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# **Massachusetts Community Mediation Center Grant Program**

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## **Fiscal Year 2018 Report & Evaluation**

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

**January 2018**

This is the Massachusetts Community Mediation Center Grant Program annual report to the state, reporting on implementation and impact of the program in its sixth 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**

For the past six years, state funding support enabled the Community Mediation Center Grant Program (the Grant Program or Program) to fulfill its responsibility to award operational grants to qualified community mediation centers. In the FY 2018 budget process, the state legislature again confirmed its commitment to community mediation by appropriating \$750,000 to fund the Grant Program during FY 2018.

As the designated administrator of the Grant Program, the Massachusetts Office of Public Collaboration (MOPC) – the state’s office of dispute resolution and an applied research center at the University of Massachusetts Boston – awarded grants totaling \$609,840 (or 81% of \$750,000) to 12 centers that demonstrated their satisfaction of Grant Program requirements. Approval of grant requests and determination of individual grant amounts were based on evidence supplied by centers in grant applications that substantiated the center applicant’s eligibility and performance of specific types of activities. The remaining 19% of the FY 2018 appropriation covered MOPC’s administrative costs arising from grant making, program management, data collection, outreach, program development, evaluation, reporting, research, and other tasks.

During the 2018 fiscal year, MOPC partnered with funded centers on streamlining the grant application process while maintaining its evidence-based approach. Together, MOPC and centers embarked on initiatives to ensure the future of the Grant Program and of funded centers. For the third year of a five-year process, MOPC and centers engaged in strategic planning to promote the continued viability of centers and broaden access to alternative dispute resolution services. Funded centers and MOPC also conducted budget advocacy to support the Program and centers in the near future. Positive state revenue numbers and effective advocacy resulted in a \$990,000 appropriation for the Grant Program in FY 2019.

To enlarge the scope of center services to the community and attract more funding for community mediation infrastructure, MOPC continued to assist in the development of programming initiatives that involved centers. Grant Program programming interests, which were largely focused on the areas of youth conflict and criminal justice, were realized through multi-year efforts that involved program design and implementation by centers and MOPC, MOPC-sponsored trainings for center mediators and staff, and financial investment from foundations and other outside sponsors as well as Grant Program funding.

Grant Program grants contributed substantially to the financial stability of center grantees. In FY 2108, Program grants comprised a slightly higher percentage of centers’ collective income than in FY 2017. Whereas FY 2017 Grant Program grants were 34% of centers’ collective annual income, FY 2018 grants made up 35% of centers’ total income. Donations and fundraising, grants from public agencies and private foundations, and fees for trainings and mediations were some of centers’ other revenue sources.

Centers' financial health during FY 2018 was jeopardized by instability in centers' funding stream. The allocation of Grant Program funds was delayed until November due to the Governor's budget veto. In addition, FY 2018 consumer mediation grants from the Attorney General's Office (AGO), a major source of center income second only to the Grant Program grants, declined by 13%. Centers resorted to various stratagems to survive the funding shortfall. Expenses were reduced and activities were curtailed or rescheduled. Once Grant Program funds became available, the effect on center sustainability was largely positive. Because of the grants, center sustainability increased at eight centers, remained stable at four others, and decreased at none.

Throughout FY 2018, centers provided direct services to the community. By the end of the year, centers had responded to 6,664 requests for information and dealt with 4,023 case referrals. A large majority of 3,381 cases (84%) were referred by the court, and 642 cases (16%) were community-referred. Nearly 100% – or more precisely, 99.75% – of referrals led to intakes. A large majority of 85% of the intakes resulted in mediation. There was a small (under 10%) dip in center performance numbers compared to the previous year due in part to fewer court referrals resulting from a decline in court filings and the expansion of the Housing Court. Nevertheless, the proportion of intakes to referrals and the proportion of mediations to intakes were each one percentage point higher in FY 2018 than in FY 2017.

Funded centers contributed extensively to lowering contentiousness in Massachusetts communities in FY 2018 despite the challenges posed by funding and court-referral volatility. Centers provided coverage across all Massachusetts counties and at most Court Divisions. Nearly 8,000 people received center assistance with handling their disputes through more than 4,000 intakes and 3,400 mediations, and disputes were resolved via mediation for 74% of mediating parties. Approximately 5,000 individuals learned to handle conflict better by participating in mediation and taking part in trainings and other forms of instruction. And nearly 91,000 people became more knowledgeable about conflict resolution through centers' outreach and educational activities. Centers achieved these accomplishments by hewing to high standards for serving the community and involving the community in center operations, which earned the approval of 80% or more of surveyed mediation participants.

Centers' positive contributions redounded to the credit of the Grant Program, furnishing evidence that the state's \$750,000 investment in the Program to continue the operation of community mediation centers was worthwhile and that administration of the Program was effective. Further corroboration of the Program's value was provided by a financial analysis of centers' FY 2018 achievements, which estimated that the return on the state's investment amounted to \$12.1 million in cost-savings and leveraged resources. Recommendations for future action to preserve the continuation of the Grant Program's contribution to community mediation involved additional state support, working relationships with state courts and with the Governor in pursuit of common goals, and increased effort on the part of centers to obtain referrals for non-court disputes.

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# **I. INTRODUCTION**

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Broadening access to community mediation for the people, communities, and organizations, including public agencies, of Massachusetts became state policy in Fiscal Year (FY) 2013 with the passage of MGL ch.75, §47 and establishment of the Community Mediation Center Grant Program (the CMC Grant Program or Grant Program or Program). The Grant Program was set up under the administration of the state's statutory office of dispute resolution (MGL ch.75, §46), known as the Massachusetts Office of Public Collaboration (MOPC), as a way to financially support the operation of community mediation centers (centers). Community mediation centers are community-based non-profits or agencies that involve the community in delivering affordable mediation services to community members. Every year for the past six years, state funding enabled the Grant Program to fulfill its responsibility to award operational grants to qualified community mediation centers. In the FY 2018 budget process, the state legislature again confirmed its commitment to community mediation by appropriating \$750,000 to fund the Grant Program during FY 2018.

As the designated administrator of the Grant Program, MOPC awarded grants totaling \$609,840 (or 81% of \$750,000), with 40%-55% matches, to 12 centers that demonstrated achievement of Grant Program requirements. The remaining 19% of the FY 2018 appropriation or \$140,160 covered MOPC's administrative costs arising from grant making, program management, data collection, outreach, program development, evaluation, reporting, research, and other tasks. These administrative duties were coordinated and effectuated by the Program Manager, under the supervision of the MOPC Executive Director, and with the cooperation of center grantees. The implementation of administrative responsibilities over the 2018 fiscal year is described in section II of this report, followed by an account of the impact of Grant Program grants on centers and on the recipients of center services in section III. An economic analysis of the estimated return on the state investment in the Grant Program is presented in section IV. Sections V and VI contain concluding remarks and recommendations for actions to safeguard the future of the Program and centers.

## **II. CMC GRANT PROGRAM ADMINISTRATION**

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### **A. Grant-making:**

The Grant Application Request (GAR) process was in full swing when the 2018 fiscal year of Grant Program operation began. MOPC fulfilled its grant-making responsibilities by managing the GAR process for FY 2018 grants, providing center grantees with year-round assistance in meeting their Grant Program obligations, and preparing for the FY 2019 GAR process.

#### ***1. The FY 2018 grant-making process:***

Approval of grant requests and determination of individual grant amounts were based on evidence supplied by centers in grant applications that concerned the center applicant's eligibility and performance of specific types of activities. The grant application process was initiated on June 1 when notice about applying for Grant Program grants and a July 15 deadline for submitting applications was posted on MOPC and state/OSD websites. Applications for FY 2018 grants were received from 12 centers, all former grantees. Final decisions about successful applications and the size of award

amounts were made by the MOPC Executive Director in August after considering recommendations from a Grant Review Committee that assessed the applicants' merits.

Grant Program grants were based on two required award categories and two optional ones. Establishing centers' eligibility status and performance level was required by the mandatory categories; demonstrating collaboration activity and proposing projects to benefit the community were relevant to the discretionary categories.

Applicant centers had to validate their eligibility status by including a narrative in their application that furnished evidence of compliance with the standards articulated in the Grant Program's Twelve-Point Model of Community Mediation, which were organized into the four categories of community service, access to and quality of services, and seeking diversity (see Table 1).

**Table 1. Massachusetts Twelve-Point Model of Community Mediation.**

<b>Category</b>	<b>Criteria/standards constituting the 12-Point Model of Community Mediation in Massachusetts</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.

Upon establishing eligibility, each center became qualified to receive \$22,000 as a baseline award, for an overall total of \$264,000. The second required category involved two performance subcategories, viz., center caseloads and center progress in meeting Model-related goals (known as SMART goals). Centers received a sum of money, ranging from \$1,040 to \$14,240, that was commensurate with their performance activity as measured by the volume of intakes, mediations, and mediation sessions they had conducted during the previous year (for a total of \$79,840). An additional amount, varying from \$5,000 to \$23,000, was further awarded to centers depending on their progress

in meeting the goals they had self-selected the year before to reinforce their fulfillment of Model standards (adding up to \$212,500). SMART goal progress was assessed on the basis of the center's description in its FY 2018 grant application of its year-long effort to achieve the four goals that corresponded to the Model categories.

Centers were also given the option of applying for two supplementary awards related to collaboration activities that furthered Grant Program purposes and to proposals of youth-oriented projects (through so-called Community Project Challenge Grant Awards). All centers exercised their option to apply for an additional \$1,000 to \$5,000 by including a description of their collaboration initiatives with each other and MOPC in their applications (amounting to \$28,500 overall), and two centers applied for grant funding for projects that offered peer mediation services and restorative justice practice to students (totaling \$25,000). Ultimately, Grant Program grants totaling \$609,840 were distributed among 12 centers dispersed throughout the commonwealth: Berkshire County Regional Housing Authority-Housing and Consumer Mediation Center (BCRHA), Cape Cod Dispute Resolution Center (Cape Mediation), Community Dispute Settlement Center (CDSC), Family Services of Central Massachusetts Mediation Program (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), and The Mediation & Training Collaborative (TMTC) (see Table 2). Individual center award amounts varied between \$30,560 and \$72,200 and averaged \$50,820.



**Table 2. FY 2018 funded centers, center status and the counties of parties served.**

<b>FY 2018 funded community mediation center</b>	<b>Center status</b>	<b>Counties of Parties Served</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 (TUTC) 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 in which the largest number of parties were served.

Applicants were notified about their grants and the attendant responsibilities, and letters of acceptance were issued. The calendar for executing contracts with successful applicants (planned for September) and the subsequent distribution of grant monies, however, was upended by complications in the legislative budget process. During summer 2018, the Governor vetoed the FY 2018 budget appropriation in its entirety. MOPC and center grantees, supported by letters from Trial Court Chief Justices, campaigned for a legislative override, which did not occur until September. Grant Program contracts were consequently formed by October 15, but the release of funds to the university for distribution to centers was stalled by the Governor's declaration about withholding funds for earmarks. Efforts to clarify the non-earmark status of the Grant Program appropriation dovetailed with other developments, finally making Grant Program funds available on November 7 – late by a full quarter year. The disbursement of grant money to center grantees then proceeded on the usual quarterly basis following submission of invoices and quarterly reports.

## **2. Center feedback about the grant-making process and MOPC's response:**

Consistent with the statutory mandate that centers be consulted about the criteria and procedures for awarding grants (MGL ch.75, §47(d)), MOPC surveyed centers for their reaction to the

GAR process they had just completed (See Table 3). The GAR process for FY 2018 grants was the second time that the newly configured application form was used. This version incorporated such changes as providing separate sections for compliance and SMART goal narratives; relying on data from MADtrac (case management software used by all center grantees) for performance information; and instituting a section for descriptions of collaboration initiatives. In addition, the FY 2018 GAR was the third time that the quantity of mediation sessions was included in the calculation of centers' performance levels.

