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# Massachusetts Community Mediation Center Grant Program: Fiscal Year 2017 Report & Evaluation

Massachusetts Office of Public Collaboration, University of Massachusetts Boston

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# **Massachusetts Community Mediation Center Grant Program**

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## **Fiscal Year 2017 Report & Evaluation**

**Massachusetts Office of Public Collaboration  
John W. McCormack Graduate School of Policy & Global Studies  
University of Massachusetts Boston**

**December 2017**

This is the Massachusetts Community Mediation Center Grant Program annual report to the state, reporting on implementation and impact of the program in its fifth year of operation. The report includes an account of program implementation activities and an evaluation of program impact and overall benefits to the Commonwealth of Massachusetts.



## Executive Summary

The state's policy to promote broad access to community mediation throughout the Commonwealth was effectuated by the establishment of the Massachusetts Community Mediation Center Grant Program (Grant Program or Program) to provide operating grants to eligible community mediation centers (centers). Responsibility for Grant Program administration was assigned to the Massachusetts Office of Public Collaboration (MOPC) at the University of Massachusetts Boston, the state's statutory office of dispute resolution. MOPC is a resource for dispute resolution, consensus-building, and public engagement for government and other public entities in dealing with issues of public concern.

State support for the Grant Program has been steadfast since the latter's establishment in Fiscal Year (FY) 2013. The Massachusetts Legislature appropriated \$750,000 to fund Program operations during FY 2017 (the Program's sixth year). The Legislature's FY 2017 investment in the Grant Program proved to be money well spent. The state received an estimated 12.1 million-dollar return on its three-quarter million-dollar investment. Furthermore, not only was state-wide community mediation infrastructure – in the form of community mediation centers – strengthened, the quality of community mediation services was upheld.

MOPC's administration of the Grant Program contributed to this accomplishment by awarding performance-based operating grants totaling \$600,420 to a dozen centers that together provided coverage for all 14 Massachusetts counties. Grants were awarded on the basis of the level of mediation services and on the centers' adherence to standards of community mediation. MOPC then reinforced the funded centers' impetus for greater service to the community by providing assistance and oversight throughout the year.

Various initiatives were undertaken to advance and expand the Grant Program. To improve the grant-making process, MOPC continued its efforts to accommodate centers' on-going request for a simpler and less time-consuming grant application while maintaining grant-making rigor and objectivity. A review of the current practices of funded centers regarding ensuring mediator proficiency was conducted by MOPC for use in future discussions with centers about how to benefit from each other's experience and from MOPC's support for their efforts involving mediator quality. For accountability and reporting purposes, data collection concerning center activities and accomplishments was up-graded, and a survey instrument to measure the impact of mediation on parties was piloted. The future of the Grant Program came under consideration in a visioning process where MOPC and funded centers joined forces to develop a plan to identify the Program's direction and prioritize focus areas to be supported under Program auspices.

Efforts to shore up Program resources proceeded on two fronts. The major focus was on obtaining state government funding. MOPC and centers coordinated efforts to familiarize legislators with community mediation and highlight the value of community mediation for their

constituents. Their efforts were successful, and \$750,000 was appropriated for the Program. Meanwhile, programming development under Grant Program auspices was undertaken to serve two purposes – meeting community needs and attracting additional funders.

In order to diversify funding streams for the Grant Program, MOPC proceeded to identify community needs and then sought to attract support for programming responsive to the identified needs from funding sources and sponsors whose interests were aligned with the needs. Grant applications were submitted to the University and various private foundations to finance projects concerning positive youth development, prisoner re-entry mediation, restorative justice and deliberative dialogues about police and community relations. Interested centers took advantage of trainings sponsored by MOPC to increase their capacity for providing services to these projects. To date, university funding was obtained for a positive youth development venture in FY 2017. In addition, two foundations grants were received for an inmate re-entry mediation program and a positive youth development project to be initiated in FY 2018.

Under MOPC administration and in partnership with the FY 2017 funded centers, the Grant Program functioned in a timely manner as designed. However, the core value of the Grant Program derived from its impact on funded centers themselves and, ultimately, from the centers' impact on the people in the community.

Grant Program operating funds proved key to maintaining and expanding the sustainability and operations of a majority of the funded centers. Grant Program grants accounted for 34% of the twelve funded centers' collective income. For a majority of funded centers (seven), operating grants from the Grant Program positively contributed to their sustainability, and at three centers, sustainability was stable. Where losses were experienced, unreliable funding from other sources was a contributing factor. During FY 2017, funded centers conducted 4,329 intakes and 3,642 mediations of for court- and community-based cases, affecting the lives of 8,372 people. Moreover, 3,229 requests for information/referrals were fielded by centers over the course of the year.

Centers assumed responsibility for fulfilling community mediation standards by engaging in practices that expanded the breadth of their dispute resolution assistance. A substantial majority of at least two-thirds of centers were better able to serve their community because of these state operational grants: mediation services increased for low-income or underserved groups at eight centers and for more population groups at nine centers while a greater number of dispute types were mediated at ten centers.

State-funded centers were able to assist more people due to their ability to mediate a variety of dispute types, irrespective of the level of conflict intensity. Centers as a whole dealt with cases in 13 broad dispute categories ranging from family, consumer and housing disputes to school, neighborhood and workplace disputes. To help more people manage conflict, the dispute resolution assistance provided by centers was augmented by facilitation, coaching, and restorative justice practices. Furthermore, centers sought to minimize obstacles to mediation

participation such as cost or scheduling conflicts. Centers provided services for free or charged fees based on a sliding scale. Party convenience was consulted by centers in scheduling mediation sessions.

Centers took the diversity of the community into consideration and worked to expand their services to more population groups. Nine centers succeeded in expanding their services to more population groups in FY 2017 than the previous year, and no center reported a decrease in the diversity of the population it served. Grant Program grants contributed to centers' ability to assist more groups. The most common strategy employed by centers to ensure diversity was to provide mediation assistance in court-referred cases. All the funded centers were qualified to receive court referrals for alternative dispute resolution and provided coverage in 72% of the 110 Trial Court divisions. In FY 2017, 82% of centers' 4,346 case referrals were court-referred, averaging 297 cases per center, virtually the same average as the year before.

To ensure that no group's conflict resolution needs were overlooked, funded centers engaged in extensive public education and outreach activities. According to center responses on the year-end survey, all centers engaged in educational initiatives, distributed informational materials, and held education and outreach events. The audience for all these education/outreach efforts numbered more than 55,000 individuals. Center dealings with the mass media further enlarged this audience by an unknown amount.

Based on the responses of 4,846 surveyed mediation parties, their demographic profile generally resembled that of the population of Massachusetts in that a majority self-identified as white while the largest minorities were African American/Black and Hispanic/Latino. Out of the 1,572 surveyed parties who identified their income level, most (55%) were low-income, earning under \$30,000.

The quality of the mediation services received by parties was maintained by centers through training, continuing education, apprenticeships, evaluation, and volunteer recognition of mediators. The basic mediation training provided by centers surpassed court requirements. In addition, all centers provided their mediators with opportunities for continued growth in their mediation skills. The reaction of the 3,581 parties who responded to evaluation surveys tended to be positive about their mediation experience. Ninety-four percent were satisfied with their mediation; 91% would recommend mediation; and 86% indicated they preferred mediation over other methods. The benefits of the mediation services provided by funded centers accrued to parties and to the community.

The express purpose of mediation is to settle disputes through mutually satisfactory agreements crafted by disputing parties. The typical agreement rate achieved by community mediation is 66%. The agreement rate generated by center services in FY 2017 was 71% of 3,633 mediated cases, exceeding the typical agreement rate. It is reasonable to suppose that by virtue of the agreements achieved in 2,572 cases mediated by funded centers, communication occurred and conflict abated for at least 5,144 parties (assuming a minimum of two disputants

per case). In consumer and landlord-tenant cases, the economic value of the agreements reached amounted to a total of \$3,651,645 returned to consumers as a result of consumer mediation services from 11 funded centers.

Funded centers sought to deepen their ties to the community through a closer alignment between center and community interests and a heightened sensitivity and responsiveness to community needs. To this end, centers endeavored to diversify their mediator pool, collaborate with other community organizations, involve the community in center governance and development, and increase their referral sources. Referrals – the method by which disputes were brought to the attention of centers – were robust in FY 2017, increasing at five centers and stable at four centers. At least 50 non-court sources made referrals to centers in FY 2017. On the whole, regional and occupational diversity characterized centers' mediator pools. For a large majority of two-thirds of funded centers, mediator diversity remained the same as in FY 2016. Regardless of the level of diversity among their mediators, several centers turned to cultural sensitivity training to keep themselves attuned to the variety of experiences in their community. As a result of center efforts, there was no decrease in diversity among board members. Board diversity increased at three centers and was unchanged at nine. Center collaboration with other community organizations flourished for a majority of centers – the number of community partnerships increased for eight centers, remained the same for two, decreased for one, and did not apply to another. During FY 2017, centers were useful to approximately 125 organizations, including the courts and government agencies, providing assistance about 560 times. Community partnerships formed by centers were instrumental in increasing intakes and mediations at eight centers.

The twelve funded centers touched the lives of at least 69,600 people – 8,372 parties in referred cases, 3,229 individuals who contacted centers for referrals or information, 55,000 recipients of center outreach and education initiatives, and 3,059 people trained in basic mediation, advanced mediation, and specialized mediation. Actual positive conflict management was experienced by the subset of 7,266 individuals whose cases were mediated, and the 3,059 people trained in conflict resolution skills. Conflict was most likely diminished for the 5,144 parties who reached agreement in mediation. These 5,144 parties in successfully mediated cases were able to get their grievances addressed through mediation, and thereby gain access to procedural justice and avoid further entanglement with the judicial system. In these ways, funded centers contributed to the potential for greater social harmony in the community. By the same token, centers served to expand access to justice for the people of their community.

Accordingly, with help from the Grant Program, twelve funded centers, modest in size and resources, delivered services throughout the state and affected people who numbered in the thousands. Centers had an average income of \$148,351, 0.8 full-time and 3.7 part-time paid employees, and relied on mediation services from trained volunteers, an average of 30 active volunteer mediators per center. Given their size, centers' impact on the lives of people in the community was outside.

Centers assumed responsibility for fulfilling community mediation standards and complying with rigorous accountability standards by engaging in practices that cast a wide net to attract people to mediation and conflict resolution. And so, thousands of intakes (4,329) and mediations (3,642) for court- and community-based case referrals were conducted, affecting the lives of 8,372 people, and succeeding in resolving 2,572 disputes by party agreement. Tens of thousands of people were drawn into community mediation's ambit through center outreach initiatives and education initiatives. At least 69,600 constituents – more than 1% of the population of Massachusetts – were offered the opportunity to consider the use of a non-adversarial approach to resolving conflict, thereby increasing the likelihood of greater social harmony and increased access to justice in the community.

The Program's impact on funded centers and on the people served by the centers prompted the recommendation that additional funding be found for the Program.

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## I. Introduction

As the statutory state office of dispute resolution since 1990, the Massachusetts Office of Public Collaboration (MOPC) at the University of Massachusetts Boston has been a resource for dispute resolution, consensus-building, and public engagement for government and other public entities in dealing with issues of public concern. In Fiscal Year (FY) 2013, MOPC's portfolio of responsibilities expanded to include administration of the Massachusetts Community Mediation Center Grant Program (Grant Program or Program). The Grant Program was established under M.G.L. ch.75 §47 to expand access to community mediation across the state by awarding operating grants to qualified community mediation centers (centers). By conditioning the award of grants on meeting community mediation standards, the Program serves to buttress community mediation centers as infrastructure for state-wide access to mediation, also known as community mediation. Mediation from community mediation centers, or community mediation, is a voluntary dispute resolution process in which disputing parties discuss their issues and possible options for a mutually satisfactory agreement with the assistance of a neutral third party – a trained volunteer mediator – under the auspices of a community mediation center.<sup>1</sup> As such, it is a community-based, non-adversarial means of resolving disputes that addresses the community's overarching needs for increased social harmony and access to justice.<sup>2</sup>

## II. Grant Program Administration

### A. The grant-making framework:

The parameters of the Grant Program were set forth in its enabling statute, M.G.L. ch.75 §47(b). MOPC is authorized to disburse grants for dispute resolution services delivered by community mediation centers, defined as community-based non-profits or public agencies that offer free or low-cost mediation services delivered by community volunteers. Besides MOPC as administrator, the administrative structure of the Grant Program requires the inclusion of a Grant Review Committee to assess grant applications and of a Program Advisory Committee (PAC), to act as a sounding board and serve as a body of community mediation stakeholders for accountability and engagement purposes. Grants issued pursuant to M.G.L. ch.75 §47 are

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<sup>1</sup> Wilkinson, J. (August 2001). *A study of Virginia and ten states: Final report and recommendations*. Charlottesville, VA: Virginia Association for Community Conflict Resolution (VACCR), Institute for Environmental Negotiation, University of Virginia.

<sup>2</sup> American Bar Association. (2006). What you need to know about dispute resolution: The guide to dispute resolution processes. ABA Section of Dispute Resolution. Retrieved March 15, 2016, from [http://www.americanbar.org/content/dam/aba/migrated/2011\\_build/dispute\\_resolution/draftbrochure.authcheckdam.pdf](http://www.americanbar.org/content/dam/aba/migrated/2011_build/dispute_resolution/draftbrochure.authcheckdam.pdf); Brahm, E. (2004, September). Benefits of intractable conflict. In G. Burgess & H. Burgess (Eds.). *Beyond intractability*. Boulder, CO: Conflict Information Consortium, University of Colorado, Retrieved November 27, 2013, from <http://www.beyondintractability.org/essay/benefits>; Horowitz, S. V. & Boardman, S. K. (1995, May). The role of mediation and conflict resolution in creating safe learning environments. *Thresholds in Education*. 43-49. Retrieved November 27, 2013, from <http://m.cedu.niu.edu/lepf/foundations/thresholds/journal/1995.Volume.XXI/Issue.2/43.The.Role.of.Mediation.and.Conflict.Resolution.pdf>.

reserved for use as operational support for centers. MOPC is empowered to set up rules to further Grant Program purposes – including regulation of such functions as grant-making, monitoring, evaluation, advocacy, and reporting. The award of operating grants has to be based on grant applications, and the adoption of specific grant criteria and procedures requires consultation between MOPC and centers. When applying for grants, centers have to adhere to grant application procedures, accept cash match requirements, and, in order to qualify for a baseline award conferred under the enabling statute, demonstrate their fulfillment of eligibility criteria along with a history of dispute resolution service. Additional awards based on center performance and contributions to underserved populations and community goals are permissible.

### **B. Fiscal Year 2017 grant-making:**

In accordance with the statutory framework, the three major factors that structured FY 2017 grant-making were compliance with Massachusetts community mediation standards, performance of services, and fulfillment of a cash match requirement. The grant-making process that led to the FY 2017 grants provided for a baseline award of \$19,000 upon demonstration of adherence to the community mediation standards articulated in the Twelve-Point Model of Community Mediation (see Table 1). This Model sets forth four categories of twelve criteria or standards that express the values of community mediation in Massachusetts.<sup>3</sup> The category for serving the community encompasses delivering an array of mediation services, collaborating with other community service providers, educating the community about conflict resolution and mediation, and involving the community in center governance and development. The accessibility of services category involves offering free or sliding scale services at times and locations convenient to parties. The category for reflecting community diversity consists of striving for diversity among mediators and parties as well as variety in referral sources. Providing quality services constitutes its own category. Centers' pursuit of goals to meet community mediation standards signaled their commitment to strengthening their service to the community.

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<sup>3</sup> The Twelve-Point Model employed in the Grant Program is based in important part on Maryland's nine-point model which has been described as exemplary because it is used to "distribute[] state funding to CMCs [community mediation centers] according to success in performing certain tasks: [e.g.] Train community members who reflect community diversity with regard to age, race, gender, ethnicity, income, and education to serve as volunteer mediators; Provide mediation services at no cost or on a sliding scale; Hold mediations in neighborhoods where disputes occur; Schedule mediations at a time and place convenient to the participants [etc.]. What makes this process exemplary is that from the outset it ties funding to values held by CMCs...." (Kent, J.C. (2005). Getting the best of both worlds: Making partnerships between court and community ADR programs exemplary. *Conflict Resolution Quarterly*, 23:1, 71-86, 77-78).

Table1. Twelve-Point Model of Massachusetts community mediation by category.

