the unions for this. Mr. Marshall is also exploring with us the feasibility of using our group as ombudsmen in the county jails.

The program has received local and national attention thus far. At a recent conference on arbitration, sponsored by the Institute of Industrial Relations, the Program Director was the guest speaker before an audience of over a hundred persons involved in labor-management relations in the Bay Area. The goals and purpose of the program were the topics of the speech and the audience showed considerable interest in the project. National attention has been given to the Department of Labor and the Institute for this program. In an article in the Daily Labor Report of October 19, 1972, the program was discussed at length, and spokesmen from the Department of Labor, FMCS, and AAA were cited. (A copy of the article is enclosed.)

5. Special Problems

One of the special problems to which we must continue to be sensitive is the fact that we have rejected 544 applicants, many of whom are in the public sector and concerned about labor relations issues. Although the volume of phone calls and mail has diminished considerably since the selection letters have been sent (see attachments for samples of the letters used) a number of the applicants have expressed interest in auditing or having other access to the instructional materials which are being used.

Because the class sessions are being taped and transcribed, we can make the materials and reading lists available in our library to those who have expressed an interest in this subject.

Others have called wanting to know who was finally selected and this information will be made public in the near future. Several of the students, however, have also indicated that they did not want their names to appear publicly. We will be working with Mr. Torland from the Department of Labor in San Francisco and with the University's public information office in preparing a press release about the students selected.

6. Second Quarter Goals

We have several major tasks to accomplish during the second quarter of our operation.

First, by the end of December we will have completed a substantial portion of the classroom training phase. It will be essential for us to assess the progress of our students and to identify and remedy any particular problems that may arise with respect to their progress as a group and as individuals. We will also need to have an assessment from the instructors and the students of the curriculum and the training techniques.

Second, we will need to increase the active participation of our Policy Advisory Board in the four aspects of the program that were discussed in Section 1, Organization of the Project. We will want input from the Board on evaluating the progress of the program, the curriculum, and the students. We will need major assistance from the Board in identifying and creating opportunities for our students for the field training phase of the program. We should begin working with the Board on introducing our students to potential users and begin to develop the possibilities for different referral mechanisms. We will also need to begin to obtain the Board's ideas and assistance in developing new applications for the use of trained neutrals in community disputes.

Third, we will need to develop, schedule, and arrange for the field training assignments for our students. As we stated in our proposal, in this part of the training, we will try to expose the students to three major areas: (a) collective bargaining, grievance and negotiation procedures for dispute settlement; (b) community dispute settlement forums; and (c) meetings or work sessions where parties in a dispute formulate their positions, strategies, and tactics. Some preliminary work in this part of the program has begun. The bulk of this work, however, will be done during this second quarter.

Fourth, we will be doing some work to publicize the program, its purposes and progress. As we mentioned in the preceding section, we will work with our campus public information office and with Mr. Torland in the public information office of the Department of Labor in San Francisco. We will, of course, keep in touch with our advisors in Washington, Messrs Barrett and Sackman.

TRAINING NEUTRALS FOR DISPUTE SETTLEMENT

LIST OF ATTACHMENTS TO FIRST QUARTER PROGRESS REPORT

1. Biographical Sketches of Program Director and Assistant Director
2. List of Program Staff
3. List of Policy Advisory Board
4. Agenda of Policy Advisory Board Meeting - August 29, 1972
5. Biographical Information Forms of 18 Students
6. Brochure of Conference on Arbitration sponsored by Institute
of Industrial Relations
7. Two Brochures of Conferences on Arbitration sponsored by the
American Arbitration Association
8. Brochure: Information for Applicants
9. Application for Enrollment Form
10. Program Brochure
11. Two Rejection Letters to Applicants
12. Acceptance Letter to Applicants
13. Curriculum Calendar
14. Curriculum Outlines
15. Letter from Bruce Poyer to Robert Turner
16. BNA Article on Program

REFERENCES

1. "Labor Policy in a Changing World"
Richard A. Lester, 1962
2. "How the Unions Are Trying to Take Over"
Nation's Business Editorial - February 1966
3. "New Ferment in Labor Relations - Employer View"
F. A. O'Connell, Jr., February 1966
4. "Consent or Compulsion"
Manchester Guardian Editorial, March 17, 1966
5. "The Coming Crisis in Labor Law"
NAM Sourcebook Series - Dr. Carroll E. French, 1965
6. "Impact of Recent NLRB Decisions"
William H. Smith, November 1965
7. Westinghouse Electric Corporation
58LRRM 1257
8. Decision of Judge Sobeloff, Allied Chemical Company Case
Reported in BNA Daily Labor Report, April 6, 1966
9. "Social Research" Inc. Studies
Burleigh B. Gardner
10. International Typographical Union Studies
Seymor M. Lipset
11. "Well to Do Workers"
Wall Street Journal, April 5, 1965
12. "Economic Potentials of the United States"
NICB 1966
13. Monthly Labor Review BLS
March 1966
14. "Young Adults: the Threshold Years"
Daniel Yankelovich - December 1965
15. "Focus"
NICB April 1966
16. "Passing of Labor's Heritage"
AFL-CIO American Federationist - August 1965
17. Speech to DOD - Advanced Planning Briefing, San Francisco
P. L. Siemiller, IAM President - April 13, 1966
18. "Study Committees and Continuous Bargaining"
Herbert R. Northrup - May 1966
19. "Strikes: The Private, State and the Public Interest"
George P. Schultz, 1963