According to centers' post-GAR survey responses, familiarity with the application eased the process for a small number of the applicants (see Table 3). A minority of centers (four), greater by two centers since the previous year, found the FY 2018 application process to be easier. Moreover, compared to center feedback about the previous year's GAR process, one fewer center found the process more difficult. Survey evidence of a lightened time burden was also limited. Only two centers indicated that the application process for both FY 2017 and FY 2018 was less time consuming. Although one fewer center complained that the application process took more time the second time around, five centers – one more than the previous year – indicated that the time burden was unchanged. On the whole, the number of centers that were pleased about the GAR process had diminished from one year to the next (from seven centers for FY 2017 to five centers for FY 2018). On the other hand, the small pocket of process dissatisfaction generated by the FY 2017 GAR (four centers) dwindled to two centers the following year.

Approval for the changes involving MADtrac use and center collaboration was more widespread than for the changed compliance and SMART goal sections. A sizable majority of at least eight centers were satisfied (very or somewhat), and no center was dissatisfied, with using MADtrac data to substantiate performance levels and with including mediation sessions in performance calculations. Satisfaction with the opportunity for a collaboration narrative prevailed among nine centers, and five of the centers commented favorably on gaining recognition for their collaboration efforts. The SMART goal section garnered more center approval than did the compliance section (see Table 3). Roughly similar majorities (eight centers in the FY 17 GAR and seven centers in the FY 2018 GAR) were satisfied with the SMART goal section to some extent whereas a single center was somewhat dissatisfied both times. In contrast, satisfaction with the separate compliance section was expressed by substantial minorities of centers in both the 2017 and 2018 GAR processes (six centers the first year, five the second) while smaller minorities of nearly one-fourth of centers were dissatisfied.

**Table 3. Center feedback about the GAR process for FY 2017 and FY 2018 grants.**

GAR features		FY 17 # of centers (n=11)	FY 18 # of centers (n=11)
Ease of process	Easier	2	4
	Harder	2	1
	Neither	7	5
	No difference	0	1
Time burden		n=11	n=11
	More time	5	4
	Less time	2	2
	Same time	4	5
Reaction to GAR process		n=12	n=11
	Very satisfied	3	5
	Some satisfaction	4	0
	Neither	1	4
	Some dissatisfaction	4	1
	Very dissatisfied	0	1
Separate section for compliance		n=12	n=11
	Very satisfied	2	1
	Some satisfaction	4	4
	Neither	3	3
	Some dissatisfaction	2	3
	Very dissatisfied	1	0
Separate section for SMART goals		n=12	n=11
	Very satisfied	6	4
	Some satisfaction	2	3
	Neither	2	3
	Some dissatisfaction	1	1
	Very dissatisfied	0	0

A key center reaction to the FY 2018 GAR process coupled appreciation for MOPC's streamlining efforts with exhortations to continue simplifying and reducing repetition, particularly in the compliance section of the application. MOPC's response aimed to balance respect for the needs of centers with attention to the needs of the Grant Program. Accordingly, MOPC confirmed the value of centers' offering evidence to substantiate compliance, evidence that, in turn, was critical to meeting the accounting, evaluation, and reporting responsibilities of the Grant Program. After exploring center interest during an October 2017 conference call, MOPC planned changes in the GAR process for FY 2019 that involved adjustments to the compliance requirement as well as greater SMART goal flexibility. So, for the next year's GAR process, center references to relevant MADtrac data and SMART goal discussions would be acceptable to demonstrate compliance with the Twelve-Point Model instead of a narrative. Also, rather than limiting centers' choice of SMART goals to each Model category, centers would be able to pick four SMART goals that were connected to any four of the 12 Model standards and, presumably, would be better aligned with center interests and concerns. Additionally, MOPC invited centers to consider for future discussion a suggestion from PAC – i.e., the Program Advisory Committee, which functions as a sounding board and strategic advisor to the Grant

Program – that the level of difficulty in accomplishing a SMART goal be factored into grant awards. And, in FY 2018, MOPC would pilot accommodation of changes to SMART goals in the event of exceptional circumstances and subject to MOPC approval. During the 2018 fiscal year, one of two requests for goal changes was approved.

## **B. Strategic planning:**

In FY 2017, MOPC and centers embarked on a five-year cooperative enterprise to form a plan to secure the future of community mediation by advancing the viability of centers and broadening access to alternative dispute resolution services. Interviews, focus groups, and surveys of personnel from centers and MOPC as well as a full-day visioning retreat, which were carried out by students from the Harvard Negotiation & Mediation Clinical Program in Spring 2017, led to a report that provided material for developing a strategic planning framework. FY 2018 discussions among MOPC and centers through surveys as well as electronic and telephonic communications produced a “working” vision to guide the strategic planning exercise, identified the critical challenges facing community mediation, and began the process of devising strategies to address those challenges. The chosen vision embraced widespread appreciation and use of community mediation services, a fully supported network of community mediation centers, and outcomes that included thriving communities and universal access to justice. Budget uncertainty, however, caused a hiatus in the strategic planning process. The November 2017 meeting with MOPC and centers was canceled to reduce the financial strain on centers and MOPC in a time of economic uncertainty and was replaced by a teleconference devoted to financial and operational matters. Strategic planning resumed in early 2018. The four challenge areas that were prioritized for attention from four working groups (staffed by individuals from the centers and MOPC) involved funding, staffing, mediators, and awareness. These working groups were charged with drafting action plans to implement strategies for dealing with the prioritized challenges in FY 2019.

## **C. Budget advocacy:**

Planning for the near future of the Grant Program through budget advocacy was a major preoccupation of MOPC and centers. Once the amount of the budget request to fund the Grant Program during FY 2019 was determined as \$990,000, steps were taken by MOPC and centers to win legislative and executive branch support. The request was submitted to the university and the Executive Office of Administration & Finance (ANF). House and Senate legislator leads were consulted about attracting more legislative sponsors. Centers contacted their legislators to urge approval of the budget request. Mindful of the Governor’s veto of the previous year’s budget appropriation, a meeting was held with the Governor’s Chief Legal Counsel and a letter was sent to the Governor and Lt. Governor to communicate the value and impact of community mediation and the Grant Program so as to forestall 9C cuts and encourage inclusion of Grant Program funding in the Governor’s next budget. The message about the benefits of the Grant Program was relayed to the Governor through informal means as well. During a chance encounter with the Governor at a local supermarket, the North Shore director seized the opportunity to promote the importance of Grant Program funding.

The Grant Program's contribution to the welfare of the commonwealth was featured in a January briefing event for legislators and their staff at the State House that was organized by MOPC with center assistance. Legislative champions and conveners, Representative Paul Tucker from Salem and Senator Adam Hinds from Pittsfield, engaged the audience with their speeches. Two students, one in middle school and the other in high school, described the impact of mediation on themselves and their school. The North Shore director talked about the variety of services available to deal with delinquency despite limited funding, and the potential for even more effective action with added funding. A record number of legislators and staff – 16 legislators and over 40 staffers – attended the briefing.

Centers also participated in Conflict Resolution Day – October 19 – at the State House to celebrate conflict resolution and raise awareness about community mediation and community mediation centers unfettered by budget advocacy, but as a prelude to it. Besides being introduced on the Senate floor by Senator Harriette Chandler, center representatives hosted informational tables and visited legislative offices to distribute educational materials and answer questions.

The state's revenue numbers for the year were good; budget advocacy was effective; and \$990,000 was appropriated for Grant Program operations in FY 2019. The \$240,000 increase was the first increase in state funding for the Program in four years.

#### **D. Program development:**

To enlarge the scope of center services to the community and attract more funding to sustain community mediation infrastructure, MOPC continued to lead statewide program development initiatives that involved centers. As they considered how to strengthen center infrastructure and obtain financing for expanded center services, MOPC and centers came to realize that program-related grants would be a valuable supplement to the operational grants that were the Grant Program's special contribution to community mediation. The greater likelihood that programming ventures would attract funder interest than would operational concerns motivated MOPC's endeavors to promote several areas of programming under Grant Program auspices. These ventures were also expected to encourage centers to attend to additional areas of community needs and to consider other collaborative methods for addressing those needs. Grant Program programming interests, which were largely focused on the areas of youth conflict and criminal justice, were realized through multi-year efforts that involved program design and implementation by centers and MOPC, MOPC-sponsored trainings for center mediators and staff, and financial investment from foundations and other outside sponsors as well as Grant Program funding.

##### ***1. Youth-oriented programming:***

The youth-oriented community projects funded by the Grant Program sought to tackle juvenile conflict and violence by reinforcing the strengths of young persons, that is, by way of positive youth development. The projects implemented during FY 2018 either combined conflict skills training with creative expression or brought peer mediation together with restorative practice. These youth projects were pilots to test the feasibility of instituting scaled-up versions for the entire state.

Conflict skills training, delivered by CDSC to young people, was reinforced with a creative component, known as PhotoVoice, that was adapted by the MOPC Associate Director to engage the youthful trainees in photography and storytelling which related to conflict or to personal and community issues. Originally launched in the summer of 2016 to strengthen the conflict resolution skills of individuals at the Boston Centers for Youth & Families who worked with gang-related youth, the next iteration of the conflict training-PhotoVoice project took place in the summer of 2017, with the cooperation of Cambridge Youth Programs and partial support from a \$7,500 university grant. In this latter version, high-school teenagers from an after-school youth program at the Moore Youth Center learned conflict resolution skills that they subsequently imparted to middle school students. They also gained photography skills that they used to depict various aspects of their lives. Based on these projects, MOPC applied for and received a two-year JAMS/ACR grant of \$65,000 in September 2017 to support additional youth projects of this kind for about 245 youth of high school and middle school ages. In partnership with the Moses Youth Center in Cambridge, the first foundation-supported training in conflict resolution and PhotoVoice, led by CDSC and MOPC, will be held in the beginning of FY 2019 for adolescents, aged 14-19 years old, from the Moses Center's Boys II Men program. Among the hoped-for outcomes are exhibitions and videos, featuring the participants' photographs and stories, to be shared with the community and policy-makers and thereby raise awareness of social issues and incentivize social action.

Two projects in which peer mediation programs were associated with the use of restorative circles received Grant Program funding for FY 2018. Supported by a \$15,000 community project challenge grant from the Program, TMTC, together with the Turner Falls school district and Community-School Partnership, established a peer restorative practice and mediation project at the public middle school. Peer mediators learned about restorative practices along with conflict resolution skills and participated in two community-building circles as part of peer mediation training. Information about conflict resolution and restorative practices was presented to students at a school assembly and in class and shared with school staff and administrators at meetings and informal encounters. As a result, 17 referrals were received, 13 mediation sessions yielding 11 full agreements were conducted, and twelve restorative circles were held – one with all the male students at the school and the others with smaller groups of male students throughout the year. Peer mediators were recognized for their work at an all-school assembly. To evaluate the project, data was collected through surveys and interviews of peer mediators concerning their experience as mediators and of students and administrators about the project's effect on school climate.

North Shore partnered with the Amesbury, MA public middle school and high school to set up school peer mediation/restorative practice programs under a \$10,000 Grant Program community project challenge grant. The aim of the project was to promote student problem-solving by maintaining robust peer mediation programs at both schools and to build community spirit through a restorative circle pilot at the high school. Peer mediators worked at raising awareness of the program with posters and presentations at staff meetings, open house nights, and health classes. The middle school mediation program received 38 referrals, which led to 24 mediations that generated 24 agreements while the high school mediation program had no referrals. At the high school, restorative circles were held during advisories. Program assessment included surveys of circle participants to obtain feedback about the impact of circles and of middle school students in grades 5-8 to gauge their awareness of the program. North Shore learned that high school freshman year was the most opportune time to

introduce circles and that familiarity with and approval of the availability of peer mediation were more typical of 6<sup>th</sup>-8<sup>th</sup> graders than 5<sup>th</sup> graders.