<b>Category</b>	<b>Criteria/standards constituting the 12-Point Model of Massachusetts community mediation in FY 2016</b>
<b>Service to the community</b>	1-Provide a range of mediation services - to address community needs, including but not limited to housing, consumer, family, neighborhood, peer/youth and workplace mediation.
	2-Establish collaborative community relationships - with other service providers to meet community needs.
	3-Educate community members - about conflict resolution and mediation.
	4-Work with the community in center governance and center development (including fundraising) by involving community members as staff, volunteers, board members and project partners.
<b>Providing accessible services</b>	5-Provide mediation and conflict resolution services at no cost or on a sliding scale.
	6-Hold mediations in neighborhoods where disputes occur.
	7-Schedule mediations at a time convenient to the participants.
	8-Provide mediation at any stage in a dispute - including the early use of mediation for conflict prevention and collaborative problem-solving.
<b>Providing quality services</b>	9-Maintain high quality mediation services by providing intensive, skills-based training, apprenticeships, continuing education and on-going evaluation of volunteer mediators.
<b>Reflecting diversity</b>	10-Train community members, who reflect the community's diversity with regard to age, race, gender, ethnicity, income and education, to serve as volunteer mediators.
	11-Provide mediation, education and other conflict resolution services to community members who reflect the community's diversity with regard to age, race, gender, ethnicity, income, education and geographic location.
	12-Mediate community-based disputes that come from diverse referral sources, such as community organizations, police, faith-based institutions, courts, community members, government agencies and others.

The amount of the FY 2017 baseline grant – which was five percent less than the previous year's baseline award in order to free up funds for a new award component for center collaboration – was supplemented by performance awards. These latter awards were correlated to measures of center productivity and of progress in meeting goals related to community mediation standards, and were set up to reinforce efforts to improve the quantity and quality of dispute resolution services.

Center performance was determined by productivity – measured by a center’s case activity as a proportion of the total case activity of all applicant centers – together with an assessment of the center’s progress in meeting goals (known as SMART goals or goals that are specific, measurable, attainable, relevant and time-bound/timely) for achieving community mediation standards. For the first time, complex cases received their due when the calculation of case activity was expanded to include mediation sessions alongside newly opened cases (formerly classified as intakes) and mediated closed cases (otherwise known as mediations). A large majority of two-thirds (or eight) of twelve grantee centers indicated some degree of satisfaction with the inclusion of mediation sessions. Progress under state community mediation standards was demonstrated by the degree to which the center applicant met the four SMART goals that it had set itself to fulfill a corresponding standard in each of the four Model categories and thereby advance its service to the community, provide accessible services, assure service quality, and reflect community diversity.

In determining the amount of the Program grant to be awarded, greater weight was given to progress in meeting goals, which accounted for 60% to 70% of the performance award, than to case activity, which accounted for the remaining portion of the award. This weighing was instituted in order to cushion centers against downturns in court filings and to lessen the handicap that working in sparsely populated regions posed for centers when applying for Program grants. A new award category that became effective in FY 2017, whereby collaboration among centers and with MOPC was rewarded in an effort to strengthen community mediation on both state-wide and local levels, led to the addition of an extra \$1,000 to \$5,000 to grants. Center reaction to this new section tended to be favorable: nine funded centers were pleased about this collaboration piece, three had no preference, and none were dissatisfied. Budget advocacy, program development, making mediation training available to other centers, and sharing expertise with the case management software, MADtrac, were among centers’ collaboration activities.

Applications from 12 centers (one less than the previous year) were examined and recommendations about applicants’ grant eligibility were made by the Grant Review Committee, consisting of an MOPC staff person and two practitioner-experts in community mediation. The MOPC Executive Director made the final grant award determinations. On the whole, the applications for FY 2017 funding revealed that all twelve applicant centers earned ratings in the top half of SMART goal progress and that eleven centers performed at levels that were the same or higher than the year before. Based on these applications, centers received operating grant amounts that ranged from \$33,200 to \$54,600. Along with the grant award, a cash match of 40% to 55%, depending on grant size, was required from grantee centers so as to promote expansion of their funding support. Grants to four centers were further increased by \$10,000 to \$15,000 to support community projects involving positive youth development. These community project grants were accompanied by a 100% match requirement. The final FY 2017 grants ranged from \$33,200 to \$69,600 for a total of \$600,420 awarded to all 12 applicants, turning them into funded centers. Table 2 lists the funded centers.

Table 2. Community mediation centers funded for FY 2017.

<b>FY 2017 funded community mediation center</b>
Berkshire County Regional Housing Authority- Housing and Consumer Mediation Center (BCRHA)
Cape Cod Dispute Resolution Center (Cape Mediation)
Community Dispute Settlement Center (CDSC)
FSCM Mediation (FSCM)
Greater Brockton Center for Dispute Resolution (Greater Brockton)
Martha's Vineyard Mediation Program (Martha's Vineyard)
Middlesex Community College Law Center (MCC)
MetroWest Mediation Services (MetroWest)
Metropolitan Mediation Services (MMS)
Mediation Services of North Central MA (MSI)
North Shore Community Mediation Center (North Shore)
The Mediation & Training Collaborative (TMTC)

### **C. Program management:**

The day-to-day management of the Grant Program was the province of the Program Manager under the supervision of the Executive Director, and with assistance of other MOPC staff. Program management responsibilities included providing notice to interested parties about Grant Program grant applications, assisting individual centers with formulating SMART goals that worked for the center, collecting and submitting documentation for the disbursement of grant funds, setting up communication channels with centers for problem-solving and Grant Program improvement, expanding the Grant Program, exploring funding and programming opportunities, supporting centers around mediator excellence and monitoring center compliance with reporting and other requirements, to mention a few.

***Fulfilling requirements for dispensing grant funds:*** The operating grants were distributed on a quarterly basis upon receipt of invoices and data reports. The Program Manager collected and transmitted these materials to the appropriate destination. Community projects grants were disbursed in two stages and the Program Manager oversaw center submission of the two progress reports and a year-end final report for their project. Payment of grant invoices to centers was processed by the MOPC Program-Business Manager.

***SMART goal assistance:*** In order to help centers formulate SMART goals that would be useful to the individual center and still conform to Grant Program expectations, a teleseminar on SMART goal construction was presented by the director of Cape Mediation, who was trained in SMART goal development. Also, consultation calls were made by the Program Manager to further assist centers with their SMART goals and implementation of SMART goals by centers was monitored by MOPC during FY 2017.

***Communication:*** The Program Manager was the main conduit for MOPC-center communication. Besides individual contacts, the Manager organized group meetings and conference calls to facilitate the exchange of information about relevant developments and issues. An in-person group meeting of center directors and MOPC was held in November 2016 to discuss the grant-making process, legislative budget developments, proposed impact evaluation, and plans for the visioning project about the future of community mediation. At the same time, a skill-building session was provided for case coordinators, who learned about legislative advocacy from a university administrator.

Monthly group teleconferences were held to share information about individual center and Grant Program developments and to address various issues and challenges. The topics discussed in FY 2017 included the fate of community project grants in the event of a smaller legislative appropriation for the Program in FY 2018, reaction to proposed impact questions and to changes in the grant application, and difficulties encountered with the case management software, MADtrac.

Additional discussions between the Project Manager and funded centers were held on-line. The Program Manager and funded centers used Xythos, an online document repository of the University, as a tool to offer and obtain information about best practices and share materials of interest. A separate Google list-serve dealt with operational questions about MADtrac, and included responses from centers and the MADtrac designer, SoftGoals.

Surveys were administered by the Program Manager to gauge the reaction of funded centers to changes in the grant-making process. The results are reported below in the section on improving the grant-making process. Centers will be surveyed about the administration of impact evaluation questionnaires to parties and about preferences for visioning statements in early FY 2018.

***Grant Program expansion:*** On-going initiatives to expand the reach of the Grant Program to more Massachusetts communities focused on the Dorchester/Roxbury and the New Bedford regions. The Program Manager and two Boston-area centers, CDSC and MMS, participated in a group set up by the Boston Law Collaborative to investigate the establishment of a community mediation center in the Dorchester/Roxbury area. As for potential funded center coverage in New Bedford, centers were encouraged to get in touch with their New Bedford contacts to test interest in getting Program-supported community mediation services and to

support additional outreach by the Program Manager. MOPC's Executive Director confirmed that Grant Program support for new centers was contingent on additional legislative funding.

***Contributing to effective data collection:*** The Program Manager and the Associate Director monitored submission of centers' quarterly data reports for timeliness and accuracy, which were generated by the use of MADtrac to record various aspects of center performance. All centers succeeded in producing such reports. MOPC refined the definitions of certain MADtrac categories to allay confusion about their use. In particular, the different levels of conflict were redefined and illustrative examples were provided to minimize inconsistent data entry by centers.

***Fundraising and programming efforts:*** The Program Manager attended to all the practical matters required to set up the event for briefing legislators about the Grant Program, such as scheduling time and place, providing notice about the event, supplying refreshments, distributing materials, arranging for presenters, and so on. The Program Manager was also involved with exploring community needs and finding support for various types of programming that centers could provide. In FY 2017, for example, state agencies and county sheriffs were contacted about their interest in partnering with MOPC and funded centers on a prisoner re-entry mediation program; grants were written to obtain re-entry mediation funding from private foundations; and re-entry mediation training was arranged for staff and mediators so as to increase centers' capacity to supply re-entry mediation services.

#### **D. Seeking support for the Grant Program and community mediation:**

***Advocating for government funding support:*** The statutorily sanctioned search for support for the Grant Program and community mediation was largely, but not exclusively, focused on gaining government funding. Under the direction and oversight of MOPC's Executive Director, the Program Manager and the centers engaged in efforts to familiarize legislators with community mediation and highlight the value of community mediation for their constituents. A Grant Program appropriation of \$990,000 for FY 2018 was requested to support the work of community mediation centers, improve center staffing, and advance youth programming as a state-wide initiative. Besides meetings with individual legislators and staff, a January briefing about the Grant Program was held for legislators as a whole in order to advocate for FY 2018 funding. Substantial numbers of people from the Legislature, centers, and MOPC were in attendance. The briefing included a presentation about the impact of the Grant Program, with a focus on the alleviation of youthful conflict through student involvement in center-run peer mediation programs. Three centers (TMTTC, MSI, and MCC) along with students involved in peer mediation actively contributed to the presentation. In addition, a center-MOPC participatory photography research project on violence prevention was introduced by a University of Massachusetts graduate student. Technical difficulties at the briefing silenced the audio of an accompanying video featuring the conflict experience of Boston-area adults and students working to prevent youth violence. Centers were later provided with a link to the video to be shared with their legislators. These advocacy efforts were fruitful. The Grant Program was

funded in the House budget at \$750,000 and in the Senate budget at \$1,000,000, with the Legislature ultimately appropriating \$750,000 for FY 2018.

***Seeking non-government funding:*** To increase Grant Program funding, MOPC proceeded to identify programmatic needs within communities and then sought to attract support for programming responsive to those needs from funding sources and sponsors whose interests aligned with community needs. MOPC succeeded in obtaining university funding to supplement Grant Program grants for the positive youth development project conducted by CDSC and MOPC in FY 2017 (see section on positive youth development below). MOPC also searched for financial support for proposed programs for positive youth development and prisoner re-entry mediation. MOPC applied for a two-year grant from the JAMS Foundation in partnership with the Association for Conflict Resolution, effective 2018-2019, for a positive youth development project that combined conflict resolution skills training with photography as a vehicle for learning and evaluation to Cambridge youth. CDSC and MOPC proposed to carry out this project in partnership with the Cambridge Police Department and the Cambridge Department of Human Service Programs. The Program Manager also completed applications for grants from the Boston Foundation and the Gardiner Howland Shaw Foundation to support a re-entry mediation program pilot involving mediation services from funded centers, CDSC and MMS, to pre-release prisoners. The Shaw Foundation and JAMS applications were approved and efforts to secure Boston Foundation funding will continue in FY 2018.

#### **E. Noteworthy Grant Program programming initiatives:**

Program development under Grant Program auspices was undertaken to serve two purposes – meeting community needs and attracting potential funders.

***Positive youth development:*** Community project grants were awarded through the Grant Program to support the infrastructure needed by centers to offer programming that met the needs of their communities. For FY 2017, the decision was taken to address the need for dealing with youth conflict, and to continue to lay the groundwork for the creation of a state-wide positive youth development initiative that would entail the services of funded centers. Accordingly, four centers received grants for projects promoting positive youth development. The Associate Director conferred with centers on the design and evaluation of their projects.

Three of the community project grants involved peer mediation in partnership with local schools. Peer mediation tackles youth conflict on two fronts: first, by training students in mediation, and second, by having these trained students mediate conflicts among their peers. Supported by a \$14,000 community project grant, MSI strengthened the peer mediation program at a 7<sup>th</sup>-12<sup>th</sup> grade charter school in Fitchburg by providing adequate staffing and advanced training sessions for students and school personnel. The program grew in scope and importance to school culture. North Shore received \$10,000 to increase access to peer mediation programs at public middle and high schools in Amesbury. Student peer mediators mediated 21 disputes out of the 24 referrals they received. TMTC used its \$15,000 grant to continue its peer mediation



program at a middle school in the Gill Montague Regional School District in Turners Falls. Forty-two referrals of disputes that involved not only middle school students but also high school and elementary school students as well as school staff were vetted, and 35 were subsequently mediated by students from a pool of 19 trained student mediators. Twenty-six agreements and five informal resolutions resulted from these mediations.

A fourth community mediation grant of \$10,000 was received by CDSC to support a project that, in partnership with the Cambridge Youth Programs of the City of Cambridge and MOPC, trained Cambridge high school youth to deal with conflict constructively and subsequently developed the students' leadership skills by having them train middle school students in conflict management. The students' conflict training was reinforced by a creative component, Photovoice, in which trainees were given the opportunity to use photography to express their conflict experience. The implementation of Photovoice, under supervision of the MOPC Associate Director, was made possible by a Healey Research Grant from the University of Massachusetts Boston. By the project's end, four out of five responding high school students were more confident about their handling of conflict, and all six high school participants approved of their experience with learning and teaching middle school students about conflict.

***Prisoner re-entry mediation:*** FY 2016 efforts to leverage interest in public safety and recidivism reduction into support for the use of prisoner re-entry mediation continued into FY 2017. In April 2017, discussions between the Department of Correction (DOC) and MOPC resulted in a memorandum of understanding between the DOC and the University of Massachusetts Boston through MOPC to pilot the delivery of mediation services by two Boston-area community mediation centers (CDSC and MMS) to prisoners at the Boston Pre-Release Center in Roslindale. Funding for this pilot was sought from the Boston Foundation and the Gardiner Howland Shaw Foundation, and was received from the latter. The pilot is slated to be operational in FY 2018. Preparation will include re-entry mediation training for interested centers. Depending on the availability of funding and the success of this pilot, a statewide expansion of the program and the participation of more funded centers may result.

***Municipal conflict:*** The need for addressing municipal conflicts regarding issues of public concern was set forth in an MOPC study, the *Municipal Conflict Resolution Needs Assessment Study*. During budget advocacy for FY 2018 government funding, MOPC refrained from advocating for legislative action on the municipal project so as not to undermine support for the Grant Program. However, MOPC did explore the option of filing separate legislation to establish a municipal conflict resolution grant program sponsored by community mediation champions.

***Deliberative dialogue:*** In partnership with the Kettering Foundation, an 18-month pilot to build deliberative democracy at the University of Massachusetts Boston and in Massachusetts communities was initiated by MOPC. For this initiative, a dialogue series on public safety and justice was undertaken. Centers were encouraged to contribute join this endeavor by convening and moderating dialogue forums in their regions and consequently raise their public profile.

Training in moderating and conducting the discussion of issues under a deliberative dialogue model was sponsored by MOPC for center staff and mediators. TMTC, North Shore, and MetroWest took advantage of the opportunity to conduct a community dialogue about police and community relations.

***Restorative justice:*** MOPC and centers were responsive to the burgeoning interest in restorative justice and restorative practices manifested in both the education and criminal justice realms, and MOPC joined the Restorative Justice Coalition of Massachusetts to support enactment of legislation in this area (see House Bill 793 and Senate Bill 847 regarding use of restorative justice for criminal offenders; see also House Bill 3555 and Senate Bill 312, providing for restorative justice as a means to lower dropout rates and reduce school suspensions and expulsions). Additionally, MOPC investigated the successful state-sponsored initiative in New York to promote restorative justice in schools through community mediation centers, and sponsored training in restorative justice circles for community mediation centers provided by the Suffolk University Center for Restorative Justice. In the experience of one center (North Shore), school interest in restorative justice was strong but unfunded; only private money was potentially available to support such efforts. Nevertheless, funding opportunities to support restorative justice ventures were explored by MOPC.

#### **F. Grant Program initiatives:**

***Improving the grant-making process:*** Consistent with the statutory mandate that MOPC consult with centers about grant-making criteria and procedures, MOPC continued its efforts to accommodate centers' request for a simpler and less time-consuming grant application process while maintaining grant-making rigor and objectivity.