## **2. *Criminal justice programming:***

Efforts by centers to expand alternate dispute resolution services in the criminal justice context – beyond mediation of juvenile cases – finally bore fruit in FY 2018. A pilot prisoner re-entry mediation program was set up, and a legal framework for restorative justice diversion programs was enacted.

In addition to the educational sector, restorative justice initiatives were pursued in the criminal justice realm. In FY 2017-FY 2018, the MOPC Executive Director and ten centers joined with the Restorative Justice Coalition of Massachusetts, a group of practitioners and supporters engaged in restorative justice advocacy, to influence restorative justice legislation. In April 2018, Massachusetts criminal justice laws were overhauled through passage of the Criminal Justice Reform Act, which authorized restorative justice programs to be used as diversion from prosecution for adult and juvenile criminal defendants. Further government action is needed to track these programs, establish guidelines and training criteria, and establish funding sources for developing and establishing statewide programming. In the meantime, to be ready for the day that state-sponsored restorative justice programs became operational, MOPC sponsored training for center staff and mediators in the restorative justice practice of community conferencing, which engages victims, offenders, their supporters, and others in redressing the harm caused by wrongdoing.

After three years of preparatory work, MOPC partnered with the Department of Corrections (DOC) and two centers, MMS and CDSC, in FY 2018 to form a pilot program that offered mediation services to eligible prisoners about to be released from prison in order to strengthen their supportive social relationships and reduce the likelihood of recidivism. After successfully applying for an \$18,000 start-up grant from the Gardiner-Howland Shaw Foundation and signing a memorandum of understanding with the DOC, the Program Manager and the centers worked to set up this pilot Prisoner Re-Entry Mediation Program at the Boston Pre-Release Center. The pilot program was modeled on a Maryland re-entry mediation program delivered through community mediation centers and included modifications to accommodate DOC and pre-release center regulations and protocols. At the same time, MOPC sponsored training in re-entry mediation for interested center mediators. North Shore and MCC mediators arranged to work at the program too under MMS and CDSC guidance. Due to the financial uncertainty caused by the Governor's FY 2018 veto, the launch of the pilot project was delayed until December/January, after which two informational sessions and one follow-up meeting were held, eleven initial intakes and eight subsequent intakes with inmates as well as the intake and screening of at least one external party were conducted, and one mediation session was scheduled (and later canceled upon the inmate's transfer). Data collection for program evaluation and research purposes began when approval from the university Institutional Review Board and the DOC was received. Additional funding and DOC approval are being sought to support continuation and expansion of the program, and refresher training will be held during the next fiscal year.

## **3. *Other programming:***

Support from government entities was maintained in FY 2018 for MOPC-administered programs in which centers participated. For instance, the Parent Mediation Program, sponsored by the

MA Department of Revenue-Child Support Enforcement Division, provided eligible parents with access to mediation services from five centers for parenting disputes arising from divorce or separation: CDSC, FSCM, MetroWest, North Shore, and TMTC. The participating centers provided up to four hours of free mediation services for disputes concerning access, visitation, parental time with the child, and parenting plans. In FY 2018, centers received 161 referrals and conducted 129 mediations of parenting issues. Additionally, a program piloting the use of community mediation centers to mediate agricultural disputes, which involved BCRHA and TMTC, proceeded apace. Expansion of elder mediation services was explored through outreach to a local non-profit from the North Shore area, which could pave the way to a statewide elder services network. MOPC and BCRHA served on a group of public officials and mediators whose advocacy for the re-institution of state funding for permanency mediation programming in the Trial Court resulted in a \$250,000 state appropriation for FY 2019.

## **E. Other administrative tasks:**

### ***1. Mediator quality:***

Quality assurance of mediation services was pursued through the efforts of individual centers (see section III) and supplemented by MOPC-sponsored trainings and peer mentoring events for mediators and staff. NAFCM (a national professional community mediation organization) dues were paid by MOPC on behalf of centers to provide access to additional resources and trainings. A December 2017 poll revealed center approval for MOPC to contribute to mediator quality assurance by setting up conferences for educational and networking purposes, funding trainings, and sponsoring center peer groups to produce materials about best practices and issue standards for advanced trainings. As a result, a template for handling mediator compliance was created by MOPC from information supplied by centers and posted on a university-hosted document-sharing repository for center use.

### ***2. Case Management Database (MADtrac) use:***

The Program Manager monitored center submission of quarterly MADtrac data reports. As glitches in the software emerged, they were adjusted, and modifications were made to record new data streams. For instance, MADtrac was not designed for tracking cases according to non-mediation services. Specifically, data could not be recorded under conflict coaching and facilitation categories. The solution that was adopted was to list such cases as case types and track them the same way that restorative justice cases were tracked.

### ***3. Communication with centers and PAC:***

Communication between MOPC and centers, organized by the Program Manager, occurred regularly at biannual group meetings, monthly teleconferences, and, on an as-needed basis, via emails, surveys, and one-on-one telephone calls. The conversations offered opportunities to exchange information about relevant developments and tackle issues as they arose. Biannual meetings were also held with the Grant Program Advisory Committee (PAC) to provide updates and get reactions about Grant Program developments and plans from members (who represented community mediation sponsors, funders and stakeholders).

### ***4. Reporting and accountability:***



To fulfill the reporting and accountability duties mandated by the Grant Program enabling statute, MGL ch.75, §47(h), an annual evaluation report about the functioning of the Program in FY 2018 was produced by the MOPC Research Unit. The report presented evidence concerning the performance of administrative duties and the impact of the Grant Program that was furnished by grant applications, MADtrac records, surveys, meeting discussions, and internal office documents. As required, the report was submitted to the Governor, the Chief Justice of the Trial Court, the Senate President, the Speaker of the House of Representatives, the chairs of the Joint Committee on Higher Education, the chairs of the Joint Committee on the Judiciary, and the chairs of the House and Senate Committees on Ways and Means. The report was also shared with the public in a posting on the University of Massachusetts' ScholarWorks website.

### **III. IMPACT OF GRANT PROJECT GRANTS ON CENTERS & THE COMMUNITY**

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#### **A. Impact on centers:**

##### ***1. Profile of funded centers:***

The center recipients of FY 2018 Grant Program awards consisted of seven independent non-profits and five subdivisions of parent organizations, including service agencies and a community college, whose purpose was to deliver affordable mediation services from trained community members to a broad swath of Massachusetts residents (see Table 2). In FY 2018, the coverage of center services extended over all 14 Massachusetts counties.

##### ***2. Financial impact of Grant Program grants on center budgets:***

Compared to the previous fiscal year, the grant total was larger by \$9,420, resulting in ten higher awards and two lower ones for centers. Grant Program grants contributed substantially to the financial stability of center grantees. In FY 2108, Program grants comprised a slightly higher percentage of centers' collective income than in FY 2017. Whereas FY 2017 Grant Program grants were 34% of centers' collective annual income, FY 2018 grants made up 35% of centers' total income of \$1,730,595, with grants constituting 19% to 55% of individual center incomes. Donations and fundraising, grants from public agencies and private foundations, and fees for trainings and mediations were some of centers' other revenue sources. Consumer mediation grants from the Attorney General's Office (AGO) in particular were a major source of cash income, second only to the Grant Program grants, for eleven of the centers. Indeed, the importance of Grant Program grants to centers' financial health was intensified by the 13% decline in AGO consumer grants – from \$491,105 in FY 2017 to \$413,000 in FY 2018 – which reduced the proportion of AGO grants in total center income from 28% in FY 2017 to 24% in FY 2018.

The delay in the distribution of Grant Program funding due to the Governor's veto amounted to a "proof of concept" for the necessity of the grants for center viability. As one center noted: "the CMC Grants program is the single, largest funding source for [the center], and because it is not service-specific, it can be used to cover operational costs and fill other funding gaps. A loss or reduction in these funds would dramatically impact the services [the center] is able to provide,

potentially even eliminating the center altogether.” Centers resorted to various stratagems to survive the funding shortfall. Expenses were reduced and activities were curtailed or rescheduled. Once Grant Program funds became available, the effect on center sustainability was largely positive. Center sustainability increased at eight centers while remaining stable (i.e., unchanged) at four others because of the grants. And unlike FY 2017 when two centers reported a decrease in sustainability, no such decrease occurred in FY 2018. In the words of one center: “the CMC Grant Program is essential for the continued success and sustainability of our mediation center. Without the CMC Grant Program, we would not be able to meet the needs of the courts and community for mediation services.”

### 3. *Center performance:*

Throughout FY 2018, centers provided direct services to the community: fielding information requests, handling referrals, performing intakes, and conducting mediations (see Table 4). By the end of the year, centers had responded to 6,664 requests for information and dealt with 4,023 case referrals. A large majority of 3,381 cases (84%) were referred by the court, and 642 cases (16%) were community-referred. Nearly 100% – or more precisely, 99.75% – of referrals led to intakes that assessed, among other things, suitability and consent to mediation. A large majority of 85% of the intakes resulted in mediation. Compared to the previous fiscal year, the small (below 10%) slide in centers’ FY 2018 performance numbers was accompanied by a slight uptick in the proportion of cases that progressed through successive stages of the mediation process. The 8% dip in overall FY 2018 referrals had ripple effects that undercut the frequency of activities that sprang from the referrals – intakes and mediations declined by 7%, and 6%, respectively (see Table 4). Nevertheless, the proportion of intakes to referrals and the proportion of mediations to intakes were each one percentage point higher in FY 2018 than FY 2017 (when intakes were performed for 98.9% of referrals and mediations were conducted for 84% of intakes).

**Table 4. Center performance in FY 2017 and FY 2018.**

<b>Mediation activity</b>	<b>FY 2017</b>	<b>FY 2018</b>
<b>Referred cases</b>	Total: 4,359 (court: 3,576 (82%); non-court: 783 (18%))	Total: 4,023 (court: 3,381 (84%); non-court: 642 (16%))
<b>Intakes performed</b>	4,314	4,013
<b>Mediations conducted</b>	3,642	3,423
<b>Agreements reached</b>	2,577 (71% agreement rate)	2,521 (74% agreement rate)

A combination of external and internal factors may have depressed FY 2018 referral numbers. FY 2018 was marked by changes in court referring practices and by funding instability that may well have exerted downward pressure on referral activities that was then exacerbated by personnel changes at centers. Funded centers served as approved programs for receiving court referrals of cases for alternative dispute resolution (ADR) at the same number of courts in FY 2018 as in FY 2017. As a whole, centers served 79 Trial Court Divisions in six Departments, and in particular, all centers served the District Court Department (see Table 5). Between FY 2017 and FY 2018, case filings in all Court

Departments declined by 4.5%, and in the District Court, case filings decreased by 10.1%.<sup>1</sup> The availability of cases for referral to mediation was further reduced in FY 2018 when the Housing Court began to divert summary process cases from the District Court to its remit. These developments in the court system probably accounted in important part for the 5% decrease in court referrals to centers in FY 2018.

**Table 5. Trial Court Department and Divisions served by funded centers in FY 2017 & 2018.<sup>2</sup>**

<b>Court Departments</b>	<b>Total Number of Divisions</b>	<b>Number of Divisions that involve CMC grantees</b>	<b>Number of CMC grantees involved with 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

With a \$49,616 reduction in their collective income that largely derived from the reduction in AGO consumer grants, centers' overall financial situation was less robust in FY 2018 than in FY 2017. Due to their financial vulnerability, centers' ability to weather financial instability was severely tested to the detriment of center activities by the veto-caused funding delay. At one center, for example, the "delay in FY18 funding slowed some Center initiatives and outreach plans." Moreover, staff turnover increased over the year at five centers, in all likelihood complicating their activities, including outreach, and contributing to fewer non-court referrals. In any event, non-court referrals declined by 18% in FY 2018 compared to FY 2017 (see Table 4).