The challenge of reconciling centers' request for more streamlining with the Program's need for demonstrable center compliance and for impact information came to the fore with the separation of compliance and SMART goal accounts. Formerly combined into a single narrative in the grant application, the intertwining of the description of continued compliance with 12 standards and the description of progress in achieving four SMART goals, all under the Twelve-Point Model, risked both confusion and incompleteness. For the sake of greater clarity and comprehensiveness, the compliance and SMART goal narratives were separated into different sections. To facilitate relevant responses, guiding questions accompanied both the compliance and SMART goal sections. To ease completion of the compliance section, documentation was not required and re-use of the narrative from prior and in succeeding applications was allowed unless circumstances changed.

These modifications, subject to a two-year trial period, were first applied to the FY 2017 grant application process. Feedback from centers about their first-year's experience with the division between compliance and SMART goal accounts indicated that reconciling center interests and Grant Program needs was a work in progress. In a survey of the twelve funded centers about the FY 2017 grant process, half indicated at least some satisfaction with separating

out the compliance narrative, four expressed a degree of dissatisfaction, and two were indifferent. Eight of twelve responding centers found the guiding questions for the compliance narrative helpful. On the other hand, when given the opportunity to comment, eight centers criticized the compliance section as redundant and laborious, largely due to its perceived overlap with the SMART goal section. Setting apart the SMART goal section proved more popular with centers: eight out of eleven centers indicated some degree of satisfaction, only one was somewhat dissatisfied, and the rest were noncommittal. The true test of the value of these changes will come at the end of the trial period during the FY 2018 grant application process.

***Addressing mediator quality:*** MOPC’s authority to issue rules regarding “the establishment of a “quality assurance system for mediator excellence” (M.G.L. ch.75 §47(b)) was effectively realized through the adoption of the Twelve-Point Model. The Model included a mediator quality standard that identified the means for attaining quality mediator service, namely, to “maintain high quality mediation services by providing intensive, skills-based training, apprenticeships, continuing education and on-going evaluation of volunteer mediators.” Connecting Program funding to the Model and linking SMART goals to Model categories insured that all centers had a SMART goal related to mediator quality and incentivized center striving to assure mediator quality.

In a review of the current situation of funded centers regarding mediator quality, the Program Manager met with each center to learn about its practices in maintaining mediator quality and to discuss community mediation standards articulated by NAFCM (a professional organization for community mediation), the Trial Court, and the Twelve-Point Model. The resulting report from the Project Manager described centers’ views and current practices. Basic mediator training provided by centers was found to exceed court standards. Centers provided an apprenticeship experience for new mediators and, in line with the Court’s recommendation, encouraged but did not require continuing education for all mediators. The availability and subject matter of advanced trainings varied by center. All centers utilized feedback processes to help mediators improve their practice while a few routinely conducted formal mediator evaluations. Enforcement of standards was a challenge for some centers. In the case of mediators who failed to improve, centers either avoided using them or paired them with experienced mediators.

The report also contained a list of potential ways to promote quality, which reflected center preference for focusing on quality assistance from MOPC rather than quality assurance. Centers and PAC members agreed about the satisfactoriness of center mediator standards and about MOPC’s role as assisting and supporting, not directing, centers’ initiatives regarding mediator quality. PAC members were reassured that proposals to gather role play examples and produce a non-compliance policy were meant to be a resource for centers to use at their discretion. Doubts were expressed by the PAC about the usefulness of a recommendation to create a mediation training manual in view of the time and effort required to produce a product that was likely to be duplicative of existing manuals. Instead, some PAC members saw a need to develop standards for satisfying continuing education requirements and for conducting advanced

trainings in technical issues. The report's recommendations will be used as a starting point for future discussions with centers about how to benefit from each other's experience and from MOPC's support for their efforts involving mediator quality. To initiate centers' mutual assistance, a self-led mentorship system and on-line training sessions, both center-led, were set up by the Program Manager in FY 2017.

***Role of volunteerism:*** Discussion revolving around the proportion of volunteer mediators on the mediator roster needed to qualify as a community mediation center for Grant Program purposes resulted in a decision by MOPC to continue to monitor the volunteer situation and, before any action is taken, to consult with centers and take practical limitations into account.

***Impact evaluation:*** Centers that supply dispute resolution services for the Massachusetts courts are enjoined by Rule 7(a), SJC. Rule 1:18, Uniform Rules on Dispute Resolution, to obtain feedback about its mediation program and mediators from a "bona fide sample of parties or lawyers" at the end of mediation sessions on a "regular or occasional" basis. Centers complied with this requirement, using their own forms according to their individual timetables. Low response rates, the variety of evaluation forms and the variability of their use, however, precluded an assessment of the collective impact of services from 12 state-funded grantee centers. Mindful of the demand from funders and sponsors in the public and private sectors, including legislators and other government officials, for evidence of the impact of projects to justify their support, MOPC and centers joined forces to implement an evaluation instrument for use by all funded centers to measure the overall impact of center services upon parties. The questionnaire that was developed would survey parties in community-based cases about mediation's effect on costs, on time spent, and on social interactions involving communication, relationships, dispute management, opinions about the other party, and the amount of conflict. Parties in court-based cases would only be asked about mediation's impact on social interactions. Pilot testing of the questionnaire, during April 1 to June 30, 2017, exposed implementation and data entry problems. Several centers had administered the survey to all their clients without distinguishing between parties in court-based cases from those in community-based cases. Moreover, the software (i.e., MADtrac) data categories and survey categories were misaligned. Accordingly, instructions for administering the survey were clarified, MADtrac categories were adjusted, and the pilot test for evaluating the impact of community mediation was extended into the next fiscal year.

***Up-grading data collection:*** An evaluation of the Grant Program involved reporting on the collective activities of funded centers, which required that evidence about their activities be aggregated, which, in turn, necessitated uniform and consistent data collection. Funded centers were therefore required to use MADtrac, case management software, to record data about their activities. Years of training and practice finally led to the production of MADtrac data reports from all centers. Due to insufficient interest, an additional MADtrac training was not scheduled during FY 2017. Efforts to improve MADtrac, however, continued. Categories were added to accommodate information about the impact of mediation on parties. Adding categories for after-hours mediation sessions, requested by centers, was found to have financial implications so was

postponed until FY 2018. Definitions for MADtrac categories continued to be reviewed for clarity and consistency, and changes were made where necessary, e.g., definitions of the different levels of conflict were refined.

***Visioning:*** MOPC invited centers to join it in developing a collective vision for a future in which community mediation provided by community mediation centers had a beneficial impact on the people and communities of Massachusetts. With respect to the Grant Program, the visioning process was intended to identify the direction of the Program and prioritize the projects to be supported through the Program. Heeding the advice of the PAC to preserve the independence of the visioning process and cordon it off from grant-making, neutral third parties, who were law students in the Harvard Negotiation and Mediation Clinical Program, agreed to facilitate and report on the visioning initiative. Information from 13 stakeholder groups (the 12 centers and MOPC) and key sponsors (the Attorney General's Office and the Massachusetts Bar Foundation) about their vision for community mediation was gathered through interviews and focus groups conducted by the students. This information was organized into nine areas of interest, which framed MOPC and centers' discussions – at a retreat facilitated by the students – about producing a joint vision that would guide long-range planning to strengthen community mediation, promote collaboration among centers and with MOPC, and appeal to new funders and sponsors. Working toward the creation of a single vision, interest in issues concerning schools, the courts, raising awareness, and funding support was expressed by retreat participants and several proposed draft visions emerged. Planning for the future of community mediation will continue in FY 2018, beginning with a survey of centers about their preferred vision statement and proceeding to a strategic planning phase. The facilitators' report, describing both the process and the substance of the visioning process, will inform this next planning phase.

### **G. Reporting:**

Grant Program accountability was demonstrated for FY 2017 when progress reports were provided to the Program Advisory Committee (PAC), and a year-end evaluation report was submitted to specified government officials – and later made available to the public on the internet. At semiannual meetings with MOPC, PAC members were apprised of Grant Program developments and plans and invited to offer feedback and advice. The evaluation report for officials, produced by MOPC's Research Unit, described the activities of the Grant Program and funded centers and portrayed their accomplishments in terms of the Program's impact on the funded centers and on the people served by these centers. The evaluation report was predominantly based on MADtrac data, which provided a uniform system for recording center activities across all funded centers, on center responses to an end-of-year survey for information that was not captured through MADtrac, and on qualitative information gleaned from 2018 grant applications about the FY 2017 activities of centers. For reporting purposes, where survey data and MADtrac data in the same category diverged, survey data was relied upon as the more up-to-date source of information, and was cited as the source of the reported data. Year-end survey information about center activities over the course of the year were supplied several months after

the year’s end, allowing more time for corrections than was available for the annual MADtrac reports, which were produced shortly after the fiscal year ended.

### III. Impact of Grant Program Grants on Centers

The purpose of the Grant Program is to broaden access to mediation by sustaining and strengthening community mediation infrastructure through awards of operational funding to local community mediation centers that deliver dispute resolution services across the state. The value of the Grant Program may be measured by the effect that Program grants had on the centers that received Program funding and, ultimately, on the recipients of center services, that is, on people in the community.

#### A. Profile of funded centers:

Twelve centers (one fewer than the year before) were successful in their Grant Program applications. Seven of these centers were independent non-profits and five were subsumed under parent organizations that were either non-profit or government organizations (see Table 3).

Table 3. FY 2017 funded centers, center status and the counties of parties served.

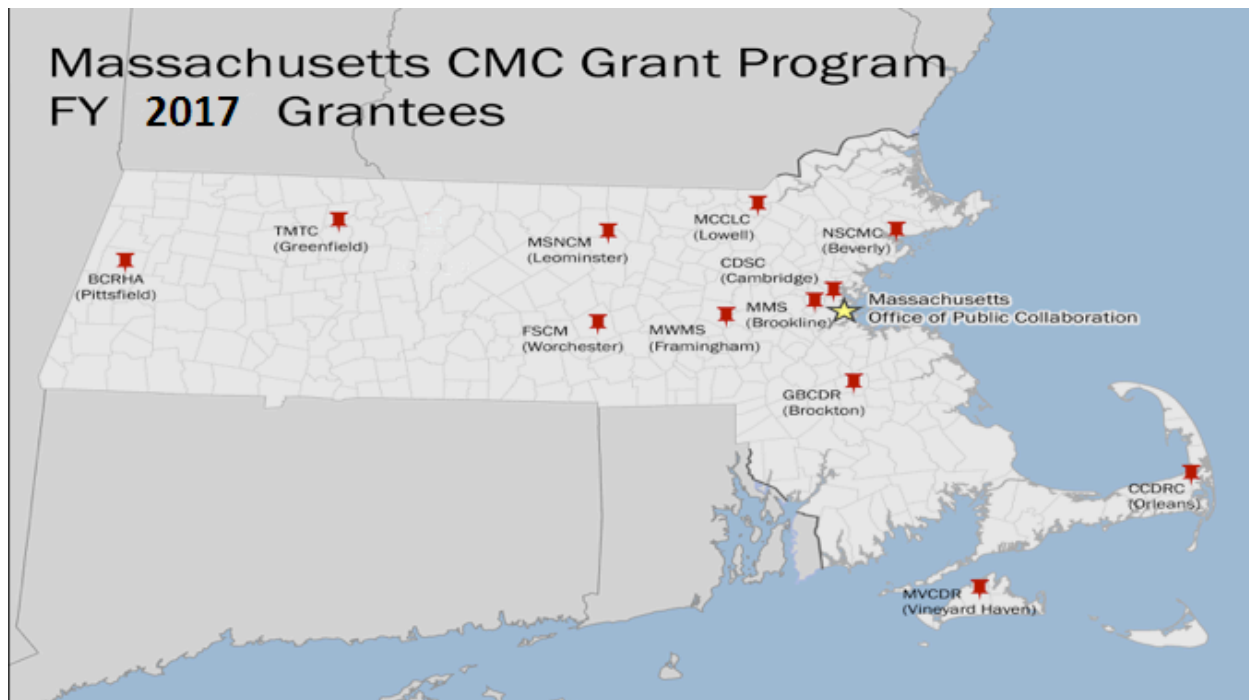
<b>FY 2017 funded community mediation center</b>	<b>Center status</b>	<b>County of Parties Served by center</b>
Berkshire County Regional Housing Authority-Housing and Consumer Mediation Center (BCRHA) in Pittsfield	Parent organization: Berkshire County Regional Housing Authority	<b>Berkshire*</b>
Cape Cod Dispute Resolution Center (Cape Mediation) in Orleans	Independent non-profit	<b>Barnstable,*</b> Nantucket, Norfolk, Plymouth
Community Dispute Settlement Center (CDSC) in Cambridge	Independent non-profit	Essex, <b>Middlesex,*</b> Norfolk, Plymouth, Suffolk, Worcester
Family Services of Central Massachusetts Mediation Program (FSCM) in Worcester	Parent organization: Family Services of Central Massachusetts	Middlesex, <b>Worcester*</b>
Greater Brockton Center for Dispute Resolution (Greater Brockton) in Brockton	Independent non-profit	Barnstable, Bristol, Hampden, Middlesex, Norfolk, <b>Plymouth,*</b> Suffolk, Worcester
Martha’s Vineyard Mediation Program (Martha’s Vineyard) in Vineyard Haven	Independent non-profit	<b>Barnstable,*</b> Dukes
Middlesex Community College Law Center (MCC) in Lowell	Parent organization: Middlesex Community College	Essex, <b>Middlesex,*</b> Worcester

MetroWest Mediation Services (MetroWest) in Framingham	Independent non-profit	Barnstable, Berkshire, Essex, <b>Middlesex</b> ,* Norfolk, Suffolk, Worcester
Metropolitan Mediation Services (MMS) in Brookline	Parent organization: Brookline Community Mental Health Center	Middlesex, Norfolk, <b>Suffolk</b> *
Mediation Services of North Central MA (MSI) in Leominster	Independent non-profit	<b>Worcester</b> *
North Shore Community Mediation Center (North Shore) in Beverly	Independent non-profit	Barnstable, <b>Essex</b> ,* Middlesex, Norfolk, Suffolk, Worcester
The Mediation & Training Collaborative (TMTC) in Greenfield	Parent organization: Community Action of the Franklin, Hampshire, and North Quabbin Regions	Berkshire, Bristol, Essex, <b>Franklin</b> ,* Hampden, Hampshire, Middlesex, Norfolk, Plymouth, Suffolk, Worcester

\*County of the largest number of parties served.

The funded centers varied in size, with FY 2017 budgets that ranged from \$48,825 to \$271,445, staffing levels of 1 to 8 (full and/or part-time) paid employees, from 5 to 53 active volunteer mediators, and caseloads of 86 to 836 newly opened cases. These centers were dispersed across the commonwealth (see Figure 1).

Figure 1. Locations of FY 2017 funded centers in Massachusetts.



Even though the number of grant recipients was lower than the year before, together their coverage extended over all 14 Massachusetts counties (see Table 3). Among the 6,838 parties whose counties of origin were identified, 30% were residents of Middlesex County, another 44% came from the four counties of Barnstable, Berkshire, Essex, and Suffolk, and 26% resided in the remaining counties (see Table 4). People receiving center services hailed from approximately 400 cities in Massachusetts as well as a number of out-of-state places like Albany and Brooklyn in New York; Palm Beach, Florida; Providence, Rhode Island, Salt Lake City, Utah; Atlanta, Georgia; and others. Nine cities – Brockton, Fitchburg, Greenfield, Hyannis, Lawrence, Lowell, North Adams, Pittsfield, and Waltham – accounted for 20% of 8,374 parties served in FY 2017.

Table 4. Number of parties by county.

<b>County</b>	<b>Parties in county</b>	<b>Percentage of parties in total served (n=6838)</b>
Barnstable	847	12%
Berkshire	653	10%
Bristol	10	0.1%
Dukes	155	2%
Essex	777	11%
Franklin	264	4%
Hampden	184	3%
Hampshire	192	3%
Middlesex	2,052	30%
Nantucket	32	0.5%
Norfolk	389	6%
Plymouth	192	3%
Suffolk	765	11%
Worcester	326	5%

### **B. Importance of Grant Program grants to funded centers:**

The business model of community mediation centers involved a heavy reliance on outside financial support through grants and donations due to the limits on center ability to generate fee-for-service revenue. The contributions of volunteer mediators and staff to the delivery of community mediation services from centers were essential both to qualifying centers as community mediation centers and to mitigating the cost of delivering their services. Nevertheless, center commitment to affordable services and the Massachusetts District Court’s prohibition against charging for mediating court-referred cases prevented centers from covering



all their operating costs. Consequently, Grant Program operating grants were important to the financial stability of center grantees. The collective cash income reported by grant recipients for FY 2017 was \$1,780,211. Individual center incomes ranged from \$48,825 to \$271,445 and averaged \$148,351. Grant Program grants accounted for 34% of funded centers' collective income. The proportion of individual grants to the income of individual centers ranged from 22% to 72%. For a majority of funded centers, operating grants from the Grant Program positively contributed to their sustainability (at seven centers). Indeed, one such center declared that "the CMC Grant Program is essential to our center's sustainability." Center sustainability remained stable at three centers. Meanwhile, diminished center sustainability was reported by two centers. For one of these centers, the increased vulnerability was attributable to decreased funding from other sources.