MOPC and centers responded to the challenge of reduced court referrals at both individual and systemic levels. An ad hoc housing committee of center members, set up under MOPC auspices, confirmed the Housing Court's move to take over summary process cases in some District Court divisions, but decided to address the situation through local rather than state-wide initiatives. Thus, Cape Mediation's attempt to collaborate with the Housing Court in Barnstable proved fruitless since

<sup>1</sup> See Mass.gov. Trial Court Statistics for Fiscal Year 2018, available at <https://www.mass.gov/lists/trial-court-statistics-for-fiscal-year-2018>; and Mass.gov. Change in District Court Department filings from FY 2017 to FY 2018, available at <https://www.mass.gov/files/documents/2018/10/01/Summary%20of%20Cases%20by%20Fiscal%20Year.pdf>

<sup>2</sup> Based on court-approved programs list for 2016-2018, available at <http://www.mass.gov/courts/docs/admin/planning/adr-program-list.pdf>

the Court was adamant about confining the delivery of ADR services for its cases to its in-house specialists. Otherwise, centers pursued strategies to expand the services they offered and the types of disputes they addressed including developing more programming and reaching out for more court referrals of non-housing cases, among other approaches (see sections II (D) and III (A)(2)). MetroWest, for instance, sought referrals for Harassment Protection Order cases even as it approached Tenant Protection providers about mediating housing-related disputes outside of court.

At the systemic level, the MOPC director worked to increase the court's recognition of the contribution that centers made to fostering access to justice throughout Massachusetts.<sup>3</sup> The courts and centers were in a mutually beneficial relationship through center participation as court-approved ADR programs. The court's goal to provide justice in resolving disputes and centers' goal to address the conflict resolution needs of community members were both advanced when courts referred cases to centers that used mediation and other ADR strategies to resolve the disputes. Nevertheless, the fluctuations in the courts' referrals to approved ADR programs suggested that appreciation for the role played by centers in expanding access to justice was not uniform across the judicial system. As a first step to expanding the courts' awareness of the value of center services, the committee for the court's Justice For All initiative was persuaded by the MOPC director to include community mediation as part of the solution for increasing access to justice in the state.

To ensure greater financial stability for centers, MOPC and centers together advocated for an increase in the FY 2019 appropriation to fund the Grant Program and sought to win the Governor and his office over to the Program's merits. More operational funding would also help centers address their compelling need (expressed by seven centers) for additional staff and salary benefits in FY 2019. Meanwhile, centers' workforce rose to the challenge of responding to the demand for their dispute resolution services in FY 2018. Centers experienced changes in certain aspects of their operation during the course of the 2018 fiscal year. Despite the increased turnover of staff at five centers, turnover actually decreased at one center, and staff numbers remained stable at another five centers during FY 2018. And, although hours worked by staff decreased at two centers, at most centers staff hours either increased (four centers) or were unchanged (six centers). Fortunately, the influx of Program Grant funds mitigated any shortfall in centers' human resources. Program grants helped stabilize staff numbers, hours, and turnover at seven centers and contributed to an increase in staffers and staff hours at two centers. In all, not counting 114 board members, centers mobilized 81 staff members (21 full-timers, 35 part-timers, and 25 volunteer staff), 407 mediators (373 active volunteer mediators and 34 paid mediators/consultants), and 16 interns to deliver center services in FY 2018. At times, center personnel went to great lengths to fulfill the demand for services. As one center explained, its "co-directors (unpaid) increased their hours dramatically. That's how [the center was] doing more with the same amount of resources."

## **B. Impact on recipients of center services**

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<sup>3</sup> For a discussion of access to justice issues, see 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)

### ***1. Outcomes of center services for recipients:***

At least 90,939 people were positively affected by funded centers. Centers responded to inquiries from 6,664 people about ADR services; 71,807 people were made aware of conflict resolution approaches and center services through center outreach activities and educational materials; training in conflict management was provided to 4,548 people; and the disputes of 7,920 people received some form of center attention. The 7,920 figure may, however, undercount the number of people<sup>4</sup> who received mediation services. Considering that 4,020 cases were opened in FY 2018 that probably involved a minimum of two disputants per case, it is more likely that there were at least 8,040 recipients of centers' mediation services.

The accomplishments that accrued to people who were served by funded centers helped to offset the drop in center caseload numbers during FY 2018. Evidence suggests that many mediating parties reaped benefits from mediation which not only included dispute settlement and financial compensation in consumer disputes, but also psychological outcomes related to satisfaction with mediation, enhanced conflict management skills, as well as improved attitudes towards and interactions with the opposing party. And so, those parties who were involved in 2,318 mediated cases were able to reduce their conflict through mutually satisfactory agreements. The 2,318 full, partial, and telephone agreements that were reached as a result of mediation yielded a 74% agreement rate, higher by three percentage points than the 71% agreement rate achieved in FY 2017 and eight points higher than the agreement rate of 66% typical of community mediation in general (see Table 4).<sup>5</sup> Furthermore, the financial reward to parties from consumer dispute mediation was higher in FY 2018. The total of \$4,124,237 returned to consumers in FY 2018 was larger by approximately one half-million dollars (or, to be exact, by \$472,682) than the \$3,651,645 that was returned to consumers in FY 2017. In percentage terms, there was a 13% increase in money returned to consumers in FY 2018 since the previous year despite the 16% decrease in AGO grants for consumer mediation by centers. In contrast to the sevenfold-plus return on the AGO's investment in FY 2017 consumer mediation, the amount of money returned to consumers in the 2018 fiscal year represented an almost tenfold increase in the AGO's investment. Program grants were instrumental in supporting the mediation infrastructure that generated the return on the AGO's consumer mediation investment.

One of the psychological outcomes of mediation participation consisted of widespread satisfaction with the mediation process among surveyed parties. Out of 3,723 parties who provided feedback about their reactions to their mediation experience, a large majority of 94% was satisfied with mediation; 92% would recommend mediation to others; and 80% preferred mediation to other methods of dispute resolution. Moreover, responses from 2,568 parties to questions about the impact of mediation on themselves revealed that between one-fifth and one-half of surveyed parties received mediation benefits that were additional to dispute resolution. As a result of mediation, 49% of respondents indicated that conflict was reduced, 50% reported that communication was improved, 22% found their relationship was better, 21% gained a more positive opinion of the other party, and 36% claimed to be better able to handle disputes.

### ***2. Serving the entire community:***

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<sup>4</sup> As used here, "people" includes entities such as businesses and organizations.

<sup>5</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.

The outcomes achieved through center services were attributable to the efforts of the twelve funded centers to serve the broadest spectrum of people in their communities with high quality services. In so doing, the centers were acting in accordance with the Program’s statutory mission to broaden access to community mediation throughout the commonwealth while meeting the standards of state-of-the-art community mediation presented in the Twelve-Point Model.

***a. Expanding dispute types:***

The disputes addressed by centers represented a dozen or so broad dispute categories that encompassed issues relating to business, culture, discrimination, government, housing, interpersonal relations, neighborhood matters, school, workplace, juvenile, restorative justice, as well as categories for other or unknown issues. Disputes relating to business matters predominated (60% of 4,043 cases), followed by issues involving housing (16%), family (10%), and school (8%). Despite a 7% decrease in cases (315 fewer cases) in FY 2018 compared to FY 2017, the proportions of the dominant dispute types in the constellation of disputes addressed by centers remained relatively constant over the two fiscal years (see Table 6). Systemic factors contributing to the decrease in referred cases included the diversion of housing cases to the jurisdiction of the Housing Court, which relied on staff housing specialists for ADR rather than outside ADR servicers, and an overall decline in the Trial Court’s caseload.

**Table 6. Percentage of cases in dispute category by fiscal year.**

Dispute categories	FY 2017 (n=4358)	FY 2018 (n=4043)
Business	58%	60%
Housing	16%	16%
Family	11%	10%
School	9%	8%

According to a majority of seven centers, external factors that increased the use of center services in providing intakes and mediations included community partnerships, the use of dispute resolution services by the court, and referral sources. Five centers attributed increases in their intakes and mediations to operational funding and the availability of volunteers. Decreases in the demand for center services were attributed by three centers to changes in funding and court ADR use. There was near unanimity (eleven centers) on the contribution made by Program grants to enhance their ability to provide services for more dispute types. A single center attributed their inability to serve more dispute types on the Program grant award.

Based on end-of-year survey responses, an increase in dispute types served over the FY 2018 fiscal year was reported by eight centers. The variety of dispute types was unchanged for the remaining four centers. Thus, peer mediation under MCC auspices expanded beyond student-on-student conflict to include student-teacher disputes: out of 15 student-mediated cases, three involved student-teacher disputes. MetroWest included Care and Protection cases in its dispute portfolio and mediated two such cases.

Centers further expanded their services to address disputes with a nexus to criminality. MetroWest sought out delinquency cases and received a referral for a harassment case with criminal complaint features. In order to contribute to combating increases in harassment, cyber-bullying, and petty crime (arising from the opioid crisis) and help people avoid restraining orders and official intervention in personal matters, BCRHA continued to develop its practice with show cause cases. The center received 70 referrals and conducted 16 show cause mediations during FY 2018. BCRHA also participated in constructive responses to the opioid crisis. CDSC readied itself to deal with youth Harassment Prevention Orders, training its mediators in anticipation of referrals from the Cambridge Juvenile Court. FSCM assisted with two to three divorce cases that were accompanied by Restraining Orders, using shuttle mediation. MMS extended its services to include prisoner re-entry mediation through the Prisoner Re-entry Mediation Program and conducted intake for two re-entry cases over the year. Not only was CDSC involved in the re-entry mediation program, the center enabled MCC's participation by allowing three MCC volunteer mediators to be placed on the CDSC roster and become available to mediate re-entry cases. (MCC was barred from participating in this project on its own because it could not obtain supplemental insurance).

The variety of dispute types addressed by centers was affected by the decline in housing cases arising from the expansion of Housing Court. MetroWest documented the decline, pointing out that the number of housing cases it handled dropped from 20 cases in the first quarter to five in the last quarter of the fiscal year. To compensate for the shortfall, MetroWest worked on partnering with Tenant Protection providers to mediate disputes before they reached the court and on increasing referrals of Harassment Protection Order cases, among others.

**b. *Expansion of types of dispute resolution services:***

Centers expanded the types of services they offered to help parties resolve their disputes beyond mediation. By year's end, centers officially reported eight cases handled through a restorative justice approach, five cases using conflict coaching, and one case involving facilitation. However, centers' use of non-mediation dispute resolution techniques was undercounted in the official record.

Collaborative problem-solving was employed by MCC in four cases, involving divorce issues, parenting issues, and homeowner/neighbor issues. Future participation in collaborative law strategies was considered by FSCM as it investigated joining the Access to Collaborative Law Committee that aimed to pilot collaborative law services for low-income individuals. Facilitation services were offered by MMS and TMTC. A community conversation event was facilitated by MMS for Combined Jewish Philanthropies, and TMTC provided facilitation services to seven nonprofits, government, and school groups.