The top three important needs cited by funded centers involved their employee situation. Year-end survey numbers indicated that a total of 9.75 full-time staff, averaging 0.8 full-timers per center, and 44 part-time staff, at an average 3.7 part-timers per center, were employed by funded centers. In order to meet the demand for their services, a majority of eight centers needed more staff; salary benefits and mediator recruitment and retention concerned six centers; and professional development for staff and mediators was challenging for five centers. Center plans for stabilizing their staffing situation mostly involved restructuring or redistributing hours or duties on an as-needed basis (at seven centers). Five centers were interested in increasing staff hours to a full-time position or the functional equivalent. Increasing benefits to attract and retain staff was also desired by five centers. Financial support was critical to center plans. As one center observed, "sustainability of Center staff would require a substantial increase in funding – or an alternative model of funding community mediation."

Grant Program grants had an impact on a number of center operations, including center staffing. At a majority of funded centers, six operations out of 15 listed options were positively affected while eight remained stable. A substantial majority of at least two-thirds of centers were better able to serve their community because of these grants: mediation services increased for low-income or underserved groups at eight centers and for more population groups at nine centers while a greater number of dispute types were mediated at ten centers. At most centers, the Program grant led to increased fundraising (seven centers) and professional development for staff (eight centers) and for mediators (seven centers). Furthermore, there was growth at a majority of centers in professional development for mediators (eight centers) and for staff (six centers) and in fund raising (seven centers).

Otherwise, operations that remained unchanged at a majority of centers included staff hours, staff numbers, staff turnover, mediator diversity, use of sliding scale fees, number of mediation sites and hours, and scheduling delays. Compared to the previous year, for the most part, staff turnover (at seven centers) and hours (at six centers) remained the same. The decrease in operations at five centers, reported by single centers, largely concerned matters related to personnel capacity that were connected to changes in other funding sources or to circumstances outside the Grant Program. One center found that despite Program grants, "reductions from other

fundings, such as the AGO and the Massachusetts Bar Foundation, and the loss of another significant contract, are still forcing us to reduce staff hours and reduce the level of services we can provide in FY18.” At another center, circumstances involving staff retirements and constraints on part-time positions imposed by a labor agreement negotiated by the parent organization led to a 30% reduction in work hours. Meanwhile, general operational funding that impacted the volume of intakes and mediations increased at five centers, decreased at four, remained unchanged at two centers, and did not apply to one center.

#### **IV. Impact of Grant Program grants on the population served**

##### **A. People are served through intakes and mediations:**

The most authentic measure of the value of the Grant Program is its impact on the people of Massachusetts. Any such impact is achieved through the services delivered by funded centers. According to survey results, during the 2017 fiscal year, 8,372 people received center intake and/or mediation services. Centers conducted 4,329 intakes, where, among other things, parties received information about the mediation process; the appropriateness of the dispute for mediation was determined; and, if relevant, party consent to mediation was obtained. Eighty-four percent of the intakes or 3,642 cases proceeded to mediation. Intake numbers averaged 361 per center, and the average number of mediations was 304. A comparison of these FY 2017 numbers with those of the previous fiscal year indicates that the 9% reduction in funded centers since FY 2016 (from 13 centers to 12 centers) was not followed by a corresponding drop in intake and mediation numbers and averages (see Table 5). The decrease in FY 2017 intakes and mediations was only 6% and 5%, respectively, while intake and mediation averages were higher than those of the previous year.

Table 5. Intakes, mediations, and people served in FY 2016 and FY 2017.<sup>4</sup>

	FY 2016 (13 centers)	FY 2017 (12 centers)
Number of people served	8,373	8,372
Number of intakes	4,619	4,329
Intake average	355	361
Number of mediation cases	3,826	3,642
Mediation case average	294	304

<sup>4</sup> FY 2017 numbers are based on center responses to the year-end survey.

Factors other than the number of centers providing services influenced mediation and intake numbers. For a majority of centers, decreased staff hours (at eight centers) and reduced mediator availability (at seven centers) were a negative influence on the number of intakes and mediations performed. On the other hand, at five centers, increased use of dispute resolution services by the court positively affected their intake and mediation numbers. Community partnerships were also a positive factor at eight centers. Irrespective of the cause, individual center productivity was greater in FY 2017 than in FY 2016 and redounded to the benefit of 8,372 people, virtually the same number of people served the year before. These figures do not, however, take into account the year's worth of 3,229 requests for information/referrals fielded by centers in FY 2017.

### **B. Meeting the community's need for conflict management:**

The *raison d'être* of community mediation and its suppliers – that is, community mediation centers – was to meet the conflict resolution needs of community members. The standards of the Twelve-Point Model effectively enshrine practices that promote center service to the community. By offering mediation and various mediation-related services for a variety of disputes at any level of conflict intensity, centers could tackle a broad array of disputes, including those that would otherwise evade the attention of the judicial system, thereby contributing to social harmony and increasing access to justice in the community.

***Providing assistance for a variety of dispute types:*** FY 2017 Grant Program grants were instrumental in increasing the types of disputes mediated by ten centers. The menu of dispute types remained the same at two centers. Thus, no centers decreased the types of disputes they mediated. With respect to 14 broad categories of disputes – i.e., business (e.g., consumer, small claims), culture, discrimination, family, government, housing, interpersonal, neighborhood, other, school, workplace, unknown, juvenile/youth (not school), restorative justice – centers as a whole dealt with cases in each category except for culture. Out of 4,346 referred cases, the largest proportion of cases involved business matters at 58%, followed by housing cases at 16%, family cases at 11%, and school cases at 9%. The remaining categories contained between 2 and 95 case referrals. All centers handled referrals for business cases (between 42 and 199 referrals) and family cases (between 1 and 228 referred cases). Half the funded centers had no school-based referrals, and those that did dealt with one to 141 cases.

Centers' encounter with housing case referrals was emblematic of their responsiveness to the community's needs. MMS, which primarily serves greater Boston, handled an upsurge in its housing caseload that resulted from the growth in evictions and housing-related conflicts caused by the critical shortage of rental housing in the Boston area. At TMTC, the number of housing mediations increased, enabling “management and tenants (many with limited income) to attempt to resolve disputes before these parties enter the court process.” BCRHA, which covered Berkshire County, addressed 200-plus housing/neighbor disputes that were frequently complicated by poverty and problems with substance abuse, domestic violence, and gang

connections. By year's end, eleven centers had tackled a total of 688 housing case referrals, ranging from 4 to 434 cases. Their mediation efforts led to full or partial agreements in three fourths of these cases. A twelfth center, FSCM, dealt with housing issues but classified the cases as business-related because their focus was on financial rather than possession issues.

At least six centers continued their efforts to enlarge the menu of dispute types they addressed. BCRHA, MetroWest, Martha's Vineyard and MSI took steps to deal with minor criminal matters. MetroWest was approved by the court for harassment prevention mediation services. Martha's Vineyard received harassment referrals. Minor criminal complaints handled by MSI included larceny by check, theft, assault, and domestic abuse. BCRHA maintained its show cause project – seeking to address, among other criminal matters, harassment and cyber bullying – for a second year. TMTC and BCRHA persisted in their attempt to assist with agricultural disputes in western Massachusetts. FSCM prepared to more effectively deal with divorce disputes by providing its mediators with training in divorce mediation.

***Mediating disputes, whatever the level of conflict intensity:*** Centers maintained the breadth of their dispute resolution assistance by dealing with disputes irrespective of the level of conflict intensity. The FY 2017 numbers regarding case conflict levels should be approached cautiously. Not all centers tracked their prevention and planning cases. And, as one center pointed out, the static nature of this classification system did not take the fluidity of conflict levels in any particular case into account. Nevertheless, centers clearly provided conflict prevention and problem-solving services to parties before conflict over their issues materialized as well as mediation services for disputes with low-levels of conflict intensity that usually did not receive judicial attention. BCRHA, for example, took preventative action by way of “educational and legal counseling or negotiation/informal mediation assistance.” MCC provided information about conflict prevention on its website. Prevention efforts of MCC, MetroWest, Martha's Vineyard, and TMTC consisted of outreach and education initiatives, such as workshops in conflict resolution skills. And CDSC worked with the Norfolk Probate & Family Court on an early intervention initiative consisting of mandatory screening for mediation in divorce and paternity disputes. FY 2017 data indicated that 1% of the 4,346 referred cases were at the prevention and planning, not conflict, stage while 8% involved low levels of conflict.

Centers also handled disputes characterized by intermediate levels of conflict – typical of court-based cases – as well as high levels of conflict – that is, those with a potential for violence. For example, the tactics used by Greater Brockton to deescalate conflict included communication methods, mediator breaks, caucuses, and, if needed, security services. North Shore provided conflict coaching for high conflict cases that were inappropriate for mediation. In all, 83% of FY 2017 referred cases involved intermediate conflict and 7% were considered high conflict. Court cases were classified as intermediate conflict and police-referred cases and harassment cases were considered high conflict.

***Supplementing mediation services with other mediation-related services:*** The variety of dispute resolution services by centers also increased. These services were modeled on mediation,

incorporating such features as party involvement and empowerment. Centers resorted to these mediation-related strategies to help more people manage conflict.

Facilitation, used to encourage productive group interactions, was provided in five cases – one family case, two school cases and two workplace cases. Facilitation services were available at CDSC and TMTC. Interest generated by the posting of information about CDSC facilitation services on its website led to nine referrals. TMTC facilitated meetings with town officials, school committees, and school administrators and staff to discuss maintaining quality education amid financial concerns. TMTC is planning to expand its facilitation services to municipalities and non-profits. Conflict coaching, consisting of one-on-one training in communication and collaboration, was provided in 26 cases, 24 of which were school-related. TMTC and MSI both offered conflict coaching services. MCC piloted an approach to conflict coaching for cases in which one party had rejected mediation services. Martha’s Vineyard used the intake process to impart information about mediation and thereby furnish parties “with insights and strategies with which to resolve their own disputes.” Restorative practices were promoted by MMS and TMTC in the school context and by Martha’s Vineyard generally. Both MMS and TMTC worked to institutionalize the use of restorative practices in their peer mediation programs. Under MMS auspices, the circle process was applied to a high school dispute. Martha’s Vineyard initiated a restorative justice project and provided restorative justice training. North Shore is planning an initiative with Salem State University to mediate problems in the dorms and provide “preventive facilitation/restorative practices in the community for off-campus students.”

### **C. Making mediation services available to all members of the community:**

Funded centers sought to leave no part of the community bereft of opportunities to receive community mediation assistance with managing disputes. The centers pursued strategies that took the diversity of the community’s population into account and removed temporal, geographic, and financial obstacles to community mediation access.

***Reaching more people in the community through education and outreach activities:*** To ensure that no group’s conflict resolution needs were overlooked, funded centers engaged in extensive public education and outreach activities. According to center responses on the year-end survey, all centers offered educational initiatives, including 245 trainings and other such education efforts, to 10,549 people. Examples of center efforts include round table discussions between MSI and police; events held by CDSC for realtors, young parents, attorneys, young homeowners, elders, and others; and training/workshops conducted by BCRHA for police officers, religious organizations, and veterans. Martha’s Vineyard offered a ten-week course on conflict resolution in ordinary life to inmates, and in partnership with the Oak Bluffs Police Department, the center initiated its Restorative Justice pilot project at a meeting with 23 attendees, followed by a two-day restorative justice training for 11 participants.

In addition, informational materials, including branded trinkets, distributed by twelve centers, were received by 34,958 individuals. Personnel from eleven centers attended conferences and made presentations. Nearly ten thousand – that is to say, 9,810 – people participated in centers’ education and outreach events. The audience for the all these education/outreach efforts numbered more than 55,000 individuals. Center dealings with the mass media further enlarged this audience by an unknown amount. Eleven centers had web-sites. MMS’ web-site, for one, attracted 2,396 unique visitors. Ten centers maintained a presence on social media. TMTC, for example, posted about 40 notices about center events on Facebook. Cape Mediation and North Shore were interviewed on the radio. Cape Mediation was the subject of a newspaper article. Greater Brockton’s work received media attention from the local newspaper and radio station. MCC posted community notices about center services on cable television and local radio stations, and ten local newspapers received from two to five press releases from TMTC. All the funded centers found that their education/outreach efforts raised public awareness about themselves and about community mediation. Centers’ FY 2017 outreach efforts succeeded in increasing referral numbers at six centers, left referrals at two centers unchanged, and did not reverse a decline at four centers.

***Serving clients who reflect the diversity of the community:*** Information about the racial/ethnic and economic diversity of parties served by centers was limited. Centers cooperated with MOPC in collecting parties’ demographic data through surveys. Seventy-one percent or 4,846 people out of the 8,351 surveyed voluntarily responded to questions about their race/ethnicity. Nearly two-thirds or 64% of surveyed respondents were white, 13% were African American/Black, and 12% were Hispanic/Latino. Even fewer parties – 1,572 or 19% of 8,351 parties – were forthcoming about their income. Of the 1,572 parties who identified their income level, about one-fifth or 21% had incomes under \$10,000. A majority of 55% earned less than \$29,999, roughly comparable to incomes below \$29,425 or 250% of the Federal Poverty Level for a single individual household.<sup>5</sup> Sixteen percent of parties reported earnings of \$65,000 or more. In sum, the responding parties’ demographic profile generally resembled that of the state population in that a majority self-identified as white while the largest minorities were African American/black and Hispanic/Latino.<sup>6</sup> Most responding parties were low-income, earning under \$30,000. No conclusions can be drawn about the racial/ethnic composition or income level of non-responding parties or the totality of people served by funded centers in FY 2017.

Centers took the diversity of the community into consideration and worked to expand their services to more population groups, targeting those whose conflict resolution needs were underserved. Compared to the previous fiscal year, FY 2017 was a year in which nine centers succeeded in expanding their services to more population groups. For three centers, the scope of their services was the same as the previous year. And, according to nine centers, Grant Program grants contributed to their ability to assist more groups while, at three centers, the number of

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<sup>5</sup> Available at <https://www.parkviewmc.com/app/files/public/1484/2016-Poverty-Level-Chart.pdf>

<sup>6</sup> Based on estimated census figures for Massachusetts for the period 2010-2015, see United States Census Bureau / American FactFinder. "Annual Estimates of the Resident Population: April 1, 2010 to July 1, 2015". 2015 Population Estimates Program. Available at [http://www.massachusetts-demographics.com/counties\\_by\\_population](http://www.massachusetts-demographics.com/counties_by_population)

served groups was constant. The efforts of five centers to reflect community diversity with respect to an array of characteristics such as gender, education, age, race, ethnicity, and income led to an increase in diversity. At seven centers, diversity was maintained at previous levels. No center reported a decrease in the diversity of the population it served.

Centers' diversification efforts included outreach to the Hispanic/Latino community, to other non-English speakers, to youth, and to elders, among others. MSI reached out to the Hispanic/Latin community through its relationship with the Spanish American Center and English-as-a-second language students at Mount Wachusett Community College. TMTC worked with Casa Latina to provide Spanish translation and interpretation at mediations and increased contacts with the Latino community. MCC had access to translators for its mediations. Elders received mediation services from MMS in 57 cases during the 2017 fiscal year, and additional outreach to elders is under development at MMS, encompassing brochures describing services, forms with large-size print, and contacts with organizations that serve elders. North Shore assisted low-income, elderly residents through referrals from housing agencies and property management companies.

Three centers, Martha's Vineyard, Cape Mediation, and TMTC, worked to deepen their sensitivity to diversity issues. Martha's Vineyard's awareness of class bias was useful in mediations of the "the issues of lower middle class individuals and those of higher income, often seasonal, Vineyard residents." Cape Mediation conducted a workshop to increase the center's "depth of understanding of diversity, bias and white privilege." Coaches and trainers at TMTC participated in a gender and mediation workshop that focused on sensitivity to gender identity issues.