Conflict coaching was available at four centers: Martha's Vineyard, North Shore, MSI, and TMTC. TMTC expanded services to include conflict coaching to improve communication and collaboration, particularly for disputes in which a party refused to mediate. MSI engaged in outreach to raise awareness of its coaching services by introducing the coaching technique to a network of non-profit agencies in the center's service area, adding relevant information to its website, and distributing informational brochures at a business center and at networking breakfasts. Consequently, conflict coaching was provided by MSI to families and to staff members and administrators at a school, which led to the use of a restorative circle. Martha's Vineyard provided conflict coaching in ten cases, eight

of which did not proceed to actual mediation, and three led to subsequent agreements between parties without further center assistance. North Shore used conflict coaching for disputes at two schools – one concerned conflict between disruptive students and a parent, and the other involved helping a teacher with class management.

CDSC along with other centers participated in restorative justice training offered by MOPC, and both MSI and TMTC engaged in restorative circle practice. TMTC worked with peer mediation and a restorative practice program at a local middle school. After conflict coaching by MSI at a school, a restorative circle, facilitated by MSI, was organized to resolve issues that were revealed through conflict coaching.

***c. Educating the community about conflict management:***

In order to educate the community about ways to manage and resolve conflict as well as the availability of conflict resolution services from centers, centers engaged in a variety of activities such as trainings, workshops, presentations, participation in conferences, the production and distribution of literature and newsletters, as well as the use of social media and websites. All 12 centers conducted trainings, workshops, provided presentations, distributed literature, and used a website to reach the public. All but one center participated on social media. A majority of eight centers participated in conference and half the centers (six) produced newsletters. Several centers received media attention. Cape Mediation and its volunteers were highlighted on a local television show. Greater Brockton increased its outreach efforts – developing two additional workshops and five new outreach activities with two events broadcast on local television station. MetroWest presented information about the role of conflict resolution after natural disasters and offered a cross-cultural skills workshop at a university. TMTC's conflict coaching service was the subject of an article in the newspaper, *The Recorder*, with a circulation of 11,000.

All told, 260 trainings were conducted for 4,036 trainees. About 30,169 people participated in centers' outreach events, and 41,638 were recipients of centers' literature materials. As a result of their outreach activities, centers were unanimous that public awareness had increased.

***d. Providing mediation services at any level of conflict intensity:***

Centers were prepared to provide conflict resolution assistance in disputes no matter their level of conflict intensity. Low levels of conflict intensity characterize disputes in which disputants decide on their own to seek assistance; disputes qualify as intermediate in conflict intensity when disputants turn to an agency or the court to intervene; and high conflict levels involve disputes where emotions run high and violence is possible. The number of cases at either end of the conflict spectrum was small, each constituting less than 10% of 4,043 cases: 8% had low levels of conflict and 6% were characterized by high conflict levels. High intensity conflicts usually present the greatest challenge to resolution efforts. Martha's Vineyard recounted how its mediators had to use high intensity conflict techniques in divorce cases that were complicated by substance abuse and mental health issues.

The overwhelming majority of cases handled by the centers, including those filed in court (3,482 of 4,043 or 86%) were at the intermediate level of conflict. The de-escalating impact of mediation in such cases would be evident from the beginning, according to Cape Mediation, when the parties' very decision to pursue mediation would lower the intensity of the conflict.



Centers also pursued strategies to forestall conflict in their community. The expansion of MMS' services to include community conversation facilitation illustrated the center's focus on assisting groups with conflict prevention and collaborative problem-solving. Likewise, TMTC's work with community organizations through, for example, its facilitation services, aimed to bolster their conflict prevention capacity by improving group dynamics and strengthening collaborative problem-solving skills. To further conflict prevention, the deliberative dialogue training conducted by MetroWest promoted dialogue between the police and community members. Martha's Vineyard held public programs that were designed to help families as well as landlords and tenants anticipate, and thereby avoid, conflicts over property distribution or housing issues, respectively.

*e. Maintaining high quality mediation services:*

Centers prided themselves on the quality of their mediation services. Besides uniform compliance with the training, court orientation, continuing education, and evaluation requirements for mediators set forth by Rule 8 of the Supreme Judicial Court's Uniform Rules on Dispute Resolution, centers also conformed to Rule 7 mandates for program evaluation, diversity considerations, and deployment of qualified mediators. Thus, most centers advanced the quality of their services by offering continuing education (11 centers) and advanced mediation training (10 centers) in FY 2018. The award of FY 2018 Program grants contributed to more professional development for mediators at nine centers. As a result, mediators' professional development increased at seven centers and remained stable at five. Several centers also worked on the supervision and recruitment of mediators (six centers) and on the mediator program administration, the establishment of mentorships or apprenticeships for mediators, and on documenting compliance with requirements (five centers).

In addition, a number of centers imposed mediator training and program administration standards upon themselves that were more rigorous than the court standards. FSCM lengthened its basic mediation training by eight hours. To be accepted as a volunteer mediator, MMS demanded that trainees complete a 36-hour basic training along with a six-month supervised court placement. Besides basic mediation training, the completion of a 24-hour Advanced Court Practicum – which involved mediation observations, co-mediation, and administrator feedback – was required by Cape Mediation before mediators could practice in court. Besides training and a mentorship, recommendations from training staff were required by MetroWest for trainees to join its roster. Indeed, co-mediation with an experienced mediator was demanded by BCRHA, North Shore, and TMTC before newly-trained mediators were accepted on the centers' mediator rosters.

Evaluation of mediators and of the centers' mediation program was refined by many centers throughout the year. Most centers (seven) engaged in solidifying or upgrading their evaluation practices. Cape Mediation instituted a program-wide assessment of its services, based upon surveys and interviews of its volunteers and coordinators. The center's final report indicated, in part, that volunteers approved of their training, the opportunity to mediate, and the support they received from center personnel and the court and expressed concern about the expansion of the Housing Court and the need for additional funding to expand the center and increase its caseload. BCRHA based its evaluation of mediators on multiple sources of feedback – from the court and other organizations served, party evaluations, peer evaluations, and coordinator observations. CDSC promoted peer feedback for mediators by creating “cue cards” that reminded mediators to exchange feedback with

their co-mediator about how the session had progressed, how co-mediation worked out, and how well each individual mediator performed. MSI developed a system for obtaining peer feedback about the mediation experience that was less threatening to mediators in that it incorporated guided debriefings that focused on the session rather than the mediator.

Pursuant to the Grant Program requirement for party assessment of center services, and in line with centers' individual interests in receiving evaluations from service recipients, survey questions asking for feedback about mediation were distributed to parties by all funded centers. Over 90% of 3,723 respondents approved of mediation and 80% expressed a preference for mediation.

Individual centers also solicited party responses about matters relevant to the center. Thus, MMS' mediation program was positively assessed in the aggregate by anonymous client evaluations of its mediators and the mediation process. Ninety-eight percent of respondents felt the MMS mediators "were fair and neutral," and 96% indicated that the mediators "helped us decide" as opposed to "told us" what to do. Among parties who reached agreement through MMS mediation, 98% were at least somewhat satisfied with the process, and even among those parties who failed to agree, 86% found the mediation process satisfactory to some degree.

The fate of mediation agreements and of parties' reaction to mediation was investigated by a single center, MCC. About two months after mediation, MCC routinely called parties to check on agreement compliance and on parties' view of the mediation process and the agreement produced without mediators present. During FY 2018, agreement compliance and continued satisfaction with mediation and the mediation agreement survived the passage of time for most contacted parties. Out of 300 follow-up contacts, 68% were satisfied with the mediation or the agreement (compared to the 96% of parties expressing satisfaction directly following their session), and 63% reported either complete or partial compliance with their mediation agreement.

***f. Providing affordable services:***

Qua community mediation centers, the 12 funded centers were committed to providing affordable services, a commitment that was reflected in their practice of providing their mediation services pro bono or for sliding scale fees, depending upon circumstances. This commitment was amply illustrated by the decision taken by grantee centers to operate as approved ADR programs in Trial Court Departments that mandated free ADR services: the District Court involved twelve centers; the Juvenile Court involved eight centers; and the Boston Municipal Court involved two centers (see Table 5). As a result, for instance, BCRHA's mediation of court-referred small claims and summary process cases, which formed the bulk of the center's caseload, was pro bono. In line with its commitment to free services for a minimum of 95% of intakes, BCRHA only charged for mediation services in buyer/seller disputes and in broker disputes associated with the county Board of Realtors.

Mediation services were also offered without charge by some centers under non-court circumstances. Greater Brockton, for instance, provided free services to the public as long as one party to the dispute was a resident in its service area. Free mediations were offered by MetroWest to parties referred from the MassHousing Mediation program, the AGO, police departments, the courts, and other public agencies. Across all 12 centers, 90% of 4,023 cases (3,619 cases) received center services free of charge.

Fees for ADR services were allowed by the Land Court (which approved one center), Superior Court (which approved six centers), the Probate and Family Court (which approved eight centers), and the Housing Court (which approved no centers). Where fees for services were imposed, most centers utilized a sliding scale to determine the amount of money to charge. Fee waivers and reduced rates in appropriate circumstances were available from all these centers. And so, sliding scale fees were charged by Metro West for mediations of family/divorce issues and community (non-court) disputes. Martha's Vineyard revised its sliding scale fee schedule in the direction of lower rates and charged sliding scale fees for non-court-referred mediations. CDSC employed a session-based sliding scale to further mitigate affordability concerns. The 10% discount on sliding scale fees offered by FSCM to the military, veterans, police, and firefighters was applied in four cases, three involving divorce issues and one consisting of a parenting dispute. Over the 2018 fiscal year, the use of sliding scale fees increased at four centers, remained the same at six, and was irrelevant at two. In all, 4% of cases (155 cases) were charged sliding scale fees by a total of eight centers. Less than 1% of cases (0.06% of 4023 or 26 cases) paid full mediation fees. Centers' collective income from their mediation services amounted to \$50,870.

***g. Scheduling mediations at convenient times and places:***

To maximize access to community mediation, centers routinely consulted parties' convenience when scheduling mediation. The vast majority of mediations occurred at court during court hours, an arrangement that suited parties since it coincided with their court appearance. Program grants contributed to an increase in available non-court mediation sites at four centers while site availability remained unchanged at eight centers.

Besides court sites, center offices and local public venues were commonly included among the 107 available alternative mediation locations listed by centers for off-site mediation. For example, Greater Brockton relied on four public libraries as alternative mediation sites. A town hall, police station, and a public school were available for use by BCRHA. Cape Mediation sought neutral locations for its off-site mediations. To accommodate seasonal residents, Martha's Vineyard conducted mediations telephonically. In cases connected to the Office of Housing Stability/City of Boston, CDSC conducted mediations at the agency's Boston office. In order to accommodate a mobility-challenged party, a mediation was scheduled by MMS at the conference room of a local hotel. MCC accommodated parties in a parenting case who wanted a neutral, child-friendly venue. Greater Brockton mediated a divorce settlement at a local restaurant and conducted a mediation at the home of a juvenile and his/her house-bound parent. On the whole, though, off-site mediations were infrequent. CDSC determined that it held three mediations off-site; Greater Brockton conducted eight off-site mediations; and MMS calculated that less than 1.5% of parties took advantage of the opportunity to use other locations for mediation.

Most mediations occurred during regular court or business hours. Otherwise, for example, about 30% of Metro West's cases were held after 5 pm to suit party convenience. At MCC, 8% of mediations were held during evening hours while 2% took place on the week-end. BCRHA mediations could be conducted in the evening or over the week-end by appointment, which occurred in less than 2% of mediations, mostly to accommodate parties' work schedules. At CDSC, 48% of the 61 mediations that took place in the center's office were scheduled during the evening. And at FSCM,

MSI, Martha's Vineyard, and North Shore, after-hour mediations were often scheduled for divorce/family mediations. Over all, Grant Program grants had the effect of increasing scheduling times at five centers, but for most centers (seven), scheduling times remained constant.