***Diversity in the population served resulting from assistance for court-referred cases:***

The most common strategy employed by centers to ensure diversity was to provide mediation assistance in court-referred cases. As Cape Mediation noted, "all community members have equal access to our judicial system in these courts thus helping to ensure that the mediation clients accurately reflect the overall community's diversity." The absence of center-erected barriers to accepting court-based cases further ensured the diversity of the population served by centers. For instance, MetroWest "continued to offer its free mediation services to all individuals on their trial day in Natick, Framingham, Marlboro, and Concord District Courts, without regard to their race, color, religion, creed, gender, national origin, age, disability, marital or veteran status, sexual orientation and identity, or any other legally protected status."

All the funded centers were court-approved programs and were therefore qualified to receive court referrals for alternative dispute resolution (see Table 6). Seventy-two percent of the 110 court divisions were covered by centers. All centers provided services in District Court, together providing coverage for 61% of 62 District Court Divisions. Just this fiscal year, TMTC was invited to provide expanded mediator coverage at the Westfield Court small claims sessions. Funding considerations will be critical to TMTC's decision about the feasibility of such a move. A majority of two-thirds of centers were involved in 73% of 11 Juvenile Court and 71% of 14

Probate & Family Court Divisions. Fees for mediation services were prohibited by the District and Juvenile Courts, and no compensation for services was received by centers from any court.

Table 6. Number of Trial Court Departments and Divisions served by funded centers in FY 2017.<sup>7</sup>

<b>Court departments</b>	<b>Total number of court divisions</b>	<b>Number of court divisions that involve funded centers</b>	<b>Number of funded centers involved with court divisions</b>
<b>Boston Municipal Court</b>	8	8	2
<b>District Court</b>	62	38	12
<b>Juvenile Court</b>	11	8	8
<b>Probate &amp; Family Court</b>	14	10	8
<b>Superior Court</b>	14	14	6
<b>Land Court</b>	1	1	1
<b>Total</b>	110	79	n/a

Eighty-two percent of centers' 4,346 case referrals or 3,563 cases were court-referred, averaging 297 cases per center. Civil filings in the Massachusetts Trial Court have been in decline for the past few years. Recently, the statewide number of incoming trial court cases dropped about 7% from 297,909 in 2015 to 276,925 in 2016.<sup>8</sup> The caseload of six centers was diminished by this decrease. One center associated the slump in court referrals with reduced court hours. Notwithstanding the overall downward trend in court filings, intakes and mediations at five centers increased due to the court's use of dispute resolution services. On balance, centers' average court-referred cases remained constant over the last two years, with an average of 298 court-referred cases in FY 2016 and a 297 average in FY 2017.

<sup>7</sup> Approved Court-Connected ADR Programs List for 2016-2018, available at <http://www.mass.gov/courts/docs/admin/planning/adr-program-list.pdf>

<sup>8</sup> See CSP (Court Statistics Project) at [http://www.ncsc.org/Sitecore/Content/Microsites/PopUp/Home/CSP/CSP\\_Intro](http://www.ncsc.org/Sitecore/Content/Microsites/PopUp/Home/CSP/CSP_Intro)



***Consulting party convenience when scheduling time and place of mediation sessions:***

Centers designed their scheduling arrangements to ensure that neither time nor place was an obstacle to parties' receiving mediation services. During the 2017 fiscal year, the availability of locations and hours for mediation increased at two centers and remained constant at ten. Grant Program grants were instrumental in increasing available locations and hours for mediation sessions at two centers. Otherwise hours and locations were maintained at FY 2016 levels for ten centers.

Mediation services were available at all center offices on week-days. However, since the vast majority of center cases were court-referred, centers maintained a court presence, providing their services at the court site during court hours for the convenience of litigating parties who were on the scene. To further accommodate parties' scheduling needs, most centers offered evening hours and week-ends as well as alternative locations for mediation sessions. North Shore and TMTC regularly consulted parties about their scheduling preferences during intake. Over half of community-based cases at CDSC and FSCM and at least 85% of North Shore's divorce cases were mediated in the evening. A few cases were mediated by Greater Brockton, MCC, and CDSC on a Saturday. And Martha's Vineyard "never refused a request for a mediation to be scheduled at a particular time."

All told, although court sites were the most popular, approximately 97 locations were used for mediation. Sites used by MCC and MMS could accommodate people with special needs. To overcome the obstacle of distance, four centers turned to electronic means for the delivery of services. BCRHA conducted telephone mediations for 243 clients, FSCM held two Skype sessions, and North Shore used the online videoconferencing platform, ZOOM, to mediate a case involving elder planning with parties on both coasts. At MMS, the mediator did the traveling, covering 23 miles to see "a mobility-challenged client" at an elder housing development, thereby substantiating MMS' claim that "there have been no instances where [an] inconvenient or inaccessible location has been a barrier to a mediation going forward."

***Eliminating cost as an obstacle to mediation:*** To prevent money from obstructing people's access to mediation services, centers were resolute about providing affordable services. Affordability of mediation for parties at all income levels, including those of low income, was arranged by centers in two ways – providing services for free or charging fees based on a sliding scale. Two centers, Greater Brockton and MCC, offered their services pro bono in accordance with their guiding principles. However, MCC plans to explore the use of sliding scale fees in order to finance additional youth work. Ten centers maintained both options, charging either sliding scale fees or no fees for their services depending on circumstances. In keeping with court rules, all centers provided free mediation services for District Court and Juvenile Court cases. Cases referred by the police, the Attorney General's Office (AGO), or housing agencies also received free services from MetroWest and TMTC.

Half the centers reported no income from mediation fees while the other half earned from \$1,375 to \$24,086 from mediation. Fees were charged, for example, for mediations by BCRHA in buyer/seller and/or broker disputes under an agreement with the Berkshire County Board of Realtors, by MetroWest for community-based disputes involving divorce or family conflicts; by North Shore for non-court-referred cases; by TMTC for cases involving unsubsidized services; by Cape Mediation for private (non-court) mediations, by FSCM for cases that were neither referred by the court nor the AGO. FSCM is proposing to investigate ways to acquire additional revenue-producing cases like divorce and housing. Parties' financial situation influenced the imposition of fees. Fees were waived or modified based on party needs by MetroWest, MSI, CDSC, and others. In FY 2017, the frequency of fee waivers remained constant at eight centers, increased at two, decreased at one, and didn't apply to one other center. MMS implemented its precept that "cost should never be a barrier to the use of mediation in community mediation programs" by charging sliding scale fees in just one out of its 522 cases. As a whole, centers demonstrated their commitment to providing mediation services irrespective of ability to pay.

#### **D. Mediation benefits:**

The twelve funded community mediation centers touched the lives of at least 69,600 people – 8,372 parties in referred cases, 3,229 individuals who contacted centers for referrals or information, 55,000 recipients of center outreach and education initiatives, and 3,059 people trained in basic mediation, advanced mediation, and specialized mediation. In other words, funded centers exerted a degree of influence on more than 1% of Massachusetts' population of 6.84 million.<sup>9</sup>

***Mediation benefits accruing to parties:*** The express purpose of mediation is to settle disputes through mutually satisfactory agreements crafted by disputing parties. The typical agreement rate achieved by community mediation is 66%.<sup>10</sup> The agreement rate generated by center services in FY 2017 was 71% of 3,633 mediated cases. This FY 2017 rate not only exceeded the typical community mediation agreement rate, it was unchanged from the previous year.

The economic value of the agreements reached was tracked for consumer and landlord-tenant cases. Because of consumer mediation services from 11 funded centers, a total of \$3,651,645.22 was returned to consumers. Centers' consumer mediation services were subsidized by less than half a million dollars or \$491,105 in grants from the AGO's Face-to-Face Mediation Program.<sup>11</sup> Centers therefore produced a return-on-investment that increased the AGO's investment more than sevenfold. Moreover, the financial rewards from centers' services reaped by consumers and by parties in landlord-tenant disputes was more than 3.6 times the combined investment of \$1,007,405 from the AGO and the Grant Program (whose operating

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<sup>9</sup> Based on information from <http://worldpopulationreview.com/states/massachusetts-population/>

<sup>10</sup> Gazley, R., Change, W. K., & Bingham, L. B. (2006). Collaboration and citizen participation in community mediation centers. *Review of Policy Research*, 23:4, 843-868.

<sup>11</sup> See Attorney General of Massachusetts, Face-to-Face Mediation Programs. Retrieved December 31, 2017, from <http://www.mass.gov/ago/consumer-resources/consumer-assistance/mediation-services/face-to-face-mediation.html>  
MA Office of Public Collaboration, MA Community Mediation Center Grant Program – FY 2017 Report, December 31, 2017

grants of \$516,300 provided valuable support to the systems that undergird service delivery at the 11 centers).

The positive impact of community mediation is not limited to the formation of agreements. “Among mediation’s numerous advantages is its ability to constructively address conflicts, respect each party’s perspective, empower individuals to take personal responsibility for conflicted relations, establish mutually beneficial dialogue, and reduce violence.”<sup>12</sup> The mediation process encourages communication between disputing parties, which may have the effect of reducing the conflict between the disputants. Cape Mediation found that “voluntary participation by the disputants in the mediation process establishes immediate de-escalation of the level of conflict...” In addition, Cape Mediation pointed out that “Judges and Magistrates have told us that parties are calmer and can better articulate their issues before the Court after mediation.” Apart from such anecdotal evidence, whether the benefits of increased communication and reduced conflict were enjoyed by parties receiving community mediation services from funded centers in FY 2017 is a question to be addressed by future data from the impact evaluation pilot. In the absence of available data, statistics generated by a parenting mediation program served by funded centers might be a straw in the wind. During the first half of the FY 2017 fiscal year, parties’ parenting disputes arising from divorce or separation were mediated by five centers under the auspices of the Parent Mediation Program, administered by MOPC. Eighty-one percent of 59 surveyed parties achieved at least some improvement in communicating with the other party, and 74% of 57 parties reported that some or full progress in reducing their conflict was made through mediation. By (tentative) extension, it might be reasonable to suppose that by virtue of the agreements achieved in 2,572 cases served by funded centers, party communication occurred and conflict abated for at least 5,144 parties (assuming a minimum of two disputants per case).

***Mediation benefits accruing to the community:*** Due to the activities of funded centers, at least 66,000 people were made aware of the possibility of handling conflict constructively. Actual positive conflict management was experienced by the subset of 7,266 individuals whose cases were mediated, and the 3,059 people trained in conflict resolution skills. Conflict was most likely diminished for the 5,144 parties who reached agreement in mediation. In these ways, funded centers contributed to the potential for greater social harmony in the community. By the same token, centers served to expand access to justice for the people of their community.

Access to justice as a procedural matter involves people’s ability to get their grievances addressed through the judicial system.<sup>13</sup> The complexity of the justice system and the cost of acquiring experts (i.e., attorneys) to assist with navigating the system discourage disputing parties from turning to court processes to settle their disputes. Access to procedural justice

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<sup>12</sup> Hedeem, T. & Coy, P. G. (2000). Community mediation and the court system: The ties that bind. *Mediation Quarterly*, 17:4, 351-367.

<sup>13</sup> Eisenkraft, K. O. (2016, May). *Access to justice in the United States with Massachusetts examples: An introduction*. Boston, MA: Massachusetts Office of Public Collaboration, University of Massachusetts Boston. Retrieved December 31, 2017, from [https://scholarworks.umb.edu/cgi/viewcontent.cgi?article=1016&context=mopc\\_pubs](https://scholarworks.umb.edu/cgi/viewcontent.cgi?article=1016&context=mopc_pubs)

through the courts is also unavailable to people involved in disputes that do not entail legal breaches or are beyond the court's jurisdiction. Community mediation centers offer a form of procedural justice to parties by providing mediation services – a way to resolve all sorts of disputes that avoids entanglement with the court system regardless of the dispute's suitability for judicial consideration and irrespective of party's ability to pay.<sup>14</sup> The mediation services provided by funded centers broadened access to procedural justice for the community. The 5,144 parties in the 2,752 cases successfully mediated in FY 2017, which included both court-based and community-based cases, were the beneficiaries of the increased access to justice provided by funded centers in their communities.

#### **E. Ensuring the quality of funded center services:**

Agreement rates achieved by way of the mediation services delivered by funded centers have exceeded the typical mediation agreement rate of 66% for at least three years.<sup>15</sup> The quality of centers' mediation services was instrumental in producing this success. Centers' maintained the high quality of their services through training, continuing education, apprenticeships, and evaluation. With the addition of volunteer recognition, centers engaged in acknowledged best practices for managing volunteers, such as "supervision, data collection, recognition, and training" and consequently optimized the retention of skilled volunteer mediators.<sup>16</sup>

***Mediator training and practical experience:*** The funded centers provided basic mediation training that surpassed court-imposed training requirements for mediators. Centers used these trainings both to impart improved conflict resolution skills to members of the community and to recruit volunteer mediators. In FY 2017, 166 people participated in 16 basic trainings. Trainees who expressed an interest in mediating went on to gain some form of practical experience before assuming full mediation responsibilities. At BCRHA, Cape Mediation, CDSC, MCC, MetroWest, MSI, and North Shore, new mediators were required to complete an apprenticeship or practicum consisting of the observation of mediation sessions and co-mediation with an experienced mediator. Training was supplemented by mentoring and supervision at MCC and MMS. According to survey responses, the result was a total of 448 volunteer mediators on center rosters, 361 of whom were active in FY 2017.

***Opportunities for improving mediation skills:*** All centers provided their mediators with opportunities for continued growth in their mediation skills. Compared to the previous fiscal year, mediator professional development in FY 2017 increased at a majority (two-thirds) of centers and remained constant at one-third. The twelve funded centers promoted mediator participation in continuing education, though one center cautioned that continuing education participation depended on funding, i.e., "funding is critical to maintaining the level and quality of

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<sup>14</sup> *Ibid.*

<sup>15</sup> Agreements were reached in 71% of 3,826 mediated cases in FY 2016, and in FY 2015, the agreement rate for 3,784 cases was 73%.

<sup>16</sup> Hager, M. A. & Brudney, J. L. (2004, June). *Volunteer management practices and retention of volunteers*. Washington, DC: The Urban Institute, p. 3. Retrieved January 1, 2018, from [https://www.nationalservice.gov/pdf/Management\\_Brief.pdf](https://www.nationalservice.gov/pdf/Management_Brief.pdf)

continuing education opportunities.” BCRHA provided in-house continuing education training free of charge and presented up to \$150 in subsidies to two volunteer mediators for participating in outside continuing education programs. Martha’s Vineyard reimbursed mediators who took advantage of off-site professional development for their expenses. TMTC required its mediators to complete four or more hours of continuing education in order to remain qualified. CDSC asked mediators to submit documentation of their continuing education compliance annually.

Opportunities for mediators to hone their skills and acquire expertise in technical matters were offered by ten centers. In FY 2017, 15 advanced trainings for 192 participants were held. The subject areas addressed included landlord-tenant and real estate law at BCRHA, exemptions to court-ordered payments for small claims cases at Greater Brockton, trauma and mediation at TMTC, and divorce at FSCM and Martha’s Vineyard, to name but a few.

***Evaluation of mediators:*** The evaluation of mediator performance was undertaken by centers to encourage the continued competence and effectiveness of their mediators. A majority of seven centers instituted changes to their supervision of mediators, six centers established a performance-based assessment of their mediators, and five centers modified record-keeping and altered their evaluation practices.

The use of post-session debriefing and self-reflection was reported by BCRHA, Cape Mediation, Greater Brockton, MCC, MSI, Martha’s Vineyard, North Shore, and TMTC. Feedback was an important evaluation tool at several centers, and was obtained from the courts, parties, and community stakeholders by BCRHA and from colleagues, mentors, and supervisors by Martha’s Vineyard, MMS, and MCC. Party reactions to mediation were also consulted, as reported by Cape Mediation, Greater Brockton, and MCC.

Although limited in scope, quantitative data intimated that parties were positive about the mediation process offered by funded centers in FY 2017. Cape Mediation and MMS conducted their own party evaluation surveys. Out of 1,103 completed surveys, 97% of respondents indicated satisfaction and 99% were willing to recommend mediation from Cape Mediation. The postcard survey of MMS mediation clients revealed that, irrespective of outcome, 88% were completely or mostly satisfied with the process, 92% indicated that the mediators “helped us decide for ourselves what to do,” (instead of, “told us what to do”), and 96% found that mediators “were fair and neutral.” Martha’s Vineyard embarked on a project to obtain community feedback about its services through interviews with court personnel, non-profit organizations, and others. The collective party reaction to center services might be suggested by the 43% of the 8,351 parties served by centers who responded to evaluation surveys administered by ten centers. The vast majority of the 3,581 responding parties viewed their mediation experience favorably. Ninety-four percent were satisfied with their mediation; 91% would recommend mediation; and 86% indicated they preferred mediation over other methods.

***Recognizing the work of volunteers:*** Five centers celebrated volunteer contributions. For instance, MCC held a volunteer, mediator, and staff appreciation event that was attended by

125 stakeholders and featured two judges plus a speaker known for his or her work in mediation. Cape Mediation honored 40 volunteers at its volunteer appreciation event.

#### **F. Strengthening the ties between funded centers and the community:**

Funded centers sought to deepen their ties to the community through a closer alignment between center and community interests and a heightened sensitivity and responsiveness to community needs. To this end, centers endeavored to diversify their mediator pool, collaborate with other community organizations, involve the community in center governance and development, and increase their referral sources.

***Diversifying the mediator pool:*** Through their outreach and public education efforts, centers worked to provide access to conflict resolution training to all segments of the population. Centers offered mediation training to the public, not only to impart improved conflict resolution skills to, but also as a vehicle for mediator recruitment for a larger portion of their community. In so doing, centers strived to develop a mediator pool that reflected the community's diversity and thereby expand center understanding of the array of needs and interests in the community.

Centers set out to attract people from population groups in their community that were under-represented in their mediator pool. Thus, through its contacts with community organizations, MMS's trainees included speakers of Spanish, French, German, Haitian Creole, Hindi, Italian, Afrikaans, Dutch, and Vietnamese. To increase age diversity among mediators, MSI and TMTC reached out to local universities to attract younger people to mediation while FSCM appealed to elders in the community.

Trainings were a source of income for most centers (amounting to \$72,132 for seven centers), indicating that people valued the conflict resolution skills they acquired from center trainings. To draw more people to mediation training, centers selectively lowered their training fees. Training scholarships were available from CDSC, North Shore, and TMTC. CDSC awarded a total of \$2,715 to 12 trainees. TMTC set aside 10% of its training income to fund training scholarships. Discounts were offered by FSCM for basic training, with a deeper discount for seniors, and by MSI for students. MetroWest subsidized training for staff at non-profits. Greater Brockton's trainings were free.

On the whole, regional and occupational diversity was typical of centers' mediator pools. Racial, ethnic, and income diversity among mediators remained a challenge for most centers. For a large majority of two-thirds of funded centers, their diversification efforts did not produce a change in mediator diversity and remained the same as that in FY 2016. The efforts of three centers did lead to greater mediator diversity. At one center, though, mediator diversity diminished. The impact of Grant Program grants on mediator diversity had similar results – no change at eight centers, increases at three centers, and a decrease at one center.

Regardless of the level of diversity among their mediators, several centers turned to cultural sensitivity training to keep themselves attuned to the variety of experiences in their community. Thus, BCRHA utilized the services of Berkshire Multicultural Bridge, which provided cultural competency training, so as to further “linguistic and cultural diversity.” MCI provided an advanced training in cultural diversity, which proved useful to mediating in the Vietnamese, African, and veteran communities.

***Community involvement with center governance and development:*** Center governance is usually accomplished by way of an executive board that provides oversight and policy guidance. The independent non-profit centers had their own boards. The board of the parent organization was the governing body for its subsidiary center. One hundred eleven people were members of the board at centers in FY 2017.

Centers with influence over the composition of their board promoted the inclusion of members of the community to, in the words of MCC, “better understand the needs of the communities served” and “bring[] ethnic, racial and lifestyle perspectives to inform the Center on interests and topics of concern.” The subsidiary centers achieved a similar goal by developing advisory committees for specific center initiatives. Because of center efforts, board diversity increased at 3 centers and was unchanged at 9.

Community residents, included as staff, volunteers, and board members at Greater Brockton and MetroWest, were vital to center functions. Members of the MSI board promoted the center among their individual networks. North Shore board members worked on committees concerned with programming, marketing, finance, etc. Board members at MSI and North Shore were also active fundraisers. Martha’s Vineyard’s board members were involved in efforts to further center goals. MMS established an Elder Mediation Steering Committee, composed of residents from Greater Boston, which directed the implementation of elder mediation. MCC had an Advisory Board, consisting of community members of varying occupational and racial backgrounds, that was involved in program development. Community involvement in center governance at TMTC took the form of an advisory support group for the middle school peer mediation program.

***Center collaboration with community organizations:*** Center collaboration with other community organizations served to further entrench centers within their communities. Since FY 2016, community partnerships flourished for most centers – the number of community partnerships increased for eight centers, remained the same for two, decreased for one, and did not apply to another. During FY 2017, centers were useful to approximately 125 organizations, including the courts and government agencies, providing their services about 560 times.

The predominant collaborative relationship formed by centers was with the courts. The funded centers received more than 80% of their business from the courts. In return, the burden on the courts to resolve disputes was lessened when they turned cases over to centers. Communities and their members benefited from the reciprocal relationship between centers and courts.

Disputants received assistance with resolving their conflict, which fostered social harmony and access to procedural justice in the community.

Other instances of reciprocity between centers and other organizations involved centers supplying training to organization staff and receiving referrals or gaining mediator recruits. For example, MMC hosted a training in cultural diversity with the Lowell African Community Center, which made referrals to the center. A staff member at an elder program who was trained by MMS later became a mediator for the center. Then again, Greater Brockton took part in collaborations where the facilitation of the center's work by the cooperating organization redounded to that organization's benefit. Thus, Greater Brockton provided the Brockton library with materials containing consumer information and in return was given access to space for mediation sessions. On another occasion, Greater Brockton conducted a presentation/workshop at a senior center which, in turn, provided refreshments as well as access to audio-visual equipment.

Funded centers also joined forces with one another to find solutions to individual center problems that turned out to benefit other centers. Greater Brockton, for one, worked with the court to produce a webinar on ethics, which will be viewed by mediators from Greater Brockton and MCC after court review is completed, and will later be made available to centers in the Grant Program. MMS, for another, uncovered a glitch in the MADtrac program and shared the correction it developed with other funded centers.

***Receiving referrals from a variety of sources:*** Referrals were critical to center operations since they brought disputes to the attention of centers. By developing a variety of referral sources, centers not only mitigated their reliance on the courts, they expanded their network of collaborating community organizations as well as their reach into the community. In general, the referral situation of most centers was robust. Compared to the year before, referrals to three-fourths of centers either increased (five centers) or were unchanged (four centers) while three centers saw a decrease in referrals. At least 50 non-court sources – e.g., from schools, government agencies, housing authorities, local businesses, charities, religious organization, legal sources, the media, social service organizations, housing services, website, word-of-mouth, and others – made referrals to centers in FY 2017. Indeed, the community partnerships formed by centers were instrumental in increasing intakes and mediations at eight centers. Overall, referrals from non-court sources culminated in 783 community-referred cases, 18% of the year's 4,346 referred cases.

## **V. Economic Impact of State Operational Funding**

MOPC, as part of its program evaluation of the CMC Grant Program, collects and analyzes data to establish the impact of community mediation in courts, schools and neighborhoods. Data gathering is conducted quarterly through the submission of data reports generated through a case management database system (MADtrac), through a comprehensive annual performance-based grant application process where centers detail center activities and



through an annual survey to the centers that captures full-year data after the conclusion of the grant-year. The case management database records all center activities, including how many persons were served, how many volunteer hours were contributed, the number of disputes resolved, moneys saved to parties and other mediation outcomes, and even demographic information. A second software program (STATtrac) is used to aggregate the data from all centers. MOPC has reviewed the reliability of this data through the definition of various data points, continuous training of center staff and triangulation with data from the survey and grant applications. MOPC expects that these cost and outcome measurements will lead to even more robust economic evaluations of the CMC Grant Program in the future.

In the interim, MOPC developed the following economic analysis indicating what the costs and benefits from the CMC Grant Program would look like based on empirical as well as assumed estimates<sup>17</sup> (some estimates are derived from other states' empirical estimates)<sup>18</sup>.

In cost-benefit analysis, there is a tendency to overemphasize the monetary or monetized benefits of a program. Most economic analysts agree that monetary outcomes are not the only outcomes – perhaps not even the most important outcomes of an intervention.

The major problem with all forms of cost-benefit analysis is that monetary outcomes are the only outcomes considered. Most service providers and some other interested parties believe that the most important outcomes can hardly be quantified, much less monetized (translated into monetary outcomes). To note that some nonmonetary outcomes, such as reduced crime, can be monetized does not eliminate, but only reduces, this problem. This does not necessarily mean that cost-benefit analysis is itself unwise. Problems arise when only one perspective is considered; it is important to adopt multiple perspectives in cost-outcome analyses (Yates, B. 1999)<sup>19</sup>. Therefore, it must also be noted that even a robust cost-benefit analysis will struggle to ascertain the holistic outcomes and/or benefits of community mediation.

Any holistic estimation of community mediation costs and benefits must take into account the unique features of community mediation, such as, for example, the psychosocial impact of mediation and the utilization of volunteer mediators, which ask for a non-commercial and more holistic analysis of the impact of community mediation. Executive Director of Community Mediation Maryland, Lorig Charkoudian argues that the “cost of mediation,”

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<sup>17</sup> From the point of view of outcomes theory, an *effect-size* is formally defined as the amount of change in a higher-level outcome within an outcomes model that can be fully attributed to the causal effect of a lower level step within the same outcomes model. See Duigan, P. (2009-2012). Types of economic evaluation analysis. Outcomes Theory Knowledge Base Article No. 251. Retrieved from <http://outcomestheory.wordpress.com/2011/10/21/types-of-economic-evaluation-analysis-2m7zd68aaz774-110/>

<sup>18</sup> It must be noted that, where an assumption-based approach is used in this analysis, it is used because there is not enough empirical information to robustly determine what the effect-size actually is.<sup>18</sup> Indeed, few measures of effectiveness will be perfectly reliable, but it is important that the most reliable measure be employed wherever available or the one that meets minimal standards.<sup>18</sup> In most cases, finding a correlation between an alternative and a measure of effectiveness will be possible.<sup>18</sup> It is hoped that the following preliminary economic analysis will provide some direction and guidance for a more robust economic analysis to follow.

<sup>19</sup> Yates, B. T. (1999). Measuring and improving cost, cost-effectiveness, and cost-benefit for substance abuse treatment programs. National Institute on Drug Abuse, NIH publ, (99-4518).

[meaning, cost of community mediation] “has both a financial cost as well as an emotional cost. The total cost, then, of using mediation includes the emotional costs, which cannot be measured directly, the opportunity cost and any financial cost on top of that.”<sup>20</sup>

Charkoudian further observes: “government and charitable subsidy of the financial cost (including provision of services by volunteer mediators) may bring the total cost down to a level where consumers are more likely to consume the socially optimal amount of mediation. But it is important to recognize the ripple benefits of mediation, and the fact that we can create value for peace that goes far beyond the financial.”

Hence, in this evaluation of the CMC Grant Program, MOPC analyzes both the monetized AND the non-monetized outcomes of community mediation. However, this section of the report deals solely with the monetized outcomes or the Return on Investment (ROI) of state operational funds spent on publicly funded services of the state dispute resolution office (MOPC) and 13 state-funded community mediation centers.

This economic analysis of MA community mediation is divided into three distinct analyses: 1) cost of intervention analyses, which simply show what it costs to run an intervention; 2) cost-effectiveness analyses, which show what it costs to achieve a certain effect<sup>21</sup>; and 3) cost-benefit analyses, which show the overall costs and benefits of an intervention.<sup>22</sup>

Cost-effectiveness analysis is a technique that relates the costs of a program to its key outcomes or benefits. Cost-benefit analysis takes that process one-step further, attempting to compare costs with the dollar value of all (or most) of a program’s many benefits. These seemingly straightforward analyses can be applied any time before, after, or during a program implementation, and they can greatly assist decision makers in assessing a program’s efficiency.<sup>23</sup>

In the following analysis, all three models will be utilized to develop preliminary estimations of the economic impacts of Massachusetts community mediation.

### **A. Cost of intervention analysis of MA Community Mediation**

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<sup>20</sup> Charkoudian, L. MACROScope letter to the editor. Retrieved on December 17, 2012, from [http://www.mdmediation.org/sites/default/files/Mediation%20and%20Money\\_1.pdf](http://www.mdmediation.org/sites/default/files/Mediation%20and%20Money_1.pdf)

<sup>21</sup> This is the relationship between program costs and program effectiveness. “There is no single standard for “cost-effective.” Generally, the term is used loosely as a way of saying that something probably costs less, or is more effective, than something else. Cost-effectiveness indices can be compared for different programs...” (Yates, 2009).

<sup>22</sup> This is the measurement of both the costs and outcomes in monetary terms. “Costs and benefits can be compared between programs or contrasted within a single program. Cost-benefit analysis can also discover whether program expenditures are less than, similar to, or greater than program benefits.” (Yates, 1999)

<sup>23</sup> Cellini, S. R., & Kee, J.E. (2010). Cost-effectiveness and cost-benefit analysis. In Wholey, J. S., Hatry, H.P., & Newcomer, K.E. (Eds.), *Handbook of practical program evaluation*, 493-530. San Francisco, CA: Jossey-Bass.

## **1. Cost of intervention analysis of Massachusetts community mediation - Single and multi-intervention comparison**

Methodology:

A cost-of-intervention analysis looks at the cost of an intervention and allows us to estimate that cost in relation to the investment and its benefit. Cost of intervention analysis multi-intervention comparison allows us to compare the costs of different interventions (e.g., Program 1 – \$1,000 per participant; Program 2 – \$1,500 per participant). In the following analysis, the cost is primarily the state funding provided to community mediation centers through a structured grant process by the Commonwealth of Massachusetts and the State of Maryland.

### **i. Cost of setting up existing dispute resolution infrastructure**

Effect-size estimation:

- Before FY 2013 funding, centers without any state funding through the trial court since FY 2009 were facing dire financial issues. There was a possibility that most/some centers would go out of business.
- A survey administered in the 1990's of court-connected ADR programs shows the average annual administrative cost (at the time) per each program/center was \$34,500.<sup>24</sup>
- In FY 2017, the total cost of operating the twelve community mediation centers was \$1,815,445, which is an average of \$151,287 per center.
- Re-investing in existing community mediation centers with established networks of volunteers, referral sources and programmatic funders, instead of creating new centers averted the necessity of re-launching Massachusetts community mediation.

Cost of Intervention: If all 12 centers active in Massachusetts in FY 2017 closed without state operational funding, using the administrative costs of programs from the 1990's as a baseline start-up cost, \$414,000 would have to have been appropriated by the Commonwealth of Massachusetts just to restart 12 community mediation centers. Any return on investment that appears in this report would not have accrued in FY 2017 until centers launched their operations in full by recruiting new staff, re-establishing networks of volunteers, referral sources and other funders. This would amount to a minimum of \$151,287 per center or \$1,815,445 for all twelve centers to regain their operations to the current level. Centers would also have had to reestablish good will, reputation, trust and social capital through community outreach and education. This would have taken months or possibly years to accomplish and at the cost of an unknown sum of money.

### **ii. Cost of a mediated case based on state operational investment**

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<sup>24</sup> Cratsley, J. C. (2000). *Funding court-connected ADR: Helping people resolve conflicts*. Boston, MA: Supreme Judicial Court-Trial Court Standing Committee on Alternative Dispute Resolution.

Effect-size estimation:

- Massachusetts Legislature invested \$750,000 in the CMC Grant Program in FY 2017. In the same year, 12 Massachusetts community mediation centers conducted 3,633 mediations. Using the state grant program investment as the cost, the estimated intervention cost of the grant program is \$206 per mediated case.
- \$1,131,000 was awarded to community mediation centers by the Maryland Judiciary in FY 2016. An additional \$260,000 was made for program management through Community Mediation Maryland (CMM). Based on the community mediation award, community mediation centers across Maryland conducted 2,615 mediations in FY 2017 at an average intervention cost of \$532 per mediated case.
- New York's Office of ADR and Court Improvement Program indicate that the dispute resolution service cost-effectiveness is at approximately \$200/case category (Collins, M., August 18, 2011, personal communication).

Cost of Intervention:

The Massachusetts cost of intervention ratio is 2.5 times less than the cost of intervention of Maryland. Comparatively, Massachusetts community mediation centers conduct 2.5 times or 250% more mediations for the number of public funds invested through the Community Mediation center Grant Program than Maryland community mediation centers.