***h. Diversification efforts:***

In order to optimize the likelihood that all segments of the population had access to dispute resolution through community mediation and avoid discrimination, funded centers engaged in activities to increase the diversity of the mediators who delivered their services and the clients who received those services. At the April Grant Program meeting with centers, a session, led by CDSC and MCC, was devoted to exploring diversification strategies.

***i. Mediator training and diversity:***

Mediators are key to the success of the mediation enterprise. They are the people who interact with disputing parties and deliver dispute resolution services. Mediator training and mediator diversity send the crucial message to people from various segments of the population that they will be served through high-quality services from trained members of the community. Accordingly, the trainings offered by all the center grantees served multiple purposes. By virtue of these trainings, centers recruited more mediators for the center, involved members of the community in the delivery of mediation services, managed to raise public awareness of conflict resolution and the existence of centers as a conflict resolution resource, helped to strengthen participants' capacity to manage and resolve conflict, provided for the continued professional development of mediators, and addressed mediator diversity. Lastly, the fees commonly charged for training were a source of income for centers.

To promote the quantity and diversity of training participants and mediator recruits, centers undertook to minimize the financial obstacles to their trainings. Accordingly, training scholarships were available at CDSC. BCRHA instituted stipends for basic mediation training in exchange for a one-year commitment to volunteer at its mediation center and provided two advanced mediation trainings and two webinars for free. Martha's Vineyard personnel who participated in professional development off the island were reimbursed for their travel and registration costs. Reductions in training fees were available at Greater Brockton for students and low-income individuals, and if a trainee volunteered at the center for six months, tuition was reimbursed. Cape Mediation offered a 54% discount for its Intensive Skills Mediation Training and supplied a college student with a training scholarship. TMTC conducted three conflict resolution workshops gratis, provided 12 scholarships, and devised payment plans for basic mediation trainees. MetroWest regularly provided conflict resolution workshops to non-profits at reduced rates. North Shore implemented its policy of tailoring training costs to the financial situation of the receiving organization by providing a scholarship to one basic mediation trainee and lowering fees for nine other trainees. At MMS, training fees were often subsidized so that in FY 2018, 56% of the trainees received fee discounts of 1% to 25%, 13% obtained discounts between 26% and 50%, and 25% paid no training tuition at all.

As a whole, 262 trainings were conducted by centers in FY 2018. Twenty-seven basic mediation trainings involved 317 trainees; 12 advanced mediation trainings had 139 participants; and 202 specialized mediation trainings were held for 2,464 participants. There were also 21 peer mediation trainings conducted for 260 students. Training fees netted seven centers about \$71,109 for the 2018 fiscal year. Due to center trainings, roughly 4,036 individuals received instruction on how to

better handle conflict, thereby strengthening the community's social capacity for conflict management and resolution.

In conjunction with the aforementioned financial training incentives, the outreach activities of a majority of the centers contributed to an increase in training participation (at nine centers) and volunteer mediator recruitment (at seven centers). Centers' diversification efforts proved effective at increasing diversity among mediators at half the centers while leaving mediator diversity unchanged at the rest of the centers. However, achieved, the diversity of centers' mediator pools had changed for the better since the previous fiscal year at seven centers while remaining stable at five centers. Moreover, Grant Program grants contributed to greater diversity among volunteer mediators at seven centers, to unchanged mediator diversity at four centers, and to diminished diversity at one center. The number basis for these claims of mediator diversity was not supplied by centers.

*ii. Client diversity:*

Centers pursued a variety of methods to serve all segments of the population in their service area. Centers' service to the courts was an important factor in achieving client diversity arising not only from racial or ethnic affiliation but also other characteristics including age, education, work experience, religion, language, disability, and sexual orientation. As observed by Cape Mediation, the diversity of a center's clientele tended to reflect the diversity of the litigants appearing in court, which, in turn, probably reflected the community's diversity.

Besides aspiring to serve a representative client population, center interest in client diversity extended to achieving universality – in other words, to assuring that no segment of the population was excluded from center services. Accordingly, Cape Mediation reached out to 740 people in 32 groups, including public housing seniors, teen-agers, human rights commissioners, service providers, tenant council officials, college leaders, new home buyers. BCRHA provided police with Spanish and English outreach cards about dispute resolution and the center for distribution to people who came to the police for assistance so that more people could get help with their disputes outside of court. MCC and Martha's Vineyard had access to translators for their mediations. At MCC, two mediations were conducted in Spanish, and a third mediation involved both Spanish and Swahili. Martha's Vineyard could call on the services of two Brazilian Portuguese interpreters.

The concern for serving underserved populations was also exemplified in the efforts of TMTC to increase mediators' cultural competency in working with members of the transgender and Hispanic/Latino communities. In a Gender & Mediation workshop, TMTC provided training about gender issues that might emerge in mediation such as gender bias, gender identity, and influence of gender on language, communication styles, conflict approaches, and so on. Moreover, gender sensitivity regarding pronoun use and other language issues were introduced to participants in the Mediator Development Programs and incorporated into the language used in role plays at trainings. This gender-related language sensitivity was manifested in TMTC's account of its efforts to reach out to the growing Hispanic/Latino community in Hampden County, an account that used the gender neutral "Latinx" instead of the gender-inflected "Latino." Thus, TMTC described engaging in initiatives to increase Latinx representation among mediators, including hiring a bilingual case coordinator and devising trainings tailored to the Latinx community.

Nearly all centers (eleven) saw an increase in the number of population groups served. A large majority of nine centers found that their services to low-income or underserved population groups were improved by Program grant awards. A sizable number of centers – eight – experienced an upturn in the diversity of their clients due to their diversification efforts. Furthermore, there was no decrease in diversity in the population served by any center.

FY 2018 data suggest that the racial composition of the parties receiving mediation services from center grantees was roughly comparable to the racial/ethnic composition of the Massachusetts state population, which in 2017 was estimated as majority White (at 81.8%) with noteworthy minorities of Hispanic/Latinos (11.5%), Black/African-Americans (8.6%), and Asians (6.7%).<sup>6</sup> When 7,920 parties served by centers were asked about their racial identity, a 58% response rate resulted. Among the 4,564 respondents, a majority of 64% self-identified as White, 14% identified themselves as Hispanic/Latino, another 14% were Black/African-American, and 3% were Asian. Parties were more circumspect about revealing their financial situation. The 17% of 7,920 parties who identified their income level presented an economic profile in which all income levels were represented in the population served by funded centers, from those earning less than \$10,000 to those with incomes exceeding \$65,000, with most (52%) earning under \$30,000.

Center aspirations to maximize the number of its service recipients led centers to provide services not only to individuals but to agencies as well, services that included trainings, workshops, presentations, facilitations, ADR program administration, and advising about the establishment of ADR initiatives. TMTC, for one, provided eleven customized trainings for local community groups, e.g. Student Conservation Association, Williams College, LifePath (elder services), The Brick House (youth/family services), Human Services Forum (human services professionals), Student Government Associations (Seven Sisters Conference at Mt. Holyoke), etc. Cape Mediation, for another, was instrumental in adding a mediation piece to a court Conciliation Program and worked through the program to provide mediation services at the pre-trial stage of disputes over matters that depended on the parties' relationship. During the fiscal year, the center mediated two cases that were diverted from the Conciliation Program, including one that dealt with damages arising from a dog bite. According to a third center, the center-agency relationship at times led to more diversity at the center: "diversity increased in [its] conflict skills workshops, based on organizations served." Altogether, 176 agencies were served by the 12 center grantees.

### ***3. Involving the community to accomplish serving the community:***

As community-based organizations, centers not only provided services to members of the community, they involved community members in service delivery. The community became both recipient and provider of center services.

#### ***a. Involving the community in center governance and development:***

To strengthen centers' community roots, centers sought to involve community members in center administration and fund-raising. Consequently, centers were run by members of the community who occupied administration, mediator, and oversight positions. A majority of centers found that the

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<sup>6</sup> United States Census Bureau. QuickFacts Massachusetts. Retrieved February 8, 2018, from <https://www.census.gov/quickfacts/MA>

diversity among board members (at eight centers) and staff (at ten centers) remained unchanged despite their diversification efforts. On the other hand, diversity among board members, mediators and staff did not decline at any center.

The public's contribution to center governance was evident in the variety of members on center boards or on advisory committees. Overall, 114 individuals were board members. At Greater Brockton, the people involved in center operations included government officials, court staff, a police officer, a veteran, and clergy. MCC's advisory board consisted of people with a variety of work experiences – attorney, teacher, financial analyst for the military, non-profit director, congressional staff coordinator of veterans' services – and different racial/ethnic affiliations and languages – for example, an African American, a Cambodian, and speakers of Khmer and Spanish. FSCM worked on reconstructing its advisory board. At Martha's Vineyard, administration of the center was taken over by an Executive Committee composed of four board members when the director left. To promote its outreach to the Hispanic/Latino community, TMTC initiated the eventual development of an advisory body composed of people from that community. MetroWest mediators were involved in center governance as Members of the Corporation, which approved Board members. Moreover, the public was invited to MetroWest's annual board meetings, with special invitations sent to other centers and ADR groups, area legislators, court staff, attorneys, and center referral sources, among others. Finally, fundraising initiatives undertaken by Cape Mediation, CDSC, MSI, and MetroWest relied on assistance from their volunteers, board members, and staff.

***b. Collaborating with more organizations:***

Centers broadened their reach into the community by forming relationships with other organizations and groups. Centers interacted with agencies, non-profits, and other organizations to benefit the community. Nine surveyed centers collectively identified 176 agencies that received their services during the year, ranging from 61 agencies to four agencies per center. Apart from referral and mediation activities, services rendered included training, workshops and other educational efforts regarding conflict resolution for agency staff and constituents, running programs on behalf of the agencies, advising on program development, to mention a few. Seven of the centers indicated that their community partnerships led to an increased demand for their intake and mediation services while four saw no change, and one center experienced a decrease in demand for services. Meanwhile, four centers felt that additional outreach and education efforts were needed.

Centers' collaborative initiatives served a variety of pro-social purposes. Social goals were addressed by the collaborations in which BCRHA and MetroWest were involved. As part of a network of service providers, homeless shelters, correctional facilities, mental health services, religious organizations, and non-profit housing organizations that worked together to address the needs of at-risk households, BCRHA provided trainings on preventing homelessness, which included using mediation and dispute resolution. MetroWest was a speaker at an event for an organization, Leadership MetroWest, that promoted "leadership through community engagement."

Centers also formed relationships with other groups to sustain access to conflict resolution. Greater Brockton and TMTC assisted the court with its ADR plans. Greater Brockton continued to work with the court ADR office to develop a webinar addressing ethical challenges in mediation. TMTC advised the Superior Judicial Court's Standing Committee on Dispute Resolution about

concerns over plans to address the financial situation of court ADR. The plans involved proposals for obtaining funding for court and permanency mediations and charging parties mediation fees.

Concern for center sustainability motivated other center collaborations. In response to an anticipated 60% reduction in housing case filings in Summary Process due to the Housing Court's expansion, Cape Mediation engaged in discussions with Community Action about a merger in order to increase the center's financial stability and share services. Martha's Vineyard made overtures to Cape Mediation about exploring a part-time merger.

All centers participated in advocacy efforts directed towards members of the legislature on behalf of continued support for the CMC Grant Program. BCHR was instrumental in recruiting a Senate champion and gaining complete support from Berkshire representatives for the Program. North Shore, TMTC, and CDSC joined forces to provide a student presentation at the legislative briefing about preventing and intervening in youth conflict, and in particular about the impact of mediation on students and the school.

Collaborative relationships extended beyond national boundaries. CDSC partnered with North Shore and MOPC to offer a presentation about community mediation to a delegation of attorneys and judges from Saudi Arabia.