### **iii. Cost per person served based on state operational investment**

Effect-size estimation:

- The Massachusetts Legislature invested \$750,000 in the CMC Grant Program for FY 2017.
- 12 grantee Massachusetts community mediation centers served a total of 8351 clients in FY 2017 (including case intakes and mediations), and provided a total of 9482 mediation hours by volunteer mediators, staff and board members.
- The average cost of intervention of the Massachusetts CMC Grant Program is \$79 per client and \$89 per mediation hour.<sup>25</sup>
- The hourly rate for a private mediation practitioner is around \$225-288 an hour.<sup>26</sup> For the purposes of this analysis, we will consider the private mediator hourly fee fixed at

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<sup>25</sup> This is in line with a notable study conducted in 1985 to compare court costs with dispute resolution program costs per case at the Durham Dispute Settlement Center. The evaluation found that the average per-case cost to Durham City, county, and State to process a case of the type handled by the Center was \$186. In comparison, cases handled by the Center cost \$72 per case. Sheppard, B., *Report to Durham Dispute Settlement Center on the Comparative Costs of Going to Court vs. Mediation*, Durham, North Carolina: Duke University, 1985.

<sup>26</sup> Massachusetts Dispute Resolution Services. Fee schedule. Retrieved November 24, 2015, from <http://www.mdrs.com/fees>

\$185. Additionally, lawyers charge \$388-\$595 an hour (Associate vs. Partner) in legal fees.<sup>27</sup> In some cases, this figure may be as high as \$1,500 per hour.<sup>28</sup>

Cost of intervention:

Based on the state grant program investment in MA community mediation, MA community mediation centers cost 253%-324% less per hour than hiring a private mediator and between 436%- 669% less per hour than hiring a lawyer.

## **B. Cost-effectiveness analysis of MA Community Mediation.**

### **2. Cost-effectiveness analysis of Massachusetts community mediation – Multi intervention comparison**

Methodology:

Cost-effectiveness analysis is designed to compare the costs and effectiveness of two or more alternatives with similar objectives allowing the selection of a wide range of effectiveness measures, if the program objectives are similar. This is followed by the calculation of a cost-effectiveness ratio, which assists economists to select the most effective intervention. The cost-effectiveness ratio is computed by dividing the cost of a given intervention by its effectiveness as follows:

$$CER = \frac{Cost}{Effectiveness}$$

In this analysis, estimates are available of the attributable effect-size of the intervention on mid/high-level outcomes allowing the estimation of the cost of achieving a mid/high-level outcome effect size of a certain amount and compare this across more than one intervention.

#### **i. Cost-effective grant program administration**

- In FY 2017 Maryland's Mediation and Conflict Resolution Office (MACRO) received \$293,608 from the state for its operating expenses, excluding salaries.
- In addition, Community Mediation Maryland (CMM), the state's community mediation technical assistance provider receives state operating funds amounting to \$260,000 to provide technical assistance, including monitoring and evaluation to Maryland community mediation. Importantly, grant program administration services are conducted by MACRO. The total state operational funding in FY 2017 for mediation program administration in Maryland is \$553,608 (excluding salaries for MACRO staff).

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<sup>27</sup> Massachusetts Lawyer's weekly 2013 rates for lawyers. Retrieved on November 24, 2015, from <http://masslawyersweekly.com/2013/10/11/the-going-rates/>

<sup>28</sup> The Wall Street Journal. Legal Fees Cross New Mark: \$1,500 an Hour. Retrieved November 15, 2017, from <https://www.wsj.com/articles/legal-fees-reach-new-pinnacle-1-500-an-hour-1454960708>

- In FY 2017, the Massachusetts Office of Public Collaboration (MOPC) spent \$149,580 for administering grants to 12 community mediation centers and related operational expenses, designing and implementing the CMC Grant Program and the provision of technical services such as grant administration, and monitoring and evaluation.
- In FY 2017, MOPC received \$209,598 in state operational funding for its public mission under Massachusetts General Law ch.75 §46 through the University of Massachusetts Boston.
- The total operational funding provided by Massachusetts for the state dispute resolution office and for the administration of the community mediation program is \$359,178.

Cost-effectiveness:

The administrative expenses of the state dispute resolution office (MOPC) in Massachusetts, combined with the program administrative expenses of the Massachusetts’s community mediation grant program costs **63% less** than the administrative cost of the Maryland dispute resolution office and Maryland’s community mediation administrative costs. The cost-effectiveness ratio of Maryland community mediation grant program administration compared to Massachusetts grant program administration is 1:1.54.

### **C. Cost-benefit analysis of MA Community Mediation.**

#### **3. Cost-benefit analysis of Massachusetts community mediation based on state operational investment – Multi intervention comparison:**

Methodology:

Cost-benefit analysis techniques determine whether the benefits of a given alternative outweigh the costs and thus whether the alternative is worthwhile in an absolute sense. If the cost-benefit ratio is above one (1), which means that the benefits outweigh the costs. The cost benefit ratio is calculated by dividing the benefit of the intervention by the cost of the intervention as follows:

$$BCR = \frac{Benefit}{Cost}$$

#### **i. Cost-benefit of homelessness prevention from eviction prevention mediation**

Effect-size estimation:

- Research on landlord-tenant mediation in Massachusetts indicates that landlord/tenant mediation can prevent eviction by over 22% as compared to adjudication or

negotiated settlements.<sup>29</sup> Administrative data from the Berkshire County Regional Housing Authority Mediation Program indicates that mediating landlord-tenant cases resulted in 73.5% of the tenants preserving their tenancy.<sup>30</sup>

- Massachusetts community mediation centers conducted 518 successful mediations resulting in full and telephone agreements (519) and partial agreements (2). This means that community mediation centers in Massachusetts helped 114 parties avoid eviction and possibly homelessness in FY 2017.
- The cost of eviction in Massachusetts is between \$4780-\$5,180 in lost rent (\$2,400), pre-trial costs (\$180), trial costs (\$500), and post-trial costs (\$1,700 to \$2,100).<sup>31</sup> The cost of mediation would be free or almost negligible.
- The average length of a homeless shelter stay across the state is 267 days.<sup>32</sup> At a conservative cost of \$100 (cost per shelter night), 267 days of stay (average number of days a family spends in shelter) amounts to \$26,700 which is the average cost for each family entering the Massachusetts EA-Family Shelter System. Considering only 25% (130 cases) of the total mediations helped families avoid the homeless shelter, the cost-saving would amount to \$3,471,000.<sup>33</sup>

#### Cost-benefit:

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<sup>29</sup> Landlords obtained executions in 75% of adjudicated cases and 79.8% of non-mediated/negotiated cases but only 52.7% of the time in mediated cases. The study indicates that mediated cases allow for the possibility of possession reverting to the tenant with “a good number of the mediated cases in which execution did not issue representing cases in which evictions were avoided. This suggests that mediated cases are less likely to lead to evictions than the alternatives.” Kurtzberg, J.; Henikoff, J. (1997). Freeing the parties from the law: Designing an interest and rights focused model of landlord/tenant mediation. *Journal of Dispute Resolution* 1997(1), p99.

<sup>30</sup> From July 1, 2015 through November 29, 2017 the Berkshire County Regional Housing Authority’s Mediation Center has mediated 458 Summary Process Eviction cases, with mediation resulting in 446 Mediated Agreements or 97.3% success rate. Out of the 458 Mediated Agreements, 337 resulted in the preservation of the tenants tenancy or out of all cases mediated, 73.5% resulted in a tenancy being preserved. Approximately 60% of all Summary Process cases involve a family as the tenant (an adult and an individual 18 or under in the household).

<sup>31</sup> Mass Landlords.Net figures, retrieved November 29, 2017 <https://maslandlords.net/laws/eviction-process-in-massachusetts/>

<sup>32</sup> The Growing Challenge of Family Homelessness Homeless Assistance for Families in Massachusetts: Trends in Use FY2008-FY2016. (2017, February). Retrieved November 30, 2017, from [https://www.tbf.org/~media/TBFOrg/Files/Reports/Homlessness%20Report\\_Feb2017R.pdf](https://www.tbf.org/~media/TBFOrg/Files/Reports/Homlessness%20Report_Feb2017R.pdf)

<sup>33</sup> The cost saving could be much higher from avoided shelter use of homeless families. The Berkshire County Regional Housing Authority mediation program has mediated 458 Summary Process Eviction cases, with mediation resulting in 446 Mediated Agreements or 97.3% success rate between July 1, 2015 and November 29, 2017. Out of the 458 Mediated Agreements, 337 resulted in the preservation of the tenants’ tenancy or out of all cases mediated, 73.5% resulted in a tenancy being preserved. Approximately 60% of all Summary Process cases involve a family as the tenant (an adult and an individual 18 or under in the household). The Berkshire County Regional Housing Authority mediation program does not effectively track every family that is eligible for shelter assistance, but based on income and other screening factors, a very low estimate would be 25% of the families that participate in the Summary Process Mediations would be eligible for family shelter assistance or during the time period set forth above, at least 69 shelter eligible families participated in the Summary Process mediations, which would result in an estimated savings of \$1,842,300.00 or (69 x \$26,700) or there were approximately 50 eligible families (337 x .60 x .25) participating in mediations, which resulted in preservation of their tenancy 50 x \$26,700 = \$1,335,000.

At a conservative saving of \$4000 per case, Massachusetts community mediation centers saved landlords/tenants \$456,000 and helped 114 parties avoid eviction and possible homelessness in FY 2017. If 22% of the 518 housing/landlord-tenant mediations helped prevent families from using homeless shelters, the community mediation centers saved \$26,700 per family or saved \$3,043,800 in avoided costs to the Massachusetts EA-Family Shelter System at \$100 per night per family for 114 families for a total of 267 days of homelessness.

## **ii. Cost-benefit to the District Court from juvenile mediations**

Effect-size estimation:

- In 1992, the cost of processing 3,660 juvenile cases in a year using mediation at the Haverhill District Court in Massachusetts was estimated at \$2,464,197, while the cost of processing this number of cases in court was estimated to be \$5,691,995, which is a cost saving of \$3,227,798 for a year.<sup>34</sup> This is an average saving of \$882 per case.
- Based on the above figures, the cost of a juvenile case going through court was \$1,555. The cost of mediation, according to the same study, was \$673 per case.
- Massachusetts community mediation centers received from the Juvenile Court and helped resolve 401 juvenile cases in FY 2017 (267 full agreements, 133 telephone settlements and one reconciliation).

Cost-benefit:

At an average saving of \$882 per case to the District Court, Massachusetts community mediation centers mediated 401 juvenile cases referred by juvenile court resulting in full agreement<sup>35</sup> with an estimated cost saving of \$353,681 for the respective District Courts.

## **iii. Cost-benefit to the court from successful mediations avoiding trial**

Effect-size estimation:

- Twelve Massachusetts community mediation centers conducted 3,138 small-claims, summary process and minor criminal mediations that we assume avoided trial in Fiscal Year 2017.
- The Oregon Department of Justice report found that “the cost of resolving a case by taking it through a trial to a verdict (\$60,557) is, on average, the most expensive process [the cost to the state – including judicial system - in civil cases involving the state of Oregon]. At the other end of the spectrum, mediation costs about \$9,537.”<sup>36</sup>

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<sup>34</sup> From a report titled *Expanding juvenile mediation in Massachusetts* from the Crime and Justice Foundation cited by Cratsley, *op. cit.*

<sup>35</sup> 267 cases reached full agreement, 133 telephone settlement and 1 reconciliation.

<sup>36</sup> Oregon Department of Justice figures, retrieved December 17, 2012 from [www.doj.state.or.us/adr/pdf/gen74031.pdf](http://www.doj.state.or.us/adr/pdf/gen74031.pdf)



- Assuming a conservative cost-saving to the court of \$500 per case, and that all cases avoided trial, Massachusetts community mediation centers have saved an estimated \$1,569,000 to the court system from small-claims mediations, summary process and minor criminal mediations that avoided trial in Fiscal Year 2017.

Cost-benefit:

Massachusetts community mediation centers have saved an estimated \$1,569,000 to the court system in 3,138 small-claims, summary process and minor criminal mediations that avoided trial in Fiscal Year 2017.

#### **iv. Cost-savings in legal fees for disputing parties**

- On average, parties can save between 40-78 hours in attorney time through mediation.<sup>37</sup> Massachusetts community mediation centers mediated 3633 cases in FY 2017. If each mediates case in Massachusetts reduced attorney time by 40 hours, mediating parties saved around 145,320 hours of attorney time thanks to mediation.
- Lawyers can charge \$388-\$595 an hour<sup>38</sup> (associate vs. partner) in legal fees per case for sending Lawyer's Letters, court appearances etc.). In some cases, this figure may be as high as \$1,500 per hour. Assuming a very conservative legal fee avoidance of only \$300 per party per case, Massachusetts disputing parties served by community mediation centers saved a minimum of \$1,089,900 in legal fees alone. At a conservative cost-saving of \$300 per case, parties could have saved \$43,596,000 in legal fees.
- Costs to parties would include filing fees that are between \$40 and \$150 per party in Massachusetts.<sup>39</sup> For small claims disputes concerning amounts less than \$7,000, private mediation practitioners can charge \$185 an hour.<sup>40</sup>
- Assuming an extremely conservative figure of only \$40 was avoided in filing fees, Massachusetts disputing parties served by community mediation centers saved a minimum of \$145,320 in avoided filing fees.

Cost-benefit:

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<sup>37</sup> Results of a mediation pilot program in California with comparable services in Massachusetts. Anderson, H. & Pi, R. (February 2004) Evaluation of the Early Mediation Pilot Programs. San Francisco, CA: Judicial Council of California, Administrative Office of the Courts. Retrieved from: <http://www.courts.ca.gov/documents/empprept.pdf>

<sup>38</sup> Massachusetts Lawyer's weekly 2013 rates for lawyers. Retrieved on November 24, 2015, from <http://masslawyersweekly.com/2013/10/11/the-going-rates/>

<sup>39</sup> Massachusetts Court System <http://www.mass.gov/courts/court-info/filing-fees/dc-fees-gen.html>

<sup>40</sup> Massachusetts Dispute Resolution Services. Fee schedule. Retrieved November 24, 2015, from <http://www.mdrs.com/fees>

Massachusetts disputing parties saved a minimum of \$1,089,900 in legal fees from 145,320 hours of attorney time and \$145,320 in avoided filing fees from 3633 cases mediated in FY 2017.

#### **v. Cost-benefit of leveraged pro bono mediation services**

Effect-size estimation:

- Twelve Massachusetts community mediation centers maintained a roster of 400 volunteer community mediators (359 active mediators) who contributed 8104 hours of pro bono mediation services in FY 2017 (6265 hours contributed by volunteer mediators and 1561 hours pro bono by staff and 278 hours contributed by board mediators).
- At private market rates, the value of this pro bono work is estimated at \$1,499,240 at a \$185 per hour (based on a conservative estimate of a private practitioner minimum hourly rate).<sup>41</sup>
- If employed as an hourly wage earner, with the mean hourly wage for a mediator in the nation is \$34<sup>42</sup> the total value of these pro-bono mediation hours would amount to \$275,536.

Cost-benefit:

400 volunteer mediators (359 active) at twelve Massachusetts community mediation centers contributed 8104 hours of pro bono mediation services in FY 2017, the value of which is estimated at \$1,499,240 at \$185 per hour (based on a conservative estimate of a private practitioner minimum hourly rate)<sup>43</sup> or \$275,536 at an hourly wage of \$34 for a permanently employee (hourly wage for mediator – national average).<sup>44</sup>

The benefit-cost ratio of leveraged pro bono mediation services is 1:2, or for every dollar invested by the Legislature in FY 2016, centers generated a benefit worth two dollars in pro bono mediation services, making Massachusetts community mediation a highly-leveraged investment.

#### **vi. Cost-benefit of leveraged pro bono administrative services by staff, volunteers, board and interns**

Effect-size estimation:

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<sup>41</sup>The actual costs can be higher. The Massachusetts Dispute Resolution Service's standard fee for a mediation session with one neutral of two hours is \$575.00 per party. This is \$287.50 per hour, for the first two hours. Thereafter, the rate is \$225 per hour. Massachusetts Dispute Resolution Services. Fee schedule. Retrieved November 24, 2015, from <http://www.mdrs.com/fees>

<sup>42</sup> United States Department of Labor, Bureau of Labor Statistics. Retrieved November 24, 2015 from <http://www.bls.gov/oes/current/oes231022.htm>

<sup>43</sup> Massachusetts Dispute Resolution Services. Fee schedule. Retrieved November 24, 2015, from <http://www.mdrs.com/fees>

<sup>44</sup> United States Department of Labor, Bureau of Labor Statistics. Retrieved November 24, 2015 from <http://www.bls.gov/oes/current/oes231022.htm>

- Centers leveraged an extra 2928 hours of pro bono administrative services from staff/volunteers/board members and interns in FY 2017.
- At an estimated cost of \$19.20 an hour (mean hourly wage for administrative services in Massachusetts),<sup>45</sup> the pro bono administrative services leveraged by the twelve centers are worth \$56,217.

Cost-benefit:

Community mediation centers leveraged 2928 hours of pro bono administrative services from board members, staff and volunteers in FY 2017 worth \$56,217.

#### **vii. Cost-benefit from funds leveraged by community mediation**

- The Massachusetts Legislature invested \$750,000 in the Community Mediation Center Grant Program in FY 2017. The Community Mediation Center Grant Program awarded \$600,420 in operational funds to 12 community mediation centers.
- The 12 MA community mediation centers used the state operational investment to leverage an additional \$1,189,180 from other state, local and/or Federal government sponsors funders, including private foundations.
- Centers used these funds to address critical public needs under the Massachusetts (12-Point) model of community mediation and to further expand their community mediation missions.

Cost-benefit:

Twelve Massachusetts community mediation centers leveraged one dollar and fifty-eight (\$1.58) cents for each dollar, or a benefit-to-cost ratio of 1:1.58 per every dollar of operational funding provided under the Community Mediation Center Grant Program.

#### **viii. Cost-benefit of leveraged mediation trainings for community members**

Effect-size estimation:

- Based on survey responses, eleven Massachusetts community mediation centers trained 194 community members as mediators in FY 2017. Each 40-hour mediation course has a market value of \$925 per trainee.<sup>46</sup> The total value of these basic mediation trainings amounts to \$179,450.

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<sup>45</sup> United States Department of Labor, Bureau of Labor Statistics. Retrieved November 10, 2013 from [http://www.bls.gov/oes/current/oes\\_ma.htm#43-0000](http://www.bls.gov/oes/current/oes_ma.htm#43-0000)

<sup>46</sup> The rate charged by Mediation Works Inc., which is similar to a community mediation center in that, along with other community mediation centers, MWI once received funding from the Trial Court. Mediation Works Inc. Retrieved November 24, 2015, from <http://www.mwi.org/mwi-mediation-training-conflict-resolution-skills/mediation-training-weekends-mediator-training.html>

- Based on survey responses, twelve centers also trained 245 persons in conflict resolution. The net cost of a conflict resolution training is \$250 at a private mediation training institution.<sup>47, 48</sup> The total value of these conflict resolution trainings amounts to \$61,250.
- Based on survey responses, nine centers provided advanced mediation training (divorce, eviction etc.) to 463 persons. The net cost of an advanced mediation training at a private mediation training institute is estimated at \$825.<sup>49, 50</sup> The total value of these advanced mediation trainings amounts to \$381,975.
- The total value of these training services to the communities is worth an estimated at \$622,675 (up from \$533,775 in FY 2016).

Cost-benefit:

Twelve Massachusetts community mediation centers trained 902 community members (194 in basic mediation, 663 in advanced mediation and 245 in conflict resolution) in FY 2017, the total benefit of which is worth an estimated \$622,675.

Based on the FY 2017 state investment in community mediation, the benefit-cost ratio of leveraged mediation trainings to communities is 1:.83 – or for every dollar invested by the state Legislature in FY 2017, centers leveraged an extra eighty-three cents worth of mediation training to community members.

#### **ix. Cost-benefits to Massachusetts consumers**

- The Massachusetts Attorney General’s Office provided an estimated \$413,000 to eleven Massachusetts community mediation centers funded by the CMC Grant Program in FY 2017 for conducting face-to-face consumer mediations.
- Using the AGO numbers, eleven Massachusetts community mediation centers helped parties recover \$3,651,645.22 in FY 2017.

Cost-benefit:

The Massachusetts Attorney General’s Office provided approximately \$413,000 to twelve Massachusetts community mediation centers in FY 2017 for conducting face-to-face consumer mediations. The twelve centers helped parties recover \$3,651,645.22 in FY 2017.

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<sup>47</sup> Center for Conflict Resolution Training. Retrieved November 21, 2016, from <http://www.ccrchicago.org/training-programs.html>

<sup>48</sup> The cost can be as high as \$850. The Institute of Mediation and Conflict Resolution. Community Mediation Training. Retrieved November 11, 2017 from <https://www.imcr.org/community-mediation-training/>

<sup>49</sup> Mediation Works Inc. Retrieved November 21, 2016, from <http://www.mwi.org/mediation-training-careers-in-meditation-advanced-meditation-training/divorce-mediation-training.html>

<sup>50</sup> The cost can be as high as \$1650. The National Conflict Resolution Center. Advanced Mediation Training Curriculum. Retrieved November, 21, 2017 from <http://www.ncrconline.com/mediation-conflict-resolution-training/workshops/advanced-mediation-skills>

The benefit-cost ratio of the consumer mediation funds provided by the Massachusetts Attorney General's Office is 1:8.8 – or for every dollar invested by the AGO in Massachusetts community mediation, consumers are recovering eight dollars and eighty cents from consumer mediation agreements.

#### **x. Assumed cost-benefit to schools**

Effect-size estimation:

- The Ohio Commission on Dispute Resolution found that schools managed to save an average of \$331 from each averted student suspension or expulsion through the successful use of student peer mediations.<sup>51</sup>
- Massachusetts community mediation centers conducted 279 successful peer mediations that may have resulted in avoided student suspensions or expulsions in FY 2016.<sup>52</sup>

Cost-effectiveness:

Schools saved an estimated \$92,349 (up from \$47,995 in FY 2016) from avoided student suspensions or expulsions as a result of 279 (up from 145 from FY 2016) successful peer mediations conducted by four Massachusetts community mediation centers. The true benefit-cost ratio cannot be determined since funding for the Student Conflict Resolution Experts (SCORE) Program of the Attorney General's Office in collaboration with community mediation centers and school communities was defunded in 2009.

#### **xi. Cost-benefit to divorcing couples**

Effect-size estimation:

- The average cost of private divorce mediation is estimated at \$5,000 per case.<sup>53</sup>
- Eight Massachusetts community mediation centers conducted 70 divorce mediations in FY 2017.

Cost-effectiveness:

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<sup>51</sup> The Student Peace Alliance, *op. cit.*, citing Hart, R. C., Shelestak, D. & Horwood, T. J. (2003, February). *Cost savings report on school conflict management program*. Kent, Ohio: Kent State University, Bureau of Research Training and Services. Retrieved October 29, 2011, from <http://www.studentpeacealliance.org/learn/ohio-conflict>.

<sup>52</sup> Based on data from school discipline records, conduct grades, and ratings of anti-social behavior, researchers found that peer mediation reduced student anti-social behavior by one-third (Garrard, W. M. & Lipsey, M. W. (2007, Fall). Conflict resolution education and antisocial behavior in U.S. schools: A meta-analysis. *Conflict Resolution Quarterly*, 25:1, 9-38).

<sup>53</sup> Hoffman, L. (2006, November 7). To have and to hold on to. *Forbes*. Retrieved December 14, 2012, from [http://www.forbes.com/2006/11/07/divorce-costs-legal-biz-cx\\_lh\\_1107legaldivorce.html](http://www.forbes.com/2006/11/07/divorce-costs-legal-biz-cx_lh_1107legaldivorce.html).

The average cost of private divorce mediation is estimated at \$5,000 per case. Seven Massachusetts community mediation centers conducted 70 (down from 138 in FY 2016) successful divorce mediations in FY 2017. Assuming the mediations were conducted free, parties to the 70 successful divorce mediations saved an estimated \$350,000 (down from \$690,000 in FY 2016).

### **xii. Cost-benefit from complex multi-party mediations**

Effect-size estimation:

- Massachusetts community mediation centers conducted 51 complex multi-party mediations in FY 2017.
- If the complex multiparty mediations involved four parties and concluded in one seven-hour session (full-day mediation session), the estimated cost of one complex multi-party mediation case would amount to \$6200.<sup>54</sup>
- Massachusetts community mediation centers conducted 55 complex multi-party mediations in FY 2017. Assuming an average cost benefit of \$6,000 per case, these centers have saved a total of \$330,000 to the disputing parties.

Cost-effectiveness:

Massachusetts community mediation centers saved \$330,000 to disputing parties in 55 complex multi-party mediations in FY 2017 at an average saving of \$6,000 per case.

### **xiii. Cost-benefit of avoided legal fees in family mediations**

Effect-size estimation:

- Massachusetts community mediation centers conducted 212 successfully family mediations in FY 2017. Research indicates that family mediation can reduce legal fees by between \$270-\$730.<sup>55</sup>
- Assuming an average cost of benefit of reduced legal fees of only \$270, Massachusetts community mediation centers have saved \$54,000 in legal fees to parties from 212 family mediations.

Cost-effectiveness:

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<sup>54</sup> Full-day mediation session Massachusetts Dispute Resolution Services. Fee schedule. Retrieved November 16, 2017, from <http://www.mdrs.com/fees>

<sup>55</sup> A study conducted in the 1980s in Denver, Colorado found that the average legal fee paid by those successfully using mediation was \$1,630, but that those who rejected mediations paid between \$1,800 and \$2,360 in legal fees. In Pearsons, J., & Theonnes, N. (1984). Mediating and Litigating Custody Disputes: A Longitudinal Evaluation. Family Law Quarterly, 17(4), 497-524. Retrieved from <http://www.jstor.org/stable/25739353>

At an average saving of \$270 in legal fees per case, Massachusetts community mediation centers have saved \$54,000 in legal fees to parties from 212 family mediations.

#### **xiv. Cost-benefit to local businesses/organizations**

Effect-size estimation:

- Five Massachusetts community mediation centers conducted 44 (up from 23 in FY 2016) successful workplace mediations in FY 2017.
- The Mediation Training Institute International (MTI) found that a conflict cost a New England organization \$60,916.77.<sup>56</sup>
- This estimation will use an assumed conservative cost of \$10,000 per workforce conflict (10% of the cost identified in the MTI case).

Cost-effectiveness:

Assuming a resolved workplace conflict saved a conservative average sum of \$10,000 for a local organization, a total of \$320,000 (up from \$230,000 in FY 2016) was saved for local businesses/organizations from 32 workplace mediations by Massachusetts community mediation centers in FY 2017.

### **D. Summary of Economic Analyses.**

#### **Cost-savings from MA Community Mediation in FY 2017: \$8,332,575**

1. \$3,651,645 recovered by consumers from consumer mediations.
2. \$1,569,000 saved to courts from 3,138 small-claims, summary process and minor criminal mediations avoiding trial. \$353,681 saved to courts from 401 juvenile cases avoiding trial.
3. \$1,089,900 saved to 3,633 mediating parties from an average of \$300 in avoided legal fees.
4. \$456,000 saved to landlords/tenants from 114 cases avoiding eviction expenses.
5. \$350,000 saved to parties from not using private mediators in 70 divorce mediations.
6. \$440,000 saved to local businesses/organizations from 44 workplace mediations.
7. \$330,000 saved to parties from 55 complex multi-party disputes.
8. \$92,349 saved to schools from avoided student suspensions/expulsions from 279 peer mediations.

#### **Resources Leveraged by MA Community Mediation in FY 2017: \$3,781,312**

1. \$1,499,240 leveraged by 400 volunteer mediators at 12 community mediation centers.
2. \$622,675 worth of mediation trainings including workshops for 902 community members.
3. \$414,000 from re-investing in existing centers with established networks of volunteers, referral sources and programmatic funders.

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<sup>56</sup> Mediation Training Institute International. Retrieved December 20, 2012 from <http://www.mediationworks.com/mti/costs1.htm>

4. \$1,189,180 in additional state, federal and/or private foundation funds raised by centers from \$600,420 in state operating and community project grants.
5. \$56,217 from 2,928 hours of pro bono administrative services from volunteer administrators, board members and interns.

The total return on the state's FY 2017 investment of \$750,000 in the Grant Program was **\$12,113,887**.

## **VI. Conclusion**

The Legislature's \$750,000 investment in the Grant Program for FY 2017 was money well spent. The state received an estimated 12.1 million dollar return on its three-quarter million dollar investment. Furthermore, not only was state-wide community mediation infrastructure – in the form of community mediation centers – strengthened, the quality of community mediation services was upheld. MOPC's administration of the Grant Program contributed to this accomplishment by awarding operating grants to a dozen centers based on their performance of mediation services and on their adherence to standards of community mediation. MOPC then reinforced the funded centers' impetus for ever greater service to the community by providing assistance and oversight throughout the year.

The value of the Grant Program rested on its impact on funded centers and, ultimately, on the centers' impact on the people in their communities. Grant Program operating funds proved key to maintaining and expanding the sustainability and operations of a majority of the funded centers. Where losses were experienced, unreliable funding from other sources was a contributing factor.

Accordingly, twelve funded centers, modest in size and resources, delivered services throughout the state and affected people who numbered in the thousands. Centers had an average income of \$148,351 (one-third of which came from Grant Program grants), 0.8 full-time and 3.7 part-time paid employees, bolstered by the generosity of volunteers, particularly the average number of 30 active volunteer mediators per center. Given their size, centers' impact on the lives of people in the community was outsize.

Centers assumed responsibility for fulfilling community mediation standards and complying with rigorous accountability standards by engaging in practices that cast a wide net to attract people to mediation and conflict resolution. And so, thousands of intakes (4,329) and mediations (3,642) for court- and community-based case referrals were conducted, affecting the lives of 8,372 people, and succeeding in resolving 2,572 disputes by party agreement. Tens of thousands of people were drawn into community mediation's ambit through center outreach and education initiatives. At least 69,600 constituents – more than 1% of the population of Massachusetts – were probably nudged into considering the use of a non-adversarial approach to resolving conflict, thereby increasing the likelihood of greater social harmony and increased access to justice.



## **VII. Recommendations:**

### **1. Increase state investment in the Grant Program beyond the current funding level.**

Despite achieving a degree of stability over the past five years, the long-term sustainability of Massachusetts community mediation centers is still uncertain. Shortages in core staffing and volatility in funding from other sources pose major on-going challenges to center operations. The insufficient level of state funding for the Grant Program – arising from the shortfall in appropriated state funds relative to the amount of funding requested – has persisted since the Program’s inception and continues to impede MOPC’s ability to administer the Program at its intended capacity, thereby constraining the Program’s impact on the community. The importance of the state operating grants to community center sustainability together with the significant impact of center services on the public justify increased state investment in the Grant Program. In keeping with its policy of promoting statewide access to dispute resolution, the Legislature would do well to increase its funding for the Grant Program to further stabilize and sustain core institutional staffing of state-funded community mediation centers and enable centers to broaden their services to under-served and marginalized groups while also strengthening the statewide community mediation system.

### **2. Scale up other funding for community mediation programming.**

MOPC and the centers should persist in their efforts to enlarge and diversify the Grant Program’s funding base by developing programming that addresses community needs while attracting financial support from other sources. Services to at-risk or proven-risk inner-city and rural youth, the elderly and incarcerated populations, for example, have the potential to leverage significant cost benefits, including savings to the criminal justice system, prison system, courts and schools from a reduction in gang violence, recidivism and school suspensions and drop-outs, among other impacts. The importance placed on reducing conflict and increasing access to justice across the state, plus the demonstrated ability of funded centers to contribute to these outcomes together justify robust support for the Grant Program not only from the state but also from other types of funders. MOPC and centers should continue their work individually and together to grow community mediation services and programming through expansion of dispute types and development of sustainable evidence-based mediation programs in areas with the most impact, where there is the ability to attract additional funding from state agencies and grant foundations and where centers have skills and interest, such as youth violence prevention, municipal conflict resolution, prisoner re-entry mediation, restorative justice and elder mediation. The two revenue streams promise to be mutually reinforcing: state operating funds enable centers to develop their capacity to implement new programming and leverage additional programmatic funding that, in turn, can further strengthen the sustainability of the centers and the Grant Program, all to better serve the conflict resolution needs of the community and the Commonwealth of Massachusetts as a whole.

### **3. Continue collaborations in outreach, education, quality and non-profit management.**

Besides joint fundraising and program development, collaboration among centers with each other and with MOPC in the areas of outreach, education, mediation excellence and non-profit management should be continued and further recognized and incentivized by continuation of the new grant award category in this area. Drawing on mediation and management resources and expertise already available within the state-sponsored community mediation system further leverages the state's investment. Joint efforts to agree on principles and best practices and provision of skill-building trainings and peer-learning activities have enhanced the capacity of centers to provide a range of services to a wider range of community members and institutions. The centers and MOPC should continue comprehensive mediator excellence initiatives for community mediation staff and volunteers in future years. This will not only fortify the knowledge and skills of mediation practitioners, but will also ensure the high quality of state-sponsored mediation practice available to the Commonwealth and its citizens. Additionally, measures should be taken to strengthen community mediation centers as community-based non-profits by maintaining high quality professional staff, diversifying funding and responding to community needs. Funded centers should seek to use any increased funding to institute full-time positions or functional equivalents, and adopt measures to ensure sufficient salaries and professional development to retain core professional staff.