And centers collaborated with each other to their mutual benefit. Cape Mediation created a PowerPoint for webinar training through free conference calls and submitted it to MOPC for distribution to other centers. BCRHA provided centers with strategies to cope with changes in housing referrals. MetroWest provided training on child support guidelines and juvenile Harassment Prevention Orders for mediators, including CDSC mediators. Plans between CDSC and MetroWest were afoot for co-mediation of Harassment Protection Order cases by (experienced) MetroWest mediators and (newly trained) CDSC mediators. CDSC and MCC together conducted a learning session for centers about best practices for achieving diversity.

**c. *Receiving referrals from a variety of sources:***

Utilization of multiple referral sources by centers doubled as a strategy for expanding their coverage of disputes and as a survival tactic. The number of referrals that multiple referral sources may generate can lead to more cases for center attention. In FY 2018, referrals led to an increase in intakes and/or mediations at a majority of seven centers. At two centers, though, a reduction in referrals led to fewer intakes and/or mediations – the aftermath, at one center, of lower funding from the AGO's consumer mediation program and the Massachusetts Bar Foundation.

By the same token, diversity in referral sources may serve to reduce center dependence on any particular source. Since disputes are the stock in trade of the court system, courts are uniquely positioned as a primary source of dispute referrals to alternative dispute resolution. By sharing the burden of dispute resolution with centers, courts were able increase access to justice for more disputants even as centers fulfilled their mission to resolve conflict in their community.<sup>7</sup> Over the years, community mediation centers not only relied upon the Massachusetts courts for case referrals,

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<sup>7</sup> See Eisenkraft, *op. cit.*



but benefited from the imprimatur of legitimacy that was conferred by the court's action. During the last two fiscal years, more than 80% of center referrals derived from the courts: the percentage of court referrals increased somewhat from 82% in FY 2017 to 84% in FY 2018 (see Table 4).

Reliance upon the courts for referrals, however, has its perils. The collective filings in the District Court Department declined by 10% from FY 2017 to FY 2018, and specific filings in juvenile matters, small claims, and summary process decreased by more than 8%. FY 2018 Probate and Family Court Department filings, including divorce filings, dropped by more than 5.5%. Apart from this court filing phenomenon, Martha's Vineyard, MetroWest, and Cape Mediation all reported a decrease in housing cases caused by the early diversion of summary process cases to Housing Court. In general, FY 2018 court referrals to center grantees declined by 5% since FY 2017 (see Table 4). Continued exacerbation of this downturn in court referrals poses a potential existential threat to centers.

To mitigate reliance on the courts for referrals, centers cultivated relationships with other referral sources. In FY 2018, centers received referrals from 107 agencies. Besides the courts, the AGO was a key referral source, providing referrals to 11 centers. Websites and word-of-mouth relayed by community members were important generators of non-court referrals. For example, Cape Mediation relied on local attorneys and mediators, law enforcement agencies, human services organizations, schools, churches, housing authorities, small business owners, and community members for referrals of community-based disputes. The outreach activities of a majority of centers (seven) contributed to an increase in referrals for their mediation services, although, at one center at least, outreach initiatives were set back by the delay in distributing Program Grant awards. In any event, centers received 4,023 referrals in FY 2018, 8% less than the previous year. Sixteen percent of this total derived from their non-court referral sources, an 18% decrease since the previous year (see Table 4). It remains to be seen whether centers' implementation of facilitation, conflict coaching, restorative justice practices, and other dispute resolution strategies will substantially grow their referral bottom line.

## **IV. ECONOMIC IMPACT OF STATE OPERATIONAL FUNDING**

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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>8</sup> (some estimates are derived from other states' empirical estimates)<sup>9</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>10</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,” [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>11</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.”

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<sup>8</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>9</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>9</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>9</sup> In most cases, finding a correlation between an alternative and a measure of effectiveness will be possible.<sup>9</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>10</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).

<sup>11</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)

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 12 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>12</sup>; and 3) cost-benefit analyses, which show the overall costs and benefits of an intervention.<sup>13</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>14</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**

### **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.

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<sup>12</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>13</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>14</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.

- 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>15</sup>
- In FY 2018, the total cost of operating the twelve community mediation centers was \$1,708,553, which is an average of \$142,379 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 2018 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 2018 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 \$1,708,553, which is an average of \$142,379 per center 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**

Effect-size estimation:

- Massachusetts Legislature invested \$750,000 in the CMC Grant Program in FY 2018. In the same year, 12 Massachusetts community mediation centers conducted 3,423 mediations. Using the state grant program investment as the cost, the estimated intervention cost of the grant program is \$219 per mediated case.
- \$1,157,750 was awarded to community mediation centers by the Maryland Judiciary in FY 2018. 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 2018 at an average intervention cost of \$443 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 200% less than the cost of intervention of Maryland. Comparatively, Massachusetts community mediation centers conduct 2 times or 200% more mediations for the number of public funds invested through the Community Mediation center Grant Program than Maryland community mediation centers.

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<sup>15</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.

### 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 2018.
- 12 grantee Massachusetts community mediation centers served a total of 7920 clients in FY 2018 (including case intakes and mediations), and provided a total of 6597 mediation hours by volunteer mediators, staff and board members.
- The average cost of intervention of the Massachusetts CMC Grant Program is \$95 per client and \$113 per mediation hour.<sup>16</sup>
- The hourly rate for a private mediation practitioner is around \$225-288 an hour.<sup>17</sup> Additionally, lawyers charge \$388-\$595 an hour (Associate vs. Partner) in legal fees.<sup>18</sup> In some cases, this figure may be as high as \$1,500 per hour.<sup>19</sup>

Cost of intervention:

Based on the state grant program investment in MA community mediation, MA community mediation centers cost 199%-255% less per hour than hiring a private mediator and between 299%- 527% 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.

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<sup>16</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>17</sup> Massachusetts Dispute Resolution Services. Fee schedule. Retrieved November 24, 2015, from <http://www.mdrs.com/fees>

<sup>18</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>19</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>

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

- In FY 2018 Maryland’s Mediation and Conflict Resolution Office (MACRO) received \$274,279 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 2018 for mediation program administration in Maryland is \$554,279 (excluding salaries for MACRO staff).
- In FY 2018, the Massachusetts Office of Public Collaboration (MOPC) spent \$140,160 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 2018, MOPC received \$188,206 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 \$328,366.

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 **162% 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 1:1.6.

**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 indicates that landlord/tenant mediation in Massachusetts can prevent eviction by over 22% as compared to adjudication or negotiated settlements.<sup>20</sup> Administrative data from the Berkshire County Regional Housing Authority Mediation Program indicates that mediating landlord-tenant cases resulted in 96.9% of the tenants preserving their tenancy in FY18.<sup>21</sup>
- Massachusetts community mediation centers conducted 461 successful mediations resulting in full and telephone agreements (454) and partial agreements (7). This means that community mediation centers in Massachusetts helped 439 parties avoid eviction and possibly homelessness in FY 2018.<sup>22</sup>
- 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>23</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>24</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% (109 cases) of the total mediations helped families avoid the homeless shelter, the cost-saving would amount to \$2,936,506.<sup>25</sup>

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<sup>20</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>21</sup> From July 1, 2017 through October 31, 2018 the Berkshire County Regional Housing Authority’s Mediation Center has mediated 290 Summary Process Eviction cases, with a result of 281 Mediated Agreements or 96.9% success rate. Out of the 281 Mediated Agreements, 185 resulted in the preservation of the tenants’ (an adult and an individual 18 or under in the household) tenancy or out of all cases mediated, 64% resulted in a tenancy being preserved.

<sup>22</sup> Based on the data from the Berkshire County Regional Housing Authority Mediation Program. As of July 1, 2018, the Center has started tracking specific outcomes for individuals who are agreeing to vacate in a mediation. A total of 70 Summary Process Eviction cases have been mediated in FY19 with 24 of those cases resulting in vacates. Of the 24 vacates, 21 of those cases have been reported as soft landings which means that individuals are given more time than a Judge would typically order. In many of these instances, tenants were given over a month through mediation whereas a hearing would typically result in a 10 day vacate order. This data shows that even if tenancies are not being preserved through mediation, the process is providing a time frame that is realistic and beneficial for all parties. With more time given to tenants to move out, landlords are also avoiding fees that would otherwise have to be paid to gain possession of the unit.

<sup>23</sup> Mass Landlords.Net figures, retrieved November 29, 2017 <https://masslandlords.net/laws/eviction-process-in-massachusetts/>

<sup>24</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.tbfo.org/~media/TBFOrg/Files/Reports/Homlessness%20Report\\_Feb2017R.pdf](https://www.tbfo.org/~media/TBFOrg/Files/Reports/Homlessness%20Report_Feb2017R.pdf)

<sup>25</sup> The cost saving could be much higher from avoided shelter use of homeless families. 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 specifically 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. During the time period set forth above and based on this conservative analysis, at least 42 shelter eligible families participated in the Summary Process mediations, which would result in an estimated savings of \$1,799,490.00 or (42 x \$42,845\*).

#### Cost-benefit:

At a conservative saving of \$4,000 per case, Massachusetts community mediation centers saved landlords/tenants \$436,000 and helped 109 parties avoid eviction and possible homelessness in FY 2018. If 22% of the 461 housing/landlord-tenant mediations helped prevent families from using homeless shelters, the community mediation centers saved \$26,700 per family or saved \$2,936,506 in avoided costs to the Massachusetts EA-Family Shelter System at \$100 per night per family for 109 families for a total of 267 days of homelessness per family.

#### **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>26</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 21 juvenile cases in FY 2018 (20 full agreements, one partial agreement).

#### Cost-benefit:

At an average saving of \$882 per case to the District Court, Massachusetts community mediation centers mediated 21 juvenile cases referred by juvenile court resulting in full agreement<sup>27</sup> with an estimated cost saving of \$18,522 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 1509 small-claims, summary process and minor criminal mediations all of which we assume avoided trial in Fiscal Year 2018.
- 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>28</sup>
- 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

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<sup>26</sup> From a report titled *Expanding juvenile mediation in Massachusetts* from the Crime and Justice Foundation cited by Cratsley, *op. cit.*

<sup>27</sup> 267 cases reached full agreement, 133 telephone settlement and 1 reconciliation.

<sup>28</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)



\$754,500 to the court system from small-claims mediations, summary process and minor criminal mediations that avoided trial in Fiscal Year 2018.

Cost-benefit:

Massachusetts community mediation centers have saved an estimated \$754,500 to the court system in 1509 small-claims, summary process and minor criminal mediations that avoided trial in Fiscal Year 2018.

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

- On average, parties can save between 40-78 hours in attorney time through mediation.<sup>29</sup> Massachusetts community mediation centers mediated 3423 cases in FY 2018. If each mediates case in Massachusetts reduced attorney time by 4 hours, mediating parties saved around 13,692 hours of attorney time thanks to mediation.
- Lawyers can charge \$388-\$595 an hour<sup>30</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 \$200 per party per case, Massachusetts disputing parties served by community mediation centers saved a minimum of \$2,738,400 in legal fees alone.
- Costs to parties would include filing fees that are between \$40 and \$150 per party in Massachusetts.<sup>31</sup> For small claims disputes concerning amounts less than \$7,000, private mediation practitioners can charge \$185 an hour.<sup>32</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 \$136,920 in avoided filing fees.

Cost-benefit:

Massachusetts disputing parties saved a minimum of \$2,875,320 or \$2,738,400 in legal fees from 13,692 hours of attorney time and \$136,920 in avoided filing fees from 3423 cases mediated in FY 2018.

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

Effect-size estimation:

- Twelve Massachusetts community mediation centers maintained a roster of 460 volunteer community mediators (373 active mediators) who contributed 6597 hours of pro bono mediation services in FY 2018 (5043 hours contributed by volunteer mediators and 170 hours pro bono board members and 1228 hours contributed by staff members).

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<sup>29</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>30</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>31</sup> Massachusetts Court System <http://www.mass.gov/courts/court-info/filing-fees/dc-fees-gen.html>

<sup>32</sup> Massachusetts Dispute Resolution Services. Fee schedule. Retrieved November 24, 2015, from <http://www.mdrs.com/fees>

- At private market rates, the value of this pro bono work is estimated at \$1220,445 at a \$185 per hour (based on a conservative estimate of a private practitioner minimum hourly rate).<sup>33</sup>
- If employed as an hourly wage earner, with the mean hourly wage for a mediator in the nation is \$34<sup>34</sup> the total value of these pro-bono mediation hours would amount to \$224,298.

#### Cost-benefit:

460 volunteer mediators (373 active) at twelve Massachusetts community mediation centers (includes volunteer mediators, volunteer staff and volunteer board mediators) 6597 hours of pro bono mediation services in FY 2018, the value of which is estimated at \$1,220,445 at \$185 per hour (based on a conservative estimate of a private practitioner minimum hourly rate)<sup>35</sup> or \$224,298 at an hourly wage of \$34 for a permanently employee (hourly wage for mediator – national average).<sup>36</sup>

The benefit-cost ratio of leveraged pro bono mediation services is 1:1.62, or for every dollar invested by the Legislature in FY 2018, centers generated a benefit worth one dollar and 62 cents of 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:

- Centers leveraged an extra 2484 hours of pro bono administrative services from staff/volunteers/board members and interns in FY 2018.
- At an estimated cost of \$19.20 an hour (mean hourly wage for administrative services in Massachusetts),<sup>37</sup> the pro bono administrative services leveraged by the twelve centers are worth \$47,693.

#### Cost-benefit:

Community mediation centers leveraged 2484 hours of pro bono administrative services from board members, staff and volunteers in FY 2018 worth \$47,693.

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

- The Massachusetts Legislature invested \$750,000 in the Community Mediation Center Grant Program in FY 2018. The Community Mediation Center Grant Program awarded \$609,840 in operational funds to 12 community mediation centers.

<sup>33</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>34</sup> United States Department of Labor, Bureau of Labor Statistics. Retrieved November 24, 2015 from <http://www.bls.gov/oes/current/oes231022.htm>

<sup>35</sup> Massachusetts Dispute Resolution Services. Fee schedule. Retrieved November 24, 2015, from <http://www.mdrs.com/fees>

<sup>36</sup> United States Department of Labor, Bureau of Labor Statistics. Retrieved November 24, 2015 from <http://www.bls.gov/oes/current/oes231022.htm>

<sup>37</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)

- The 12 MA community mediation centers used the state operational investment to leverage an additional \$1,100,625 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 eighty (\$1.8) cents for each dollar, or a benefit-to-cost ratio of 1:1.8 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 179 community members as mediators in FY 2018. Each 40-hour mediation course has a market value of \$925 per trainee.<sup>38</sup> The total value of these basic mediation trainings amounts to \$165,575.
- Based on survey responses, twelve centers also trained 260 persons in conflict resolution. The net cost of a conflict resolution training is \$250 at a private mediation training institution.<sup>39, 40</sup> The total value of these conflict resolution trainings amounts to \$65,000.
- Based on survey responses, nine centers provided advanced mediation training (divorce, eviction etc.) to 333 persons. The net cost of an advanced mediation training at a private mediation training institute is estimated at \$825.<sup>41, 42</sup> The total value of these advanced mediation trainings amounts to \$274,725.
- Centers also trained 3,264 others. At a very conservative cost estimate of \$50 per person, these trainings could cost an estimated \$163,200 in other venues.
- The total value of these training services to the communities is worth an estimated at \$668,500.

Cost-benefit:

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<sup>38</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>

<sup>39</sup> Center for Conflict Resolution Training. Retrieved November 21, 2016, from <http://www.ccrchicago.org/training-programs.html>

<sup>40</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>41</sup> Mediation Works Inc. Retrieved November 21, 2016, from <http://www.mwi.org/mediation-training-careers-in-mediation-advanced-mediation-training/divorce-mediation-training.html>

<sup>42</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>

Twelve Massachusetts community mediation centers trained 902 community members (179 in basic mediation, 33 in advanced mediation, 260 in conflict resolution trainings and 3,264 in other trainings) in FY 2018, the total benefit of which is worth an estimated \$668,500.

Based on the FY 2018 state investment in community mediation, the benefit-cost ratio of leveraged mediation trainings to communities is 1:.89 – or for every dollar invested by the state Legislature in FY 2018, centers leveraged an extra eighty-nine 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 2018 for conducting face-to-face consumer mediations.
- Using the AGO numbers, eleven Massachusetts community mediation centers helped parties recover \$4,124,137.23 in FY 2018.

Cost-benefit:

The Massachusetts Attorney General’s Office provided approximately \$413,000 to twelve Massachusetts community mediation centers in FY 2018 for conducting face-to-face consumer mediations. The twelve centers helped parties recover \$4,124,137.23 in FY 2018.

The benefit-cost ratio of the consumer mediation funds provided by the Massachusetts Attorney General’s Office is 1:5.5 – or for every dollar invested by the AGO in Massachusetts community mediation, consumers are recovering five dollars and fifty 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>43</sup>
- Massachusetts community mediation centers conducted 167 successful peer mediations that may have resulted in avoided student suspensions or expulsions in FY 2018.<sup>44</sup>

Cost-effectiveness:

Schools saved an estimated \$55,277 from avoided student suspensions or expulsions as a result of 167 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.

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<sup>43</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>44</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).

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

Effect-size estimation:

- The average cost of private divorce mediation is estimated at \$5,000 per case.<sup>45</sup>
- Eight Massachusetts community mediation centers conducted 25 divorce mediations in FY 2018.

Cost-effectiveness:

The average cost of private divorce mediation is estimated at \$5,000 per case. Seven Massachusetts community mediation centers conducted 25 successful divorce mediations in FY 2018. Assuming the mediations were conducted free, parties to the 25 successful divorce mediations saved an estimated \$125,000.

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

Effect-size estimation:

- Massachusetts community mediation centers conducted 15 complex multi-party mediations in FY 2018.
- 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>46</sup>
- Assuming an average cost benefit of \$6,000 per case, these centers have saved a total of \$93,000 to the disputing parties.

Cost-effectiveness:

Massachusetts community mediation centers saved \$93,000 to disputing parties in 15 complex multi-party mediations in FY 2018 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 213 successful family mediations in FY 2018. Research indicates that family mediation can reduce legal fees by between \$270-\$730.<sup>47</sup>

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<sup>45</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).

<sup>46</sup> Full-day mediation session Massachusetts Dispute Resolution Services. Fee schedule. Retrieved November 16, 2017, from <http://www.mdrs.com/fees>

<sup>47</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>

- Assuming an average cost of benefit of reduced legal fees of only \$270, Massachusetts community mediation centers have saved \$57,510 in legal fees to parties from 213 family mediations.

Cost-effectiveness:

At an average saving of \$270 in legal fees per case, Massachusetts community mediation centers have saved \$23,760 in legal fees to parties from 88 family mediations.

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

Effect-size estimation:

- Five Massachusetts community mediation centers conducted 12 successful workplace mediations in FY 2018.
- The Mediation Training Institute International (MTI) found that a conflict cost a New England organization \$60,916.77.<sup>48</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 \$120,000 was saved for local businesses/organizations from 12 workplace mediations by Massachusetts community mediation centers in FY 2018.

### **D. SUMMARY OF ECONOMIC ANALYSES.**

#### **Cost-savings from MA Community Mediation in FY 2018: \$8,659,266**

1. \$4,124,137.23 recovered by consumers from consumer mediations.
2. \$2,875,320 saved to parties from 13,692 hours of attorney time and \$136,920 in avoided filing fees from 3423 cases.
3. \$754,500 to the court system in 1680 small-claims, summary process and minor criminal mediations that avoided trial.
4. \$436,000 saved to landlords/tenants from 109 cases avoiding eviction expenses.
5. \$125,000 saved to parties from not using private mediators in 25 divorce mediations.
6. \$93,000 saved to parties from 15 complex multi-party disputes.
7. \$120,000 saved to local businesses/organizations from 12 workplace mediations.
8. \$55,277 saved to schools from avoided suspensions/expulsions in 167 mediations.
9. \$57,510 saved to parties from avoided legal fees in 213 family mediations.
10. \$18,522 in 21 juvenile mediations avoiding trial for the respective District Courts.

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<sup>48</sup> Mediation Training Institute International. Retrieved December 20, 2012 from <http://www.mediationworks.com/mti/costs1.htm>

## **Resources Leveraged by MA Community Mediation in FY 2018: \$3,451,263**

1. \$1,220,445 leveraged by 460 volunteer mediators at 12 community mediation centers.
2. \$668,500 worth of mediation trainings including workshops for 4036 community members.
3. \$414,000 from re-investing in existing centers with established networks of volunteers, referral sources and programmatic funders.
4. \$1,100,625 in additional state, federal and/or private foundation funds raised by centers from \$609,840 in state operating and community project grants.
5. \$47,693 from 2484 hours of pro bono administrative services from volunteer administrators, board members and interns.

The total return on the state's FY 2018 investment of \$750,000 in the Grant Program was **\$12,110,529**.

## **V. CONCLUSION**

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Funded centers contributed extensively to lowering contentiousness in Massachusetts communities in FY 2018 despite the challenges posed by funding and court-referral volatility. Centers provided coverage across all Massachusetts counties and at most Court Divisions. Nearly 8,000 people received center assistance with their disputes through more than 4,000 intakes and 3,400 mediations, and disputes were resolved via mediation for 74% of mediating parties. Approximately 5,000 individuals learned to handle conflict better by participating in mediation and taking part in trainings and other forms of instruction. And nearly 91,000 people became more knowledgeable about conflict resolution through centers' outreach and educational activities. Centers achieved these accomplishments by hewing to high standards for providing far-reaching services to the community and incorporating community participation into center operations, which earned the approval of 80% or more of surveyed mediation participants.

Centers' positive contributions redounded to the credit of the Grant Program, furnishing evidence that the state's \$750,000 investment in the Program to continue the operation of community mediation centers was worthwhile and that administration of the Program was effective. Further corroboration of the Program's value was provided by a financial analysis of centers' FY 2018 achievements, which estimated that the return on the state's investment amounted to \$12.1 million in cost-savings and leveraged resources.

## **VI. RECOMMENDATIONS**

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The CMC Grant Program provided demonstrable value to Massachusetts communities through the funding it supplied to support the operation of community mediation centers. To ensure that Massachusetts communities continue to receive community mediation benefits, the following actions are recommended:

- (1) There is no ready substitute for the operational funding that the state provides to community mediation centers in fulfillment of the state commitment to broadening access to dispute resolution. The Legislature, together with the Governor, should continue to demonstrate the

state's commitment to community mediation through appropriations for the Grant Program in amounts sufficient to develop and sustain thriving community mediation centers throughout the commonwealth.

- (2) Centers and the courts should strive to improve coordination in their programming so as to achieve shared goals, such as increased access to justice and the satisfaction of the dispute resolution needs of all Massachusetts residents.
- (3) The Governor has identified housing, recidivism, and education as meriting attention from his administration in FY 2019. Centers and the Governor should work together on their joint interest in dealing with housing, education, and prisoner re-entry challenges.
- (4) Centers should endeavor to better understand the factors that discourage disputants from seeking help with their conflicts, including mediation assistance, and identify effective strategies for increasing the use of mediation. Centers could intensify their efforts to attract users for their services beyond the court context, particularly for disputes that may be better addressed through non-adversarial approaches.